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# **The costs of No - Constitution**

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## **The costs of no Constitution**

Nearly two years after the signing of the European Constitution in Rome, the disadvantages of the Constitution not entering into force on 1<sup>st</sup> November 2006 become clear. The EU is lacking crucial competences and instruments to meet challenges and deal with crises. There are a number of recent examples that clearly show the costs the European Union and the Union Citizens are paying for not having the possibility to apply the Constitution, but rather to be confined by the unfit Nice-Treaty.

### **1. European Foreign Policy**

Until now the European Union has been a weak political actor on the international level. The member states prefer to hear their own voices instead of joining a common European choir. Thus, the EU has failed so far to play the role that is expected from the big economic player in the world. A recent example of the difficulties to create a common European foreign policy is the Lebanon crises. For too long, the debate on how and whether Europe could react to the challenge of peace and security in this part of the Middle East, took place in the national capitals. Several weeks after the crisis had started, European leaders were eventually meeting in Brussels to develop a European initiative.

A President of the European Council, a European Foreign Minister, a European Diplomatic Service and the enhanced cooperation in the European Foreign and Defence Policy are instruments the European Union needs to be able to react quickly to crises worldwide and especially in its direct neighbourhood. In the European Constitution all these foreign policy tools are foreseen (see 7.4.). Not ratifying the Constitution threatens the ability of the EU to defend European values and interests in international politics.

### **2. International Terrorism**

The increasing danger of international terrorism for Europe has recently been visible again in the plan to blow up bombs in planes flying from London Heathrow Airport and in commuter trains in Germany. Successful prevention of terrorist attacks can only be guaranteed in a European framework. If the Constitution was in force, decisions in the area of justice and home affairs could be taken much more swiftly and efficiently, as unanimity would no longer be an exception but the rule (see 7.3.).



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### **3. Migration policy**

The rising numbers of refugees from Africa and Asia entering the European Union at the coasts of Italy and Spain is another huge challenge for Europe. Only if Europe is acting as one, this problem can be solved. With the European Constitution the European asylum- and migration policy would be strengthened considerably. It would put an end to unanimity in this area and would guarantee the participation of the European Parliament. Furthermore, the Union's competence for development policy would be enhanced. This would allow the EU to better tackle poverty and unemployment and thus decrease the incidence and cause of emigration. .

### **4. Civil protection**

This summer, devastating fires have once again destroyed huge areas in southern Europe, such as in Portugal and Spain. Cross border cooperation that is required to fight such natural catastrophes is still not functioning. The EU has the instruments to help everywhere else in the world but has no capacities to help in its own member states. With the Constitution the EU would finally get a competence for catastrophe protection and due to the "assistance clause" the member states would be obliged to provide mutual support and solidarity in case of such catastrophes.

### **5. Energy policy**

Rising oil and energy prices as well as the instability and unreliable nature of the main providers for energy resources from Russia and the Middle East prove the necessity of a common European energy policy. Also the commitments arising from the Kyoto-Protocol call for common efforts to develop a policy for energy sufficiency and alternative energy sources. With the Constitution the EU would obtain an explicit competence for energy policy.

### **6. Space policy**

Exploring space is a major scientific and economic challenge. Besides generating scientific knowledge, investments in research and development in the field of aerospace are also essential for the security and for the industry. Many materials used in daily life have been developed initially for the aerospace industry. Today satellites are necessary for various applications: toll-systems, early-warning of natural catastrophes, weather forecast, traffic supervision and navigation systems. However, still the EU does not have a clear competence for a European space policy. Rising economies such as in China and India are about to take over Europe in the field of aerospace. With the Constitution the EU could be an actor in this important sector for our future.



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## **7. The Constitution would make Europe stronger, safer and more social**

There are many more improvements in the Constitution compared to the current treaties that would lead to better Union policies. Especially in the foreign affairs and security area, in the domestic and justice sector and in the area of the economic and social policy it would guarantee swifter and more efficient decisions.

