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# WHY A CONSTITUTIONAL TREATY FOR EUROPE?

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*"Treaties are almost always faits accomplis which the people's representatives can only approve (preferably tacitly) or reject, but cannot change." (ROBLES PIQUER Report<sup>1</sup>)*

The name "Constitutional Treaty" itself sounds interesting and unique, and might awaken scepticism, as well as curiosity: What is this supposed to mean? Not a Treaty, not a Constitution, but a combination of the two. However, this weird "discovery" is very matching, carrying a symbolic meaning which reflects the in-between status of the European Union itself: more than an international organisation, which would require simply an international treaty, but not yet a state, a strong political community, asking for a constitution. Therefore the Constitutional Treaty for Europe embodies a perfect compromise: it is something in-between; it is a little bit of both. On the one hand, it is a Constitution indeed, in terms of creating a clear political community with equal citizens, listing their fundamental rights, common values and objectives. On the other hand, as an international treaty, it gives sovereignty and decisive power to the member states. As such, this treaty-like document does not create an independent, sovereign European state.

As we all know, the European Union, in its latest form today, is the result of a vision of the post – 2<sup>nd</sup> World War period and of everyday political reality. One could briefly say, a dream of a few brave, "unlimited" minds of the 1950s has come true. The European Union's name, character, structure, form, even its objectives have been changed along with global and European historical developments, but its main goal has stayed the same and has been almost achieved: the continent is peacefully integrated and today it represents an important global player in the game of the balance of power. Hölderlin once said, "Man is a God when he dreams, but a beggar when he thinks". In order to push our diverse "European Machine" forward, we need both gods and beggars.

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<sup>1</sup> <http://www.eurolegal.org/yurp/euoparl.html>, the Democratic Deficit

Over the past 15 years, the history of the EU has been marked by a series of changes to the European Treaties. Each of them was prepared by an Intergovernmental Conference (IGC), which brought together the representatives of the Member States' governments. These changes were necessary/required because of both internal (within the integration process itself) and external (the radical changes of the global and European political environment) politico-economic realities.

One of the most important internal measures consisted of the Single European Act in the year of 1986, which has created the Single Market and established on its territory freedom of movement for people, goods capital and services. As a continuation of this document, the Maastricht Treaty from 1991 brought up some significant reforms enabling the Union to move forward in a number of areas, such as the introduction of a single currency, common foreign policy and the institutionalisation of co-operation in the fields of justice and home affairs.

Parallel to the above-mentioned internal measures, the fall of the Berlin wall, representing the end of a bipolar world order and of the politico-economic schism of Europe, as an external factor, has strongly contributed to highlighting the necessity of a new 'action plan' for European integration. Through the willingness to join the European Union announced by most of the Central and Eastern European former communist countries, shortly after the fall of the Berlin Wall, the fact became obvious that the European model designed for 12/15 both economically and politically more or less similar states (sharing the same values) needed to be reshuffled.

After Maastricht, however, the further development of the European political Union seemed to lose its momentum. The two IGCs, which led to the signing of the Amsterdam (1997) and Nice (2001) Treaties, even though moderately successful, were characterised by weaker political resolutions and many highly important institutional questions remained unanswered, such as the following:

- how to ensure the smooth running of an EU-25 or more,
- how to guarantee the legitimacy of the institutions representing the states and citizens of Europe.

The Nice European Council in December 2000 with the 15 Heads of State and Government of the 15 Member States provided a stimulus for the revision of the Treaties. They felt the need to pursue an institutional reform. To this end,

the European Council has launched a broader and more comprehensive debate on the future of the Union.

A year later, the European Council met in Laeken and, on December 15<sup>th</sup> 2001, adopted the Declaration on the Future of the European Union, foreseeing for the Union a future in which it would become more democratic, more transparent and more effective, as well as preparing the way for a Constitution according to the expectations of the people of Europe.

The method used so far to revise the treaties has been heavily criticized. All major changes in the EU's development have been decided behind closed doors at Intergovernmental Conferences, involving only the leaders of the Member States. European integration should become a matter of all European citizens. As such, in order to prepare the next IGC according to the people's expectations, as transparent and as wide-ranging as possible, the European Council decided to set up a Convention bringing together the main stakeholders of the debate including representatives of the governments from the 15 Member States and 13 candidate countries, representatives of their national parliaments, representatives of the European Parliament and of the European Commission, 13 observers from the Committee of the Regions and of the European Economic and Social Committee, as well as representatives of the European social partners and the European Ombudsman. The Laeken European Council set the mandate of the Convention as being to provide to provide answers to important questions on the future of Europe. The first session of the Convention was held on February 28<sup>th</sup> 2002.

