

EU Summit in Brussels - Failure behind a mask of success

After a two-year "reflection period", the twenty-seven Heads of State and Government of the European Union met in Brussels from the 21st to the 23rd of June, faced with the task of finding a substitute for the rejected Constitutional Treaty (CT) of 2005. After the negative national referendums in France and The Netherlands, the ratification process had become paralyzed. In order to emerge from this blockage, EU leaders were expected to agree on a European "Reform Treaty" to replace the defunct constitution. However, rather than elaborating a mini-treaty as publicized by the international press, the twenty-seven agreed on a mandate for an International Governmental Conference (IGC) by the 23rd of July. In other words, the "simplified treaty" widely talked about as the success of the EU summit in Brussels will modify two existing treaties, and his final formulation is still not agreed.

What was changed?

The IGC, formed by three representatives per member country, will meet on July 23rd (therefore, at the beginning of the Portuguese presidency), and it will be responsible for this "cleaning up" of the two previous treaties. The first, the Maastricht Treaty of 1992, will deal with EU institutions and with questions linked to the Commission, the voting rules, and the powers of the European parliament. This treaty will even conserve its current title. On the other hand, the second treaty in question is the founding treaty of the European community, the Treaty of Rome of 1957, which will in fact be renamed "Treaty on EU Functioning". This treaty will also undergo reform, where the modifications will affect mostly the different politics of the Union.

With respect to the previous project for the EU Constitutional Treaty, the primary difference is that all constitutional references have been discarded. Namely, there is no longer any mention of the term "constitution" or symbols like the European anthem and flag. As a result, these two treaties will not be constitutional in character. In addition, Britain obtained the right for the Charter of Fundamental Rights not to be legally binding in the UK. Finally, there were also several superficial modifications, such as the removal, at the request of President Nicolas Sarkozy, of the reference to "free and undistorted competition".

These modifications will have to be realized latest by mid-October 2007, so as to allow time for the twenty-seven to ratify the Reform Treaty before the EU Parliament elections in June 2009. This system has been deemed particularly complicated and difficult to explain to European citizens. Luxembourg Prime Minister Jean-Claude Juncker considers it "even less comprehensible than the Constitution(1)". The simplified treaty seems to be nothing more than a way for the Heads of State to mask a huge failure, especially because it was important to give to impression that progress was being made. The success of EU summit as reported by the press was true on surface level, but absolutely not in reality.

What about the voting rules?

One of the main problems of this Reform Treaty concerns the changes in the Council-of-Ministers voting rules that will not make decision-making with twenty-seven members any simpler. Moreover, it is important to note a great number of EU member states wished to adopt the double majority scheme proposed in the original Constitutional Treaty of 2004. In this system, proposed legislation would need the approval of 55% of member states and 65% of the EU's population to pass by qualified majority, thereby more accurately representing the size of nations than in the current system. However, this mechanism, which would increase the power of Germany (due to its demographic size), received increasing opposition, notably from Poland. In fact, at the EU Summit in Brussels Poland emerged as the most vivid opponent to the adoption of the double majority scheme, proposing instead a voting system operating on the square root of each nation's population. In the end, debates at the summit concluded with the compromise that the double-majority reform will be applied in 2017 instead of 2009. Until then, the Council will continue to operate following the Nice Treaty Rules.

This compromise is far from simple. During the transition period between 2014 and 2017, additional provisions will make it possible for a member country unsatisfied with the result of a vote to request another ballot by invoking the Nice Treaty Rules. From 2017 onwards, when the double majority system is to be applied, countries displeased by a decision will be able to invoke the Ioannina compromise. This rule states that a decision not made by an overwhelming majority can

SCHEDULE FOLLOWING THE EU SUMMIT IN BRUSSELS

- 10 July** : Commission gives its position on the IGC.
- 11 July** : Parliament adopts its opinion on the IGC.
- 23 July** : Launch of the IGC at the EU Foreign Ministers' meeting.
- 18 October** : Tentative date for the closing of the IGC at the informal meeting of heads of state and government in Lisbon.
- December 2007** : The text of a new treaty should be adopted at this summit.

COMPARISON OF THE OLD AND NEW TEXTS

"A comparison of the old and new texts: Is it just the same document under a different name?"

