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# A Constitution for Europe

Rome, 29.10.2004



EUROPEAN UNION

A great deal of additional information on the European Union is available on the Internet. It can be accessed through the Europa server (http://europa.eu.int)

Luxembourg: Office for Official Publications of the European Communities, 2004.

ISBN: 92-894-6114-4

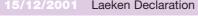
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Printed in Belgium

PRINTED ON WHITE CHLORINE-FREE PAPER

## The route to the Constitution

1957 Treaty of Rome
1986 Single European Act
1992 Treaty of Maastricht
1997 Treaty of Amsterdam
2001 Treaty of Nice
15/19/0001 Lookon Declaration





29/10/2004 Rome: Signing of the Constitution



#### 2004-2006 Ratification / Referendums



On **25 March 1957** in **Rome**, 6 countries (Belgium, France, Germany, Italy, Luxembourg and the Netherlands), signed the **Treaty establishing the European Economic Community** (EEC Treaty). **This has since been followed up** by other European treaties (the Maastricht Treaty, the Amsterdam Treaty, etc.).

It was in **2001** at **Laeken**, in Belgium, that the Heads of State or Government of the then 15 Member States of the European Union decided to convene a "European Convention" with the task of drawing up a text amending the existing European Treaties.

The **European Convention**, chaired by Mr Valéry Giscard d'Estaing, began work on **28 February 2002**. It was composed of 105 members. These members represented the governments of the Member States and of the candidate States, the national parliaments of these states, the European Parliament and the Commission.

The proceedings of the Convention were also overseen by 13 observers, representing the Committee of the Regions, the Economic and Social Committee, the European social partners and the European Ombudsman. All the Convention's sessions were open to the public and all the official documents were published, notably on the Internet. Numerous working groups were created and the Convention organised extensive consultations of organisations representing civil society (trade unions, employers' organisations, NGOs, academic circles, etc).

After 16 months' intensive work the European Convention in June-July 2003 approved by consensus a draft treaty establishing a Constitution for Europe.

This draft was then submitted to an **Intergovernmental Conference** composed of representatives of the governments of the present and future Member States. The Heads of State or Government reached an agreement on **18 June 2004**.

The **European Constitution** was signed by the Heads of State or Government of the 25 Member States in Rome on **29 October 2004**.

## What is a Constitution?

A Constitution is a text which contains the fundamental rules of a State or a group of States. These rules answer several questions. How do the institutions work? How is the division of powers arranged? What means can be used to implement policies? What values are upheld? What are the citizens' fundamental rights?

In actual fact, the European Constitution is both a treaty subject to the rules of international law and a Constitution in that it contains elements of a constitutional nature.

The European Constitution was prepared in a transparent and democratic way, by a European Convention which included 72 directly elected representatives among its 105 members. It has also been subject to a process of ratification by the national parliaments of the 25 Member States of the Union (bodies which have likewise been elected by direct universal suffrage), or to a referendum.

## Why a European Constitution?

The European Constitution is an important step in the construction of Europe. It is designed to meet the challenges of an enlarged Europe: a Europe of 25 Member States and 450 million inhabitants (and even more later on); a democratic, transparent, efficient Europe working to serve all Europeans.

The European Constitution replaces the main existing Treaties with a single text.

## Why **a European Constitution** when my country already has a Constitution?

The European Constitution does not replace the national Constitutions of the countries of Europe. It coexists with these Constitutions and has its own justification and its own autonomy. The European Constitution defines the contexts within which the European Union is competent to act. Europe also has a distinct institutional system (European Parliament, Council of Ministers, European Commission, Court of Justice of the European Union, etc.). Finally, the European Constitution applies throughout the whole of the European Union.

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## What is in the Constitution?

The European Constitution is divided into 4 parts. Part I defines the values, objectives, powers, decision-making procedures and institutions of the European Union. It also describes the symbols, citizenship, democratic life and finances of the Union. Part II contains the "Charter of Fundamental Rights". Part III describes the policies, the internal and external action, and the functioning of the European Union. Part IV contains general and final provisions, including the procedures for adopting and revising the Constitution.

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From now on, any country that wishes to do so can leave the European Union.

## What does the Constitution offer me?

#### The guarantee of respect for certain common values and a European model of society

Respect for human dignity, liberty, democracy, equality, the rule of law, and human rights.

A society founded on pluralism, non-discrimination, tolerance, justice, solidarity and equal rights for women and men.

Only Member States which respect these values may become members of the European Union. Moreover, measures can be taken against any Member State which fails to respect them.

