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See(k)ing the European Union

An Open Discussion Regarding the Internal Reform

THE EU STILL ON ITS BUMPY ROAD

One often wonders on the true significance of the word “Union” in “European Union”. Indeed, when we see the frequent fights, squabbles, disagreements, failures to reconcile, abdication from grand projects, we might be tempted to say that the Union is a fiction, a mere desiderate, never to be fully accomplished. Yet, in the same time, we can say that the Union is firmly in place as long as nobody, even at very tense summits like the one just ended, ever questions the ideal of further integration and enlargement of Europe. This CSIS file follows closely and in debt the recent debates on the reformation of the European Union, focusing on the failure of the Constitutional Treaty project and on the conclusions of the June 2007 summit. We are convinced that we didn’t witness a watershed in European politics, but mainly a repetition of the negotiation pattern existing in the institution for the last 50 years. Therefore, the way to look forward is with moderate optimism on matters regarding the faith of the EU.

CSIS Director
ANDREI MIROIU



ABSTRACT

The metamorphosis of the Monnet – Schuman initiative from what represented for approximately half a century mainly an economic generally success story into a political innovation challenged both the international system’s long established “national sovereignty” tradition, as well as the very members of the Union, some of them relatively “surprised” by the speedy changes occurred in the last 15 years.

It is common knowledge that the EU is more than a traditional international organization. It is a unique construct where democratic European countries created common institutions in order to work for their joint interests in peace, security and prosperity. At the beginning, the European states used to co-operate in economic fields, but now they also pay attention to citizens’ rights, freedom, justice and regional development, while this list does not stop here.

Therefore, the step further taken from the economic realities to the political ones was not only a quantitative measure which merely would have add more competences to the EU's institutional framework, but chiefly a qualitative one, considering that the Maastricht famous collocation referring to the "European Union" and its tripartite structure definitely marked the beginning of a new period for all the parts conceivable to be affected by the this innovation: the structure of the international system as such, the usual "big players", some of them members of the new established Union, the rest of the member states, the sub-national players (regions, municipalities), the European civil society (a general term consisting at that time in a simple juxtaposition of the different national inputs) etc.

This report, result of a fruitful collaboration between CSIS and the "Jean Monnet Module" from the National School of Political and Administrative Studies – Bucharest, has three basic intertwined coordinates:*

*a. first, **the argumentative line** where we stress that **the internal reform of the Union** was and remains an immediate necessity for the organization which might face different internal and external challenges if does not commit itself to an open and complete questioning of its fundamentals and objectives.*

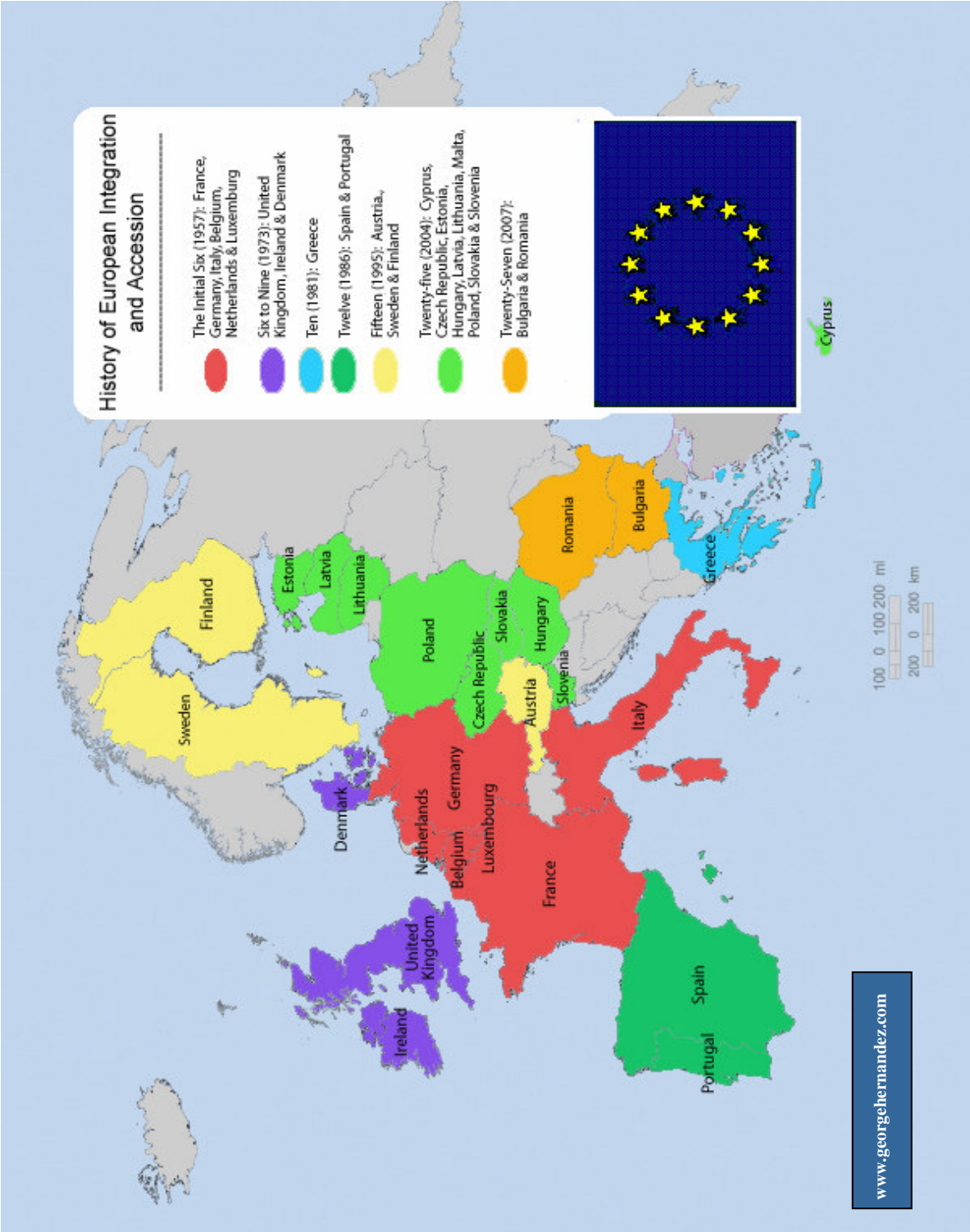
*b. secondly, the **descriptive sequence** of what is known as the **Constitutional Treaty (CT)**, considering that despite its multiple political defeats, it still remains an **essential introductory chapter of the internal reform** story which cannot be properly understood without analyzing the CT's background, its drafting process and its ratifying period with all the new debates which occurred after it was signed in Rome, on 29 October 2004.*

*c. finally, the **reason**, as well as the **background** of our entire report is represented by the **analysis of the conclusions** drawn by the **European Council** which took place in **Brussels on 21 – 22 June 2007** and whose **Reform Treaty** output we consider to represent only a marginal progress for the European Union's different adapting goals.*

* Jean Monnet Modules are short teaching programs in the field of European integration studies at higher education institutions, co-financed by the European Community. See more on: http://ec.europa.eu/education/programmes/ajm/supportteaching/ajm_mod_en.html

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I. THE NECESSITY OF THE UNION'S INTERNAL REFORM

“There is no future for the people of Europe other than in union”.

Jean Monnet

There are three general items considered to represent the argumentative quintessence of the necessity regarding the reform of the Union's inefficient institutional framework, as they have been described at Laeken in 2001 and they have been consequently reiterated:

- i. *the challenge represented by the enlargement*; with a too large number of members, the institutional viability of the traditional decision-making and decision-taking EU bodies was seriously questioned. Besides the “envisaged” 27 countries expected to become a part of the Union on a short term, there were not forget the mid-term enlargement process with Croatia, the problematic Turkish accession, the inevitable longer “acquisitions” of Macedonia, Serbia, Montenegro, Bosnia Herzegovina, Albania and, of course, Norway, Switzerland, not forgetting about the limited – however existing – chances to add also Iceland, Ukraine, and Belarus.
- ii. *the aim to go closer to the Union's citizens*; The latest *Eurobarometer* results show that, even if the trend is on the rise, only half of the European citizens tends to trust the European institutions. Moreover, people lack information about the way institutions work, seeing their normative output as coming from outside, even if, voluntarily, the member states delegated some of their sovereignty to the European institutions, considering some specific matters could be better resolved at the supranational level. The established framework of Treaties, succeeding faster and faster, mainly created problems than solved the old ones, impeding the Union's inhabitants to have “more Europe” or “better Europe”, as their majority wished for, fact which has transformed the citizens' connection with the institutions into a thin and ineffective one. It became harder and harder for the institutions to take decisions in the name of the European peoples, considering that some institutions work independently of them and the number of the citizens is always rising through enlargement.
- iii. *the intention to become an ever more significant player in the current multi-polar and globalized international system*; if within the last years Europe was more and more associated with the EU, and if the Union's framework was superposed over the continent's image, there was still a need to materialize this perceptive reality into a more concrete and effective one, to strengthen the EU's input into the international arena and eventually to make it a viable model for the international society.

Of course, there are several other reasons presented and hardly debated, but in a way or another, their vast majority can become an item of one of the above mentioned categories, irrespective if we speak about the simplification of the existing treaties or about the viability of the “European social model”.

From a theoretical perspective, the whole discussion connected to the reform idea was translated in an older dispute between the different “Integration Theories” which shaped the analyses of the Communities history and practices from their very beginning. Therefore, many theorists addressed the questions of the political “success”, as well as its “difficulties”, using the classical cleavage and constructive debate between the most well-known orientations, the functionalist-sectorial one and its federalist-intergovernmental corollary. Basically, the widest spread idea advocated that the before extremely successful communitarian method (the functionalist-sectorial “step by step” one) had to be seriously questioned in aspects regarding its current viability to properly deal with the EU’s challenges resulted from its constant development. Reaching its limits, the theory needed to be adjusted or replaced by a more effective one, able to offer pertinent answers to questions like: why EU? Quo vadis, EU? Etc. Hence, a reform was absolutely required, both in Kuhn’s terms of a new paradigm (the theoretic level) which also implies new “tools” (the practical level). Either we call this reform the Constitutional Treaty (as it happened within the last three years), or one refer to it as such – “the Reform”, the specificity of the European *acquis* definitely needed this new basis.

The theoretical alternative was quickly found within the federalist-intergovernmental offer, an original mixture which, at a first glance, looks more like an oxymoron, even if, in fact, its first concrete results (more or less extraordinary from the very beginning) were not attended too long. Starting with the Maastricht Treaty, this method was a happy synthesis, seen not as a transitional period, but as a very mark of the Union’s specificity, its own check-and-balance system able to resolve and even transform into an efficient process the classical federal-national tensions. It even succeeded to put on the IGCs’ table some problems which were signaled even from 1984 within Altiero Spinelli’s “Draft Treaty of the European Union”: democratic shortcomings, lack of inefficiency in economic and political sectors, insufficient involvement on the international scene etc.

Considered a new federalism based on pooling sovereignty and “unity in diversity”, the new vision tried to find the optimal equilibrium between the two requirements often called by specialists “more Europe”, but also, “better Europe”. Speaking about the communitarian construction which quickly became a “deepening vs. enlargement” dilemma, here are some dichotomies, alternatives or specific issues taken into consideration from Spinelli’s report until the Convention’s work, as revealed by some theorists:

- “liberal Europe vs. social Europe”
- “multi-level system vs. classical international organization”
- “unique speed vs. multi-speeds” in many policies areas
- “technical and administrative government vs. European political government”

- “the axiological problem within the integration process”
- “the role of the EU within the world” – “external politics vs. external action”, “adopting a responsible global politics vs. defending the national interests”, “civil power vs. military power” (soft power vs. hard power), “common diplomacy vs. intergovernmental representation” (a unitary voice or a simple juxtaposition of the foreign policies) etc.

It soon became obvious that these multiple options the Union had were impossible to be addressed without totally reforming the existing legal basis in order to make it effective and able to take advantage from all the before listed potentialities.

*

Besides this *introductory first section*, the report has six other parts aiming to offer a complex image of the institutional reform issue and its implications. Therefore, *the second chapter* is a historically mainly descriptive viewpoint of the period between the Maastricht Treaty and the Constitutional Treaty signing moment, with specific attention paid to the institutional leftovers which made the reform absolutely necessary. *The third chapter* is also dedicated to the CT and it offers a brief perspective over its challenging content, insisting on the institutional changes which finally determined its rejection. *The fourth part* opens the analytical sequence of the report and it lists the possible solutions regarding the reform solution as they were conceived before the beginning of the June 2007 reunion of the European Council. *The fifth section* analyzes the conclusions of the summit, while *the sixth one* comments upon its possible consequences over some important aspects of the internal reform. *The final part* contains some concise policy recommendations.

II. THE SINUOUS ROAD TO ROME 2004

The development of the European Union as a *sui generis* international organization implies a long-term reforming process mainly consisting of, on the one hand, the treaties establishing the 3 communities from the '50s and, on the other hand, the fourth “founding treaty” known as the Maastricht Treaty (signed in February 1992, entered into force in November 1993) and the following “amending treaties” agreed in Amsterdam (signed in October 1997, entered into force in May 1999) and Nice (agreed in December 2000, signed in February 2001 and entered into force in February 2003).

The **Maastricht Treaty** represents the document through which the EU is officially created as a supranational entity, being therefore the first step towards the consolidation of the economic area as well as of the political, social and judicial ones. The main features of the treaty focus on:

- the creation of a single currency (the Euro) for the Union’s entire territory;
- the structure of the Union based on a three-pillar model with a delimitation between the communitarian domain (represented by the European Community) and the intergovernmental domain (consisting of the Justice and Home Affairs and the Common and Foreign Security Policy).

