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**The ratification of the European Constitution in Belgium: five months
of negotiation concerning the question of convening a referendum**

Abstract

The aim of this paper is to explore how Belgium will ratify the European Constitution with a special regard to the willingness of the politicians to hold a referendum in that process. It seems that the Belgian elite are much divided on that question. Mainly because of the history of the country and its complex composition, it is the more reserved positions that had the last word. Parliament decided after five months of discussions not consults the people.

Contents

Framework	2
Direct democracy in Belgium	3
A popular consultation over the European Constitution: an impossible consensus	6
Political parties' positions.....	7
Concerning the public opinion.....	11
Conclusions.....	12
Bibliography	13

Framework

In its meeting in Laeken in September 2001, the European Council instituted a European convention in order to identify the essential questions that the future development of the Union raises and to put forth recommendations on this subject. The Convention, which met from February 2002 to July 2003, had made its recommendations in the form of a project of a European Constitution, intended to modify and replace the contents of the existing treaties. One year and a half after the starting of that work, the Convention presented in July 2003 the 'Draft Treaty establishing a Constitution for Europe' which was finally signed in Rome on the 29th of October 2004 by the 25 European Heads of Government. So that the Constitution can come into force, all Members States unanimously (the actual and the future ones) have to ratify the text within less than two years. This could be achieved through a variety of procedures according to national constitutional requirements (by parliamentary way, by referendum or the both).

In Belgium, the parliamentary procedure must regulate the ratification of an international treaty. According to the article 167 and 53 of the Belgian Constitution, the approval of a transfer of sovereignty requires the majority of members from both Chambers. If the transfer affects the competences of the Regions or the Communities, both of their Councils have to approve them¹. Contrary to other countries, Belgian Constitution, do not provide for a referendum allowing citizens' participation in that process.

According to the article 33 of the Constitution, "*all powers emanate from the Nation and are exerted in the manner established by the Constitution*". This one makes of the principle of the representation the base for the organisation of the political system. It acts of representative democracy that signifies it is the elected representatives who are the actors in the decision-making process and not the citizens. The constitution do not provide for referendum at the national level. That implies that in the case of a transfer of sovereignty towards a supranational entity, we cant' envisage a direct consultation of the people.

In June of this year, our Prime minister, Guy Verhofstadt, has however strongly pleaded for a consultative referendum (non-binding) in order to ratify the European Constitution. According to him, because Europe is more and more part of national politics, Belgian citizens should have a say in that process despite the fact that Belgium has never held a referendum on European integration. He added that the ratification process by the different parliaments should end on the 9th of May 2005. About the position of the government, there is no respective one². The government will let the Parliament examine

¹ Effectively, Belgium is a Federal State made up of Communities and Regions (Article 1 of the Constitution). There are three Regions (the Flemish, the Waloon and that of Brussels-Capital) and three Communities (the Flemish, the French and the German-speaking). In an attempt to limit the number of institutions, the legislative bodies of the Flemish Region and Community have merged. Nevertheless, seven assemblies have to ratify the European Constitution.

² Dewael P., Parliamentary question nr. 195 (Marie Nagy – ECOLO), 7th of October 2003.

the propositions and take the decision. Karel De Gucht, Minister of Foreign Policy said that the decision of holding a referendum is a parliamentary competence³.

The aim of this article is to explore how Belgium will ratify the Constitutional Treaty with a particular regard to the will of the politicians to hold a referendum in order to consult the citizen on that question. Because the referendum is an instrument that makes take part the people in the decision-making, it is theoretically difficult to imagine it in a representative regime where policy has to be made by representatives elected by the people. However, the two are not incompatible. We can see the gradual use of direct democratic instruments in many countries even if their political system works on the representation principle. So, the first section tends to resume the evolution of the place of direct democracy in the Belgian political system. Then the second section studies the development itself of the debate over the ratification process of the European Constitution. This one occurs principally among the political elite. In a third section, it is trying to describe the political parties' positions on that issue. Finally, the question of holding a referendum, (or a popular consultation, in the case of Belgium) implies the role of another actor: the people. So the last paragraph shows the most recent investigations concerning the Belgian public opinion with regard to the European Constitution.

