

## A better starting point for Europe's constitution debate

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The pause for reflection about the European Union's constitutional future is over and decisions will soon be back on the agenda. Nevertheless, the fabric of consensus remains weak and expectations, fears and intentions are still divergent in member states.

There are two misleading questions that could distract attention from what citizens want. The first is whether the EU actually needs a constitution. The second is whether we must preserve the text already approved by 18 member states or write a different one taking account of the French and Dutch No votes.

On the first question, those who favour a more integrated Europe will say "yes" but turn up their noses at the existing constitutional treaty because it does not contain enough of what they want from a constitution (as many French voters did). But those who see it as the platform for a Brussels-led superstate will say "no" and will not even read it, just because of its title.

On the second question, we should remember that in France and the Netherlands preservation of the existing text would be a provocation to voters who have already said "no". It is clear that the text for the new beginning cannot be the same one. Everyone is aware of this and that is why this question too is the wrong starting point.

The starting point that could help us to regain contact with our citizens - and consequently to understand what we must do now - would be to go back to the beginning, to the declaration approved in Laeken by government heads in 2001. Do we still share the questions asked then? If answers are still needed, how much of what we need can be found in the constitutional treaty and how can we make use of it without being bogged down in irrelevant debates? If we look closely at the Laeken declaration we realise that a European constitution is at the bottom of a long list and was not the main focus. The issue was whether the necessary reorganisation of the treaties "might not lead in the long run to the adoption of a constitutional text in the Union". "In the long run": this was neither a priority nor an urgent task.

According to the declaration, the priority was to clarify and streamline tasks and procedures in the Union: first, allowing citizens to understand who does what and who is responsible for what; second, putting an end to the proliferation of instruments piled up by the treaties; and third, overcoming the legal distinction between Community and Union, the sense of which nine Europeans out of 10 do not understand. Another urgent task was to enhance democracy, basing majorities on the will both of the member states and their citizens, enhancing the role of the European parliament and that of national parliaments, making procedures more transparent and giving the citizens better access. Finally, a further priority was to guarantee enhanced efficiency, what the British call "delivery": on the one side through better rules affecting the Commission, the EU's rotating presidency and the use of majority voting; on the other by strengthening the Union vis-à-vis the great challenges of the new century - common foreign and security policy, the managing of immigration and the fight against crime and terrorism. In recent years these problems have remained unsolved and some have got even worse with enlargement. Nobody - not even those who see the issues as the British tend to - can demonstrate there is no need to change the existing rules. Changing the rules is never enough to solve a political problem, but it can make the difference when the solution is difficult.

So let us not wonder whether we need a constitution. Let us ask ourselves if the questions outlined in Laeken are still valid, if the constitutional treaty provides adequate answers and if new responses are necessary. If we did this, a new and rapid inter-governmental conference could easily achieve a shared solution. It could adopt the text of the treaty's first part (creating an EU president, foreign minister and new voting system) and second part (incorporating a charter of rights) almost entirely. Or it could put together, on the basis of the Laeken questions, the clauses contained in the first part and the main innovations introduced in the third part of the treaty regarding core policies. In both cases it could streamline the new text, without reproducing the second part, ie the charter of rights - reducing it to one

article which gives the charter legal force. It could also add any new responses deemed necessary.

If the inter-governmental conference did this, the bulk of the third part, which consolidates the existing treaties in a single text, would be left out. These treaties would not disappear: they remain as now. There are a number of technical ways to cope with this issue. The wisest would be to adopt the text as a protocol, making it less visible and cumbersome, without changing its legal nature.

Finally, member states would have to decide the name of the new text and how to ratify it. I am confident that their political intelligence will suggest a name and a method of ratification that will help to avoid the problems of the first round.

The writer, former vice-president of the Convention on the Future of Europe, currently chairs the Action Committee for European Democracy

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