#### Fundamental freedoms

Free movement of persons, goods, services and capital, and freedom of establishment. No discrimination on grounds of nationality.



#### European citizenship

"Every national of a Member State shall be a citizen of the Union."

This citizenship is additional to national citizenship and does not replace it. It confers additional rights: the right to move and reside freely within the territory of the Union, the right to vote and to stand as a candidate in elections to the European Parliament and in municipal elections in the country of residence, diplomatic and consular protection in third countries, the right to petition the European Parliament, to apply to the European Ombudsman, and to address the Institutions and advisory bodies of the Union in any of the Constitution's languages and to obtain a reply in the same language.

#### A Charter of fundamental rights

The Charter guarantees respect for human dignity; the right to life; the prohibition of torture and inhuman or degrading treatment; the right to liberty and security; respect for private and family life; freedom of thought, conscience and religion; freedom of expression and information; the right to education; freedom to conduct a business; the right to property; equality before the law; respect for cultural, religious and linguistic diversity; equality between men and women; the integration of persons with disabilities; the right to access to justice and to a fair trial; the presumption of innocence and right of defence; etc.

The Charter forms an integral part of the Constitution. It applies to the European Institutions and to the Member States when they are implementing European Union law. It covers not only the civil and political rights enshrined in the 1950 European Convention on Human Rights but also additional areas, e.g. workers' social rights, protection of the environment, the right to good administration.

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"We are not making a coalition of States, but are Uniting people."

[Jean Monnet, 30 April 1952]

#### **More solidarity**

If a Member State is the victim of terrorist attack or natural or manmade disaster, the Union and its Member States shall act jointly in a spirit of solidarity – if necessary by military means – to assist that State.

#### Improving the democratic life of the Union

New obligations are imposed on the European Institutions regarding the consultation of civil society, transparency and openness of the decision-making process, and access to documents.

#### NEW!

A right of citizens' initiative is introduced (if at least one million citizens from a certain number of Member States so request, the Commission may be persuaded to submit a proposal along the lines desired by these citizens).

#### Shared objectives

Peace and well-being. Freedom, security and justice. A vast single market and freedom of competition. Sustainable development, blending economic considerations with social and environmental considerations. Scientific and technical progress. Justice and social protection. Protection of children's rights. Economic, social and territorial cohesion, and solidarity among Member States. Cultural and linguistic diversity. Safeguarding and enhancing of Europe's cultural heritage.

## The European Institutions Who does what?



\* Except in areas where unanimity is required, the decisions of the Council of ministers must obtain the support of 55% of the Member States representing 65% of the population.

\*\* Vice-President of the European Commission and responsible, within the Council of ministers, for foreign and security policy.

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## And in what areas?



The Constitution clarifies the competences of the European Union, categorising and listing them. It indicates the areas in which the European Union may act alone (**exclusive competence**), the areas in which the European Union may act along with the Member States (**shared competence**) and the areas in which the European Union may act only in an ancillary capacity and without any possibility of harmonisation (**supporting, coordinating or complementary action**).

Exclusive competence Customs Union Competition (in relation to the single market) Monetary policy with regard to the countries which have adopted the euro Conservation of marine biological resources Common commercial policy

Shared competence Certain aspects of social policy Economic, social and territorial cohesion Agriculture and fisheries Environmental protection Consumer protection Transport Trans-European networks Energy Area of freedom, security and justice Certain aspects of public health Certain aspects of research, technological development and space Certain aspects of development cooperation and humanitarian aid

Supporting, coordinating or complementary action Protection of human health Industry Culture Tourism Education, youth, sport and vocational training Civil protection Administrative cooperation

The Union also has competence to coordinate the economic and employment policies of the Member States, and to define and implement a common foreign and security policy, which includes a common defence policy.

#### Principle of conferral of competences

"The Union shall act within the limits of the competences conferred upon it by the Member States in the Constitution to attain the objectives it sets out."

#### **Principle of subsidiarity**

"In areas which do not fall within its exclusive competence the Union shall act only if and insofar as the objectives of the intended action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level."

#### **Principle of proportionality**

"The content and form of Union action shall not exceed what is necessary to achieve the objectives of the Constitution."

#### **Review by the Court of Justice**

The three principles are subject to judicial review by the Court of Justice and may be the subject of proceedings brought before the Court.

