

EUROPE'S CONSTITUTIONAL IMBROGLIO.*

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1. Introduction

The rejection of Europe's Constitution by a comfortable majority of voters in France on May 29 (54.7%) and a few days later on June 1 in the Netherlands (61.6%) delivered a painful end to a constitutional process that had started under very good auspices.

With hindsight, the simple existence of a text for a European Constitution should have been seen as a very unlikely event. A few years ago, the prospect of the enlargement of the European Union to 25 had raised fears that the EU would simply become a large free-trade area and that the post-WWII European project of peace on the continent via a closer political integration may never materialize. Europe had lost its historical opportunity in the aftermath of 1989, claimed the pessimists. The Nice Treaty had made decisions on voting weights in the European Council and on the number of seats in the European Parliament after enlargement. It seemed inevitable that decision-making would become much more difficult in the enlarged EU (Baldwin et al., 2001). However, a seemingly unimportant event, the institution of a Convention to establish the Charter of Fundamental Rights, was to have deep-reaching consequences. The Belgian presidency prepared a declaration, the Laeken declaration, destined to renew the impetus for reform and to move farther ahead than the bland Nice outcome. The most revolutionary act would prove to be the abandoning of the traditional instrument of the intergovernmental conference (IGC) and the decision to mandate instead a Convention to prepare these reforms.

Intergovernmental conferences are always composed of country representatives who have in mind only the interests of their country. This leads often to quite inefficient bargaining. The convention was to be composed not only of representatives of national governments but also of members of the European Parliament and of national parliaments. Even more interestingly, it included representatives from the accession countries which, at the time, had not yet officially entered the EU. Members of the Convention were to act not as country representatives but as conventioners trying jointly to prepare a draft Constitution. Despite a very strict deadline and a sometimes idiosyncratic presidency by the aging former French president Giscard d'Estaing, the Convention fulfilled its task. The IGC that took place in the fall of 2003 could not make any progress over the work of the convention. The rejection of the referenda by a large majority in France on May 29 by 54.7% of the votes and on June 1 in Holland by 62.8% came all the more as a bitter blow to most observers of the European Constitutional process.

The rejection of the Constitution by voters had not been predicted by the French and Dutch executive. President Chirac wanted to use the referendum instrument to consolidate his role as leader of the right in France and to buy himself an option on the next presidential mandate against his rival Sarkozy. Holland is one of the six founding countries of the EU and has always been very pro-European. Here also, a rejection appeared very unlikely.

What happened? Why this massive rejection? Why the seemingly increasing distance between parliaments where overwhelming majorities were ready to support the Constitution and the dissatisfied populations? It is important to understand the reasons for the rejection in order to figure out how to go forward. What does this rejection spell for the future of the European integration process? What are the possible options on the table for the policy-makers in the coming months and years?

I will suggest answers to these questions in this paper. I will argue that, while fraught with numerous difficulties, the best option available is a sufficiently substantial revision of the Constitution. The price to pay is a delay of several years before a new text for the Constitution can be proposed to European voters. However, the Constitution should not be seen as the major priority for EU institutions right now. A major reason for the negative referendum outcome is the stagnant economy in major European countries like France and Germany. In Spain where the economic situation is better and where the EU is perceived to have improved the economy, a large majority voted in favor of the Constitution. Without substantial progress in reforms to bring Europe back to a path of stronger growth, less rigid labor markets and a sustainable public pension system, there are great chances that a revised Constitution would meet the same fate as this one.

2. The reasons for the No.

There has been much speculation in the media about the reasons for the French and Dutch rejection of the Constitution. Among those cited were the prospect of Turkish entry, the Polish plumber, the lack of social Europe, etc... What are we to make out of this? Fortunately, quite detailed Eurobarometer surveys were conducted in the two countries 2 days following the referendum. They give us a more accurate picture than the impressionistic comments in the media.

First of all, it would be wrong to blame the outcome on voters' lack of interest. The turnout was quite large in both countries. In France, the turnout rate was 69.3%, a figure that is very close to the Maastricht turnout which was of 69.7%. In Netherlands where a referendum was held for the first time, the turnout rate was of 62.8%. The debates were very passionate in France and reached deep layers of society. One may question the extent to which these debates addressed the real issues of the Constitution but it is uncontroversial to state that very large debates took place on visions for the future of Europe. Following the referendum, *Libération*, one of the major French newspapers reported stories on the divorces taking place among left-wing couples due to disagreements on how to vote.