The implementation of the Maastricht Treaty underlines the absence of an action plan regarding a future enlargement towards the countries from Central and Eastern Europe. This issue was intensely discussed during the *Copenhagen Conference* in 1993 when the member states tried to find the most appropriate solutions. The Copenhagen moment stated the institutional and decisional limits of the EU, making necessary the development of new ways to approach this topic. The next step was the *European Council in Corfu* (June 1994) which set the basis of a working group with specific goal of establishing the objectives of the Intergovernmental Conference in 1996. These objectives were:

- including the European citizens within the debates regarding the future of the Union, this social connection being considered extremely important for the success of the process and for the future effectiveness of the decision-making aspects;
- reforming the institutions while carefully balancing the states’ and the peoples/individuals’ needs, in order to make the whole structure more transparent, flexible, democratic and accountable;
- reinforcing the international presence of the EU within the global frame.

Thus, the **Amsterdam Treaty** proposed the reconfiguration of the Union through the influence on three major aspects of the institutional dimension: the clear delimitation of the institutions' competences, the definition of the instruments used to implement their decision, and the structure of the institutions. These aspects would have been completed by creating a more opened, efficient and simple communitarian territory for all the citizens. Despite all the settled objectives and the activities unfolded in order to accomplish them, the Amsterdam Treaty didn't succeed in generating major changes regarding the initial goals.

The afterwards comments underlined a series of leftovers of this treaty, concerning subjects like the voting system within the Council and the dimension of the Commission. The key-question regarding this topic remains the same: why do these two matters concentrate all the attention during the debates? The answer to this question lays in the permanent failure to find at least the lowest common denominator for properly tackling these issues.

The first step in reopening the debate concerning these unsolved issues was during the Portuguese Presidency; the main objectives set by the Portuguese were:

- identifying specific subjects to be covered by IGC (aiming especially at clarifying those issues remaining still unclear from Amsterdam);
- analyzing every subject and sketching possible solutions.

An important thing to be mentioned here is that the subjects left from Amsterdam were accompanied by other themes of discussions: "the qualified majority vote" in the Council and "the enhanced cooperation" between states. The first one stipulates a threshold regarding the number of member states as well as the population number (the two thresholds generated conflicts between the EU members who became divided in two opposite sides: the large MS versus small MS). The second theme, concerning the "enhanced cooperation", focused on strengthening the connection between states in certain areas of interests. This method has been conceived in order for the states to achieve their objectives by overcoming institutional obstacles.

In June 2000, the *Portuguese Presidency* puts on the discussion table the "*Feira Report*", which brings forward problematic issue and tries to find adequate solutions; in fact this Report was only an ambitious plan, a description of the Portuguese goals which were never accomplished. The actual result of this meeting took into consideration the existing limits of the institutions without finding an effective solution to the Amsterdam 'leftovers'.

The next step of the process regarded the preparations of the IGC before the European Council in **Nice**. The purpose of the conference was to prepare the MS for the future enlargement towards Central and Eastern Europe by developing a new treaty. At this point, France played a significant role during the meetings thanks to the intervention of President Jacques Chirac, whose country also held the Presidency of the Council of Ministers.

The main issues of the discussion were focused on the same objectives as the Amsterdam Treaty and the “Feira Report”:

- the voting procedures within the Council;
- the composition of the European Commission.

Traditionally, from the emergence of the original Communities, the voting procedures tried to respect two basic principles: to offer an appropriate reflection of the population differences and to maintain the QMV procedure in order to avoid as much as possible the cases when some states would have been constantly outvoted in important matters as a consequence of their demography, for example. However, the successive enlargements modified the original balance and it became obvious that a change was required in order to reestablish the equilibrium. Therefore, the Nice Treaty had this issue as one of the most topics of its agenda. It was a delicate subject, which started a series of discussions causing even a blockage between the MS. The ground for this scission was settled by the contradictory demands of the states, especially those of the big players; moreover, the pressure exercised by the French presidency created two different sides: the large MS and the small MS, each of them having a specific opinion regarding the voting system in the Council. In the end, there was an “agreement” on a three conditioned QMV: a. a modification of the voting weights and of the qualified majority’s threshold, the new data being favorable especially for the larger members; b. the simple majority of the states, a condition supported by the small and medium members; c. a demographic clause, a safety net “carrot” Berlin was offered as a payment for its very “cooperant” mood during the negotiations when it didn’t ask for more weighted votes than France.

This last special clause consolidated the scission between the small and large countries in the same time intensifying the feeling of mistrust experienced during the entire conference. This state of facts was underlined by the ignoring attitude of the big states concerning the proposal made by the small countries of using a simple majority in the issue of the number of states necessary to sustain a legislative suggestion.

The second issue that had to be solve is the one concerning the structure of the Commission (it was indented to reduce the number of commissioners per country so as to avoid the situation in which a state has two commissioners). The solving of this problem was focused on the harmonization of two dimensions: the supranational one (the commissioners represent the interests of the Union beyond those of their own country) and the intergovernmental one (the national governments elected the person who will represent the state in the structure of the Commission). The solutions proposed for solving the situation were:

- establishing a maximum limit concerning the number of commissioners, paving the way for a equal rotative system between them;
- a Commission with at least one member per state (as in the case of the existing system), this solution pointing out once again the (in)efficiency problem of the EU institutions.

The fast closure of the negotiations (once again under the French pressure) for the new treaty tried to hide the gaps concerning the reform of the institutional structure, on one

side, and ignoring the demands of the smaller states, on the other, which had to sacrifice their interests in order to support the future enlargement.

The consequences of the way things were handled at Nice consolidated the general opinion that the Nice Treaty, in the same way as the Amsterdam Treaty, had his own 'leftovers' which had to be figured out during future discussions. These 'leftovers' were:

- sharing the powers between the EU and its Member States;
- discussing about the implications of the Charta of Fundamental Rights;
- simplifying of the founding and amending treaties;
- debating the national parliaments' role within the future frame.

The necessity of further discussions regarding these issues is envisaged in the final conclusions raised before and during the preparations for establishing a new treaty in Nice. Those conclusions focused mainly on subjects like:

- questions regarding the efficiency of the very complex regulatory framework (multiple norms covering many areas covered etc.);
- questions regarding the "final destination" of the communitarian story both in terms of political goals, as well as geographical expansion;
- questions regarding the connection with the Union's citizens confronted with such an opaque decision-making process located in a too far away Brussels (a special attention was paid here to the principle of subsidiarity);
- questions regarding the need to reinforce the European institutions and to make them more competent.

The conclusions underlined after Nice had as main objective to pave the way for further discussions regarding the reform process of the Union.

One particular element which worth mentioning regarding the Nice Treaty is the annexed **Declaration no. 23 "on the future of the Union"**. Not included within the main body of the Treaty as a consequence of its highly controversial nature which might have prolonged too much the debates within the MS, its "addition" at the end of the text succeeded to transform it in one of the most interesting parts of the Nice output, even if in that original stage its laggard position didn't offer it too many credibility for its goals to foster a debate regarding the future of Europe before the 2004 planned CIG. Even if there is no explicit use of the "Constitution" term, but mainly a call for the MS to focus more on the federal" sharing of competencies model or to simplify the existing treaties, the Declaration is considered to be one of the essential steps which determined two years later the establishment of the Convention.

The ground for settling the before mentioned issues was found during the **European Council from Laeken** (2001) where the major topics were focused on the same unsolved questions like:

- The division of power between the Union and Member States;

- The status of the Charta of Fundamental Rights;
- The simplification of the treaties;
- The role of the national parliaments.

The “Laeken Declaration” embodied the desire of the MS to find new solutions to old problems - which were stated during the elaboration of the Amsterdam and Nice Treaty – so as to enhance the communitarian structure. Thanks to this document considered to be “the formal opening of the constitutional process” (with references to its necessity, composition, working procedures) a genuine step was made towards reform, this being underlined by the novelty of this declaration:

- firstly, the EU leaders had reached a consensus regarding the consequence of adopting the Nice Treaty, the failure in reforming the institutional framework becoming more obvious for all the MS;
- secondly, the declaration text had made a direct reference concerning the need for establishing a Constitution for the EU as it can be seen in the lines juxtaposed, taken from the actual document.

The „*Laeken Declaration*” is representative for the entire reform process, being a further step towards establishing a Constitution for Europe as a way of rethinking the communitarian path. In order to facilitate a better understanding of this issue, two aspects are required to be underlined: first, the fact that the entire discussion concerning an constitutional document was not a purpose of the Council in Laeken, and second, the necessity to substantiate a delimitation between the reform agenda (which was focused on finding and implementing solutions for the Nice ‘leftovers’) and the reform process itself.

“Towards a Constitution for European citizens

The European Union currently has four Treaties. The objectives, powers and policy instruments of the Union are currently spread across those Treaties. If we are to have greater transparency, simplification is essential.

Four sets of questions arise in this connection. The first concerns simplifying the existing Treaties without changing their content. Should the distinction between the Union and the Communities be reviewed? What of the division into three pillars?

Questions then arise as to the possible reorganization of the Treaties. Should a distinction be made between a basic treaty and the other treaty provisions? Should this distinction involve separating the texts? Could this lead to a distinction between the amendment and ratification procedures for the basic treaty and for the other treaty provisions?

Thought would also have to be given to whether the Charter of Fundamental Rights should be included in the basic treaty and to whether the European Community should accede to the European Convention on Human Rights.

The question ultimately arises as to whether this simplification and reorganization might not lead in the long run to the adoption of a constitutional text in the Union. What might the basic features of such a constitution be? The values which the Union cherishes, the fundamental rights and obligations of its citizens, the relationship between Member States in the Union.”

Laeken Declaration

The importance of the reform process becomes obvious at a deeper analysis, its structure causing numerous debates, focused on its actual form: that of a Convention or that of an IGC; the way out from this situation was accepting the both ways.

A pertinent question that has to be put in order to help us make a clear delimitation between these two methods concerns each one's specific features:

- the Convention is build up from various parties such as: national parliaments, communitarian institutions, national governments, representatives of the civil society, all of them having a direct interest regarding the internal reform of the EU;
- the IGC main elements are the Heads of States and government, these meetings being run behind close doors.

The **establishment of a Convention** (28 February 2002) as a way of discussing a delicate subject like the initiation of a constitutional text, underlines the desire of the MS to release a genuine reform process. The novelty of this possibility of engaging a debate in order to set up a basis for the Union's evolution is shown by the methodology which accompanies this procedure, methodology structured in three parts:

- the audition part: implies general discussions over the state of the Union;
- the examination part: implies the examination of the positions stated by the members of the working groups on specific subjects;
- the stage of the propositions offered by the Convention regarding the articles of the Constitution; an important role in this issue was held by the information provided by the working-groups.

The Praesidium at the Final Plenary Session of the European Convention



The composition of the *Convention for the Future of Europe* is another interesting aspect whose mentioning is imperative in order to understand the role played by the working groups, as part of the Convention's structure, in the evolution of the entire process; the

main elements of this groups are known personalities who played a major part in the development of the Union along the decades (several famous names are Jacques Delors – the one who transformed the budgetary policy through his projects; Giuliano Amato, prime-minister of Italy; Wim Kok – premier of The Netherlands; James Milband - counselor of prime-minister Tony Blair; the president of the Convention: Valerie Giscard d’Estaing, former French president; etc.). Their activity was focused on a few themes considered essential as: the economic dimension, the judicial aspects, the augmentation of the efficiency regarding the implementation of policies; an important aspect that was intentionally left out was the issue regarding the balance of power between institutions (referred to a discussion in the plenary of the Council). A limitation of the good cooperation in this groups was the lack of homogeneity of the members’, an harmonization of the needs of everyone being a difficult task to deal with; in order to solve this kind of situation specific skills were needed, skills that were embodied in the president of the Convention, Valerie Giscard d’Estaing. He succeeded in making all opposite opinions to converge through consensus, the method he used instead of the classical voting procedures seen as possible causes for separatism and divergences.

The finalization of Convention’s work (18 July 2003) had as final result the presentation in the plenum of the Council of a draft instituting a Constitutional Treaty for Europe (although in his opening speech Giscard d’Estaing didn’t mention the fact that the activities of the Convention have as a goal the development of such a project), causing a very positive reaction within the European public opinion. The draft succeeded to solve some of the quite old leftovers; we can mention here the dimension and structure of the European Commission (with the number of Commissioner smaller than the number of the MS), the extension of the QMV applicability or the modification introduced in the Council’s voting procedure – to simple separate thresholds would have been needed for a decision to pass – 50% of the states gathering 60% of the Union’s population. Some of the Convention’s outputs were issues very much influenced by the federalist vision; giving legal personality to the Union, dismantling and unifying its tripartite structure, establishing the Minister of Foreign Affairs position, introducing the QMV procedure in a CFSP tributary to the “more Europe” collocation, simplifying the existing treaties within this unique framework, strengthening the subsidiarity principle – all these “results” represented for a large part of the public a real political success. Nevertheless, there were enough issues insufficient or inefficient approached: for example, the extension of the QMV was not as complete as the initiators of the proposal would have wished for, the Commission’s powers were not so very much improved, CFSP still remained too much under the intergovernmental control etc.

The Convention’s draft remained nevertheless highly significant and it caused the launching of a **new IGC** (October 2003–June 2004) whose specific target was passing the treaty establish by the Convention. The works of the IGC started in 2003 under the Italian presidency who wanted to limit the debates at the initial form of the draft without accepting any modifications; but their perspective had to change because of the resistance concerning the voting system in the Council, neither of the Member States being ready to accept a compromise. In spite of the great efforts made by Rome, it was the Irish presidency that had to deal with the problem. Regarding the QMV, it finally developed a

compromise in order to satisfy the large majority of states by it; therefore, the thresholds were changed and the final agreement stipulated that a decision needs to gather the support of 55% from the MS, as well as 65% of their total population if it wanted to pass. The IGC input within the Convention's draft brought some significant progress in the consolidated cooperation, in the process of reviewing the treaty etc., but it also imposed some limits to the QMV extension while taking some steps and delimitating from the Convention's federalist vision over the institutions. Basically, the final draft forwarded to be signed and, afterwards, ratified, was a clear expression of the federal-intergovernmental method.