After more than a year of debates, the Convention reached a consensus to forward a draft Constitution to the European Council. The results of the work of the Convention have been presented to the Thessaloniki European Council on June 2003. The draft constitutional Treaty prepared by the Convention marked a historic step forward in the effort to complete European integration. The final draft Constitution was submitted to the Presidency of the European Council in Rome on July 18<sup>th</sup> 2003. This text version served as a basis for the work of the Intergovernmental Conference, which brought together the representatives of the current 25 Member States, the European Commission and the European Parliament, as well as representatives of the three candidate countries, Romania, Bulgaria and Turkey.

The IGC met several times from October 2003 onwards. At the European Council in Brussels on June 17<sup>th</sup>-18<sup>th</sup>, 2004, the IGC finalised its work after eight months of negotiations and an agreement/a compromise was reached between the governments of the 25 Member States. Having been adopted and signed (on October 29<sup>th</sup>, 2004 in Rome) by the 15 Heads of States and Government, the Constitutional Treaty will be ratified by each Member State in line with its own constitutional arrangements. The Constitution will not take effect until the 25 member states have ratified it.

After 18 months of Convention proceedings and one year of IGC negotiations, the new Constitutional Treaty is the maximum that could have been achieved politically, representing a consensus/compromise reached by the 25 Member States, and, as such, it should be valued and supported. A further challenge is to win the hearts and minds of voters, and mobilize them to rally around this renewed political project for the Union.

In this context, the nature of the new constitutional Treaty has indeed been changed, and, especially in countries where the ratification will be a matter of referendum, the citizens of Europe can feel closer to this version than they could have ever felt to any European treaty or document. Probably not close enough, though...

## **THE GRADUAL DEVELOPMENT OF A COMMON REGIONAL/ COHESION POLICY AND ITS REFORMS - BRIEF HISTORY**

### **Why a common Regional/Cohesion Policy?**

The answer to this questions is logical and simple: the more extended/enlarged the European Union gets, the bigger the disparities in living standards and levels of economic & social developments between its Member States, even between regions within one state. All 10 new member states from Eastern Europe have a per capita GDP below the EU average and even below the least developed older member states. The differences between the applicant countries (Romania, Bulgaria, Croatia, Turkey) are greater than ever before. The new member states and the candidate countries, once members of the Union, are all net recipients of the common budget. With the latest enlargement, the population of the EU increased with 20%, whereas the GNP of the EU grew by hardly 5%.

The average GDP per capita at the EU level, on the other hand, decreased by 12%. Instead of the EU-15's 84 Million citizens living in disadvantaged or less developed regions, the EU-25 has to deal with 123 Million of those.<sup>2</sup> In the old EU-15, the income ratio between the richest 10% of regions and the poorest 10% was 2.6, whereas in the EU-25 it shows 4.4.<sup>3</sup>

Economic restructuring in central and Eastern Europe, where many people are employed in agriculture and basic industries, will continue. As a consequence, many of the new Member States passed the Lisbon employment targets some year ago, unfortunately in the opposite direction: Employment rates have fallen over the past decade and now reached, on average, 56% in the new Member States compared to that of 64% at old Member States level, which is still way behind of the 70% set by the Lisbon Strategy. Thus, enlargement certainly means a major increase in the demand for structural and cohesion funds.