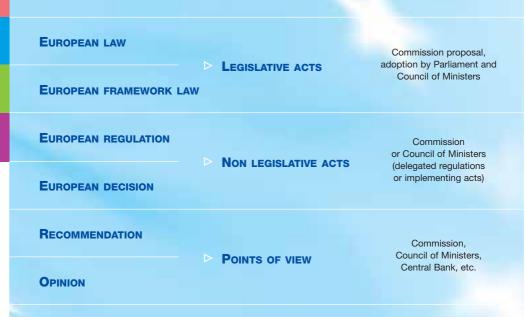
#### NEW!

The Constitution reinforces the application of the second and third of these principles: from now on, each national Parliament will have the chance to examine whether a Commission proposal respects the principle of subsidiarity, and this could even lead to the Commission revising its proposal.

## Simplification

Who does what, and in what areas, is not the only important question. It is just as important to know how the Union acts and what instruments it uses. There were previously dozens of different types of acts!

The Constitution limits the number of instruments that the Union may use to 6.



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#### NEW!

Henceforth, both the European Parliament and the Council of Ministers are obliged to meet in public when examining and adopting a legislative proposal (transparency of proceedings).

## /The symbols of the European Union

The Constitution establishes a number of symbols of the European Union. The symbols are important, since they enable Europeans to identify more with Europe.

The European flag is the symbol not only of the European Union but also of Europe's unity and identity in a wider sense. The circle of gold stars represents solidarity and harmony between the peoples of Europe. The number of stars has nothing to do with the number of Member States. There are twelve stars because the number twelve is traditionally the symbol of perfection, completeness and unity. The flag will therefore remain unchanged regardless of future EU enlargements.



**The European anthem** comes from the Ninth Symphony composed in 1823 by Ludwig van Beethoven. For the final movement of this symphony, Beethoven set to music the "Ode to Joy" written in 1785 by Friedrich von Schiller. This poem expresses Schiller's idealistic vision of humanity in which all men are brothers – a vision Beethoven shared.

### "United in diversity"

**The European motto** was chosen through a competition organised by a group of European citizens. Some 80 000 young Europeans aged between 10 and 20 submitted suggestions.

A number of countries have chosen to replace their national currency with a single European currency, the **euro**. So far, the countries which have done so are Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain.



On **9** May 1950 the French Foreign Affairs Minister, Robert Schuman, presented his proposal for the creation of an organised Europe based on the pooling of coal and steel production, chiefly in order to avoid the belligerent countries of Europe from ever going to war with each other again. This proposal, known as the 'Schuman declaration', is considered to be the beginning of the creation of what is now the European Union. The 9th of May is now known as **"Europe Day"**. It is the occasion for activities and festivities that bring Europe closer to its citizens and the peoples of the Union closer to one another.



## Policies | 3 examples

## "An area of freedom, Security and justice"

The European Constitution guarantees Europeans a single area of 'freedom, security and justice'. What does this mean in concrete terms?

#### No checks at the European Union's internal borders

European citizens may **move freely** in a large number of EU countries (members of the "Schengen area").

#### Intensified checks at the European Union's external borders

Intensification of checks will be introduced at borders with third countries (for example between Spain and Morocco or between Poland and the Ukraine), but also at all Member States' international ports and airports (for example, ships arriving at the port of Rotterdam from South America, or planes arriving at Budapest airport from Asia). This intensification will be given substance through the gradual establishment of a **common policy on visas** and other **short-stay residence permits**, provisions relating to **controls of persons** crossing external borders and an integrated **management system for external borders**.

#### Common asylum policy

This common policy involves a **uniform status of asylum** valid throughout the European Union, **common procedures** for the granting and withdrawing of uniform asylum status, and a **partnership** with **third countries** in order to manage **inflows of people applying for asylum**. The policy must accord with the Geneva Convention on refugees.

#### Common immigration policy

This common policy aims to introduce more efficient management of migration flows, while ensuring fair treatment of third-country nationals residing legally in Member States. It also involves strengthening measures to combat illegal immigration and trafficking in human beings (in particular, women and children). The European Union may conclude agreements with third countries for the return to those countries of third-country nationals residing illegally in Member States.

#### Reinforcement of judicial cooperation in civil matters

This reinforcement involves the mutual recognition and enforcement of court decisions, cooperation in the obtaining of evidence and better access to justice.

#### Reinforcement of police and judicial cooperation in criminal matters

This reinforcement is aimed in particular at **more effectively combating terrorism**, **the sexual exploitation** of women and children, **illicit drug trafficking**, **money laundering**, **corruption** and organised **crime**.

#### Creation of a European Public Prosecutor's Office

This will help to combat international crime more effectively.