Signing of the Treaty establishing a Constitution for Europe in Rome on 29 October 2004



Photo source: www.europa-web.de

Even if 2004 started to be seen as “the adoption year of the first constitution belonging to a supra-national political organization”, agreeing on a unique text was not tantamount to closing the debates regarding the reform as approached through its constitutionalization form. As it soon became obvious, having a “Constitution” automatically involved questions regarding its source of legitimacy – a super-state (it was not the case)? The European citizens (what about the non-referendum ratifications)? All the member states in their “pooling sovereignty” way? There were still cleavages between the federalist (pro-common institutions) and the intergovernmental (pro-cooperation) supporters, and the use of the extremely democratic Convention method or the discussions linked to the dissemination of the “European model of the society” proved to be insufficient in surpassing the traditional realism which usually dominates the inter-states rapports. Despite the attention paid, for example, to the individuals as such or gathered in a participatory civil society, we can speak in fact about the “constitutional value” of the process than about the concrete effects of this “new international regionalism” as it was tagged.

Nevertheless, “Treaty” through its structure and “Constitution” through its content, the text remains a landmark of the Union's internal reform efforts.

III. THE CONSTITUTIONAL TREATY: STRUCTURE AND QUESTIONS REGARDING ITS EXPOSURE

III. 1. The structure

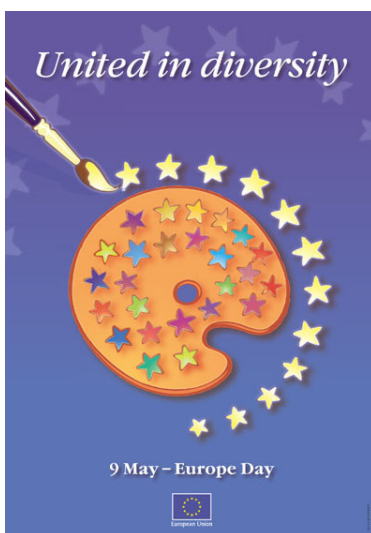
The Treaty Establishing a Constitution for Europe, also called The Constitutional Treaty, in its final form as it was presented for ratification to the member states of the European Union in 2004, consists of four parts:

- Part I defines the objectives, powers, decision-making procedures and institutions of the EU;
- Part II consists of The Charter of Fundamental Rights;
- Part III focuses on the policies and actions of the EU including the provisions of the current Treaties (the founding treaties – The Treaty establishing the Coal and Steel Community, The Treaty establishing the Economic European Community, The Treaty establishing the Atomic Energy Community, The Treaty of Maastricht establishing the European Union; and the amending treaties – The Merger Treaty, The Single European Act, The Treaty of Amsterdam, The Treaty of Nice);
- Part IV represents “final clauses, including the procedures for adopting and reviewing the Constitution”. At the end, The Constitutional Treaty also incorporates a series of Protocols and Annexes.

Part I consists of eight titles which are: Definition and objectives of the Union, Fundamental rights and citizenship of the Union, Union competences, The Union’s institutions and bodies, Exercise of Union competence, The democratic life of the Union, The Union’s finances and The Union and its neighbors.

By the first article of the Treaty, The European Union is defined as the result of the “the will of citizens and States of Europe to build a common future”. So, even if it is told that by the Constitutional Treaty that the Union will give up the model of the tree pillars, in reality the concept of “community” together with the one of “intergovernmental” continue to sit at the basis of the EU, which “shall be open to all European States” that are willing to assume and promote common values. From the beginning, there are mentioned two criteria of accession: the first is the geographical position – the territory of the state which wants to become a member of the EU has to be situated on the European Continent – and the second are the values that sit at the base of the society promoted by the EU. The idea of common values, rights and purposes it’s still the same and it’s well underlined in the CT. Freedom, equality, democracy, justice, the rule of law and the respect for human rights, solidarity and tolerance are those main values that not only created the need of a supranational entity, but also helped the process of the Union’s consolidation to become possible. In what concerns the objectives of the EU they are

clearly mentioned: promoting peace, the European values and the well-fare of its citizens (that includes the economic area as well as the other areas – social, culture, justice and security). An important thing to mention here is that the EU is concerned of its own development as well as of the sustainable development of other areas on the globe by promoting solidarity among all nations, the protection of human rights and the eradication of poverty and war (example: EU is financing projects which encourage development of poor countries of the African Continent). Also by the CT, EU finally obtains ‘legal personality’ (*art. I-7*), which together with the symbols mentioned in *art. I-8* (the blue flag with a circle of twelve golden stars, the anthem based on the “Ode to Joy”, the motto ‘United in diversity’, the euro, and Europe’s day on the 9th of May) give the EU legitimacy as an economical, political and social entity, an important actor with significant influence on the international stage.



In what concerns the citizenship of the Union it has an additional character and cannot replace the national one. Every national of a Member State is also a citizen of the EU, and can enjoy all the rights provided by the Constitution (*CT art. I-10*).

The competences of the Union are divided in: exclusive competences – it means that only the Union may legislate and adopt binding acts – and shared competences – the Union legislates and adopts binding acts together with the Member States.

The areas of *exclusive competences* are those of: “customs union, the establishing of the competition rules necessary for the functioning of the internal market, monetary policy for the Member States whose currency is the euro, the conservation of marine biological resources under the common fisheries policy and common commercial policy”(art. I-13).

All the other areas (concerning: “internal market, social policy, economic, social and territorial cohesion, agriculture and fisheries, environment, consumer protection, transport, trans-European networks, energy, area of freedom, security and justice, and common safety concerns in public health matters” – *art. I-14*) are the object of *shared*

competences. It is important to notice that by *art. I-18* it is introduced a flexibility clause which allows the Council of Ministers to adopt appropriate measures relating to policies defined in Part III if the Constitution has not provided the necessary powers. We can see this article as a gateway for resolving future problems of the EU, which might not be predicted.

Title IV focuses on the institutional framework and describes the structure and the powers of the main five institutions of the Union - The European Parliament, The European Council, The Council of Ministers, The European Commission and The Court of Justice, as well as those of the other Unions institutions and advisory bodies – The European Central Bank, The Court of Auditors, The Committee of the Regions and The Economic and Social Committee. This title also gives a definition for the procedure of qualified majority within the Council and the European Council.

In what concerns the ways the EU should exercise its competences, they are described in the 3 chapters of title V related to: common provisions, specific provisions and enhanced cooperation. We can identify here a key-element: the enhanced cooperation, which can be seen as a unique method of cooperation between states – Member States may find and share between them examples of efficient program meant to get nearer to the objectives of the Union; for this they may use the institutions of the Union, but in a framework of nonexclusive competences. The decisions taken by enhanced cooperation are not regarded as part of the *acquis* because they are only for those states that participate in this process. Through this method the member states can discover an easier way to achieve the EU goals by preserving their sovereignty and their power of decision over the national territory (it underlines the idea that by joining the EU they only become stronger and still keep their national identity).

The final two titles focus on the idea of European democracy, defined through the concepts of representative democracy, participatory democracy, social dialogue, transparency of institutional decision, and on the resources of the Unions and the budgetary and financial principles.

Part I of the Treaty ends with the conditions of eligibility and procedure for accession to the EU and by mentioning how a Member State can voluntary withdraw form the Union.

Part II is dedicated only to the Charter of Fundamental Rights, which was proposed in 2001 at Nice, but was not included in the Treaty at that time, because certain member states were reluctant to the idea. The text of the Constitutional Treaty includes the Charter, considering it as a factor to consolidate the relations between citizens of the Union and between citizens and the Union as an entity that establishes their way of life. So, part II has 7 titles which discuss a series of themes related to the concept of European citizenship: dignity, freedoms, equality, solidarity, citizen rights and justice – the fact that the Charter focuses on this elements, it becomes a problem in the process of adopting the Constitutional Treaty. The fact that the Charter includes the civil and political rights of the European Convention of Human Rights (1950) as well as rights concerning the protection of the environment, a good administration and other social rights for workers, it makes it an instrument for bounding the powers of common institutions of the EU and Member States when they apply the communitarian right. One of the countries that

weren't really pleased with the idea was the Czech Republic, with consequences for the actual renegotiation of the CT.

Part III begins by presenting provisions of general application and continues with actions that the Union promotes for non-discrimination and strengthened citizenship, with the description of the internal policies (regarding first of all the Internal Market and The Economic and Monetary Policy, but also the area of freedom, security and justice, and policies in other areas like employment, social policy, economic, social and territorial cohesion etc.) and the principles for the functioning of Unions institutions. Another thing, included in this part of the CT, which is very important for the future of the EU is the regulation of external actions of the Union (here we mention the Common Foreign and Security Policy); association of the overseas countries and territories has also a high level of importance for the position of global player towards the EU aims.

Part IV is that of final clauses – all the treaties, which now assure the existence and the functioning of the EU, shall be repealed by the Treaty establishing a Constitution for Europe, and two procedures of revising the CT are defined (the ordinary revision procedure and the simplified revision procedure). Article IV-446 establishes an unlimited period for the validity of the new treaty.

At the end of the CT text are added 36 protocols and 2 annexes.

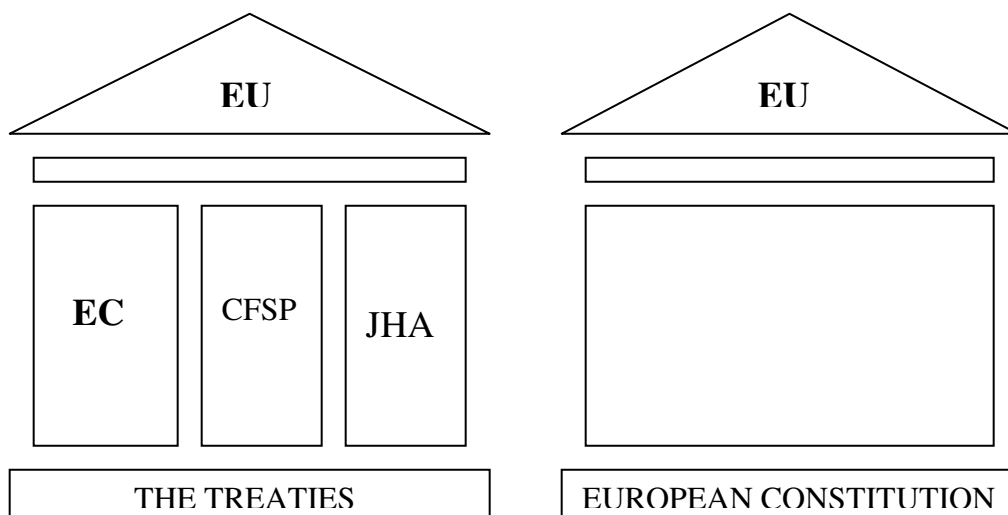
No.	Protocol
1	on the role of national Parliaments in the European Union
2	on the application of the principles of subsidiarity and proportionality
3	on the Statute of the Court of Justice of the European Union
4	on the Statute of the European System of Central Banks and of the European Central Bank
5	on the Statute of the European Investment Bank
6	on the location of the seats of the institutions and of certain bodies, offices, agencies and departments of the European Union
7	on the privileges and immunities of the European Union
8	on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.
9	on the Treaty and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic
10	on the excessive deficit procedure
11	on the convergence criteria
12	on the Euro Group

13	on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland as regards economic and monetary union
14	on certain provisions relating to Denmark as regards economic and monetary union
15	on certain tasks of the National Bank of Denmark
16	on the Pacific Financial Community franc system
17	on the Schengen acquis integrated into the framework of the European Union
18	on the application of certain aspects of Article III-130 of the Constitution to the United Kingdom and to Ireland
19	on the position of the United Kingdom and Ireland on policies in respect of border controls, asylum and immigration, judicial cooperation in civil matters and on police cooperation
20	on the position of Denmark
21	on external relations of the Member States with regard to the crossing of external borders
22	on the position of Denmark
23	on external relations of the Member States with regard to the crossing of external borders
24	on asylum for nationals of Member States
25	on permanent structured cooperation established by Article I-41(6) and Article III-312 of the Constitution
26	on Article I-41(2) of the Constitution
27	concerning imports into the European Union of petroleum products refined in the Netherlands Antilles
28	on the acquisition of property in Denmark
29	on the system of public broadcasting in the Member States
30	concerning Article III-214 of the Constitution
31	on economic, social and territorial cohesion
32	on special arrangements for Greenland
33	on Article 40.3.3 of the Constitution of Ireland
34	relating to Article I-9(2) of the Constitution on the accession of the Union to the European Convention on the Protection of Human Rights and Fundamental Freedoms
35	on the Acts and Treaties which have supplemented or amended the Treaty establishing the European Community and the Treaty on European Union
36	on the transitional provisions relating to the institutions and bodies of the Union
37	on the financial consequences of the expiry of the Treaty establishing the European Coal and Steel Community and on the Research Fund for Coal and Steel
38	amending the Treaty establishing the European Atomic Energy Community
No.	Annexes
I	List referred to in Article III-226 of the Constitution
II	Overseas countries and territories to which Title IV of Part III of the Constitution applies

III. 2. Major (uncomfortable) institutional changes of the Constitutional Treaty

The Constitutional Treaty is one of the most important steps which the EU took, aiming for higher place in the international hierarchy. According to pundits, the CT was a treaty as well as a constitution – a treaty because was the result of an agreement of the member states, and a constitution because it emerged from the present and future needs of the European citizens giving the EU a legal personality.

The EU structure, as the Maastricht Treaty in 1992 describes it, consists of three pillars: the Community pillar (corresponding to the three Community Treaties), the Common Foreign and Security Policy (CFSP) pillar and the justice and home affairs (JHA) pillar. If the Constitutional Treaty would have been ratified the EU would have replaced the three-pillar structure with a compact and more resistant **unique structure**. It means that the new treaty had the role to “fuse” the three pillars – the intergovernmental issues of security and defense and of justice and home affaires become communitarian ones (this is the reason why the actual structure won’t remain the same) – so that the Union was built as a real supranational entity with a great power of influence, able to compete with other similar entities on the international level. The fact that the EU could become this way a global player in every area: economic, social and military, was a strong incentive for including this stipulation.