Direct democracy in Belgium

The only referendum that took place in the Belgian political history occurs after the Second World War, in March 1950, on the question of the return of the King Leopold III. Because the Belgian Constitution does not allow for referendum, this one only had a consultative character. A division appeared among the political parties concerning its interpretation: the socialist party declared that it would accept the return of the King only if two third of the voters preferred this outcome, while the Christian Democrats declared that a simple majority would be sufficient. A majority of the people voted in favour. That led to the return of the King in the country. However, the French-speaking part was mainly against the return of Leopold and refused to accept the result of the poll. There were serious riots and the situation was near of a civil war between the North and the South. The King finally abdicated, and his son Baudouin I took his place. This episode, known as the "Royal Question" was very traumatizing because it so clearly divided the Northern and the Southern part of the country. To this day, it is still invoked by many politicians as proof that direct democracy is impossible in Belgium.

This historical event is necessary to understand why the use of the referendum, or the popular consultation, is an idea for which one can observe many reserves within the Belgian political class. However, with the time, and certainly, with the influence of a gradual use of direct democracy in many countries (Butler and Ranney, 1994) this reserve grew blurred. During the last decades, many Belgian leaders shown a will for more participation rights for the citizens and the parliament debated on the question in several occasions. Some advances have already been made, principally at the local level.

³ Guido Tastenhoye (Vlaams Belang), Parliamentary question nr. 3262, 10th of November 2004.

Since 1990, senators or parliamentarians have introduced more than 80 bills in order to establish procedures such as the referendum or the popular consultation. As a result, in 1997, the article 41 of the Constitution was modified in order to allow the possibility for the organization of a popular consultation at the communal level, and then in 1998, at the provincial level. However, these ones were extremely restricted. Not only because of the consultative character, but also because there were non-obligatory and that the threshold of participation is rather high.

In addition of these advances, the House of Representatives organized a wide debate during the 50th legislature (1999-2003) through the work of the Commission for the “Political Renewal” which debated over the place of direct democracy in our regime. There, politicians and scientists discussed the topic⁴. Many of them showed interest for the use of direct democracy methods. They first focused on a way to find a clear definition of the two concepts that are the referendum and the popular consultation. They proposed to use the word referendum when it is a constraining consultation and to use the popular consultation when just referring to an indication. Secondly, members of the commission discussed over the constitutionality of such procedures.

On that question, it appeared that the Constitution can be interpreted in two ways, broadly or restrictively. Effectively, there is a juridical gap: no words over direct democracy or any forms of citizens’ participation other than the regular elections. Regarding to this, there are those who can’t accept any involvement of the people in decision making because of the representative principle to which they are attached. It is worth noting that joining this vision, the Council of the State has already on several occasions given advices on the issue in which it confirms the unconstitutionality of both procedures. In 1985, the Council based its argumentation on three points. Firstly, a popular consultation at the federal level would be equivalent to a referendum. Secondly, according to the article 42 of the Constitution, members of both Houses represent the Nation and not only those who elect them. With regard to this article, the writer of the Constitution choose a representative regime and the holding of a popular consultation would lead to a principle incompatibility. Finally, the third argument was the federal honesty. This one requires avoiding every insertion in the Belgian constitutional system devices, which could poke the community cleavage and eventually precipitate the end of the state. The second time the Council pronounced on the question was in 2002 when he specified, based on the article 33 of the Constitution that representatives of the nation have to take the decisions themselves on issues for which they are competent. In the exercise of their mandate, they can not be bounded in right neither in fact. If they consult the people, they will be linked to the population’s decision. The national sovereignty in which the Nation is represented by elected bodies is the base of the system. A popular consultation would modify the way in which powers are exerted. With the same point of view, the law Professor, Marc Verdussen, made the observation that the question is not just to know whether the actual Constitution allows organizing a popular consultation, but also if the Constitution allows

⁴ M. Philippe ; S. Joke, « *Le renouveau politique. Démocratie directe (Référendum, consultation populaire, initiative populaire et droit de pétition). Rapport de la discussion sur l’avis du comité scientifique* », Chambre des Représentants et Sénat de Belgique, DOC 50 0797/003 (Chambre), 2-416/3 (Sénat), 23th of March 2001.

a law establishing a normative framework for a concrete organisation of such procedure⁵. According to the Professor, that would also be unconstitutional. He justifies his positions by the fact that the Constitution designates the bodies that may intervene in the procedure and regulate the modalities for adopting norms. The article about the revision of the Constitution (art. 195) is an indicator on this subject. It organises all the revision procedure without attributing any room for manoeuvre to the law. Consequently, introducing a popular consultation through a special law is to admit that the legislator can intervene into this procedure whereas the writer of the constitutional text has already all regulated.