Despite a high turnout in both countries, it is fair to state that the French No was more solid than the Dutch one. French voters do not blame a too late campaign or lack of information. Only 37% complained that the campaign started too late

compared to 67% in the Netherlands. French voters were in general quite confident in the information they had in order to decide: 70% said that they had sufficient information to vote. Voters who considered themselves ill-informed tended to abstain. In Holland, lack of information is paradoxically the most cited reason for voting No: 32% of those who voted No cited lack of information as a reason for why they voted No. French voters made their decision rather early in the campaign (60%). The picture that emerges thus is that a strong and resolute opposition had built up in France while in Holland voters were more confused and dissatisfied with the organization of the campaign and the information they had. The outcome of the French referendum certainly had a momentum effect on Dutch voters. However, if this momentum effect was important, it must have started playing a role as soon as the French polls predicted a victory of the No. Indeed, a majority of No in the Netherlands was already predicted more than a week before the day of the French referendum.

The reasons for the No were also characteristically quite different in the two countries. In France, the main motivation was dissatisfaction with the economy. Overall, 57% of those who voted No cited fear of more unemployment and outsourcing and dissatisfaction with the French economic situation and its high unemployment rate.¹ There is also a strong leftist economic reasoning behind the rejection: 35% of those who voted No consider that the Constitution is too “liberal”,

¹ People were allowed to cite more than one motive so that the numbers add up to more than 100%.

i.e. pro-free-market and does not give its due to “social Europe”.² Opposition to Chirac was an important motive and was cited by 18% as a reason for voting No.

Despite the strong resolve of voters, the text of the Constitution was not a key determinant of the vote: only 18% of respondents mentioned it as a key determinant of their vote. This should be compared with 32% who mentioned the French economic situation as the key determinant and 32% who mentioned their overall opinion of Europe. Moreover, 47% of those who voted No mentioned the French situation as the main determinant of their vote.

The reasons for the Dutch No were more scattered and diffuse but also very different from the reasons put forward in France. The main reason for the No vote is the lack of information mentioned above. The second main reason is the fear of loss of national sovereignty cited by 19% of those who voted No. Opposition to the government was cited by 14% and 13% thought that “Europe is too expensive” which can be interpreted as dissatisfaction with the cost-benefit ratio of the European budget.

Apart from that, some of the motives emphasized by the press seem to have played a very little role in the French and Dutch vote. Thus, for example, opposition to Turkish membership in the EU was cited only by 6% of those who voted No in France and 3% in the Netherlands. The complexity of the Constitution was also cited by the media as a major cause for its rejection. However, it is only cited by 12% of

² If we interpret this consistently, it means that they feared that the Polish plumber would take away jobs from French workers but they seem quite keen at the same time on using EU funds to finance the unemployment benefits of Polish plumbers in Poland.

those who voted No in France as a motive and by 5% in the Netherlands. The theme of the complexity of the Constitution is partly a red herring. In France, it was mocked by the No campaign who called it a telephone book, a great exaggeration for those who have seen the version distributed in France. Of the 325 pages, part I, which is the most important one and contains the rules of functioning of the EU, has only 48 pages and is rather concise. The Charter of Fundamental rights of EU citizens, which was put together before the Convention, contains 23 pages. Titles III-V of part III which contains the enumeration of the competences of the EU and is mainly a rehash of the existing Treaties, and was hardly discussed at the Convention, contains 166 pages. In a way, it is a bit naïve to complain about the length of the Constitution. Apart from skills at concision, the shorter a Constitution, the more of an incomplete contract it represents. The longer it is, the less incomplete the contract. In the case of the EU which still comprises sovereign nations, it is hardly surprising that pressures for precision and detail should take place. This is seen as a guarantee of the sovereignty of European nations. This does not mean that it is impossible to write a shorter Constitution. One can easily reduce it to 150 pages by mentioning that the competences of the Union are those developed in the previous Treaties. It is doubtful whether this would represent an improvement.

The age and social composition of the No voters in France and Holland is also interesting. In both countries, the rejection was very strong among manual workers (76% in France and 74% in Holland). In France, rural areas voted No (61%) whereas urban areas supported the Constitution (53% of Yes and 55% in Paris). There was

also a clear age divide in France. Those above 54 supported the constitution (54%) whereas age groups below rejected it, in particular those between 18 and 24 (59% rejection) and those between 40 and 54 (63% rejection).

