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The consequences of the lack of a European Constitution

Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

Constitutional Affairs Committee of the European Parliament

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Mr Chairman,

Honourable Members,

It is always a pleasure to meet with you and have an exchange of views. And there is more than one issue on which we can engage in a discussion today: the state of the Constitutional debate, the preparation of the Berlin declaration and the strengthening of Plan D.

Today, I have the pleasure of presenting you with the outcome of an analysis of the Constitutional Treaty, which has been prepared by the Commission services, at the request of the President and myself. This document presents the improvements that the Constitutional Treaty would have brought to our institutional framework, if it had been in force, as originally foreseen.

It is a factual document, which present in a concise form the areas where the action of the Union would be more efficient, more democratic and simpler, if we could make use of the innovations provided for by the Constitution.

This document does not only relate to the institutional mechanisms, such as the application of co-decision to new areas or the new mechanisms for the counting of a majority vote in the Council. It also touches upon policy areas where progress would be possible. In brief, we have tried to present the areas where the work of the Union would suffer with no Constitution.

Let me just summarise the main ones:

We all agree on the undeniable political importance of the **Charter of Fundamental Rights**. The intention in incorporating the Charter into the Constitution was to provide the European Union with a set of fundamental rights which would be legally binding on the Union, its institutions, agencies and bodies, but also on the Member States whenever they were implementing Union law. Yet, without the Constitution, the Charter will continue to lack binding legal force. Furthermore, without the Constitution and with no legal basis in the present treaties, **accession to the ECHR** is not possible.

Let me now turn to an extremely important policy field, namely **Freedom, Security and Justice**. This is an area where European citizens have very high expectations of the Union especially as regards the fight against terrorism and organised crime. Without the Constitution, it will be more difficult to meet these aspirations.

The main reasons for this lie within the current legal framework, the decision-making process which governs cooperation in criminal matters, and 'demarcation' between the pillars. The limits of simple cooperation are soon apparent, especially when unanimity is required, and when cooperation is confined to intergovernmental instruments lacking the democratic and judicial legitimacy inherent in the Community method.

The Constitution completely recasts the provisions on the area of freedom, security and justice. The policies on border controls, visas, asylum and immigration, as well judicial and police cooperation, are brought together under a single heading, and come - with very few exceptions - within the scope of the Community method, and in particular the ordinary legislative procedure (co-decision) and qualified majority voting. This would substantially enhance the capacity of the Union to adopt common measure to manage migration flows, and to counter the risks of terrorism and organised crime.

If we now turn to another policy area, **energy**, we know that the explosion in oil prices, the sudden problems with the supply of gas, and Europe-wide interruptions in electricity supply have underlined the fragility of the European Union and the need

for a common energy policy. These challenges can be met more effectively at the EU level.

The Commission has committed to adopt an ambitious energy strategy in 2007 with the aim of establishing a genuine European energy policy. Without the Constitution, however, which introduces a legal basis allowing the adoption of energy policy measures by co-decision procedure with the European Parliament, the options open to the Union for the development of a wide-ranging policy remain limited.

Also in the area of **human health**, the Constitution would have brought some improvements, by introducing a provision which would allow the Union to legislate whenever common safety and security issues are involved. This is not confined to health and phytosanitary measures but extends to the safety of medicinal products and the fight against cross-border threats such as epidemics, chemical accidents and bio-terrorism.

The Constitution would also enhance **participatory democracy**. Certainly, European citizens have a wide range of instruments at their disposal enabling them to learn about and take part in the Community's political process.

Nonetheless, the period of reflection has revealed that demand for participation in Community public debate is rising, and that citizens are increasingly keen to make their voices heard. The absence of a Constitution deprives the Union of a solution in the form of the Citizens' initiative, whereby the Commission could be petitioned for action if a million signatures were collected.

The Constitution would provide for new instruments to bring coherence, effectiveness and visibility to **external actions**. In the absence of a Constitution, there will be no post of **Minister for Foreign Affairs**. This would have been an influential institutional actor and a pillar of the Union's external policy.

Finally, we have of course to mention the crucial innovations that the Constitution would have introduced in the **institutional framework**; the reinforcement of democratic legitimacy thanks to the extension of co-decision; the enhancement of the involvement of **national parliaments**; the redefinition of **qualified majority**, which would simplify and facilitate the decision-making in the Council.

These are some of the issues that are addressed in the document, which we are transmitting to you today.

What conclusions can we draw from this analysis? The main conclusion which I draw, in full agreement with President Barroso, is that there is a lot that Europe can do, and has been doing, on the basis of the existing treaties.

But it is clear that the Union would be better equipped to face the challenge of globalisation, if the Constitutional Treaty were in place. The Union would also function in a more democratic and efficient way, both on the internal and external level.

That's why we remain committed to the principles and values of the Constitution.