If the Constitution can be interpreted in a restrictive way as we seen above, it can also be interpreted differently like those who think that no clear bases exists in the text which could justify the argument of the unconstitutionality. There is no device that formally interdicts referendum or popular consultation so that the use of direct democracy instruments is possible if the political will want it. One can consider that the idea of an incompatibility of principle between a representative regime and a direct democratic regime is a thought inherited from the 19th century when one consider that the Nation does not have any will on her own but only through her representatives. Today, our democratic mind tends to consider that the Nation have an own will that could be considered by different ways like the elections but also direct consultation of the people⁶. It appears in the light of the Commission's work that more people are starting to think in that way, by understanding the beneficial use of direct democracy.

More recently, in June 2003, the legislative elections lead to a new socio-liberal governmental coalition. In its declaration, we can read, "*with its partners, the Belgian government will work in favour of the organization of a uniform European referendum in order to approve the future modifications of the treaties*"⁷. On the other hand, many representatives introduced proposition in that sense. They concern either the regional level⁸ or the national level in general⁹ or in relation with the specific issue, that is the European Constitutional treaty. The Flemish liberals VLD, the French Greens ECOLO, and the Flemish socialists SPA-Spirit introduced some bills with the aim to allow a popular consultation on that issue.

⁵ M. Philippe ; S. Joke, *op. cit.*

⁶ *Ibidem.*

⁷ Governmental declaration, 14th of July 2003.

⁸ D. Baquelaine ; C. Eerdeken, « *Révision de la Constitution en vue d'y insérer un article 39bis relatif à la consultation populaire* », DOC 51 0862/011, Chambre des Représentants de Belgique, 3rd of March 2003. Still discussed at the Chamber.

⁹ J. De Roeck, « *Proposition de loi visant à instaurer une consultation populaire au niveau fédéral* », Sénat de Belgique, 3-349/1 ; N. de T'Serclaes, « *Proposition de loi visant à instituer la consultation populaire au niveau fédéral* », Sénat de Belgique, 3-43/1. Still discussed at the Chamber.

A popular consultation over the European Constitution: an impossible consensus

As we seen above, the question of the ratification of the European Constitution has produced the re-emergence of the debate over the citizens' participation in the political decision making process. The constitutional text established by the Convention introduces important changes that will have direct incidences over all the citizens of the Union. For that reason, it would seem logical to invite the people to pronounce over the European Constitution that will predominate over their own national one. This will occur in many European countries. As we saw above, many introduced bills in the Chamber in order to allow that possibility for the Belgian people. All of them deal with the "popular consultation" rather than the "referendum". One can interpret it as a softer manner to tackle the question¹⁰.

As the Government indicated it, it is entirely the role of the Parliament to decide how ratify the European Constitution. For this purpose, the parliamentary Commission for the Revision of the Constitution and Institutional Reform had the role to debate on that question. The bill deposited by Rik Daems (VLD, the Flemish liberals) in October 2003 served as a basis for the unfolding of the discussions¹¹. However, because no consensus seemed to appear among commissioners during the first meeting on 16th of November, the President of the Chamber Herman De Croo decided to create a special workgroup in which the Government participates and to submit the question of the constitutionality of such consultation to the Council of the State. The conclusion of this one, which is just an advice, is clear: a popular consultation is unconstitutional and can't occur without a modification of the Constitution. Actually, it just repeated what it said on the same question two years before, in 2002. Regarding the article 33 of the Constitution, "*our system did not found a system based on popular sovereignty but well a mechanism based on the national sovereignty in which the Nation is represented by the bodies made up*"¹². Two reasons exist as a justification. First, it will lead to a very important change in the way in which power are exerted. That can't occur without a revision of the constitutional text. Second, there are some doubts about the 'purely' consultative character of the popular consultation that would finally in a certain moral constraint for the decision makers.