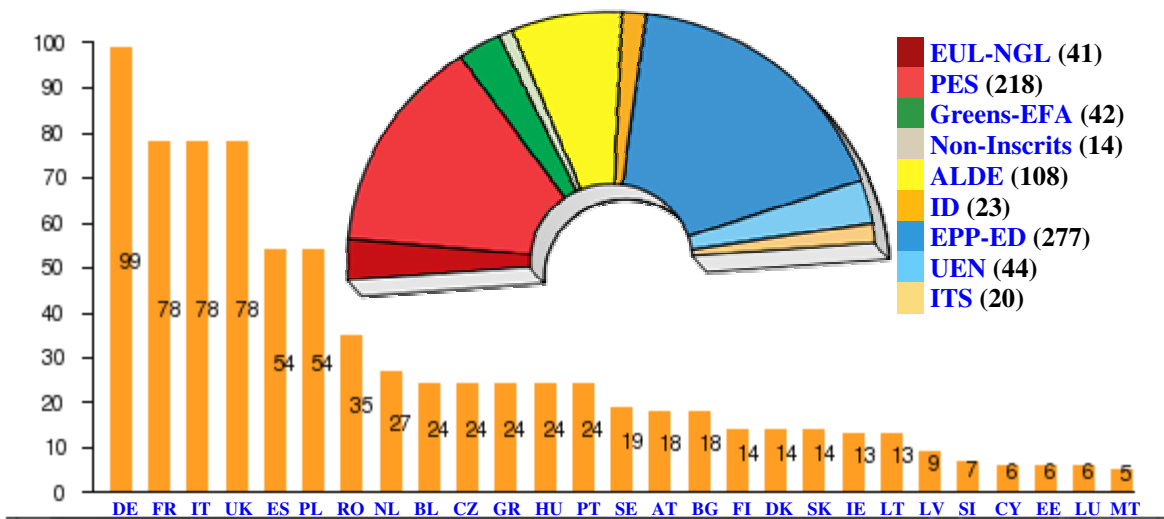
The structure of the EU 1993-present

The structure of the EU after the ratification of the Constitutional Treaty

The establishing a Constitution for Europe came together with other important changes in the structure and functions of the Union’s main institutions – the Commission, the Council and the European Parliament, and creates two new major institutions – The European Council and the Minister of Foreign Affairs. Some of these changes which were deeply influenced by the **legal personality** obtained by the EU were so abundant that they generated, later, massive disputes between the Member States.

The **Parliament’s** powers were considerably increased, the procedure of co-decision (between the PE and the Council) becoming an ordinary legislative process meaning that almost 95% of the European laws were to be adopted using this procedure. In what concerned the total number of seats in the PE, it was raised to a maximum of 750, each country having the right of a minimum of 6 seats and a maximum of 96. The problem that appeared here was that of the new limits imposed to the Council powers, which on one side were significant for the citizens because this assured them a higher representation in the Union’s institutions by the people they elected to be members of the PE, but on the other hand, the level of influence of the Member States over the process of decision making was significantly diminished and created a state of insecurity (Member States were reluctant in losing power towards a supranational entity). This change in the institutional framework tended to set an equilibrium between the PE and the Council, in the same time allowing the **Council of Ministers** to keep its structure and role. The presidencies of the different Council formations were to continue rotating on an equal basis, and the Council, jointly with the PE, was to exercise legislative and budgetary functions.

The current Nice apportionment of MEPs and the party group composition of the Parliament



Source: Wikipedia

A controversial change took place inside the **Commission** where the previous structure was dropped: there was no longer 1 commissioner per member state, the number of commissioners being reduced to 2/3 of the number of Member States (including both its President and the EU Minister for Foreign Affairs; the other countries would have had

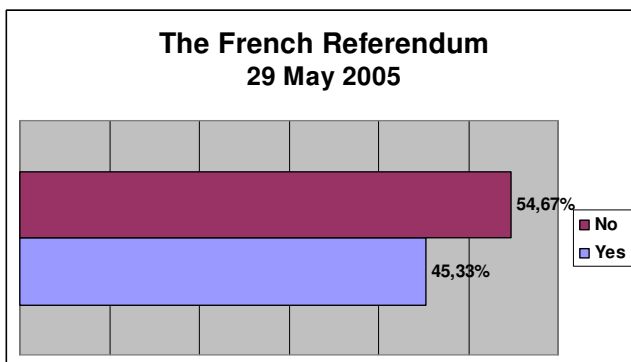
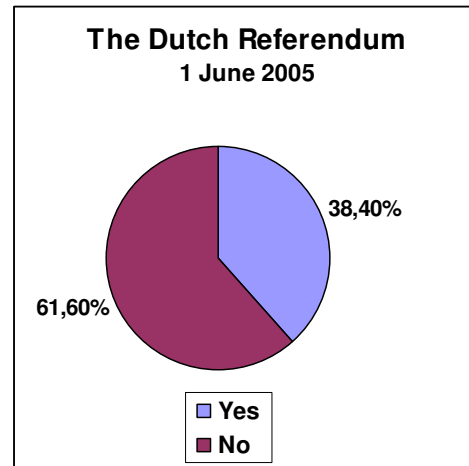
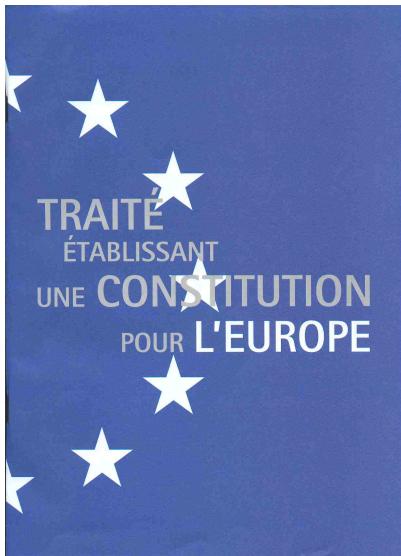
commissionaires with no right to vote) to be chosen on the basis of equal rotation among the Member States. The problem here was that the rotation had to take place periodically and it could damage the continuity of the Commissions actions, each commissionaire treating the same problem in totally different ways. Another thing that worried was the fact that practically the states lost ground, considering that even though theoretically the Commission was independent of the influence of the member states, the commissionaires couldn't entirely broke the tie with their country, and in an certain way they could be still influenced by their capitals, fact which meant that the countries "owning" a commissionaire could gain certain advantages at the other EU members expense, whom didn't have at that moment the privilege of representation inside de Commission. But in what concerned the Commission's powers they generally remained the same.

The entitlement of the **European Council** as a legal and official institution of the Union was a real novelty. If the actual text of the CT would have been ratified, the European Council was to be chaired by a President appointed for two and a half years, while its members were to be the Heads of State or Government of the Member States and the President of the Commission; the Minister of Foreign Affaires could also take part to the actions of the European Council. The role of this new institution was to "provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof", but it wasn't be able to exercise legislative functions.

The European Council with the agreement of the President of the Commission had to appoint the EU **Minister of Foreign Affairs**. By this institution, the tasks of the High Representative for the Common Foreign and Security Policy and the External Relations Commissioner were merged. The person entitled with this job had to be a member of the Commission, and to chair the Foreign Affairs Council. The great thing that was achieved by the creation of this institution was the fact that the Union's common foreign and security policy was better administrated and the Union was able to ensure the consistency of the Union's external action (because the competences concerning the area of foreign affaires were no longer be split between the Council of Ministers and the Commission).

The voting system within the Council was an innovation which later stirred a lot of debates and even blocked the ratification in some MS. The qualified majority voting was based on the percentage of population, a thing that gave the states with a big population more votes in the Council and disadvantaged the small countries with o considerably lower population. Another side of the issue concerning the qualified majority system regarded the number of member states which supported a certain topic (this meant that more than a half of them had to agree on a matter – so the coalitions between the big states were not a desirable alternative). This issue represented an important barrier for the following negotiations focused on the future of the CT.

As we were saying before, in autumn 2004 the Treaty establishing a Constitution for Europe was signed by the EU leaders. However, expected to come into force at the beginning of November 2006, the ratification process proved to be more complicated than expected, the two negative referendum results from France and the Netherlands having a blocking consequence on the entire reform process.



Two methods were used by the EU member states to ratify the Constitutional Treaty: the referendum and de parliamentary approval, but the first option was the one of referenda in each member states. Even if 18 countries pronounced themselves in favor of the CT (Austria, Belgium, Bulgaria, Cyprus, Estonia, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Romania and Slovenia, Spain; as well, Finland, Germany and Slovakia have completed parliamentary procedures required for ratification), the process of ratification was stopped in some other member state because of the negative answer of the population in France and Netherlands. The EU officials tried to find solutions to this problem in order for the CT to be adopted, but it was more and more difficult to solve the case when it proved that some countries tended to back down from the ratification and to call for new negotiations on the matter. Examples were the United Kingdom and France that wished to drop the Constitution and adopt a mini-treaty or a simplified treaty by parliamentary approval. Some of the motives that encouraged giving up the structure of the Constitutional Treaty were the Council voting system (Poland, Czech Republic), some of the institutional changes (Poland), the division of competences between the EU and its member states (Czech Republic), few more socio-economic policies (Belgium), a new criteria for enlargement (Netherlands) and so on.

Nevertheless, the EU's priority to properly face the 2004 and 2007 enlargements and to be considered a success in 2057 (as it is considered now, after 50 years since the Rome Treaties), implied to reopen, discuss upon and conclude the internal reform question. After a period of clarification, the debate over the European Constitution has started again with the German Presidency's declaration (in January 2007) that the period of reflection was over. It was considered that a Constitutional Treaty would have helped the EU to gain public support because some countries could have had benefits in certain areas and it would also improve the social dimension of the EU. It would have represented the simplification of the Maastricht, Amsterdam and Nice treaties and it would have made the decision-making process more transparent. The necessity of a constitution rested in two more arguments: the public opinion wanted a more active CFSP and the role of the EU in the international context would have been improved.

A Constitution would have diminished the democratic deficit of the EU by increasing the Parliament's role as for the European citizens to feel that their vote was taking into consideration. The Qualified Majority Voting was another aspect which intended to raise democracy and improved efficiency in the EU, in areas where decisions were taking unanimously (e.g. Judicial Cooperation and Criminal matters), as a democratic decision-making system works upon a consensus and not upon the veto right. And finally, the EU would have been a good example of democracy if it were to have an elected president for the European Council, instead of a six-month presidency, like it is today.

To sum up, changes in the decision making process, grater power to EP and an elected president in the European Council would have increased efficiency and democracy in the EU. A European Constitution would have represented an important step for the institutional reform and it would have strengthened the relationship between the EU and its citizens.

However, despite this feeling of defeat stirred by the rejection of the 2004 text, one should underline here that the Constitution should not be considered as an end in itself whose "failure" would automatically involve an institutional collapse. The European Union is a continuous story, and its institutional efficiency, its global and domestic responsibilities materialized in different policies, its relation with the European subjects, and so on – all these issues are the component of a process which should not be stopped by a (temporarily, let's hope) political stumbling block. Maybe it is too early for a "Constitution" and its federal implications, or maybe the current generation of leaders is too old for accepting it. Nevertheless, even with this proposal of a simple, "Reform Treaty", the European Union goes further.

IV. DIFFERENT SCENARIOS CONSIDERED BEFORE 21 JUNE 2007

Ever since it has appeared on the EU legislative scene as a unifying force of the existing primary law, the Constitutional Treaty represented a permanent source of dispute and, even if the ratification period was supposed to be concluded by 2006, at the beginning of June 2007 there were only 18 states that finished the procedure. Even if their number is considerable, considerable as well is the position of some of the “reluctant” members which either rejected (see France) or postponed the decision (see UK).

As we were arguing before, the 2004 Constitutional Treaty contained important changes in the EU’s structure in order to create a more democratic Union and to replace the existing treaties. It offered the EU a single legal personality and it eliminated the three-pillar structure, combining them in order to give coherence in different policy areas. The Constitution also tried to improve the decision-making process by the new double majority in the voting system of the Council, moving from unanimity to majority voting, simplifying the procedures for modifying the Treaty and establishing a more stable presidency for the Council. But this Constitution failed to be ratified and since then, the EU passed through a period of discussions and debates regarding the future of a new Constitution, or a new Treaty.

Before the 21-22 June Summit, there were envisaged three scenarios likely to occur and “solve” the deadlock:

1. to maintain the 2004 Constitution (but with few chances to be ratified in France, Netherlands and other “grumbling” MS);
2. to revise the Constitutional Treaty, which would have meant to add or cut different parts to/from the original text, or just to create a new one (each possibility having more or less significant chances to occur);
3. to simply amend the Nice Treaty.

Nevertheless, a fourth scenario was also carefully considered: the possibility for the European leaders to reach no agreement and, therefore, to cast the dice for a matchless political crisis, significant greater than the 2005 one.

IV. 1. The ratification of the current Constitutional Treaty

Since one third of the Member States refused or ceased to ratify the Treaty once France and Netherlands rejected it entering a long and undetermined Reflection Period, it was difficult to figure out a sudden change in their opinion during the Summit and, consequently, the possibility to maintain the 2004 Constitution had small chances to be adopted. However, it was common knowledge that Germany, in charge with the EU presidency, would have done everything within its powers to come to a conclusion regarding a Constitutional Treaty of the EU. The first step the German presidency took

was to put an end (in January this years), at least formally, to the Reflection Period called for in June 2005 by the Luxembourg's premier. This measure has been interpreted as an alarm signal for all the Member States, especially for a specific one third, that the ardent institutional "leftovers" requested rapid solutions. This is not the place to ask ourselves what were the real, or, it is better to say, the additional reasons for Mrs. Merkel to be so obstinate, on the one hand, in insisting so much on following a timetable for the reform in order to conclude it before the EP 2009 elections, and, on the other hand, on the strange and somehow quixotic climate change crusade. Maybe the "accidental" partial superposing of the EU and G8 presidencies has raised to the surface some of the older German power dreams. Irrespective of the true degree of these allegations, one thing was sure from the beginning of Mrs. Merkel's mandate: some progress, even marginal, was to happen before the end of June 2007.