OLD CONSTITUTIONAL TREATY	"NEW" CONSTITUTIONAL TREATY
Institutional Changes	
EU President	EU President
Majority voting in Foreign Policy	Majority voting in Foreign Policy
EU Foreign Minister	EU Foreign Minister (Rename "High Representative of the Union for Foreign Affairs and Security Policy")
A self-amending treaty for the first time. No more treaty or referendums	A self-amending treaty for the first time. No more treaty or referendums
Sweeping new powers for the Europea, Court of Justice over home affairs	Sweeping new powers for the Europea, Court of Justice over home affairs
European Parliament electing the president of the Commission	European Parliament electing the president of the Commission
The end of one Commissioner per country	The end of one Commissioner per country
Near-meaningless protocol on national parliaments	Totally meaningless protocol on national parliaments
A 'division of competences' that means more and more power for the EU	A 'division of competences' that means more and more power for the EU
Single legal personality for the EU	Single legal personality for the EU
A European Public Prosecutor	A European Public Prosecutor
Safeguards on "enhanced cooperation removed"	Safeguards on "enhanced cooperation removed"
New powers of veto for the European Parliament in 40 new areas	New powers of veto for the European Parliament in 40 new areas
The Charter of Fundamental Rights	
Charter of Fundamental Rights made legally binding with face-saving fudge to stop it changing UK law	Charter of Fundamental Rights made legally binding with face-saving fudge to stop it changing UK law
Social security, the economy and public services	
Increased EU powers over social policy and more coordination of social security	Increased EU powers over social policy and more coordination of social security
New EU powers over economics coordination	New EU powers over economics coordination
New EU powers over employment policy	New EU powers over employment policy
End of veto on employment law for self-employed workers	End of veto on employment law for self-employed workers
New EU powers over trade policy and investment	New EU powers over trade policy and investment
End of the veto over the ECB's powers of financial regulation	End of the veto over the ECB's powers of financial regulation
Formalisation of the eurogroup and an increase in its power	Formalisation of the eurogroup and an increase in its power
New EU powers over public health	New EU powers over public health
New EU powers over public services	New EU powers over public services
Home affairs : justice, police and migration	
New EU powers to harmonise civil and criminal laws and legal procedures	New EU powers to harmonise civil and criminal laws and legal procedures
EU powers to define criminal offences and set minimum sentences	EU powers to define criminal offences and set minimum sentences
Increased powers for Europol	Increased powers for Europol
Enabling Eurojust to initiate investigations of EU citizens	Enabling Eurojust to initiate investigations of EU citizens
New powers for the European Court of Justice over asylum and immigration	New powers for the European Court of Justice over asylum and immigration
End of the veto on legal migration	End of the veto on legal migration
A legal basis for a common asylum and immigration system, and moves towards a single system	A legal basis for a common asylum and immigration system, and moves towards a single system
Other foreign policy and defence changes	
The "structured cooperation" group in defence	The "structured cooperation" group in defence
A new mutual defence commitment	A new mutual defence commitment
Vetoes abolished in other areas	
End of the veto over transport	End of the veto over transport
End of the veto over energy	End of the veto over energy
End of the veto over space policy	End of the veto over space policy
End of the veto over science policy	End of the veto over science policy
End of the veto over sport	End of the veto over sport
End of the veto over the yearly budget	End of the veto over the yearly budget

Sources Open Europe - UK

LINKS

Quotations from the official " Presidency Conclusions and IGC Mandate" :

http://www.consilium.europa.eu/uedocs/cms_Data/docs/press-data/en/ec/94932.pdf

be reconsidered, and therefore a vote can be blocked. In other words, even though this solution may have been seen as the easiest compromise to appease Poland, it is a system that is nonetheless very complex and risks reaching blockage.

Finally, it is important to note that delaying the adoption of the double majority system by ten years suggests that it may never be implemented at all. This is mostly because it could coincide with the possible accession of Turkey to the European Union in 2017. Turkey will then have the largest population of the twenty-eight member states, meaning it would become more powerful than Germany in the voting system. This situation is unlikely to be accepted. As a result, it is safe to say that Poland emerged victorious from the negotiations. Even though the square-root rule suggestion was dropped, maintaining the Nice Treaty Rules means that they will be able to conserve their power in the Council of Ministers for longer. Seeing as "there is a clear positive relationship between an EU member's power per person in the Council of Ministers and its receipts per person from the EU budget"⁽²⁾, it is clear that the EU Summit decision on this topic was very profitable for Poland as a whole.

What were the decisions regarding foreign and defence policy?

The negotiations made concerning European foreign policy at the EU summit were publicized as being important and decisive, but the truth is that they will not have a radical impact on the functioning of the EU. More specifically, due to British reservations with the title "EU foreign minister", it was decided to create a post named "High Representative of the EU for Foreign Affairs". The High Representative will be chosen by the Foreign Affairs Council and will preside over its meetings as well as act as vice-president of the Commission. It was widely acclaimed that this representative, who will combine the functions of commissioner for foreign relations and high representative for ESDP and CFSP, will rely on a new base of European diplomats. While this is true, foreign and defence policy will remain in the jurisdiction of member states, confirming that this representative will not have actual power.

On the other hand, an interesting change was made concerning EU security policy. From now on it will be possible, provided that at least nine member states are interested, to come to agreements on structured cooperation programs. In other words, those countries who want to continue with the construction of European security policy will be able to. These countries will be supported by the European Defence Agency whose creation was already mentioned in the 2004 Constitutional Treaty in order to help EU members coordinate their military resources. Although the Constitutional Treaty was not ratified, this agency exists thanks to a common decision of the Heads of State and Government. The new European representative in charge of foreign affairs will therefore also coordinate the advances in the area of defence.

What impact on the future of Europe?

Given these changes (or lack thereof) included in the Reform Treaty, there are two possible paths that the European Union could take. On one hand, it may be possible that a group of countries (such as Belgium, Luxembourg, Italy, Spain, incoming countries like Slovakia and Slovenia, as well as perhaps Germany and France) will wish to build on common policies. But on the other hand, it is more likely that progress will be difficult in this domain due to the hostility shown, among others, by the Kaczynski brothers of Poland. As demonstrated primarily by the decisions made on the voting rules, it is likely this country will continue to resist any changes that may reallocate the power among the EU member states. Because of these reasons which essentially reformatted the Constitutional Treaty into two similar treaties, the EU Summit in Brussels cannot be considered a success. As expressed in *The Economist*, "for anyone whose dream is still some ideal of European unity, the mere fact that each competing camp won at this summit was, of itself, a defeat"⁽³⁾.

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(1) " Modeste victoire ", 23/06/07, <http://www.lemonde.fr/web/article/0,1-0@2-3214,36-927258@51-866290,0.html>

(2) BALDWIN, Richard. "Poland's fight on voting rules matters for EU budget allocations", 18/06/07, <http://www.voxeu.org/index.php?q=node/279>

(3) " Treaty blues ", 28/06/07, http://economist.com/world/europe/displaystory.cfm?story_id=9401875