Therefore, solidarity will become more important than ever in achieving the major goal of reducing disparities in levels of development explicitly set by Article 130a of the Constitutional Treaty.<sup>4</sup> As such, an effective regional policy is crucial to the development of an integrated EU, since it is unacceptable for citizens in different parts of the Union to be subject to significantly different standards. This is why regional policy is supposed to become the instrument of solidarity at European level.<sup>5</sup> However, the most important argument in favour of an EU regional policy is the necessity of having an active strategy/device by which the welfare benefits of economic integration are spread within the European Union. If market forces are allowed to operate freely, there is no

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<sup>2</sup> Rede des Praesidenten des Ausschusses der Regionen Peter Straub beim Forum zur Kohäsionspolitik am 10 Mai 2004 in Bruessel, on [www.europa.eu.int/comm/regional\\_policy/debate/forcom2004-en.htm](http://www.europa.eu.int/comm/regional_policy/debate/forcom2004-en.htm)

<sup>3</sup> Huebner, D. Regional Policy in the enlarged EU: how much reform do we need?, Speech given by the Commissioner for Regional Policy at the Centre for European Reform, Hilton Hotel, Brussels, 09 December 2004, on [http://www.cer.org.uk/articles/speech\\_hubner\\_9dec04.html](http://www.cer.org.uk/articles/speech_hubner_9dec04.html)

<sup>4</sup> Kengyel, Á. The EU's Regional Policy and its Extension to the New Members, Discussion Paper C 76/2000, Zentrum fuer Europaeische Integrationsforschung, Rheinische Friedrich Wilhelms-Universitaet, Bonn, p. 3, on <http://www.zei.de>

<sup>5</sup> Balázs, P. Broad Political guidelines of the reform of Regional Policy after 2006, Speech delivered at OPEN DAYS Opening Session, Brussels, September 27<sup>th</sup> 2004, [www.europa.eu.int/rapid/pressReleasesAction.do?reference=SPEECH/04/421&FORMA...](http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=SPEECH/04/421&FORMA...)

guarantee that this will be achieved; on the contrary, the opposite effect might result and development would become even more concentrated in the centre/core of the EU, letting behind/less developed the periphery.

Although nowadays the importance of regional policy is well known and acknowledged, and its objective to achieve economic and social cohesion is clearly defined in unique terms within the Constitutional Treaty "...as reducing disparities between the various regions...", it was not always like this. Regions have been trying to modify Europe's political architecture since the mid 1980's. In this direction their first achievement dates back to the Maastricht Treaty (1991), when they managed to break the traditional duopoly of Member States and European institutions. However, it took them 20 years to press for a fuller role in EU policy-making.

The Union seeks to use regional policy to help lagging regions to catch up, restructure declining industrial regions, diversify the economies of rural areas with declining agriculture, and revitalize disadvantaged neighborhoods in the cities, in other words, solve the following types of regional problems:

- Regional imbalances/ disparities within a country, where there are a significant size of insufficiently developed regions in comparison to the internal average, such as Southern Italy, Corsica, or some of the Greek islands
- Rural underdevelopment, which describes territories characterised by poor land, low average income and/or unemployment, no/poor technology, such as in the case of Southern countries or in some of the New Member States.
- Declining zones, as a result of industrial restructuring. This represents regions where the disappearing industrial field used to be a vital, main source of income.
- Cross-border regions, where after the abolishing of borders and trade barriers a structural reorientation is needed.

Although all these disparities of a core-periphery nature have been omnipresent in the European Union's history, the importance of their common resolution, the reduction of the disparities on community level was not recognised for a long time.

## THE BEGINNINGS

The original version of the Treaty of Rome, signed in 1957, speaks about a harmonious development, about reducing the gap between different regions with a view to supporting the underdeveloped ones. However, there are no concrete

measures on how to fulfill this task, it is mentioned “nearby” in the document’s Preamble. It makes no mention of Structural Funds, or of a community regional policy. On the institutional level, though, there was a step forward: the Treaty of Rome prescribed for the European Investment Bank to accord loans for development projects foreseen to assist less developed regions. Nevertheless, at the end of the 1950s, regional development as a common European policy did not exist. The reduction of any type of regional disparity was obviously a subject of national politics. As such, states used to promote regional development within their own borders by different national tools, such as aids, subsidies, release from taxes, cheap credits accorded to businesses that would settle to disadvantaged regions, or those far away from core areas, as well as public expenditure.

It was not until the community was faced with its first enlargement (1973) and the economic crises of the 1970s that its attention was seriously turned to the problems facing the regions and proposals were raised for developing a policy in order to overcome them. As such, European politicians have recognised the necessity of introducing ‘interventionist’ policies at an European level. They have set measures which will provide the basis for common regional policies. Their objective has been, on the one hand, to co-ordinate existing national policies and, on the other hand, to co-ordinate different financial policies and instruments of the European Community in such a way as to make them contribute positively to European regional development, so that they would not interfere with the national politics of this area. Of course, interventionist policies require financial support in order to finance productive enterprises and an infrastructure.