Nevertheless, in the same year's spring, it was obvious that the Member States were utterly different in perceptions and desires, very few of them being in favor of the maintenance of the 2004 Constitutional Treaty. The main actors who sympathized with this solution were the 18 Member States that had already agreed to most of the items and therefore wouldn't have preferred a new Treaty. In their opinion, a mini Treaty or a lack of ambition amending version was considered a serious step back for the political, economic, social, international etc. interests of the Union. The only "modification" they were ready to accept implied not chopping the 2004 document, but... adding more ardent issues like the fight against the climate change or the energy security concerns – a "maxi-treaty", therefore.

For instance, **Belgium**, one Member State that has already ratified the Treaty was against a new Treaty and also against a "mini-Treaty" but used to agree that several adds could be brought to the 2004 constitution in the light of the latest changes that happened in the European Union. Belgium was sustaining the qualified majority voting, the socio-economic policies, a European defense, a treaty revision mechanism and a multi-speed integration. All these changes requested by Belgium could have created nevertheless serious disputes at the Summit since there were countries that refused to ratify the Treaty on the grounds of the new QMV provisions, for example. Also, regarding the multi – speed integration, there were voices which disagreed with a rapid and of serious proportion integration. Therefore, it was easily to conclude that almost every request to change the 2004 Constitution or to add something would have been be seriously disputed.

Berlin's position was conceptually very close to the one supported by Brussels, even if a clear expression of the **German** vision in this case was difficult to be made public, since its EU presidency status obliged it not to be biased in its decisions but to encourage discussions with all the member states, even if its interests were pretty clear as revealed in early January when Berlin committed itself to help breaking the reform deadlock and determine its conclusion in a two-year term.

Among other "friends of the Constitution", we have to mention the **Portugal** situation, a very special case considering that it has to continue the Germans' work during an IGC expected to agree on a text (whatever would it be called) by the end of 2007. Therefore, it really wanted a solution to be find at the June Summit, the Portuguese Prime Minister even accepting the idea of the adoption of a new Treaty with the condition that this

problem had to be finished before the German presidency came to an end. After the informal meeting that took place in Sintra on 12-13 May 2007 and where participated the present and upcoming EU presidencies, Germany, Portugal and Slovenia, the Portuguese premier Jose Socrates also declared “Naturally, what we want is that at the June meeting a consensus is reached so that it is clear what the road map is so that Europe can adopt an institutional treaty as soon as possible”.

All these positions and the frequent meetings that had as primer subject the Constitutional Treaty showed that it was of great urgency for this problem to be solved or else the European Union was to convert into a chaos, with no certain rules to be obeyed and with no possibility to take care of the problems that Europe face nowadays – the European security, the changes in climate, the energetic security, the illegal immigrations, terrorism and many others.

Nevertheless, it was pretty clear for everybody that preserving the 2004 original form or even extending it was highly impossible. The national bounds to the sovereignty benefits were still too strong to be so seriously challenged by a document with many federalist traces. The minimal chances the old CT had for surviving were lying also on the fact that if the European leaders had accepted it, they would have deceived the EU citizens which, as several polls have indicated, were opposing the idea to let the national parliaments ratifying the Constitution, and wanted referenda on any new form of treaty accepted in the future by the European leaders.

IV. 2. The proposal of a new (Constitutional) Treaty

The second possibility before the 21-22 June Summit included two scenarios:

1. to create a mini-Treaty based on a CT text deprived of the controversial parts;
2. to call for a new Treaty to be ratified again by all the MS.

The leader of the first position, chronologically, was the **French** President, at that time presidential candidate, Nicolas Sarkozy. Even from 2006 he declared himself in favor of a “simplified Treaty, a mini-Treaty adopted by parliamentary majority, which takes on the main institutional changes foreseen by the Constitution“. We can speak here about the paradox of the case of France. France, one of the founding states which supported the Project establishing a Constitution for Europe and also the one who rejected it. How can that be? Well, this is probably the effect of the lack of communication between the citizens of France and the government, and the expression of numerous national fears too. But even if it is so, the referendum consequences affected a country and most of them an entire international organization.

One firm position against the Constitutional Treaty belonged undoubtedly to the **United Kingdom** confronted with serious changes in the same period. The fact that the Prime Minister Tony Blair has to present his resignation to the Queen on June 27, clearing the

way for his successor, Gordon Brown, placed UK in a tricky and at the same time difficult position.

On one hand, Tony Blair would have voted for a series of amendments to be brought to the 2004 treaty, which would have meant to establish a new IGC where Brown would vote in their favor, “them being sufficiently marginal and technical in character not to require a referendum”. The fact is that Blair would have rather accepted such “marginal and technical amendments” that could have been voted in Parliament with the Labour’s “substantial majority”, than organize a referendum and ask for the public opinion. His intention was however difficult to be accomplished since two things could have happened here, none of them in favor of his position. First, even if such amendments would have been brought and the member states would have come to the conclusion of organizing a new IGC, it was common knowledge that the 18 member states who have already ratified the first form of the Constitutional Treaty would have tried everything within their powers to keep it as much unchanged as possible. And, second, it would be somehow political dangerous to take such a decision in the Parliament without asking for the public opinion in a referendum. Therefore, taking the two situations into consideration, it might be affirmed that, no matter the decision that UK would have taken, Tony Blair had to act in such a manner as to facilitate Brown’s further action such as not to arrive to an internal conflict.

In this context, before the summit, London focused on eliminating from the future text of the mini-treaty / new treaty any references that could have been resent as deeply unfavorable both by the UK politicians and citizens. These eliminations regarded: the Charter of Fundamental Rights which, according to Mr. Blair’s team, should not had dropped its original 2000 role of a “political declaration” and should not become legally binding, affecting through its considerable amount of stipulated rights the internal UK economic and social framework; the “constitution” label of the document, as well as the EU symbols (flag, anthem); the “foreign minister” collocation and the composition of a Diplomatic Service based on EU officials; imposing the supremacy of the EU law over the 27 national laws; offering to the Union’s framework the unique legal personality. There was also a requirement regarding the maintenance of the opting out mechanism in sensitive areas like the third pillar of the Union and the preservation of the unanimous decision in CFSP in order to avoid any serious immixture in the national lines of foreign policy.

In fact, even if at the beginning it seemed that UK was favorable to the idea of a mini-treaty respecting the before mentioned conditions, it was pretty clear before the summit that London would have preferred a simple (Nice) amending treaty.

Another member state that would have been in favor of an amended treaty is the one which gave birth to the Reflection Period – **the Netherlands**. Reflecting several of the UK demands (“constitution” label, the inclusion of the Charter, the unifying symbols, the supremacy of the communitarian law), it would have initially rather preferred to accept a series of amendments brought to the 2004 Constitutional Treaty rather than organize a second referendum. One of the issues that interested Netherlands the most were: the future enlargement criteria, calling for their better operationalization and

addition within the new document; the raise of the national parliaments' role within the EU decision-making process. In fact, step by step, The Netherlands declared to be in favor of an amending Treaty, rather than a new or a minimized one.

Poland, backed by the Czech Republic, was proposing a radical change of the CT treaty. The main problem that Warsaw had to put on the table referred to the Council voting system, the CT provisions (majority of states and population, with different thresholds, however) being considerably less favorable for it than the Nice complicated one. In order to increase its voting power, Poland insisted for a renegotiation of the voting system, considering that a faire one for everybody would have been the connection between one country's voting weights to its population square root. Another dissatisfaction for Warsaw was the absence of a reference to the Union's Christian roots.

The **Czech Republic** rejected the idea of a Constitution preferring instead a new Treaty. In fact, the Czech Republic considered that the "2009 timeline for a new treaty may be too soon; that it is critical of creating the post of EU foreign minister", that was important to renegotiate the voting rules of the Council, to rethink the issue of the Charter of Fundamental Rights and also to "reopen the discussion about the division of competences between the EU and its member states". At the same time it "is not opposed to a possible <two-speed Europe> with different levels of integration", but it definitely rejected consequences of establishing a "foreign minister" position. Therefore, the Czech Republic came out with a total new position that wasn't easy to handle with at the Summit.

To follow the path of the possibility to adopt a mini-treaty, an equal importance could have had the simplified form of the treaty provided by the "**Amato Group**", headed by former Italian Prime Minister Giuliano Amato. This new form of the Constitutional Treaty did not "contain any Constitutional elements" and also "it has reduced the Charter of Fundamental rights". Regarding their work, Mr. Amato emphatically sustained at the unveiling of the document on 4 June "We do not exclude that you reach the same final result". The simplified Treaty had only 70 articles (compared to the 448 articles of the EU Constitution), plus two protocols, one that contains institutional changes and one containing policy innovations – at first sight it approached somehow the changes requested by the countries that did not ratify the current Constitutional Treaty. The document had the backing of the French President, Nicolas Sarkozy, that of Spain and also of Italy, two members who have already ratified the 2004 Treaty.

New Treaty – mini Treaty – either of these two possibilities seemed to have enough support in order to become the "solution" of the Summit.

IV. 3. Amendments brought to the Nice Treaty

This method, known also as the "cherry picking" means that, instead of bringing amendments to the 2004 Constitutional Treaty, as some of the Member States wanted,

they have to try amending the Treaty of Nice, currently in force since 2003. Nevertheless, this didn't seem to be a viable solution that could have been taken instead of the existence of a Constitutional Treaty.

First of all, the Treaty of Nice was too old for representing a viable solution for the ardent problems that the European Union is facing nowadays – and one of the most important of these problems is the enlargement issue. The Treaty of Nice that was adopted for the 2000 EU-15 and, despite its additional Declaration and Protocol, it couldn't certainly face the current EU-27 and several other states that are about to join the Union. Respecting its procedures would have meant too much work, a far too complex institutional scheme by any chance non-profitable for Brussels. Few were expecting at the beginning of June that the so much contested Nice document would not be replaced, but simply amended, as it actually happened.

IV. One week before the Summit

Analyzing each country's demands, the German presidency came up with the conclusion that no progress would have been possible during the summit unless a minimum common denominator would have been found. It was obvious that a 'peace proposal' was unlikely to be drafted by either of the two large camps: the "friends of the Constitution" and the intergovernmental oriented MS.

Therefore, one week before the beginning of the Brussels reunion, Mrs. Merkel made a U-turn and forwarded to the 27 partners a document called "a Reform Treaty" where, in only 11 pages, she tried to address all the expressed positions and to propose a feasible solution. Basically, a large part of the federalist input of the CT was dropped – there was no constitutional terminology or symbols, no "foreign minister" title (even if its job was preserved, however with diminished influence), no change within the names of the existing EU laws. Moreover, unconceivable for a real political progress, there was a reference not only to the efficient enhanced cooperation procedures, but also to the before rejected "opting-out" practices, especially to protect the UK's ego and interests in the third pillar's content.

The topics which needed specific attention during the summit were listed as: the Charter of Fundamental Rights, the relationship between EU law and national law, the transfer of powers between EU and member states, CFSP, the role of national parliaments and the voting system, the last item being included in the Berlin's package as a special favor made to Warsaw which otherwise threatened not to take part in any EU treaty conference.

V. THE CONCLUSIONS OF THE EUROPEAN COUNCIL REUNION, 21 – 22 JUNE

“People only accept change when they are faced with necessity, and only recognise necessity when a crisis is upon them”.

Jean Monnet

On 25 March 2007, at the EU’s 50th anniversary in Berlin, the EU leaders celebrated the huge success the EU had by its example of peace, democracy and prosperity, and promised to renew the EU because it has expanded and it could not continue unreformed within the current international political context.

On June 21 and 22 the European Council gathered in Brussels in order to agree on the institutional reform in the EU and to decide the way the limping Constitutional Treaty is going to be revised. Provided that the current German Presidency intended to break the deadlock on the Constitution and make a deal that can level the divergent opinions of the member states, under the French Presidency (June-December 2008), the EU had significant chances to find a solution to the institutional reform. However, the decision to end this summit with an agreement in order to start an IGC assigned to complete a drafting mission, meant, basically, the abandonment of the 2004 text in favor of an oversimplified document, not even the “mini-treaty” expected to preserve a great part of the CT’s impressive work. Let’s look at the following table which simultaneously presents, on the one hand, some of the agreement’s conclusions and, on the other hand, their background as well as their implications.