The consequence of it is that if representatives respect the advice of the Council of State, no popular consultation could occur without a revision of the Belgian Constitution. The way in which power are exerted require to be changed. However, the preceding legislature did not envisage a revision of the Constitution in this respect (behalf for the popular consultation at the regional level). By accepting that constraint, French liberals

¹⁰ Remind that a consensus exist which distinguish the two concepts regarding the binding character: while the referendum lead to obligatory results, the popular consultation is an indication.

¹¹ K. De Gucht ; R. Daems, « *Proposition de loi portant organisation d'une consultation populaire sur le traité établissant une Constitution pour l'Europe* », DOC 51 0281/001, Chambre des Représentants de Belgique, 14th of October 2003.

¹² « *Avis du Conseil d'Etat sur la proposition de loi portant organisation d'une consultation populaire sur le traité établissant une constitution pour l'Europe* », DOC 51 0281/004, 29th of November 2004.

found an alternative. The article 167 § 2 which regulate the treaties approval is opened to the revision because it will normally be examined in the framework of the Senate's reform. Here one can envisage the introduction of a provision that plans the organisation of a popular consultation in the treaties approbation process. The political liberal party MR seized that occasion and introduced in December 2004 a proposition for a revision of that article of the Constitution¹³. However, it worth noting that such a modification requires a majority of at least 2/3 of the votes from both chambers by presence of at least 2/3 of their members¹⁴. This element is important to evaluate of the hurdle and the small chances for the liberal proposition to succeed. Effectively, no majority seems to appear in that sense.

The Commission that will normally resume the discussion on the 14th of December based on the conclusions of the work group finally continued its work until the 16th of February. A consensus on that question was very difficult to achieve. On the 14th of December, a short majority appeared in favour of the principle of a popular consultation over the European Constitution. The results of the vote in Commission on the Daems proposition were nine voices in favour (VLD, MR, Vlaams Belang and Spirit) against eight (PS, sp.a, CD&V and cdH). However, with the great surprise for everyone, the socialist party Spirit declared on the 23rd of January the withdrawal of its support to the majority. The Flemish party defended its move by saying it was concerned that the far right (Vlaams Belang) campaigning against Turkish membership of the EU would hijack the referendum. According to Geert Lambert, President of the party, nobody is speaking of the Constitution.

The result is that the supporters of the consultation are now in a minority. The MR decided however to bring the debate at the plenary sitting by depositing there its own bill for the revision of the article 167 § 2 of Constitution. This infrequent procedure reveals the determination of the party. After a wide debate in the Parliament, they all voted on the 10th of March with 73 against and 62 for the liberal proposition. This result marks the end of the discussions. The Belgian leaders, after more than five month of dialogue, left passed the occasion of holding a referendum over the European Constitution. A short majority carried on the principle of ratification through the parliamentary way.

Political parties' positions

In general, the Flemish liberals VLD¹⁵, political party of the Prime Minister, is favourable to of the use of direct democracy instruments. Since the 90', VLD members introduced several bills in order to introduce the possibility for the referendum or the popular consultation. Concerning the European Constitution, the party has always pleaded in favour of a popular consultation. As it was said above, two members of the party

¹³ D. Baquelaine, O. Maingain, H. Hasquin, C. Michel, *“Révision de l'article 167, §2, deuxième phrase, de la Constitution afin d'inscrire la possibilité d'organiser une consultation populaire dans le cadre de la procédure d'assentiment aux traités internationaux visés par l'article 34 de la Constitution”*, DOC 51 1531/001, Chambre des Représentants de Belgique, 23th of December 2004.

¹⁴ Article 195 of the Belgian Constitution.

¹⁵ Vlaamse Liberaal en Democraten.

proposed a bill that was the base for the discussions of the parliamentary Commission for Constitutional Revision. Principally, the bill envisages a non-obligatory participation that requires a threshold of participation of 10%. One month before the ballot, an authority designed by the King should place at the disposal of the inhabitants a booklet clarifying in an objective way the issue on which they have to vote. Rik Daems, the author of the bill responds to those who disagree with his proposition by saying that Belgium should end with the “traumatism” of the referendum that was held during the “Royal Question”. The liberal group demands that although the effect is not binding, the authorities bow the result.