#### Reinforcement and closer scrutiny of Europol

**European police authorities** cooperate within a structure known as **Europol**. Europol's field of action may be **extended** to cover, for example, joint **investigations** or **joint operational actions**. Europol is also subject to scrutiny by the European Parliament, national parliaments and the Court of Justice.

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## Policies | 3 examples

"A regional policy based on **Solidarity** and serving the **Citizen**"

#### Why a cohesion policy?

The European Union is one of the most prosperous economic areas in the world. Nevertheless, wide **disparities** exist within its borders, not only between Member States but also, and above all, between its **250 or so regions**.

What this means is that, when it comes to meeting the challenges of globalisation, not all **Europeans** have the **same advantages** and the same **chances of success**. A lot depends on **where they live**. It is this that the **European cohesion policy** is trying to **correct**, even though access to employment, competitiveness of enterprises and investment in technologies are all primarily matters for the economic operators and the national and regional authorities.

#### What is the policy used for?

Regional policy is the concrete expression of European **solidarity** and has been developing steadily since 1989. Through it, a proportion of the Member States' **contributions** to the Community budget is transferred to **disadvantaged** regions and disadvantaged social categories. Over the period **2000-2006** these transfers will represent **a third** of the Community budget, or **213 billion euro**.

This substantial sum of money is chiefly used to help **regions lagging behind** in their development to **catch up** with the rest of the Community. But it is also used to support the **economic and social conversion** of certain difficult areas, the **modernisation** of training systems and the promotion of **employment**. And some is also used to support specific EU initiatives aimed at promoting promote **cooperation between regions**, the **sustainable development** of cities and urban neighbourhoods in crisis, **rural development** or the **fight against discrimination**.

#### How does the policy work?

It is not "Brussels" that decides how the **cohesion** policy **funds** should be used. Needs are precisely **evaluated** on the ground, by the individual **regions** or **countries**. **Implementation** is therefore **decentralised**. However, the EU establishes the **general framework** within which the funds must be used, with strict conditions applying, e.g. development schemes must be environmentally friendly, or must promote equal opportunities.

The European Union's role is not therefore confined merely to "putting up the cash". Thanks to its **cohesion** policy, the priorities decided upon at EU level to enable the Union to act in a spirit of **solidarity** while at the same time being **competitive** (employment, sustainable development, the information society, services of general economic interest, etc) can be put into practice on the ground. The cohesion policy is thus an **indispensable complement** to the single European market and to economic and monetary union.

Note, though, that whatever the type of operation involved, EU aid does not replace national aid but **supplements** it. The idea is that the Union **'lends a hand'** to **good projects** which might not otherwise take shape.

#### And the European Constitution?

It consolidates Europe's regional policy, a policy based on solidarity and closeness to the citizen. It promotes "economic, social and territorial cohesion and solidarity among Member States". From now on, this is a fundamental objective of the European Union. It signifies that the benefits of EU solidarity, and in particular of EU financial assistance, are now available to all disadvantaged regions or regions in difficulty, which was not the case in the past.

## Policies | 3 examples

# "Protection of the environment for the benefit of the present and future generations"

The European Constitution provides additional protection for the environment.

- It puts the principle of sustainable development at the heart of the European project. This principle was enshrined in the first "Earth Summit" organised by the United Nations in Rio de Janeiro in 1992. It aims to respond to the needs of present generations without compromising the needs of future generations. To this end, the European Union will work to achieve "balanced economic growth", a "social market economy" and a "high level of protection and improvement of the quality of the environment".
- It enshrines as a fundamental right the obligation to integrate the environmental dimension into all European policies.
- It introduces solidarity between the European Union, the Member States and any Member State struck by a natural or man-made disaster.
- It enables Europeans and representative associations (such as nongovernmental environmental organisations) to give their opinions, to maintain a dialogue and to be consulted on European policies (notably environmental policy). The new right of citizen's initiative means that if at least one million citizens so request the Commission may be prompted to submit a proposal on environmental issues.

It promotes **energy efficiency**, energy **saving** and the **development** of **new and renewable** forms of energy.

## **Further information**

#### "Europe Direct"

If you have any questions about the European Constitution you can call the freephone number

00 800 67 89 10 11 or the paying number +32 2 299 96 96

#### "Futurum"

If you would like to know more about the European Constitution you can consult the Internet site

http://europa.eu.int/futurum

European Communities

Luxembourg: Office for Official Publications of the European Communities, 2004 2004 - 20 p. - 14.8x21 cm

ISBN: 92-894-6114-4



25 Member States

Candidate countries

European Communities Postal address: B-1049 Brussels (Belgium)



Publications Office Publications.eu.int