Presidency Conclusions of the 21-22 June 2007 Brussels European Council

23 June 2007

TEXT	OBSERVATIONS
<p>2. The European Union faces a twofold responsibility. In order to secure our future as an active player in a rapidly changing world and in the face of ever-growing challenges, we have to maintain and develop the European Union's capacity to act and its accountability to the citizen. That is why we have to focus our efforts on the necessary internal reform process. At the same time, the European Union is called upon to shape European policy here and now for the benefit of Europe's citizens. [...]</p> <p>7. The European Council emphasizes the crucial importance of reinforcing communication with the European citizens, providing full and comprehensive information on the European Union and involving them in a permanent dialogue. This will be particularly important during the upcoming IGC and ratification process.</p>	<p>These paragraphs are a part of the motivational sequence which precedes the conclusions of the summit. It is important to notice here that, between the before mentioned three main causes of “the necessary internal reform process”, the most important one seems, at least at a declaratory level, the one represented by the insufficiently close European citizens. However, despite these nice words which open the document (“the crucial importance of reinforcing communication with the European citizens” etc.), the body of the text prove them to be only a part of the common political rhetoric, considering, for example, the UK’s position regarding the Charter of Fundamental Rights.</p>

<p>I. TREATY REFORM PROCESS</p>	
<p>8. The European Council agrees that, after two years of uncertainty over the Union's treaty reform process, the time has come to resolve the issue and for the Union to move on. The period of reflection has provided the opportunity in the meantime for wide public debate and helped prepare the ground for a solution.</p> <p>9. Against this background, the European Council welcomes the report drawn up by the Presidency [...] following the mandate given to it in June 2006, and agrees that settling this issue quickly is a priority.</p> <p>10. To this end the European Council agrees to convene an Intergovernmental Conference and invites the Presidency without delay to take the necessary steps [...], with the objective of opening the IGC before the end of July as soon as the legal requirements have been met.</p> <p>11. The IGC will carry out its work in accordance with the mandate set out in Annex I to these conclusions. The European Council invites the incoming Presidency to draw up a draft Treaty text in line with the terms of the mandate and to submit this to the IGC as soon as it opens.</p> <p>The IGC will complete its work as quickly as possible, and in any case before the end of 2007, so as to allow for sufficient time to ratify the resulting Treaty before the European Parliament elections in June 2009.</p> <p>13. Having consulted the President of the European Parliament, the European Council invites the European Parliament, in order to pave the way for settling the issue of the future composition of the European Parliament in good time before the 2009 elections, to put forward by October 2007 a draft of the initiative foreseen in Protocol 34 as agreed in the 2004 IGC.</p>	<p>This is the formal announcement regarding the closure of the Reflection Period. It is also announced the “success” of the current negotiations, fact which implies the beginning of the IGC mandate. Accordingly to official declarations, the next EU Portuguese presidency already announced that the IGC will be formally open on 23 July and, after a first debate with the MS foreign ministers over an initial version of the draft to be held at the beginning of September, it is expected to present the final draft during a mid-October Lisbon summit.</p>
<p>ANNEX I DRAFT IGC MANDATE</p>	<p>This annex includes the main provisions of the reform, including the most challenging ones.</p>
<p>I. GENERAL OBSERVATIONS</p>	
<p>1. The IGC is asked to draw up a Treaty (hereinafter called "Reform Treaty") amending the existing Treaties with a view to enhancing the efficiency and democratic legitimacy of the enlarged Union, as well as the coherence of its external action. The constitutional concept, which consisted in repealing all existing Treaties and replacing them by a single text called "Constitution", is abandoned. [...]</p> <p>2. The Reform Treaty will contain two substantive clauses amending respectively the Treaty on the European Union (TEU) and the Treaty establishing the European Community (TEC). [...]</p>	<p>By introducing the new document as a simple “Reform Treaty” (RT) created on an amending logic, this article definitively settles the constitutional problem. This is not even the case to speak about Mr. Sarkozy’s “mini-treaty” considering the particular stress on the “amending the existing Treaties” implications. Nevertheless, the attention paid to repeatedly reiterate the abandonment of the constitutional influence gives the right measure about the fear felt by many MS in front of this challenge to their national sovereignty and interests.</p>
<p>3. The TEU and the Treaty on the Functioning of the Union will not have a constitutional character. The terminology used throughout the Treaties will reflect this change: the term "Constitution" will not be used, the</p>	<p>Basically, we can observe here a “federal purge” which eliminated, firstly, the uncomfortable terminology before “attacking” the very concrete</p>

<p>"Union Minister for Foreign Affairs" will be called High Representative of the Union for Foreign Affairs and Security Policy and the denominations "law" and "framework law" will be abandoned, the existing denominations "regulations", "directives" and "decisions" being retained.</p> <p>Likewise, there will be no article in the amended Treaties mentioning the symbols of the EU such as the flag, the anthem or the motto. Concerning the primacy of EU law, the IGC will adopt a Declaration recalling the existing case law of the EU Court of Justice*.</p> <p>* Whilst the Article on primacy of Union law will not be reproduced in the TEU, the IGC will agree on the following Declaration: "The Conference recalls that, in accordance with well settled case-law of the EU Court of Justice, the Treaties and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case-law." [...]</p>	<p>parts of the 2004 CT content.</p> <p>Regarding the symbols, it is interesting to notice that, despite the political embargo existing on their explicit inclusion within the RT as the organization's specific marks, they are still going to be used within the Union's framework.</p> <p>Moreover, we find here the reference to the delicate rapport between the EU law and the national ones. The primacy of the communitarian norms was seriously questioned during the negotiations and the content of this article as well as its further explanation reveals the delicate equilibrium between them, considering that this specific primacy can take place only under specified "conditions".</p>
<p>II. AMENDMENTS TO THE EU TREATY</p>	
<p>Common Provisions (I)</p>	
<p>9. The Article on fundamental rights will contain a cross reference* to the Charter on fundamental rights, as agreed in the 2004 IGC, giving it legally binding value and setting out the scope of its application.</p> <p>10. In the Article on fundamental principles concerning competences it will be specified that the Union shall act only within the limits of competences conferred upon it by the Member States in the Treaties.</p> <p>* Therefore, the text of the Charter on fundamental rights will not be included in the Treaties.</p>	<p>Legally binding, not included within the Treaty and with the specific mention that it cannot affect the UK's own system – these are the basic stipulations regarding the Charter's future. Despite its complex content and the benefits presented for the European citizens, the document proved to be too ambitious for some of the Union's MS.</p> <p>See also the stipulation added to the Amendments to the EU Treaty (Annex 1): The IGC will agree the following Declaration: "The Conference declares that: 1. The Charter of Fundamental Rights, which has legally binding force, confirms the fundamental rights guaranteed by the European Convention on Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States. 2. The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined by the Treaties." **The following Protocol will be annexed to the Treaties: "[...] the Charter to be applied and interpreted by the courts of the United Kingdom strictly in accordance with the Explanations referred to in that Article; [...] Have agreed upon the following provisions which shall be annexed to the Treaty on European Union: Article 1 1. The Charter does not extend the ability of the Court of Justice, or any court or tribunal of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms.</p>

	<p>2. In particular, and for the avoidance of doubt, nothing in [...] the Charter creates justiciable rights applicable to the United Kingdom except in so far as the United Kingdom has provided for such rights in its national law.</p> <p>Article 2</p> <p>To the extent that a provision of the Charter refers to national laws and practices, it shall only apply in the United Kingdom to the extent that the rights or principles that it contains are recognised in the law or practices of the United Kingdom."</p>
<p>10. In the Article on fundamental principles concerning competences it will be specified that the Union shall act only within the limits of competences conferred upon it by the Member States in the Treaties.</p>	<p>This article, together with an amendment to the EC treaty presented below, represents the answer top the Czech demands regarding the specification of a clear balance between the Union and the MS attributions, and the possibility of a bi-directional power transfer.</p> <p>See also the same idea in another part of the annex:</p> <p>(Amendments to the EC Treaty) 19. b) In the Article on categories of competences, placed at the beginning of the TEC, it will be clearly specified that the Member States will exercise again their competence to the extent that the Union has decided to cease exercising its competence.*</p> <p>* (a) The IGC will also agree a Declaration in relation to the delimitation of competences: "The Conference underlines that, in accordance with the system of division of competences between the Union and the Member States as provided for in the Treaty on European Union, competences not conferred upon the Union in the Treaties remain with Member States.</p> <p>When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence. The latter situation arises when the relevant EU institutions decide to repeal a legislative act, in particular to better ensure the constant respect for the principles of subsidiarity and proportionality. The Council may request, at the initiative of one or several of its Members (representatives of Member States) [...], the Commission to submit proposals for repealing a legislative act.</p> <p>Equally, the representatives of the governments of the Member States, meeting in an Intergovernmental Conference, [...] may decide to amend the Treaties on which the Union is founded, including either to increase or to reduce the competences conferred on the Union in the said Treaties."</p> <p>(b) The following Protocol will be annexed to the Treaties: "With reference to Article [...] on shared competences, when the Union has taken action in a certain area, the scope of this exercise of competence only covers those elements governed by the Union act in question and therefore does not cover the whole area."</p>
<p>Provisions on democratic principles (II)</p>	
<p>11. This new Title II will contain the provisions agreed in the 2004 IGC on democratic equality, representative democracy, participatory democracy and the citizens' initiative. Concerning national parliaments, their role</p>	<p>The strength given to the national parliaments is, again, an attempt to complete the requests of another MS – the Netherlands, very interested in the improvement of the national parliaments' role within</p>

<p>will be further enhanced compared to the provisions agreed in the 2004 IGC (see Annex 1, Title II):</p> <ul style="list-style-type: none"> • The period given to national parliaments to examine draft legislative texts and to give a reasoned opinion on subsidiarity will be extended from 6 to 8 weeks (the Protocols on national Parliaments and on subsidiarity and proportionality will be modified accordingly). • There will be a reinforced control mechanism of subsidiarity in the sense that if a draft legislative act is contested by a simple majority of the votes allocated to national parliaments, the Commission will re-examine the draft act, which it may decide to maintain, amend or withdraw. If it chooses to maintain the draft, the Commission will have, in a reasoned opinion, to justify why it considers that the draft complies with the principle of subsidiarity. 	<p>the Union’s decision-making process.</p>
<p>Provisions on institutions (III)</p>	
<p>12. The institutional changes agreed in the 2004 IGC will be integrated partly into the TEU and partly into the Treaty on the Functioning of the Union. The new Title III will give an overview of the institutional system and will set out the following institutional modifications to the existing system, i.e. the Articles on the Union’s institutions, the European Parliament (new composition), the European Council (transformation into an institution and creation of the office of President), the Council (introduction of the double majority voting system and changes in the six-monthly Council presidency system, with the possibility of modifying it), the European Commission (new composition and strengthening of the role of its President), the Union Minister for Foreign Affairs (creation of the new office, its title being changed to High Representative of the Union for Foreign Affairs and Security Policy) and the Court of Justice of the European Union.</p>	<p>This article can be seen as a briefing regarding the main institutional adjustments.</p> <p>We observe here:</p> <ul style="list-style-type: none"> - the establishment of the EU president function, with the same 2,5 year mandate existing in the 2004 CT. - the reduction of the Commission’s size. From 2014, this institution is going to take one step closer in becoming a genuine supranational instrument, the principle “one state, one commissioner” being dropped in favor of a body consisting of 2/3 from the MS number. The five-year mandate is going to be assured on a rotative base etc.
<p>13. The double majority voting system, as agreed in the 2004 IGC, will take effect on 1 November 2014, until which date the present qualified majority system [...] will continue to apply. After that, during a transitional period until 31 March 2017, when a decision is to be adopted by qualified majority, a member of the Council may request that the decision be taken in accordance with the qualified majority as defined in Article 205(2) of the present TEC. In addition, until 31 March 2017, if members of the Council representing at least 75% of the population or at least 75% of the number of Member States necessary to constitute a blocking minority as provided in Article [I-25(2)] indicate their opposition to the Council adopting an act by a qualified majority, the mechanism provided for in the draft Decision contained in Declaration n° 5 annexed to the Final Act of the 2004 IGC. As from 1 April 2017, the same mechanism will apply, the relevant percentages being, respectively, at least 55% of the population or at least 55% of the number of Member States necessary to constitute a</p>	<p>The RT is going to preserve the CT double majority system (55% of the members states, 65% of their population), even if it will come into force only in 2017, after a transitional period starting in 2014. In fact, this delay represents one of the compromises which apparently saved the June summit from a historical failure, considering that Poland initially threatened to veto any agreement unless a new voting system based on the square root of the population or an extension of the Nice provisions were guaranteed. The 21 – 22 June negotiations were extremely tough, and the EU Presidency approach of the Warsaw’s demand range between a consistent carrot (more MPs, a Ioannina-shaped compromise, energy solidarity clause, postponing of the double majority enter into force etc.) and a threatening stick (to launch the OGC irrespective of</p>

<p>blocking minority as provided in Article [I-25(2)].</p>	<p>the Polish opposition). It also has to be said here that, even if the applicability of this double majority became larger by 40 additional fields, there were still stipulated opting-out possibilities (in police and judiciary aspects), as well as national vetoes in the most delicate areas which usually imply a domestic sovereign competence: finance, foreign and defense issues etc.</p>
<p>Provisions on enhanced cooperation (IV)</p>	
<p>14. [...] The minimum number of Member States required for launching an enhanced cooperation will be nine.</p>	<p>This article’s corollary is the problematic opting-out or national veto preservations, as those existing within the Chapters on judicial cooperation in criminal matters and on police cooperation.</p>
<p>General Provisions on the Union's external action and specific Provisions on the Common Foreign and Security Policy (V)</p>	
<p>15. In Title V of the existing TEU, a first new Chapter on the general provisions on the Union's external action will be inserted containing two Articles, as agreed in the 2004 IGC, on the principles and objectives of the Union's external action and on the role of the European Council in setting the strategic interests and objectives of this action. The second Chapter contains the provisions of Title V* of the existing TEU, as amended in the 2004 IGC (including the European External Action Service and the permanent structured cooperation in the field of defence). In this Chapter, a new first Article will be inserted stating that the Union's action on the international scene will be guided by the principles, will pursue the objectives and will be conducted in accordance with the general provisions on the Union's external action which are laid down in Chapter 1. It will be clearly specified in this Chapter that the CFSP is subject to specific procedures and rules. [...]</p> <p>* The IGC will agree on the following Declaration: "The Conference underlines that the provisions in the Treaty on European Union covering the Common Foreign and Security Policy, including the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy and the establishment of an External Action Service, do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organisations.</p> <p>The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States. It stresses that the EU and its Member States will remain bound by the provisions of the Charter of the United Nations and, in particular, by the primary responsibility of the Security Council and of its</p>	<p>Together with the rejection of a “foreign minister” and the establishment of a High Representative of the Union for Foreign Affairs and Security Policy, which simultaneously hold one of the Commission’s vice-president seats, the adjacent details regarding the CFSP scope clearly indicate that his/her powers were seriously diminished in comparison with the CT original form and, therefore, “speaking on a single voice” became a non-feasible dream, at least in foreign affairs questions.</p>