However, what the Treaty of Rome did provide in this sense was the establishment of two funds which now form part of the so called Structural Funds and assist in implementing the EU’s regional policy.

The first Structural Fund was the European Social Fund (ESF), as provided for in Articles 123-126.<sup>6</sup> Set up in 1960, it aimed to promote employment and increase geographical and occupational mobility of workers within the Union.

The second Structural Fund was the Guidance Section of the European Agricultural Guidance and Guarantee Fund (EAGGF). This was set up in 1970,

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<sup>6</sup> Church, C.H. & Pinnemore, D. (1994). *European Union and European Community. A Handbook and Commentary on the post-Maastricht Treaties*. Harvester Wheatsheaf. p. 194-195.

in accordance with Article 40(4)<sup>7</sup>, once the EU's common agricultural policy was in operation. Although both have gradually developed a clear emphasis on promoting assistance to the less developed areas of the EU, it was not until 1975 that a fund was created with the specific aim of reducing the economic and social disparities between various regions of the EU. This Fund, the European Regional Development Fund (ERDF), did not emerge out of the Treaty of Rome. Instead, as a response to the economic difficulties of the 1970s and as an attempt to provide some form of assistance to the declining industrial regions of the United Kingdom, the Community established the fund through Article 235<sup>8</sup> in order to distribute aid to its struggling and less developed regions.

Although the establishment of the ERDF announced the emergence of an EU regional policy, only the second and third enlargement wave of the EU in 1981 and 1986 respectively, as well as the adoption of the internal market programme as part of the Single European Act (SEA), have managed to raise its importance among other policies/activities on EU level. More than that, the aim of increasing economic and social cohesion within the EU as a counter to the possible economic implications of the internal market on the less developed regions was firmly established as a policy objective of the EU.

### ON THE RIGHT TRACK...

In 1988, the Council approved this reform of the Structural Funds, as well as the formulation of specific regional policy objectives.<sup>9</sup> The funds needed a reform so that instead of each having its own rules and objectives they would be based on four shared principles:

- Concentration (= the collective use of the funds in areas of greatest need)

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<sup>7</sup> *Idem*, p.98

<sup>8</sup> "If action by the Community should prove necessary to attain, in course of the operation of the common market, one of the objectives of the Community and this Treaty has not provide the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures." Article 235, Treaty of Rome, in Church, C. H. / Phinnemore, D.: *European Union and European Community*, p. 340.

<sup>9</sup> Council Regulation (EEC) No. 2052/88, Official Journal of the European Communities, No. L 185, Volume 15, July 1988, Council Regulation (EEC) No. 4253/88, No. 4255/88, No. 4256/88, Official Journal of the European Communities, No. L 374, 31 December 1988.



- Programming (= medium-term projects for regional development, rather than projects)
- Partnership (= shared responsibility between the Commission, national governments, and sub-national bodies)
- Additional projects (co-financed by the EU and appropriate national bodies)<sup>10</sup>

The above-mentioned reform set up five priority objectives for the Structural Funds out of which Objective 1, 2 and 5b were dealing with specifically regional issues, including measures restricted to certain eligible regions. The definition of eligibility under the reform categorized regions in three types, adopted by the EU as objectives:

- Objective 1 promotes development and structural adjustment in those regions which were lagging behind; in other words, those with GDP per capita below 75% of the EU average.
- Objective 2 promotes the conversion of areas affected by industrial decline, those with a relatively high unemployment rate.
- Objective 5b is aimed to help/assist rural areas affected by problems of structural adjustment linked to the decline of agriculture.

In this context, a new reform of the provisions followed in July 1993<sup>11</sup> according to which a fourth structural fund, the Financial Instrument for Fisheries Guidance (FIFG), has been created for fisheries policy.

In 1995 the new objective no. 6 was added, which promotes regions with outstandingly low population density, below 8 inhabitants / square kilometer.<sup>12</sup>

It became obvious that regional policy needed to follow the rhythm dictated by the Economic and Monetary Union on the way to its establishment and speak about promoting equal/harmonious development for the EC as a whole, about actions aiming the strengthening of social and economic cohesion and the reducing of the gap between different developmental levels of European regions.