The French liberal party, Mouvement Réformateur (MR), has always been in favour of an increase of the direct democracy and underlines its confidence in the maturity of the citizen. They openly plead for a more participative democracy. By introducing the bill for the revision of the Constitution, they found an alternative to the Council of State’s objection and allow the possibility (if the majority of two thirds is reached at the Parliament) of a popular consultation on constitutional basis. Rejected in the Commission they nevertheless deposited the bill at the plenary sitting in order to reopen the debate even if there is a small chance to succeed. Charles Michel denounce an unwillingness of the others parliamentarians. According to him, “*if the parliament can consult experts, associations or anyone he considers it pertinent, why could it not consult its own constituents?*”¹⁶ One can say that during these long months of negotiations, they will have fought until the end for the organisation of a popular consultation on the European constitutional Treaty.

The other Flemish governmental party, S.P.A-spirit, was initially in favour to consult the people over the European Constitution¹⁷. According to them, the European Constitution relates to subjects who concern the essence of national sovereignty as the penal right, foreign policy or security. It also incorporates the charter of the fundamental rights. The text will head on our national legislation and over our Constitution. These facts should not be neglected because of their direct incidence over the European citizen. By taking it into account, and because of the relative disinformation of the citizen on European topics, it is necessary for them to organize a popular consultation. At the same time, it will support the process of deliberation. The party asks a broad information campaign and a narrow collaboration with the Regions and the Communities. Because of no democratic progress will appear if just the half of the population votes, two members of the party proposed an amendment on the Daems proposition that change the right to vote into an obligation of vote¹⁸. However, we can see some changes during the unfolding of the negotiations. The party faction sp.a that said that they would only agree with a consultation if the constitution allow it and if its participation is obligatory finally joined the camp of the PS and voted against the principle at the time of the vote in committee. While its associate Spirit had initially voted in favour of a popular consultation, the

¹⁶ C. Michel, Parliamentary debates in plenary session, 10th of March 2005.

¹⁷ E. Van Weert ; L. Geert, « *Proposition de résolution relative à l'organisation d'une consultation populaire au sujet de la Future Constitution européenne* », DOC 51 0317/001, Chambre des Représentants de Belgique, 21st of October 2003.

¹⁸ Amendment proposed by D. Van Der Maelen and D. Geerts, DOC 0281/003, 16th of September 2004.

faction abruptly changed camp (Cfr *Supra*) specifying that they remain defenders of direct democracy and will continue to plead for more participation for citizens.

French socialists (PS) are those who appear the more sceptical with the idea of the use of direct democracy. While they support popular consultation for the local and the regional levels, this is not the case for the federal one. The main socialist's argument is that referendum could affect the representation of the minorities. Such consultation, for example over the social security one of the ultimate political file which still belongs to the federal power but that Flemish's want to regionalize, could lead to a dismantling of the country. The party warns also over latter experiences that show the use the referendum as a vote for or against the government¹⁹. During the vote in Commission, the party did not support the Daems proposition for a popular consultation over the European Constitution, neither the liberal one for the revision of the Constitution. They rejected the two. According to T Giet, this reform is an improvisation made by the interests of the day. The modalities like the question and the financing of the campaign are actually totally unknown. In such conditions and because of the short time that remains for the ratification process, the party would not vote in favour of it. However, he underlines that the democratic deficit of the EU is a topic that concern his party, as the importance to consult the citizens on European issues. The group proposes the constitution of a special commission that will organize auditions and receive petitions²⁰. They would prefer an "indirect consultation". Recently the PS announced it will vote 'yes' to the project of the European Constitution.

In the Opposition, the French greens (Ecolo) largely support the idea of a popular consultation over the Constitution. Marie Nagy, a federal representative, underlines the danger to create hopes and finally say to the population that for technical reasons, there are no possibilities to express themselves. The Political party show its will to generate a wide debate over the question and will try to find any way to succeed with the organisation of such consultation.