Some other aspects of the survey were less surprising. Most French and Dutch voters are in favor of European integration. As stated in the media, the No did not challenge the last 50 years of European history. Those who voted Yes voted mainly out of support for European integration. Nevertheless, the enthusiasm for the Constitution was not great. Only 10% of those who voted Yes in France and 12% in the Netherlands said the latter would help smoothen the functioning of European institutions.

All in all, the rejection of the Constitution reflects less a dissatisfaction with the Constitution than with the economic situation (the contrast between the outcome of the Spanish referendum in a growing economy with the outcome of the French and Dutch referendum in stagnant economies is striking) in general as well as economic fears for the future. Commentators have sometimes drawn the conclusion that since it was mostly a protest vote rather than a rejection of the Constitution, one should therefore ask voters to vote again but this time on the Constitution. This reasoning is flawed. If given the same opportunity to vote in the near future on the same Constitution, it is likely that voters will use the vote to express the same protests. Politicians cannot, and of course should not, control the behavior of voters. The right answer is rather to first address the issues behind the protests before coming back to

them with a Constitution project. The protest votes expressed by French and Dutch voters are an indication of the necessity to do something about the lingering European economy.

3. What is at stake?

Given the reasons for the referendum outcomes in France and Germany and the confusion around the Constitution issues, it is worthwhile considering what was at stake in the rejection of the Constitution. This allows to understand if there is an urgency to move forward fast.

It is worthwhile noting that the Constitution did not contain any major step forward in European integration like the Single European Act or the European Monetary Union. It fulfilled the task of simplifying the multiple Treaties but did not propose any real drastic changes in the catalogue of competences of the Union. A careful status quo has been maintained. There is no question of eliminating the common agricultural policy or of any drastic step forward on defense. This was a disappointment to many for different reasons but there simply was not, and is not at the current stage, a consensus to make any changes to the status quo. This does not mean that such a consensus cannot evolve. The Constitution however gave instruments to the EU institutions to be able to change both the catalogue of competences (article I-17) and to shift from unanimity rule to a qualified majority

rule in certain areas (article IV-7a). Defense is however ruled out from the latter. In other words, the Constitution stated that both competences and voting rules could be changed by unanimity in the Council. I have claimed elsewhere (Roland, 2005) that these flexibility clauses are the most important advantage of the Constitution since it considerably reduces the transaction costs associated to any further move in European integration while at the same time respecting national sovereignty. Another important flexibility provided by the Constitution is that it made enhanced cooperation easier to initiate, something that is also important as a tool to further European integration as it allows a subset of countries to move forward in an area of integration without requiring all countries of the EU to participate.

The Constitution draft indeed aimed mostly at making the decision-process more flexible compared to Nice Treaty and making the EU more democratic by addressing Europe's democratic deficit. Other notable changes were a considerable reduction of the qualified majority rule in the Council (55% of Member states and 65% of the European population) compared to the Nice Treaty, a generalization of the co-decision rule giving more powers to the European Parliament and the election of the president of the Commission by the latter³.

Let us review some other significant changes apart from those "cleaning up" the Treaties and simplifying the number of legal instruments. A first change was the replacement of the current six month rotating presidency of the Council by an elected

³ The latter change is more ambiguous and can be interpreted as a continuation of the status quo where the president of the Commission is de facto chosen by the Council and the EP ratifies.

president within the Council (by qualified majority) for a mandate of two and a half years, renewable once. Another change was the institution of a European “Foreign Minister” present both in the Council and in the Commission as one of its vice-presidents. This merges in a single job that of the Commissioner for external Affairs and of the High Representative for Common Foreign and Security Policy. The latter is a clearly desirable objective.

To conclude, the Constitution did not affect the existing catalogue of competences of the EU relative to the Member states. It contained significant advances in simplifying the existing rules of functioning of the institutions and to make decision-making easier in a Europe of 25. However welcome these changes would have been, they do not represent drastic changes in the functioning of the EU. They affect the work of the Commission, the Parliament, the Council and EU institutions in general but much of that is perceived by the public as “internal kitchen” of little concern to citizens. The rejection of the Constitution does not create an immediate challenge to the survival of the EU. The outcome of the referenda had no effect on the stock markets. One can claim that there was some minor temporary effect on the Euro but it is debatable. In other words, financial markets do not expect that the rejection of the Constitution will have any major effect in Europe.