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<sup>10</sup> Kengyel, Á. The EU's Regional Policy and its Extension to the New Members, Discussion Paper C 76/2000, Zentrum fuer Europaeische Integrationsforschung, Rheinische Friedrich Wilhelms-Universitaet, Bonn, p. 7, on <http://www.zei.de>

<sup>11</sup> Council Regulation (EEC) No 2081/93, No 2082/93, No 2083/93, No 2084/93, No 2085/93, Official Journal of the European Communities, L 193, Volume 36, 31 July 1993. pp. 5-47.

<sup>12</sup> Decision of the Council of the European Union (95/1/EC, Euratom, ECSC) Official Journal of the European Communities, L 1, Volume 38, 1 January 1995. p. 11.

However, despite the significant increase in the levels of funding available since 1994, the steps being taken by the EU to achieve economic and social cohesion were still very cautious at that time. Overall levels of funding for regional development remain low in comparison with the levels of spending in the individual states.

In order to prepare the Structural Funds to meet the challenges facing the EU in the year 2000 and beyond, including enlargement towards Central and Eastern Europe, the Commission proposed a radical reform of the Structural Funds covering the years 2000-2006. In July 1997, after the agreement on the Treaty of Amsterdam, the Commission presented Agenda 2000. This represented the Commission's detailed strategy for strengthening and widening the Union in the early years of the 21<sup>st</sup> century. Strengthening economic and social cohesion implied making European regional policy more effective and transparent. According to Agenda 2000, the common principles of the reform were set as follows: concentration, efficiency and simplification, having in view also the strengthening of the partnership—and decentralisation principles. In this context, enlargement played a far greater role in Agenda 2000 than in any of the large financial packages of the past because of the number of applicant countries, as well the differences between them, which were greater than ever before with a view that they all will become net recipients of the common budget.

As for the Structural Funds, the Commission suggested that their efficiency would be higher if the number of its objectives were reduced to three. Objective 1 remained the same, whereas a new objective 2 and 3 have been added:

- Objective 2, devoted to economic and social restructuring, brings together measures for other regions suffering from structural problems, such as regions undergoing economic change in industry and services, declining rural areas, crisis hit areas dependent on the fishing industry or urban areas in difficulty<sup>13</sup>
- Objective 3 was introduced for regions not covered by objectives 1 and 2, it aimed to help member states to adapt and modernize their systems of education, training and employment.<sup>14</sup>

As one can see, the EU has become more open to the involvement/role of the regions.

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<sup>13</sup> Agenda 2000, p. 19.

<sup>14</sup> Ibid

## RECENT DEVELOPMENTS

The Laeken European Council (15 December 2001) set the mandate of the Convention, bringing together the main stakeholders of the debate on the future of the EU, committing the Union to becoming more democratic, more transparent, and more effective, and especially, to paving the way towards a Constitution for Europe. The Convention has given the regional dimension additional and perhaps unexpected impetus. Regional issues were a low priority on the Convention's agenda. Few regional representatives could participate in its discussions. However, the draft Constitution has potentially carved out a bigger role for regions to play in the future Europe.

What did the Convention recognise? It recognised the regions' role in European decision-making, as essential components of member states: regional/local governments across all member states are important and often main actors in implementing EU laws. Because of this function of implementers and law-makers, regions have strong demands for fuller involvement in EU decision-making in sense of applying their practical experience in implementation in order to raise the quality of EU laws, as well as compensating for any limitation of their own legislative autonomy as the goal/target of EU law expands. This is the reason why regions are seen as a bridge/linkage between the EU and its citizens, as important elements in the "fight" against the so-called "democratic deficit" phenomenon, defined by M. J. Braun as "The growing gap between the power and authority of the EU institutions.<sup>15</sup> Regional/local governments are elected by citizens to carry out public tasks. As such, they have a direct relationship to voters; more than that, the services they provide have a real impact on citizens' daily lives. If their work is constrained by EU laws, they can become disconnected from citizens' concerns and their work less transparent to ordinary people. Therefore, the Laeken Declaration underlined the need for the EU to "be brought closer to its citizens' and repeatedly stressed Europe's regional dimension.