### **7.1. More social Europe with the Constitution**

Ratifying the Constitution will also strengthen the social and economic policy in the EU. Despite the Cassandra calls that the Constitution leads to a socially unjust Europe, it actually includes important reforms and improvements compared to the Nice Treaty. While economic reasoning and economic issues dominated the policy of the Union for a long time, the EU will be a much stronger social Union with the Constitution. Social progress, solidarity and prosperity are specified in the preamble as important missions of the EU. Full employment, social justice and equality are amongst the objectives of the EU policy. In the social article all institutions of the Union are obliged to ensure their decisions contribute to more employment and social inclusion.

7.1.1. A crucial step forward for a social Europe is the incorporation of the Charter of Fundamental Rights into the European Constitution. This Charter includes numerous social rights, such as the right to strike, the right for placement service, the protection from unjustified removal from the job, the right for decent work conditions, the right of health protection and the right to environmental protection. The Constitution also includes “modern rights” such as the right for data protection and the right of access to documents.

7.1.2. The Constitution further guarantees the protection of services of public interests, such as public transport, water supply and social services. The massive protests against the first version of the Bolkestein-Directive on the liberalisation of services, shows how important this part of the European economic and social model is to citizens. The protection in the Constitution guarantees that all Europeans will have access at an affordable cost to these vital services.



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7.1.3. A new European energy policy will contribute towards a successful and growing economy. On the one hand, sufficient supply of energy resources is a precondition for a well functioning economy. On the other hand, around two million jobs are dependent on the energy industry. Rising oil prices, increasing dependence on energy supplies from outside Europe and the scarceness of energy resources demonstrate the need for European solutions. Once the European Constitution enters into force, a European energy policy will be established and member states and the European Union will work together much closer in this field.

## **7.2. Less democracy without a Constitution**

Today European policy affects many spheres of life of the Union citizens. However, the Europeans and their representatives are not involved in all decision making processes on the European level. For many years already there have been strong demands to overcome this democratic deficit. With the implementation of the Constitution great progress would be achieved in this area.

7.2.1. The European Parliament is the Citizen's Chamber in the European Union. Strengthening the European Parliament, as foreseen in the European Constitution, therefore means strengthening European democracy. Co-decision procedure between the Parliament and the Council of Ministers will be the rule, only allowing for a limited number of exceptions. In agricultural policy, which consumes 40% of the EU's budget, the European Parliament will be co-deciding in most areas, whereas today it is only consulted.

7.2.2. The European Constitution also provides a role for the Parliament in forming the European government. The election of the President for the European Commission will in the future depend on the vote of the European Parliament. Results of the European elections would thus for the first time not only influence the political programme for the Union but also the selection of the leaders of the EU. An important step for democratising the Union is also the provision in the Constitution that the European Parliament will have the right to put the Commission to a vote of no confidence.

7.2.3. In order to make decisions close to the citizens, the role of national parliaments in the EU will be strengthened. They will not only be informed about all legislative initiatives but their justified recommendations to the Commission, the Council and the European Parliament have to be taken into consideration by the institutions. Furthermore, the Commission is obliged to review proposals, in case one third of the national parliaments agree that the respective problem could be solved better on the national level.



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7.2.4. Thanks to the citizen's initiative foreseen in the European Constitution, the Union's citizens can directly participate in Union policies. By signing a common petition, one million citizens can demand the European Commission to put forward an initiative or a legislative proposal. Civil society will be consulted more in the decision making process once the Constitution enters into force. Also the social partners, such as trade unions and employers federations, will be more involved in decision making and shaping the Union's policy. Local and regional authorities will play a bigger role, too. The principle of local and communal self-government is preserved in the Constitution and regional coherence is mentioned as one of the aims of the Union.

### **7.3. A safer Europe**

Also the security situation in Europe will profit from the European Constitution. In the light of new plans for terrorist attacks all over Europe it is high time to bring forward new initiatives in the security area. With the Constitution justice and home affairs in the European Union will be strengthened. In the future most decisions in this area will be taken by qualified majority. Important decisions for the inner security of the EU could thus be taken much faster than today. Decisions in the area of domestic and home affairs will also be taken on a level closer to the citizens, as the European Parliament will have a significant role in decision making alongside the Council.