In a nutshell, while there clearly has been a missed opportunity to adopt a European Constitution, the failure of this attempt does not create a sense of urgency. This does not mean nothing should be done about it.

4. What are the options for the future?

What are the options on the table with respect to the future of the Constitutional process? Three basic options are available: 1) Do nothing and forget about a European Constitution, 2) Go back to the French voters after Chirac is ousted and to the Dutch voters after the next parliamentary elections with the same Constitution and ask them to vote again, 3) Go back to the drawing board and make non cosmetic changes to the existing draft before going back to the voters. Let us examine in turn the advantages and disadvantages of each of these options.

1) The “British” Constitutional option: No constitution.

This is a real option. The UK has never had a Constitution and has evolved over the centuries from one of the first regimes of separation of powers praised by Montesquieu and others to become one of the world’s leading parliamentary democracies. The question is not whether it is better or not to have a Constitution for Europe, the question is rather whether Europe can do without and still evolve in a desirable direction.

A first argument to support this view is that many of the positive changes brought about by the Constitution could be implemented without the adoption of the current Constitution. A good example is that of the EU Foreign Minister. All it takes is the

political will in the Council to implement this change. Of course, without a Constitution, this is not guaranteed. However, the Council should play a critical role both in the choice of the High Representative for Common Foreign and Security Policy and the EU Commissioner for External Affairs. It could thus nominate the same person for both jobs. Many other changes, apart from the voting rules in the Council and most legal changes, can be implemented without the Constitution. One of the first reactions of major EU politicians such as Giuliano Amato after the referendum debacle, was precisely to try to pick out which of the innovations of the Constitution could be adopted without its ratification.

Secondly, one can argue that maintaining the status quo is not as bad as many have stated, one can even argue that it is not bad at all. The most important difference implied by the rejection of the Constitution is that one maintains the Nice rules for qualified majority. It is generally agreed that these rules make it very difficult to adopt new legislation (see e.g. Baldwin et al. 2001). However, it is not necessarily clear why this should be considered a bad thing. Most of the legislation related to economic and monetary integration has been passed (liberalization of services being a big exception) and one is less stuck in the middle of an unfinished process of European integration compared to a few years back. Even though further steps in European integration are desirable such as progress in defense and security, there is not a consensus right now around these issues and any significant further step in European integration would anyway require unanimity of the Member states. So it is not clear why maintaining the Nice rules rather than the more flexible majority rule of the Constitution would make a

big difference. One can even argue that the strong hurdles created by the Nice rules are a protection against possible overcentralization zeal by the Commission.

Third, one has not yet given time to let the Nice rules evolve. One example that has not received sufficient media attention relates to the process of selection of the Commission president and the Commission. An important change brought about by the Nice Treaty is that the Council's proposal for the Commission president must not be approved by unanimity any more but by qualified majority. This reduces the power of individual countries to block a candidate for Commission president. On the other hand, the Members of the European Parliament have never hidden their intention to increase the power of the European Parliament in the selection of the Commission president. The objective is to make the choice of the Commission president analogous to that in other parliamentary democracies. The European Parliament has indeed - since the Maastricht Treaty already - the power to veto the Commission. An attempt was made after the 2004 elections. The winning party, the European People's Party proposed Chris Patten as the president of the Commission. This was rejected by the Council that eventually opted for Jose Manuel Barroso. The European Parliament thus scored a defeat here. Nevertheless, a very important event was the EP's threat to veto the Commission to protest the choice of Rocco Buttiglione as Commissioner for Justice and Home Affairs. This rejection will have wide-ranging consequences in the future. Indeed, for the first time, the EP has been able to overrule the tradition that individual countries impose the name of their Commissioner. After the Buttiglione event, countries still keep the power to nominate their Commissioner but they now know that the EP can veto it. Discussions have already

taken place among prominent MEPs as to how the Patten episode could be avoided in the future. One idea that is circulating is that the main party groups could announce, before the EP elections who their candidate is for the presidency of the Commission. In effect, this is the German rule whereby the top parties announce before the election their candidate chancellor. If this were to happen for the 2009 elections, even though the Council still has the agenda-setting power over the Commission presidency, the Council might feel forced to pick the candidate of the winning party. Indeed, provided the European parties would have campaigned all over Europe and given visibility to their candidate for the Commission presidency, the European Council would have to make a very good case for why it would not want to pick the candidate of the winning party. If that is the case, despite its current formal power, the Council's power to choose the Commission president would become comparable to that of the German or Italian president or of the remaining European Monarchs. All in all, there is a lot of room for evolution within the changes provided by the Maastricht, Amsterdam and Nice Treaties.