As for the support for anchoring regions more explicitly in the new Constitution, the six observers sent to the Convention by the Committee of the Regions played a very efficient role. One of the results is the creation of a new

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<sup>15</sup> Braun, M. J. *An Imperfect Union*. p. 86, on [www.courseworkbank.uk/democratic\\_deficit\\_the\\_cu\\_2606](http://www.courseworkbank.uk/democratic_deficit_the_cu_2606)

regional pressure group, the “Regions with Legislative Power”, or the so-called “RegLeg”, which brings together the EU’s strongest regions, those responsible for policy and laws across extended fields of domestic politics in Germany, Belgium, Austria, Spain, Italy and the UK.<sup>16</sup>

Regarding regional issues, the Convention succeeded in including in the draft Constitution a few concrete achievements, as follow:

- The clarification of the different types of Union competences (Art. I-11) and of the principle of conferral.<sup>17</sup> Limiting the reach of the EU competences vis-à-vis the member state implicitly limits the reach of the EU vis-à-vis the competences of regions – especially those with legislative powers – within the member states.<sup>18</sup>
- The recognition of regional and local governments as some of the fundamental structures expressing national identity, which the Union must respect (Art.I-5)
- Recognition of the value of cultural and linguistic diversity (representing the basis of regional identities in a number of member states. (Art. I-3)
- Recognition of the principle of territorial cohesion as an object of the solidarity expressed by membership of the Union (Art. I-3)
- And last but not least, from the regional perspective, a much more satisfactory understanding and handling/managing of the principles of subsidiarity and proportionality

(Art. I-9 and the new Protocol on the Application of the Principles of Subsidiarity and Proportionality).<sup>19</sup>

The new definition/perception of subsidiarity and proportionality are major achievements of the Convention. According to this, the principle of subsidiarity refers explicitly to the regional and local levels for the first time

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<sup>16</sup> Jeffrey, C. *Regions and the Future of Europe*. EU – Member States – Region: Finding the Right Architecture, on [www.eu-reform.de](http://www.eu-reform.de), Reform Spotlight, 2003/2, the website of Applied Policy Research and the Bertelsmann Foundation

<sup>17</sup> = the Union can only act where there is specific authorization in the Constitution. (Art I-9)

<sup>18</sup> = thanks to the pressure of the German Laender on the German national Government at Nice

<sup>19</sup> The Convention’s Draft Treaty Establishing a Constitution for Europe, submitted to the President of the European Council in Rome, 18 July 2003, on <http://european-convention.eu.int/docs/Treaty/cv00850.en03.pdf>

in the main constitutional text. The Commission must take into account the regional and local dimension under its obligation to consult widely before proposing legislation. The Committee of Regions (CoR) will have the job of organising regular forums through which the Commission will consult associations of regional or local governments. Another very important success of the Convention was the fact that the CoR wins the right for the first time to bring actions before the European Court of Justice (ECJ) if it feels that the principle of subsidiarity has been infringed in any of the fields on which it has to be consulted. The CoR can also go to the ECJ if it feels it has not been properly consulted the Commission, Council or Parliament.

- Some regions can also claim a role in policing the subsidiarity principle through the new “early warning system” (EWS) on subsidiarity devised for national parliaments.

This additional access route of the “early warning system” is especially interesting. It gives national parliaments early sight of Commission legislative proposals and allows them to give reasoned opinions if they feel the proposal does not comply with the principle of subsidiarity. If a third of the national parliaments are not satisfied with the Commission’s re-thinking, they can ultimately take the issue to the ECJ. Although the Convention’s contribution to the improvement of the common cohesion policy is very valuable, there are some important issues “missed out”. The Convention did not recognise all the demands made by regional actors. The CoR was given more power, it was still not listed among the EU’s full institutions, it has “only” the function of an advisory body.

Another general demand of the RegLeg regions—to recognise a special constitutional status for legislative regions—was not met. The RegLeg regions wanted recognition of the law-making role that distinguishes them from other regions and local authorities and would give them a qualitatively different relationship to their citizens.<sup>20</sup> The reason why the RegLeg group was asking for a special status can be explained by the fact that the CoR, which provides collective representation for all regional and local governments in the EU, is incapable of meeting their concerns.