The chairwoman of the centre démocrate Humaniste (cdH, the French-speaker Christian democrat party), Joëlle Milquet explains that her party is in favour of a popular consultation if it will be ensured by a neutral and clear organisation. The party propose the organisation of a large survey prepared by the Parliament and a special commission that would treat the answers. They also emphasised on the fact that a majority of the citizens is not interested in Europeans issues. According to the Christian democrats, the growing ditch that separates citizens and Europe is a threat for the European construction. The organization of a federal consultation will undoubtedly increase the legitimacy of the

¹⁹ Some negative voices have already emitted the idea that Guy Verhofstadt is looking to divert attention of a few glorious internal assessment In S. Renard, « On joue avec le feu », *Le vif l'express*, 19th of November 2004.

²⁰ T. Giet et consorts, « Proposition des règlement spécial et temporaire, concernant la plus large consultation et la plus large information préalables à l'assentiment au traité établissant une Constitution pour l'Europe, ainsi que la procédure d'assentiment elle-même », DOC 51/1461/001, Chambre des Représentants de Belgique, 25th of November 2004.

Union through a pedagogic work²¹. However, while the party initially pleads for a consultation of the Belgian people, it voted against this principle during the work in commission. As the discussions evolve, the party turns over to preserving positions. According to Melchior Wathelet, there are three reasons which can justify their opposition to the liberal proposition for the revision of the Constitution. First, the article 167 § 2 is revisable in the framework of the reform of the Senate but not in order to introduce a popular consultation. Second, if this article is revised, it would not be revisable in the future. Third, the modification of the article by introducing the popular consultation in the case of the agreement to international treaties lead to an implicit revision of the articles 36 and 42 of the Constitution which regulate the exercise of the powers.

His Flemish counterpart, the CD&V adopted more or less the same attitude. The party appears to be increasingly skeptical with that issue. According to Servais Verherstraeten and Paul Tant, the majority wants the popular consultation over the European Constitution especially for reaching their internal policies. This would probably lead to superficial results. However, they said we missed the occasion to organize a referendum at the European level, with the same question and on the same issue, which would certainly succeed in sincere issue. This will not be the case with a national consultation. For this reason they plead for the use of other ways to involve the population with European topics and affirm their opposition for the popular consultation over the European Constitution.

Finally, the powerful extreme right (Flemish) group, the “Vlaams Belang” entirely supports the proposition to hold a popular consultation. European Nations have to be consulted on this topic. Moreover, they want to generate a transnational debate on the new European Constitution between these nations. Let us note their insistence over the “European nation” concept in various speeches. We can observe the xenophobic characteristic of the party through their position concerning the issue. Effectively, it has proposed an amendment on the Daems bill. They want an additional question accompanying the one over the European Constitution: “Can Turkey adhere to the European Union?”²² This question however does not have any link with the concerned issue.

Political party’s positions are for most of them very unclear. While at the starting of the discussions over the opportunity to consult the Belgian population over the new European Constitution everybody seemed to be in favour to hold it, this apparent consensus disappear throughout the months of discussions. Behalf the MR, Ecolo and the Vlaams Belang, which always keep the same position, the other ones appeared increasingly reticent with the idea of holding a consultation. Indeed one observes a true range of reasons advanced in order to justify their positions. What think of that? We could believe that the purpose of all these reasons is only to mask one: fear of daring to resort to the referendum that is a completely unusual political tool in Belgium.

²¹ «*Consultation populaire sur la Constitution Européenne* », cdH, Communiqué de presse, 25th of September 2003.

²² Amendment proposed by G. Tastenhoye; K. Bultinck; B. Laeremans, DOC 0281/002, 16th of September 2004.

Concerning the public opinion

We can see in the Flash Eurobarometer “The future European Constitution”²³ dating from July 2004, that in general, less than a third of the European citizens are considering that they are “well informed” about the Constitution²⁴. 38% responded positively to this question that is more than the European average (30%). It is the second position after Luxembourg. It comes out from the survey that nearly 80% of citizens are rather favourable to the adoption of a Constitution by the European Union. This percentage has slightly risen since January 2004. To the affirmation “The European Union must adopt a Constitution”, 86% of the Belgians respond “rather for” which is 7% more than the European average. 75% agrees on the fact that “public debates over the European Constitution should be organized at a regional and local level”. Generally, the survey let appear that the level of information of the Belgian citizens on the constitutional text is rather low and that a large part of the population agree on it and would adopt it.