Members for the maintenance of international peace and security."	
Final Provisions (VI)	
16. There will in particular be an Article on the legal personality of the Union*. * The IGC will agree on the following Declaration: "The Conference confirms that the fact that the European Union has a legal personality will not in any way authorise the Union to legislate or to act beyond the competences conferred upon it by the Member States in the Treaties."	The RF stipulates the unique legal personality of the Union. Regarded as one of the main successes of the June negotiations, here is also a "dark side" because, at a careful look, we observe the back-up mechanism introduced by the MS who fear the Europe federalization and who insisted on inserting the mention that this status does not automatically imply more competences transferred to the Union besides those officially agreed by the MS.
III. AMENDMENTS TO THE EC TREATY	
18. The innovations as agreed in the 2004 IGC will be inserted into the Treaty by way of specific modifications in the usual manner. They concern the categories and areas of competences, the scope of qualified majority voting and of codecision, the distinction between legislative and non legislative acts, provisions inter alia on the Area of freedom, security and justice, the solidarity clause, the improvements to the governance of the euro, horizontal provisions such as the social clause, specific provisions such as public services, space, energy, civil protection, humanitarian aid, public health, sport, tourism, outermost regions, administrative cooperation, financial provisions (own resources, multiannual financial framework, new budgetary procedure).	Here is an exhaustive list of the novelties to be introduced within the RT, some of them coming on the CT channel, even if in a more or less modified form.
19. The following modifications will be introduced compared to the results of the 2004 IGC [...]:	
m) In Article [referring to] measures in case of severe difficulties in the supply of certain products, a reference to the spirit of solidarity between Member States and to the particular case of energy as regards difficulties in the supply of certain product will be inserted [...].	This is the before mentioned energy solidarity clause offered both to Poland and Lithuania, extremely concerned by the possibility of a Russian energy disturbing gesture.
p) In Article [on] environment, as amended in the 2004 IGC, the particular need to combat climate change in measures at international level will be specified [...].	Here is one of the new coming articles of the RT, the climate issue being a quite recent presence on the EU's official agenda and, without question, a top-priority one.
IV. PROTOCOLS AND THE EURATOM TREATY	
V. DECLARATIONS	
Amendments to the EU Treaty (Annex 1): Title VI - Final provisions 9) In Article 49, first subparagraph, insertion of a new last sentence, the second subparagraph remaining unchanged: "Article 49 Conditions of eligibility and procedure for accession to the Union Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of	We can recognize here the Dutch input regarding the inclusion and the better operationalization of the future enlargement criteria, even if, apparently, not as tough as we might have expected.

<p>this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account."</p>	
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We have to say that, despite this agreement which apparently has been indeed reached on the morning of the 23rd of June, it is hard to affirm that the EU's reform crisis came to an end or that the European leaders passed the Union's commitment test. Mrs. Merkel's strong desire to obtain the minimum common denominator meant, in fact, to accept almost **all** the conditions posed by the dissatisfied MS which exemplarily supported each other on the expense of the collective action outcome: eliminating the Charter from the RT, accepting the UK's opting out demands, introducing the flexible approach on the power sharing and power transfer (Czech request), underlying the importance of the enlargement criteria (Dutch request), postponing more or less ad Kalendas Graecas the real implementation of the double majority system, eliminating one of the basic EU traditions regarding the free market – the “free and undistorted competition” (a French request) etc.

The result is a melting pot RT where the survived CT influence interlaces with genuine intergovernmental features. In fact, we can affirm that the compromise obtained was paid by the 18 states who already ratified the CT and who were very little consulted upon the new provisions, considered to be eager enough to see the Union stepping forward in whatever form. However, there has to be underlined here that this June agreement on the stipulations of a possible draft is not tantamount to a real document; therefore, during the next IGC months, many surprises could come from this “silent” camp, whose preferences for a strong Union were more or less ignored during these status-quo biased efforts to save the summit. The reform process still represents, therefore, after putting down all the positions and opinions expressed by the Member States an urgent matter on the EU's Agenda. There is no doubt however that this new RT will also give birth to a lot of controversies and disputes between the EU members.

However, the dice has been indeed cast. The Member States, the European institutions, the presidents, have made their choices, have expressed their opinions. There are many darkened shadows lying over the follow-up of the June summit. And yet, despite all these difficulties, the EU is not going to give up because its member states need the Union as a warrantor of peace, stability and prosperity. To better promote their interests and express their values in a world dominated by globalization, the European states should reform the EU as to better fit both their needs and the European citizens' wishes.

Although democracy has a limited degree in the EU, there is a hope that the member states have learned that cooperation is to be preferred to violence and war, and the problems of living together have to be overtaken by the co-existence of a diversity of models of governing and administration across member states. They still should improve the dialogue across national borders and between citizens and European institutions and also to create a feasible, coherent and fair decision-making process.

The institutional reform problem is a complex one because member-states have different timescales of adaptations and the process slows down when the internal and international circumstances are permanently changing.

Despite that for the last 50 years the EU has been a real success in promoting democracy and prosperity, and it has also increased in diversity which make it harder to find a common sense between member states. Even if the EU should pass through serious reforms to overcome its problems and cope with international threats, it still remains indispensable to all its members. The costs of giving up (if this could be possible) are bigger than reforming the Union; and why to forsake a unique project designed to take care of your framework international status and your prosperity, instead of making it work? Modifying the initial purposes of the EU should be taken as a challenge, because the EU is always going to readapt its intentions to the permanently changing international context.

Before the summit, the French president said, “The night between 21 and 22 June will be very long”. Nevertheless, the time that has remained till the 2009 clear deadline is very little compared to what the whole constitutional process represented. What can be done now is to expect the results. What we should definitely have clear in mind is that the future negotiations won’t be easy to handle with.

VI. CONSEQUENCES OVER THE INTERNAL REFORM

Let's see what would be the effects of the summit's conclusions over the three aspects considered to be the generically main coordinates of the reform: the enlargement, the relation with the European citizens, the role to be played within the global system.

VI. 1. Enlargement

How will the EU be able to face a new wave of enlargement after forsaking the CT?

Currently the accession criteria used for the enlargement are the so called Copenhagen Criteria “which include requirements of democratic governance and human rights, market-economy standards and candidate countries bringing their legislation in line with EU rules” and the Constitutional Treaty incorporated these requirement. From this point of view, we can say that a future enlargement is possible with or without a Constitution; in reality things don't really sit this way. Yes, the Union at this stage can bear new members, but not more than a (small) wave of enlargement, because there are already controversies between the member states regarding this issue; new countries joining the Union will only worsen the situation. An important budgetary augmentation will be necessary to support the future members, especially if they are well behind the standards of the EU. Without a Constitution, exceptions can be easily made, situation which may seriously affect the Unions development. With the existence of a Constitutional Treaty or a very explicit new treaty which would entirely reform this aspect, the process of joining the EU will be more rigorous. It is better to know exactly with what you are dealing with and to have a stable plan to follow in your actions. This way, not only the member states gain a bit more security, but also the candidate states have equal chances to accession.

It is too hard to predict how much can the EU extend its borders even if it has a Constitution / “Reform Treaty”; here we can point out the process of enlargement towards Turkey which is a problematic issue (political and economic indices, impressive demographic data etc.) so we can't even surely imagine what will happen with this country – will Turkey be able to make it or not? Or, from a different perspective, would Ankara receive the green membership light? To build an idea on the future of the Union we first have to see how the problem of the internal reform will be solved.

The effects of the enlargement

The processes of reconstructing the institutions and the enlargement should go together, because the European institutions should be ready to face an increasing number of tasks when a new member is entering. In this circumstance, a new treaty has the role to reform the institutions and prepare them to act properly in a bigger Europe.

The enlargement process raises problems related to institutional reform because, by expansion, the EU is becoming more and more diverse and is getting harder to reach a consensus among member states. So, reconstructing the institutions by ratifying a new treaty, paying attention to legitimacy and the democracy between institutions, as much as controlling the enlargement process, are issues the EU should deal with to maintain its success and to still be able to spread democracy, prosperity and peace across European continent.

As we have already mentioned, the enlargement process is related to institutional reform because institutions should be able to function with new member states. After the May 2004 and January 2007 enlargements, the EU still deals with the problems related to “absorption capacity”, as President Barroso commented on the eve of the Commission’s decision to recommend the accession of Bulgaria and Romania on 1 January 2007: “We are not in a position to further integrate Europe without further institutional reform. There are limits to our absorptive capacity”. The enlargement process has effects on the EU’s internal market, labor market, budget, euro zone, capacity to absorb immigration and on the strategic security. All these issues should work together with EU’s desire to become closer to its citizens, to become more democratic and efficient and to strengthen its capacity for external action.

The enlargement process has economical effects, too. With two new member states in 2007, the EU needs to increase its competitiveness on the global market. Experience has demonstrated that after an enlargement the EU becomes rigid and its major economies begin to stagnate. As solutions, a competitive labor market and a mobile capital could help the EU to recover its rhythm. In 2005, during the British presidency, Tony Blair sustained that the EU needed to improve its entrepreneurship, innovation and dynamism instead of protectionism and social protection. Risking loosing the level of his popularity, Mr. Blair clearly mentioned his solution for the EU to become a model, like USA, despite its enlargements.

The scope of enlargement is a legitimate one, regarding its intention to create and maintain stability on the European continent, but the EU can not expand following just this idea; it should take care of the criteria required for a state to become a member of the EU and it should also prepare itself for the enlargement process clarifying the problems with the absorption capacity. Moreover, the pulse of the public opinion it’s a clear sign which can help the EU to take enlargements’ decisions. Each extension is followed by a period of transition both for the EU and the new member state. The EU changes its border and through the (alternative offered by the) European Neighborhood Policy is trying to export stability, prosperity, democracy and peace. The intention is good, but is the EU able to follow its geostrategic interest using its soft power, its transformative power? Scholars find a positive answer to this question in the structure of ENP: it acts with circle

moves: by increasing our neighbors' stability and prosperity, the EU is increasing its own protection. The flexibility of the ENP can be seen in the economic field, too: by supporting the neighbors' reform economical reforms, the EU benefits by having access to new markets. The stability issue follows the same process: because lack of respect for the rule of law and lack of democracy mean instability, the EU prefers to export those values to its neighbor, offering advices and support, for the sake of European citizens. Regarding security, cooperation is encouraged instead of terrorism, and so on...

To sum up, the EU acts like an important player in its neighborhood in order to protect its boundaries and to prepare its future new members. Simultaneously, it prepares itself for future enlargements. Such a major change is always a cause for concern: first - for both old and new member states, and second - for the neighbors. In order not to dilute current achievements, the EU has created ENP which has an important role in reforming and improving life for EU's neighbors in order to revitalize the EU and to promote transition and integration. However, beyond the official speech, we should ask ourselves if this ENP or the famous "privileged partnerships" offered to uncomfortable applicants like Turkey are not simply surrogates offered to replace a problematic membership.

VI. 2. Citizens

The bound between EU and its citizens

The idea of an institutional reconstruction is not only related to enlargement, but with the legitimacy in EU, too. Some European institutions are independent of popular control, which diminish the degree of democracy in the EU, an important aspect for the EU to legitimate in front of its citizens.

The Constitutional Treaty offered a wide scale of rights for the citizens of the EU (the right of life, the respect for human dignity, the right to freedom and security, freedom of thought, the right to a private life, the possibility to express oneself and to get a proper education, equality between men and women, the respect for religious diversity, the right to a free trial, social justice etc.). The member states of the Union have signed some texts which provided these rights: The Universal Declaration of Human Rights (1948), The European Convention on Human Rights (1950), The European Social Charter (1962), and in 2004 the CT which included the Nice Charter of Fundamental Rights, another step towards the consolidation and protection of the provisions of the European citizenship. From this point of view we can say that the EU provided its citizens enough rights, maybe more than any country or organization may ensure, so they could feel satisfied and secure, keeping also in mind that certain institutions and bodies of the Union such as the Court of Justice or the European Ombudsman have a long tradition in working to make sure that the competences of the EU in this area are correctly implemented and the rights are strictly respected. Nevertheless, the political ban given to the Charter in the new "Reform Treaty" on the ground that its possible legal binding would have gone "too far on social rights" is a real slap felt by the Union's citizens, even if the decision to give up the Charter was not proposed by the leaders of the European institutions as such, but by

their MS counterparts. However, the result of this decision may be a considerable shake of the EU people's trust in Brussels.

In what concerns the representation of the citizens of the Member states at a European level, the CT underlined the old principle of representative democracy – “Citizens are directly represented at Union level in the European Parliament” (*art. 1-46*) and indirectly in the Council thanks to the government they democratically choose in their country. Each citizen has the right to participate in the democratic life of the Union. But here is raised a question: do the people elected by the citizens to represent them really listen to the problem of their electors? An affirmative answer to the question is the referendums organized in every member state where people had the opportunity to express their opinion towards the ratification of the Constitutional Treaty – many agreed, but some of them, like the citizens of France and Netherlands, rejected the proposal. The negative side of the answer is that through this referendum, we also noticed that the EU deals with a democratic deficit, few people exercising their right to vote.

The recent European Citizens Consultations project (involving thousands of citizens from all the MS in the debate regarding the future path of the Union) can be seen as new method for citizens to consolidate the dialogue with the European institutions, but this kind of actions must be done more often so it can assure positive results. And in the context of a future enlargement, a treaty such as the CT was necessary in order for the EU to overcome the democratic deficit and its citizens to see that the officials of the Union listen to their problems and necessities and do everything possible to achieve their taxpayers' interests.

What happens now, after the CT's exposure?

The possibility of a rejection of the CT was very high and the negative answer at the referenda in France and Netherlands predicts this situation. It was highly possible that the citizens of this two countries will say “yes” if the text of the treaty would have been modified, especially after many leaders of the members states have directed their attention towards a mini-treaty or moreover a amendment of the Nice Treaty. Now, after the political leaders backed down, how will the people react? Maybe they will see it as a problem which doesn't worth fighting for. Even if they generally wanted “more Europe”, it was obvious that their administrations had too many causes to abandon the CT: significant aspects of the Constitution diminished the powers of many of the EU members more than they already were, while the concept of sovereignty is doubted. The states were not ready to entirely submit to a supranational entity, they were not prepared to form a new type of federation, and the three-pillar continued to be the best alternative. All we can do in present is to ask ourselves if the Union will find enough strength to keep going, to ensure economic development and a proper social environment for its citizens.