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<sup>20</sup> Jeffrey, C. *Regions and the Future of Europe*. EU – Member States – Region: Finding the Right Architecture, on [www.eu-reform.de](http://www.eu-reform.de), Reform Spotlight, 2003/2, p. 4, the website of Applied Policy Research and the Bertelsmann Foundation

### THE CURRENT STATE OF PLAY

How does the New Constitutional Treaty (CT) contribute to all these? Concretely, there are two key elements which need to be mentioned. The most important though, is a mentality—change-like one: the fact that the CT adds territorial cohesion to the objective of economic and social cohesion. This can be explained by a shift in perception of “helping” the less developed regions to catch up. The EU recognised that the transfer of funds alone does not solve the problem of modernization. A clear integration strategy, well-defined regional development programmes, policies and regional institutions are indispensable national components of the catching-up process. As the experience of the less-developed EU member states has shown, external resources may prove important supportive factors of well-defined domestic policies<sup>21</sup>. As a consequence, the CT talks not only about disparities, but also about reducing disparities in the level of development. Regional policy is “not about hand-outs to underdeveloped areas. It is not a question of charity,”<sup>22</sup> but about raising the long-term growth potential of regions, increasing their ability to attain a permanently higher level of development. In other words, cohesion policy means from now on investing in regional competitiveness and jobs in the local/indigenous growth potential of regions. It is also a policy in which knowledge, technology and “best practices” are exchanged, and cooperative networks are developed within Europe. It is a co-ordinated policy that encourages and strengthens initiatives.

The second important change is that the new Treaty, unlike its predecessors, explicitly sets out the EU’s competences, seeking to make the division of powers between the EU and the member states more transparent. It divides the competences into three categories:

- Those where the EU may only complement or support the actions of member-states (such as education);
- Where the EU and the member states share the power to act (internal market and agriculture)

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<sup>21</sup> Kengyel, Á. The EU’s Regional Policy and its Extension to the New Members, Discussion Paper C 76/2000 , Zentrum fuer Europaeische Integrationsforschung, Rheinische Friedrich Wilhelms-Universitaet, Bonn, p. 22, on <http://www.zei.de>

<sup>22</sup> Huebner, D. Regional Policy in the Enlarged EU: how much reform do we need? on [http://www.cer.uk/articles/speech\\_hubner\\_9dec04.html](http://www.cer.uk/articles/speech_hubner_9dec04.html)

- Where the EU has exclusive competence (five competition rules within the single market, monetary policy for the euro-zone members, trade policy, customs union, and conservation of marine biological resources under the common fisheries policy).

We have already noted the strengthening of the principle of subsidiarity, which restricts the EU's ability to acquire new competences,<sup>23</sup> although strictly related to the better demarcation of competences by the Constitutional Treaty, and so it is worth mentioning again.

Although, over the years—confirmed also by the CT—regional policy has become one of the EU's main activities, accounting for around one third of the total budget, or EURO 213 billion over the period 2000-2006, EU officials are discussing a new reform of the regional policy. In July 2004 the former Commission adopted a proposal for a reformed EU cohesion policy, which is currently being discussed by the Council, along with the future financial perspectives for 2007-2013.

## CONCLUSIONS

The EU has 254 regions, yet Europe is a small continent. As such, it cannot afford to waste resources. It cannot afford to leave behind even the smallest region. All of them should contribute to raising the European Union's growth and competitiveness on a global scale as a "more than international institution" and according to the goals set by the Lisbon Agenda.

The new Constitutional Treaty, however, makes it clear that the EU is not a state. The EU derives its existence and competences from the member-states and not the other way around. The member-states, of course, have sovereign powers not depending on whether the EU exists or not. This fundamental principle lies behind a new treaty clause that, for the first time, provides an explicit exit procedure in case a country wishes to leave the Union. Besides, only the member-states can change the treaty. Hence, its text should correctly be described as a constitutional treaty, a rulebook organising the relationship between member-states, and not as a constitution, which governs the relationship between a state and its citizens.

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<sup>23</sup> Centre for European Reform: The CER Guide to the EU's Constitutional Treaty, Policy Brief – July 2004, p.4, on [www.cer.org.uk](http://www.cer.org.uk)

All in all, the treaty does something to improve the EU's efficiency and enhance its legitimacy. It also increases the EU's flexibility by making it much easier for small groups of EU countries to work together on policy initiatives. The simple fact that some provisions will not take effect until 2014 shows that the probability of further radical reform is out of the member-states consideration in the near future. But do the citizens of the EU know enough about its content in order to want to change it soon?