There are of course obvious dangers in abandoning the project of a European Constitution. The first and immediate danger is that of negative momentum that could hurt the still fragile European institutions. One saw this very clearly in the budget debacle following the French and Dutch referendum. It is difficult to tell what would have happened in the event of a successful referendum in France and Holland, but the situation would clearly have been less tense. President Chirac thought he could deflect his own failure on the referendum by calling for a renegotiation of the British rebate leading the British to retaliate by calling for a renegotiation of the CAP. These points were thrown in

at the last minute without serious preparation and made it virtually impossible to reach an agreement in the middle of such improvised moves. Immediately, one heard voices including by a member of the Italian government to unravel EMU. This did not go very far but is an indication of the negative momentum generated by the referendum outcomes.

A second danger is associated to the holdup power that individual countries or small groups of countries have with the Nice rules. Indeed, efficiency-enhancing and even pareto-improving pieces of legislation might be vetoed by individual countries unless some other piece of legislation that they favor is also included. This exercise of holdup power has been characteristic of the functioning of the EU under unanimity rule in the past. It imposes costs on the EU as a whole and is a source of inefficiency both in terms of delays in decision-making but also in terms of rents given to the countries exercising their holdup power.

Third, and this is probably the most important disadvantage of not adopting the Constitution, it will be in the future much more difficult to agree on deepening European integration in matters such as defense and security (Berglöf et al, 2003). The London bombings in June are a clear reminder that the EU needs to think ahead and meet the challenges of the twenty first century. The London bombings and the threat of radical Islamic terrorism concern all European countries and require the need for an efficient, flexible and accountable European executive that can meet the challenge and rapidly adjust to new situations. Sooner or later, the European public will recognize more and more the need to integrate strong defense and security pillars in the EU. This will again

require Treaty changes that must be ratified by 25 countries. Such treaty changes are extremely laborious and the costs of ratifying new Treaties increase dramatically as the number of Member States increases. The Constitution created flexibility for such changes. This will be seen in the future as a lost opportunity.

Fourth, having a Constitution has a power of commitment that one should not neglect. A Constitution is to a nation a bit what marriage vows are to a couple. The common will of having a joint Constitution is a signal of a political willingness and commitment to live together under the same set of European rules. Truly, a Constitution does not have the magical powers sometimes subscribed to it. Without a sufficient consensus underlying the Constitution, it is nothing more than a piece of paper. However, one can argue that a Constitution has marginal effects that may have important impacts in the long run. The marginal effect of a Constitution is its effect in those situations where the usual consensus breaks down or threatens to break down. In that case, the Constitution acts as an important buffer to solve conflicts in an orderly way based on the written law. This marginal effect does not operate all the time, it hardly ever operates but it does operate in critical moments where the absence of a Constitution might lead to unnecessary conflicts.

- 2) Option 2: retake the vote after Chirac is ousted and a new executive announces important reforms.

This option has been expressed implicitly or explicitly by many European leaders and heads of state. It is also consistent with our analysis of the reasons for the No in France and the Netherlands. Indeed, the current executive, in France especially, takes justifiably the blame for the referendum failure for internal domestic political reasons.

The main advantage of this option is that it allows to save time and to avoid a renegotiation of the Constitution that might be more likely to lead to a worse outcome than the current draft. This is coupled with the fact that such an option might very well have a chance at succeeding. It is easy to imagine such a scenario. President Chirac is likely to be replaced by Nicolas Sarkozy. He will announce economic reforms that will give some boost to the French economy (they are certainly likely not to go far enough though) and will blame Chirac on the woes of the French. One can well imagine a situation where Chirac is also blamed for having misrepresented the Constitution to the French people and where the new president uses the political capital gained from a popular election to ask French voters to vote again. This might be coupled with a concession given to France in an unrelated EU issue. As for the Dutch, they might be told not to be more picky than the French and to vote again like the Irish were after the Nice Treaty. Such a scenario is not implausible. So, one can argue that adequate timing might allow the current Constitution to be ratified after all, leaving aside the uncertainty about the outcome of a British referendum, a problem that has been there all along.