7.3.1. Also the prosecution of crimes will be simplified. The European Police (EuroPol) and the European legal authority (EuroJust) will be able to uncover and prosecute organised crime, human trafficking and other crimes on the European level. In order to safeguard the protection of human rights, the Constitution introduces their direct scrutiny through the European Parliament.

7.3.2. The migration policy will get a new impetus with the ratification of the European Constitution. In this area majority voting and co-decision will be introduced, leading to quicker and more efficient decision making. For development policy, which can decisively contribute to less people being forced to leave their country for economic reasons, the EU will have a clear competence. Development policies of the member states will be much better linked in order to put an end to double structures and incoherencies in this policy area. Furthermore, promoting development will be a crosscutting priority for all foreign activities of the EU.



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#### **7.4. A stronger role for Europe in the world**

Not to ratify the European Constitution means that the EU lacks the provisions needed to give Europe a stronger voice in the world. The poor performance of the EU and its member states during the conflict in Lebanon, in Iraq and the former Yugoslavia have highlighted the current limited capacities of the European Union to act decisively and effectively.

7.4.1. The common foreign and security policy will also be strengthened by the European Constitution through giving the EU a clear competence for this field. According to the Constitution the EU will have the role to establish and put into effect a common foreign and security policy that embraces all aspects of foreign and security issues. In order to guarantee this, member states are obliged to consult each other on all important foreign affairs questions in the European Council and the Foreign Affairs Council. As the Lebanon conflict has shown, European consultation in this area does not yet take place sufficiently and efficiently. The European security policy will also be strengthened through the Constitution by virtue of the obligation for all member states to “act jointly in a spirit of solidarity” in case of terrorist attacks.

7.4.2. A very important development in the Constitution is the introduction of a European Foreign Minister. He or she will be at the same time the Vice-President of the European Commission responsible for foreign and defence policy and the President of the foreign affairs Council. The Foreign Minister will play a leading role in initiating debates about central foreign affairs topics and reaching a compromise. In order to fulfil this difficult task the Foreign Minister takes part in meetings of the European Council, in which the heads of states and governments as well as the Commission President meet. Differences between the governments as well as between the institutions in the areas of foreign and security affairs can therefore be better reconciled through the work of a Foreign Minister.

Although Javier Solana has done a good job as High Representative for Foreign and Defence Policy, he had difficulties in gaining recognition of the member states. The Foreign Minister in the European Constitution will have higher authority than the High Representative. Before he is elected by the European Council, he needs to win the support of the European Parliament. As a member of the European Commission College he is responsible towards the European Parliament and has to gain confidence of the citizen's chamber. His double function as well as his democratic legitimacy will make him or her one of the central actors in the EU. This will enable him or her to establish common positions of the EU and allow him or her to represent a common European approach to foreign affairs on the international level.



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7.4.3. Two other instruments foreseen in the Constitution will strengthen Europe's role in the world. The Foreign Affairs Minister will be able to make use of the European External Action Service. In this service, staff of the diplomatic services of the member states as well as from the EU institutions work together to enable the implementation of the EU foreign policy and safeguard the interests of EU citizens. Furthermore there will be a European Voluntary Humanitarian Aid Corps allowing young Europeans to participate in common humanitarian activities.

Without these far reaching improvements in the Constitution European foreign policy will continue to be but lip services by the member state governments. Heads of governments and Foreign Affairs Ministers will keep underlining the importance of a common European foreign policy in their big speeches, while continuing to be incapable of coordinating their responses and activities in case of evolving conflicts.

### **Conclusion**

Under the Nice Treaty the European Union cannot meet the challenges of today in a swift, decisive or effective manner. The citizens of Europe will face significant consequences due to a lack of efficiency and transparency. With the European Constitutional Treaty the EU could defend much better the values and interests of Europe inside and outside of its border. The new EU-Treaty therefore has to come into force at the latest by 2009.