Based on a survey's second wave conducted by Gallup (Eurobarometer) in June-July 2004, the citizens of the European Union still consider that they are poorly informed about the European Constitution, although the majority of the respondents think that the Constitution is essential for the Institutions to function smoothly. Concerning knowledge of its content, a majority of the subjects seemed to know that the Constitution provides for a minister of Foreign Affairs for the European Union, whereas only a minority seemed informed about the possibility for one million citizens to invite the European Commission to submit a proposal.<sup>24</sup>

Having in mind all these, one might ask whether the opening quotation of this paper from the Piquier Report is right. Is the Constitutional Treaty a *faits accomplis* as well, which is going to be ratified or rejected by the citizens of the EU without knowing exactly what it is all about, without being able or wanting to change it? Does the CT represent an element of Dahrendorf's "Sonntagsseuropa,"<sup>25</sup> something very formal and distant from the people, which appears rarely in their everyday life, without causal, comprehensible impacts? (versus "Alltagsseuropa"<sup>26</sup>, an everyday reality, a tangible evidence of efficient EU policies).

Can we talk about an 'Alltagsseuropa' in the case of regional/cohesion policy? Is regionalism closer to the European people? In today's diverse Europe there are examples of very different approaches. On the one hand, in countries with a federal tradition and strong regional identities such as Germany, Belgium, Holland, and Austria there are several well-functioning Euro-regions (Eurogio

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<sup>24</sup> The European Commission's Flash Eurobarometer: The future European Constitution (Wave 2), survey requested by the Secretariat General and co-ordinated by Directorate General Press and Communication, conducted in June-July 2004, published in July 2004, on [http://europa.eu.int/comm/public\\_opinion/flash/fl159\\_2en.pdf](http://europa.eu.int/comm/public_opinion/flash/fl159_2en.pdf)

<sup>25</sup> = Europe of Sundays

<sup>26</sup> = an everyday, casual, weekday Europe



Rhein-Waal; Saar Lor-Lux; Rhein-Maas-Nord; Maas-Rhein etc.)<sup>27</sup> with concrete results in regional development.

In the group of the new member states (including candidate countries) there are some examples of good regional initiatives, theoretically working and well-organised transnational/cross-border co-operations in forms of Euro-regions, yet with little concrete/practical outcomes: Euro-region Neisse, Danube-Cris-Mures-Tisa, etc. In the majority of cases, their less efficient activity derives from multiple causes, like the lack of resources, the more heterogeneous character of the actors, wounds from the past, centralised state orders etc.

On the other hand, however, there are candidate countries without federal traditions, with strong and still influential leftovers of communist centralism, which first need a large-scale mentality change in order to understand the role of the regions within the EU, although at the level of the political elite there is already fair support towards regional ideas.

Can the above-mentioned three levels of regional development look more homogeneous, with fewer disparities in the post-2007 European Union? Do we need a multi-speed Europe?

And how about the controversial/paradox nature of the cohesion policy issue? On the one side, we have the nation states/national parliaments claiming for more competence in EU policy-making, having in view a more transparent functioning of the Union. On the other side, there is the EU acquiring new competences for its institutions (especially for the European Parliament in order to overcome the democratic deficit) on the way towards strengthening its status as global player.

The debate on the future of Europe is far from over; it is actually very much alive. The question of whether the European Constitution “rang the bell” last year and the alarm for solution finding is continued by the preparation of the accession of Romania and Bulgaria on January 1, 2007 and by the commencement of accession negotiations with Croatia and Turkey. The equation sounds familiar

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<sup>27</sup> Groß, N. C. Netzwerkbildung in der EU als regionale Standpolitik? Nordrhein-Westfalen und die transnationalen Beziehungen zu Regionen im Benelux-Raum sowie in Mittel- und Osteuropa, Discussion Paper C134 2004, Zentrum fuer Europäische Integrationsforschung, Rheinische Friedrich Wilhelms Universitaet Bonn, p. 9-10 on <http://www.zei.de>

already: enlargement = need for more economic and social cohesion = need for adequate regional policy.

Although a little bit utopian and with each enlargement wave harder to achieve, the motto of the Union, “United in diversity”, probably represents the long-term answer to most of the questions.

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