There are however a number of disadvantages with this scenario. The first and very important one is the risk that the democratic credibility of the EU becomes irreversibly tarnished. The EU suffers from the perception (and the reality) of a democratic deficit

which is related to the fact that there are too many layers between the European electorate and the European institutions. European voters simply do not have the possibility to oust the European Commission as is the case in other normal democracies where a majority of voters can change the identity of the executive. European voters face a much more difficult collective action problem than voters in normal democracies. It is not clear where the EU would be rated on the Freedom House or Polity index! Asking voters to vote again because the outcome of the elections does not please those in power is not worthy of a healthy democracy. It is a shame that it happened in Ireland with the ratification of the Nice Treaty. This was a dangerous precedent that ought not to be repeated. Arguing that the behavior of voters was unrelated to what they were asked to vote on cannot be a good argument to repeat an election. Only electoral fraud or total mismanagement of a campaign could be good arguments for redoing an election. Neither case was present in France (the Dutch referendum fits more the mismanagement story but not necessarily convincingly so). The loss of credibility that would be associated to the move to retake the vote might be permanent and damage irreversibly the reputation of the EU. It would also dangerously damage the reputation of the current political elites in Europe and might foster political instability in many countries.

A second argument is that it is not clear that the current consensus on the Constitution cannot and will not evolve. While it is difficult to argue that the current Constitution draft could have easily been improved upon given the various political constraints faced, there is no good reason not to think that the consensus cannot evolve, albeit slowly. There are obviously areas where the Constitution could be improved but where a consensus fails to

exist right now. The right time might be when a consensus can be found to significantly push forward integration on defense on security and defense issues. Also, the Constitution's double majority system of weights (number of countries and number of citizens), while logical and reasonable, might be a true headache in the perspective of Turkey's accession to the EU.

3) Option 3: a "Non cosmetic" revision.

The third and only remaining option is in a way a painful one because it involves going back to the drawing board and renegotiating the Constitution. This implies a new Convention, a new Intergovernmental Conference and a new ratification process.

There are clear disadvantages to such an option. First of all, it is not clear from the referendum results in which direction to go. French and Dutch voters have not exactly given a mandate to a new Convention on which issues they want revisited. Indeed, dissatisfaction with the economic situation suggests that the latter be dealt with first before presenting voters with a new Constitution project. If the constitutional process is put on its wheels again, it is quite likely that all the arguments that have been put forwards by all participants in the debates of the past few years will only be repeated by all sides and it is by far clear that one would reach a better compromise than the current one.

A second disadvantage is that a revision of the current draft that would be more than cosmetic revision might take a very long time. There is a real danger that the momentum that emerged after the Laeken declaration might be lost. The timing was in a way very good. Participants from the New Member States came generally with enthusiasm and the desire to genuinely contribute to a Constitution that is as best as possible rather than go and defend their country interests. It is not clear whether this positive, deliberative spirit of the Convention can be recreated that easily. If the discussions get bogged down and no progress is made, this is likely to add even more to the negative momentum. Europe would be discouraged.

There are however also obvious advantages to such a scenario, the first one being that there are many possibilities for non cosmetic change. Let us simply list a few: 1) revision of the majority rule in the Council to somewhat mute the population rule (a return to logarithmic style weights - see Widgren, 1995- would be a solution), 2) a shortening of the parts on competences, 3) a bolder move to integrate defense and security, 4) measures to have a truly European party system in European elections rather than have national parties present their lists. Many other items could be added to the list.

A second advantage is that a renewed constitutional process may allow not simply to repeat the steps of the past but to think of how to have larger debates within the European populations and to organize large public forums to allow opinions to express themselves. Such a measure seems absolutely necessary not only to reduce the democratic deficit but also to inform more European voters on Europe, to make European institutions more

accessible and more readable to them. There is indeed a striking difference between the overwhelming majorities found in parliaments of European nations to approve the Constitution and the referendum results where the population is more divided, even in countries where the Yes prevailed such as in Spain and Luxemburg. A renewed constitutional process should be an opportunity for such large debates.

A third and important advantage is that this is the only way to go forward in the Constitutional process without irreversibly tarnishing Europe's democratic credentials, as discussed above.