Your committee is well aware that the issues addressed by the Constitution have not gone away. The problems remain. And no-one can live in a situation of endless uncertainty. We do need a solution:

- First, to **close the gap between Europe and its citizens**. Injecting greater accountability and transparency into Europe's institutions will help achieve this.
- Second, to improve the **efficiency of our decision-making**. We need the capacity to act to deliver the policies which will meet citizens' expectations. This will also enable enlargement to continue. I know you share this view, which is at the heart of Alexander Stubb's report that your committee approved last week.

- Third, to ensure the **coherence of our external action** in order to play the role Europeans and third countries expect from us in a globalized world.

There is now a consensus amongst Member States on the need to pursue the reform process. The last European Council set up a time schedule and given a mandate to the forthcoming Presidencies. We hope the Constitutional project will make considerable progress during the German Presidency. And we welcome Chancellor Merkel's initiative to present a roadmap and a method for achieving an institutional settlement.

I can assure you that the Commission wants to contribute to this process with a constructive mind. We clearly face a challenge and, the Commission will use its energy to overcome the difficulties and make the reform process successful. But this is also a shared responsibility.

All the Member States have to commit themselves to find a positive outcome to the current stalemate and the Member States whose citizens have not approved the ratification have a special responsibility in signalling how it would be possible to solve the impasse. We should also not forget that more than half of the Member States have already ratified.

For the time being proposals and opinions are varied, not to say divergent sometimes. When the time comes, the Commission will present its contribution, with ideas to help reach a solution that all Member States can accept and which strengthens Europe's capacity to act.

I believe that the political **substance of the Constitutional Treaty should be preserved** as much as possible. In other terms, the ideal solution should not be too far from the current Constitution. I do not think that we could engage again in endless negotiations on issues that were already solved - and in a unanimous way - during the work of the last IGC.

Does this mean that we should be happy with a Mini-Treaty, only related to a few institutional changes? I am not convinced. There are important policy areas where - as our analysis show - concrete innovations have been made and that should be preserved as well.

Also, I do not exclude that that some other changes to the existing Treaties could be pursued, in particular if this is indispensable to overcome the negative position taken by a few Member States. But we should always keep in mind the timeframe and not be overambitious. Europe deserves a second chance, but it could not afford a second failure.

Let me now touch upon two other issues, which are of common interest, namely the preparation of the Berlin Declaration and Plan D.

The 50th anniversary of the signatures of the Treaties of Rome would offer an excellent opportunity to re-iterate our commitment to European values and ambitions.

I already told your committee how much importance we attach to the inter-institutional dimension of this declaration. The European Parliament's signature alongside that of the Member States and the Commission, which we recommended earlier in May, will demonstrate that the Union and its institutions share a common vision and are working together towards the same goals.

I think a consensus is already emerging on the fact that the document should be short, looking at past achievements as well as at the future with a focus on European values.

I see it as an occasion to talk to our citizens and express our European vision and our values, which are notably the values of peace, promotion of human rights,

sustainable development. Of course, an important part of the Declaration, which will be adopted in the aftermath of the 5th enlargement, should be devoted to this successful process.

I know that some civil society organisations have already expressed their will to contribute to this exercise and I would welcome their contributions.

Some of you have expressed the wish to establish an inter-institutional political working group to draft the declaration. The German Presidency, which is leading this exercise, seems to be more in favour of light drafting mechanics. Our Presidents will be involved and I am fully confident that both the Parliament and Commission's views will be taken into account.

Let me now turn to the third issue I would like to address today.

Just over one year after implementing **plan D**, it is time to take stock and further widen and deepen the debate on Europe.

As you know, a first assessment of the implementation of Plan D was made in the 10 May Communication. Next week, I intend to present to the College some ideas to continue the listening exercise and strengthen and adapt our existing measures, mechanisms and channels.

The general Plan D ambition, to generate debate about Europe, has proven successful in reaching out to people. My intention is to continue with Plan D not only because of the extended period of reflection, but also because its very nature works towards stimulating a Europe-wide debate and deploying fully the initiatives foreseen at European level.

A **special focus** will be put on:

- Encouraging the ongoing debate in Member States, for example by organising national **European Round Table Debates** on priority issues, such as those outlined in the annual Work Programme for 2007, and deemed to be of high public interest in each Member State, ensuring a continued close dialogue with civil society and national Parliaments.
- Re-launching the **Internet Debate**, allowing citizens to choose subjects of their concern and linking discussions to topical subjects from the Commission's agenda or other major policy events. A special effort will be made to address the women and the youth audiences.
- Supporting the development of **European public spaces** to promote public discussion through the joint Commission / European Parliament offices. The Commission and the European Parliament offices could host political and cultural events related to Europe.
- Providing financial support for **national and regional civil society** initiatives focusing on youth and women.
- Replicating the **Eurobarometer survey on the Future of Europe in 2007**, ahead of the European Council in June.

We count on your valuable cooperation in the future and a renewed commitment from the European Parliament in this process.