The last Standard Eurobarometer²⁵, based on a survey made in autumn 2004, reveals that Belgium is the member state that shows the strongest adhesion to the European Constitution. 81% of the population are in favour of the text. This is the highest result for all member states (European average: 68%). It is worth noting that there are few variations between the results at for the regional level: 82% for Brussels-Capital, 82% for Flanders and 80% for Wallonia. These data’s could serve as a counter argument for those who say that a popular consultation could lead to the same situation of 1950, when the referendum revealed the differences of positions between North and the South.

Another prove of the pro-European character of the Belgian people can be observed in the last Special Eurobarometer concerning the Future Constitutional Treaty²⁶. According to that survey from November 2004, Belgium is the second country, after Italy, where people are the more favourable to the European Constitution. To the question, “would you say that you are in favour of or opposed to the draft European Constitution?” 63% respond in favour while the European average is 49%.

²³ «Flash Eurobaromètre 159/2, La future Constitution européenne (vague 2) », European Commission, July 2004.

²⁴ However, this number increased by 5% since January, when the first poll were done on this topic. The question is « Do you consider yourself as being very well informed, rather well informed, rather badly informed or very badly informed on questions relating to the European Constitution ? »

²⁵ “Standard Eurobarometer 62/ NationalReport: Belgium”, European Commission, January 2005.

²⁶ “Special Eurobaromter 214, The Future Constitutional Treaty First Results”, European Commission, January 2005.

Conclusions

Belgium will ratify the European Constitution through a parliamentary process. This result, which appears after five months of negotiations, leads to the disappointment of certain leaders who strongly fought for holding a popular consultation on that issue. Prime Minister G. Verhofstadt was the first one who pleads in favour of it. This is comprehensible because of the fact that Belgium is one of the founder members states of the Union and that it has always pleaded in favour of a deeper integration. Moreover, Belgian citizens are the more pro-European comparing with the other European populations. The result would probably lead to a majority of 'yes'. However, the decision on how ratify the European Constitution resides only in the hands of the parliament. This one appeared divided on the question of holding of a referendum. While, when the negotiation started, everybody seemed to support such idea, the positions of the parties changed as the discussions advanced. The most obvious example is that of the Spirit party who suddenly retire its support to the majority for the popular consultation (composed by the MR, VLD, Vlaams Belang and ECOLO). Finally, no consensus emerged on that question.

Why the issue of the question of the opportunity to consult Belgian citizens in the ratification process of the Constitution for Europe need so long time to emerge? Why so many hesitations for a final position that is unfortunately reserved in what concern the use of the referendum? Two reasons could explain it. First, the relative innovation that such a process induces. Only one referendum took place in our country and it was more than 50 years ago. Moreover, and this is the second reason, the referendum over the 'Royal Question' have led to catastrophic consequences. The remembering of this historical episode was often underlined by the more skeptics. Effectively, Belgium is a complex country regarding its composition (majority of Flemish's and minority of Walloons). Especially for it, our constitution devotes a series of guaranties for minorities and individual citizens. The instauration of such process that gives the last word to the dominant opinion could lead to problematical issues by injuring the minority rights and creating a risk of community implosion (Qvortrup, 2002). Of course, the adoption of the constitutional treaty does not refer to community cleavages but the fear is well present.

In Netherlands for example where the Constitution do not provide any place for direct democracy instruments, a referendum will well be held over the European Constitution. By the introduction and the approval of a special law, the political leaders circumvented the question of the constitutionality of the referendum what is a proof of their will to consult the population on that issue. It appears that in Belgium the debate was limited to such procedural and juridical questions. Today, the debate in depth still not takes place on questions over the content of the text. However, if we consider the very strict agenda imposed by the government (ratification for May 2005), we can wonder whether that debate will really take place. Now that the people will not be consulted, the ratification will be restricted in the walls of the parliament and there is a risk that it will be reduced to a simple signature of procedure.

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