Debating the Union's legitimacy

The process of democratization has a great impact on the way the EU legitimates in front of its citizens. Even if the EU members are democratic states, the problem of democracy still exists in the Union, a lot of authority having been transferred to the European institutions, not all of them directly elected by the European citizens. This also affects the degree of legitimacy the EU is able to gain.

Strengthening the EU means giving greater power to supranational institutions which are not directly connected to people. In consequence, the degree of democracy is affected, so the legitimacy, too. There are still important differences between a democracy and the EU because the citizenship is not well developed (as in a national democratic state), the Parliament has limited powers, and more and more power is given to non-elected institutions like courts and central banks. Theorists consider that because the EU is neither a “common” democratic nation state, nor a traditional international organization, we should regard it differently and its legitimacy in its own way. Considering it a construct, its forms of legitimacy do not include popular democracy and, because the EU is characterized by the power of changing itself as to suit different challenges, the well-known forms of democratic legitimacy seem no longer working in this case. The EU offers an alternative to the conventional democratic legitimacy we are used to because here democracy is always changing and adapting. “Usual” democracy is not accepted at this level because the boundaries of the EU are not stable and in this context, new forms of democracy and legitimacy are preferred.

But why do we still find a democratic deficit in the EU? Because this construct represents a political system which passes beyond democratic legitimacy, meaning that the traditional rules do not apply here. For example, at the European level, lobby interests and NGO's can represent an alternative to the conventional party and are able to offer specialized information. Offering an example of the way it invites participation and of its accessible route to interest representation, the EU is not anti-democratic, but there are still important problems which make this construct non-democratic: national governments are parts of the European government, the European Commission influences the “agentification” of the national governments and represents a supranational executive unelected by the European citizens, nevertheless able to act independently. Even so, the EU is an interesting “non-democratic” example to the decision-making process.

The decision-making process represents a major problem in the EU because it is difficult for the member states to reach a consensus within a variety of political interests. Furthermore, because of the enlargement, the initial interests between institutions or between institutions and private interests, between the EU and the national governments have changed. The original equilibrium has changed, so the institutions should do the same. For example, the problem with the European Parliament is that this institution is not able to supply with political accountability, in the context that citizens do not know its activity and are not in the position of directly electing it as a whole (but on national circumscriptions). The budgetary problem is expressed at the Commission level: instead of presenting the EP the execution of the budget, Commission acts as an unaccountable bureaucracy, paying attention to interests groups. In the situation of an unelected body, it

is not democratic for the Commission to have important political functions. Besides, it would affect its role of impartial “guardian of the treaty” (it cannot be both a government and an executive agency). Therefore, the institutional reform should take care both of the decision-making process and to the citizens’ demands of more or less centralization in certain areas; and also the EU should follow a public consent in initiating legislation and setting the agenda.

We listed here some of the issues needed to be addressed in a real reforming effort, accordingly to the experts’ opinion:

Aspects of an institutional reform:

- The number and the composition of the communitarian institutions
- The operation rules
- The balance and the relation between the union’s institutions
- The competences of these control mechanisms
- The extension of the QMV within the Council
- The establishment of the vote weights for the QMV procedure
- The establishment of the QM type
- The reconsideration of the Committee of the Regions and Economic and Social Committee’s roles
- The establishment of the total number of seats in the European parliament and their national repartition
- The establishment of unique electoral procedures for the EP election

After I.G. Barbulescu

VI. 3. The EU in the future

The role the EU is able or wants to play at a global level has been repeatedly analyzed or questioned lately, especially in connection with the future of the current institutional reform efforts whose results may significantly reflect in the Union’s influence within the international system. Soft power, diplomatic means, economic giant – all these items are familiar presences within the top-level debates. Therefore, in this paper, we chose to focus on a different aspect which can be included within the “EU in the future” topic: the threats it could face in the future and which involve the necessity of proper means to be decided in order to tackle them properly.



The international context will change and the EU should be able to adjust its reforms to it. New poles of power will arise and the EU would try to keep a balance between democracy and autocracy, between those governed by law and the others governed by power. In order to be able to reach such goals, the EU should first identify its threats and possible solutions to them, as to be prepared to resolves issues like terrorism,

proliferation of weapons of mass destruction, regional conflicts, state failure and organized crime etc.

Passing over the “no” votes in the French and Dutch referenda in 2005, the EU continues with its constitutional project in order to prepare the EU institutions for a wider Europe, a “more” or/and a “better” one. Actions were taken by the French President Nicolas Sarkozy in September 2006 (during his campaign for election) when he came with the idea of changing the current Constitutional Treaty with a “simplified treaty”, which would avoid decisions on sensitive issues. This moment represented a concrete beginning of the renegotiation of the constitution, which finally led to its (more or less) complete rejection.

The EU is going to change, to reform, to readapt - that’s for sure; but in this complex process it needs to look at the future, to anticipate how the world is going to change, during the same period, as to adapt its reconstruction to the international context. In this perspective, economists say that in 2020 China would be better than USA in the economical field, especially when the pointer is purchasing power parity (PPP) exchange rates, and they also consider that the third biggest economy in the world is going to be India. Energy issue would be of much interest in world affairs and Iran and Russia are going to take advantage of their nuclear weapons’ “relation”. So, new poles will arise in 2020 which are going to unite in order to promote their national interests and to gain power, blurring the differences between states with major influence. Contrary to the Cold War period, when the world was dominated by two great powers, in the future two axes are going to divide world, as allege or wish for the European experts dreaming at their “soft power” illusion. These are not going to be geographical axes but they would set apart between democracy and authority, between a world governed by law and another governed by power. The representation of the world in this context would make from USA the most powerful bloc (having Japan and India as democratic allies) and from Russia and China - they are represented as autocratic systems of government. But where are we going to post the EU on this imaginary map? Due to its belief, near America - but not entirely- because they treat international law differently. The EU is going to have its own Euro sphere which will unite countries ready to share aid, market, values. Countries join this Euro sphere on a gradual scale (made possible by ENP). The full accession means respect for human rights and for rule of law, and adopting standards on migration and proliferation.

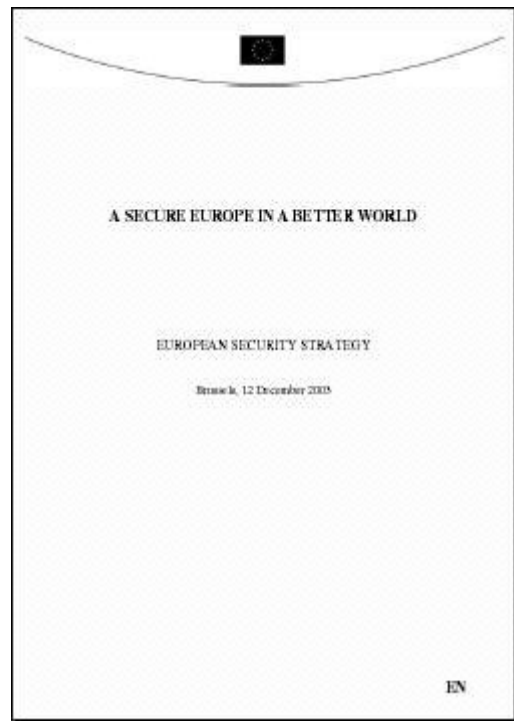
This imaginary map doesn’t include all countries. Central Asia, Caucasus or Middle East, for example, would be of central interest because, since they are not divided by the two axes, they represent an important interest for the rest great powers. Because we live in a multi-polar world, the Union would be concerned to develop relations with countries which are outside our sphere of influence. In conclusion, the solution for the EU to face these transformations properly would be to develop a “desegregation strategy” in order to cooperate with each of the other blocs. In this way, the EU’s experts wish that the Union would be able to prevent two countries to become great forces; we speak here about the cases of Russia and China, those two countries having major differences on energy and proliferation, the EU being considered as capable to “use” both of them in order to take advantage from their dispute. A similar situation is in the Middle East, in the cases of Iran and Syria and Hamas and Hezbollah, where the EU should engage to play off the

differences between them. The scope would be the one to diminish the power of these blocs and to maintain equilibrium in the world. Wishful thinking, it seems.

The EU is going to change and to undertake greater responsibilities as a global player, but there are several threats it should stay away from (or be prepared to face them) in its development. Even if no member state of the EU is likely to be attacked, the EU should be ready to face the least predictable threats, identified, for example, in the 2003 European Security Strategy, for example. The most visible one is terrorism. The EU can be a target for this kind of activity, which takes place worldwide. Its consequences include no insurance for European citizens' lives, spending large amounts of money, diminishing the tolerance and cooperation of our societies and a threat for the hole of Europe. Terrorist movements are very well prepared, using considerable resources, an interconnected electronic system and they involve a complex network in order to produce different degrees of violence. This kind of phenomenon produces social and political crises, is an important obstacle in the modernization process and alienates young people from living in foreign societies. The EU is a target for terrorism, which is usually linked to violent religious extremism, because the EU wishes to be united in diversity and a global player able to give an example of peace, prosperity and security. But a determined and serious effort should be done at the European level to protect the Union against terrorism. And because this is not enough, because the EU cannot deal with terrorism on its own, a viable solution is working together with international organizations in order to maintain international peace and security.

Yet, terrorism is not the only one which challenges security. It is something stronger, the greatest threat to global security, implicit to EU: the proliferation of weapons of mass destruction (WMD). Even if the enforcement of the international law is trying to slow the spread of WMD, it still represents a threat, especially in the Middle East, where the possibility to start a WMD arms race already exists. Improvements of biological sciences increase the chances for biological weapons, chemical and radiological materials to be produced in the next years. Another threat for the EU is the spread of the missile technology. The consequences of using WMD would be the frightening situation in which a small group would produce as much damage as only a state and its armies can do. And controlling the production of WMD is even harder than stopping the terrorism.

The Union's stability is also threaded by regional conflicts. Persisting on its borders or even not so close to them, they affect the European interests, giving a sense of instability. Their actions destroy human lives, social stability, threaten minorities, human rights and also fundamental freedoms. It can represent an incentive for a terrorist action or for organized



crime and also it can lead to the proliferation of weapons of mass destruction. In order to prevent such consequence, the EU should help in finding solutions in the older problems of regional conflicts.

Another example of a dangerous phenomenon determined by threats like organized crime or terrorism is called state failure. Not only those threats can produce such a result, but also lack of democracy, corruption, abuse of power, weak institutions, and civil conflicts. State failure represents another example of regional instability and of threat for the development of the EU.

Terrorism, proliferation of WMD, state failure and regional conflicts are threats mostly coming from outside of the EU and threatening its stability and competitiveness. But organized crime is a situation which is already happening between EU's borders, at different levels between member states. It is also a cross-border phenomenon, especially in the neighborhood, characterized by traffics with drugs and women and illegal immigrants and weapons. Such criminal activities threaten the rule of law and social order and sometimes can go to extreme and overtake and dominate the state itself. An important example is the Balkan criminal network, which is responsible for 90% heroin coming from Afghanistan and 200,000 of the 700,000 women victims of the sex trade world wide.

This is the real difficult situation the EU should face in the future: the combination between terrorism, proliferation of WMD, organized crime and regional conflicts. But, if the before mentioned threats have been widely signaled even from the 2003 *European Security Strategy*, the most recently concern of the Union's leaders regards, on the one hand, the energy security issue – likely to become a huge threat considering the deficient supply (re)sources and, therefore, the dependency on international providers, and, on the other hand, the climate change whose negative influence at a global level is already felt and which requires immediate, drastic and efficient counteracting measures.



VII. POLICY RECOMMENDATIONS

Sometimes, it is hard to draft policy recommendations even for only one state. Therefore, what kind of policy recommendations can be considered for a *sui generis* regional organization built up, being influenced and simultaneously influencing 27 extremely different member states, as well as plenty other neighbor states or international actors? And when this organization tends to become regarded as a whole continent, the analysts' job become even tougher.

In a first place, maybe these 27 MS should decide what they really need or wish for in aspects regarding a supra-national political, economic etc. involvement. It could sound obsolete, but their contradictory and inconsequent actions represent evidence in this case. It is possible that the instrumental identification of the new comers affects the strength of the Union's future, especially when, leaving the soviet umbrella not so long time ago, they look pretty eager to preserve the new obtained full national rights assured by a veritable sovereignty. However, maybe besides Poland and the Czech Republic, we cannot generalize this argument, especially when some elements of the "old Europe" – France and Netherlands, on the one hand, or the UK, on the other – are as reluctant or confused in their movements just as the new member countries are. Every actor seems to play multiple concomitant roles and this situation affects the whole construct. Let's look, for example, to the recent case when Mr. Sarkozy, in order to assure London's support in the current RT debates, proposed Tony Blair to be, in the eventuality of a unanimously ratification, the 2009 initial president of the Union. Little time passed until it "happened" that Mr. Bush proposed the same Mr. Blair for becoming the next envoy for the Middle East diplomatic Quartet.

In a second place, somebody should assume the governance responsibilities, considering that the current unsettled accountability structure dislocates and affects the final goal, whatever it might be. For us, carefully analyzing the international context, this goal definitely has to imply and materialize a considerable political progress. If the EU member states are not giving up to their "Europe à la carte" infinitely transitional period, sooner or later they will face serious problems like international, but also "domestic" credibility and/or stability, reflected in enlargement issues, power sharing formulae, the legitimacy of some foreign policy actions (either CFSP or ESDP) etc.

"Nothing is possible without men; nothing is lasting without institutions" said Jean Monnet. The question is, now, what kind of institutions we wish for? And, even more important, what kind of Europe we wish for?

LIST OF ABBREVIATIONS

IGC = Intergovernmental Conference

MS = member state

CT = Constitutional Treaty

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