All in all, if one weighs the pros and cons of the three options outlined , it would seem that the last argument strongly favors the road of a non cosmetic revision. Also, the commitment power of a constitution argues against abandoning the idea of a Constitution altogether.

However, this is not sufficient. Many conditions need to be fulfilled to reignite Europe's Constitutional process.

The first one is the necessity of the organization of large debates within civil society, as argued above, before the gathering of new convention. Given the split between Europe's political elites and voters, it is desirable to organize cross-country forums to foster dialogue beyond the current narrow European elite and to better involve the European population in debates on the Europe that they want. There should be particular

value in having forums involving population groups from more than one country so that Europeans from one country can dialogue with Europeans from other countries and learn to know their way of thinking and their views on European integration.

A second condition is that referenda should be simultaneous and pan-European and they should preferably be linked to European Parliament elections. One of the important weaknesses of Europe today is that Europe-wide issues are decided in national elections. The elections to the European Parliament are organized simultaneously but voters are asked to vote for national party lists rather than for European party lists. There are good reasons for organizing the referenda this way. A first advantage would be that the debates would be synchronized all across Europe. Voters in France would be made to notice arguments made in Germany and vice versa. Voters would better understand that they are voting for European-wide issues rather than national issues. Linking the referenda to the European Parliament elections, possibly of 2014 would add to the mobilization and create positive externalities between the two campaigns. As I will argue below, 2014 is the earliest possible date for a ratification of a new Constitution if the referenda are to be paired with EP elections.

Third, a mechanism must be explicitly provided to allow countries that reject the Constitution to keep benefits from the existing EU while not participating in the decision-making process of the “New EU”. This is a tricky issue in international Law that experts should look into. However, it is quite likely that the referendum will fail in a few

countries who may consider rejoining the EU later. However, the existing Treaties should be made to work for them in the event of a rejection.

An important remark is warranted at this stage as to what should be the priorities in the next few years for European institutions. One of the first lessons from the referendum is that voters seem more worried about the state of the European economy rather than about the European Constitution. Going back to the voters with a new Constitution might generate the same rejection if one does not do something about the European economy and give it a strong medicine for growth (see the Sapir report, 2004). The Lisbon process that was addressing the economic woes of Europe was more or less stalled to give priority to the Constitutional process. It is time to change the priorities and to put economic reform back on the agenda in Europe. The responsibility for doing this falls on national governments. The European Commission does not have neither the legitimacy nor the mandate to reform Europe's pension systems and labor market systems. However, the EU can be an appropriate forum where countries commit jointly to reform targets and to timetables using the "Open Method of Coordination". The EU can thus help the governments who want to move ahead in their reform process. Solving Europe's structural problems and boosting its growth rate should be the priority right now.

5. Conclusion.

In conclusion, the referenda in France and Netherlands have shown the gulf that exists between European voters and EU institutions. That gulf can only be overcome by

non cosmetic revision of the Constitution which is likely to take time. The process must be kept alive and a timetable provided for the Constitutional process, the 2014 European Parliament elections being the earliest reasonable deadline.

The referendum outcomes have mostly shown the dissatisfaction of European voters with the status quo and the absence of economic reforms that would do something about sluggish growth and high unemployment in Europe. These economic problems must start to be dealt with seriously before one can hope ratify a new European Constitution.

REFERENCES

Baldwin, Richard, Erik Berglof, Francesco Giavazzi and Mika Widgrén (2001) “Nice Try: Should the Treaty of Nice be Ratified?”, *Monitoring European Integration* 11, CEPR.

Berglof, E. , B. Eichengreen, G. Roland, G. Tabellini and Ch. Wyplosz. (2003) *BUILT TO LAST: A Political Architecture for Europe*, CEPR series, Monitoring European Integration, No. 12, London, 2003.

Roland, G. (2005) “In praise of the European Constitution” in *Designing the New European Union* edited by H. Berger and T. Moutos, MIT Press forthcoming.

Sapir, A, Ph. Aghion, G. Bertola, M. Hellwig, J. Pisani-Ferry, D. Rosati, J. Vinals, H. Wallace, M. Buti, M. Nava, P. Smith (2004) *An Agenda for a Growing Europe. The Sapir Report*, Oxford University Press.

Widgren, M. and A. Kirman, (1995) “European Economic Decision Making: Progress or Paralysis?”, *Economic Policy* 21 423-460.

