



The European Constitution

Resolution adopted by the ETUC Steering Committee in their meeting held in Brussels on 13 July 2004

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1. The new European Constitution is a clear improvement in almost all respects over the present Treaties which have established the European Union. It is less ambitious and effective than the ETUC proposed and also less than the European Convention put forward in its report. Nonetheless despite these reservations and weaknesses, the new Treaty is a move forward towards an improved European framework and, clearly while not the final step, deserves and requires the support of the ETUC.

Background

2. Immediately after the agreement on the Treaty of Nice in December 2000, the European Parliament criticised that compromise and proposed the establishment of second Convention (the first had drafted the Charter of Fundamental Rights) to move European integration forward. One year later, in December 2001, the *European Council in Laeken* convened the European Convention on the future of Europe. The Heads of State and Government asked this second Convention to elaborate new rules for the unified Europe with the objective to increase democracy, transparency and efficiency within the enlarged European Union by simplifying the decision-making processes and structures, and by reorganising the existing treaties.
3. The (second) European Convention – with the active involvement of the ETUC - held discussions from February 2002 to June 2003 and prepared a Draft Treaty establishing a Constitution for Europe. A broad consensus was reached at the plenary session on 13 June 2003 and it was submitted to the European Council Meeting in Thessaloniki on 20th June 2003: Part I contains values, objectives, responsibilities, decision-making procedures, instruments and institutions; Part II the Charter of Fundamental Rights; Part III the policies and Part IV the methods for revision and mechanisms for leaving EU.

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4. There was a failure to agree at the European Summit in December 2003 but on 18th June 2004, the Heads of Government and State came finally to an agreement on the first European Constitution the European Union has ever had. The Constitution will enter into force when all Member States have ratified it. They have two years in which to complete this process.
5. This agreement is important given the new situation after the re-unification of Europe as marked by the accession of the 10 new states to the EU in May 2004. As a result of the compromises of the Nice treaty in terms of helping member states organise blocking capacities, the European Union was under the permanent threat of paralysis. The danger of a transformation of the European Union into a free-trade zone, with few common rules, turning its back on closer integration and political, economic and social union, was very real. It was this that prompted the European Parliament and, a year later, the European Council to establish the Convention to draft the Constitution.

Assessing the results

6. There are several ways to assess the new Constitution. Assessed against the background of the ETUC demands, it is clear that not all of these were fulfilled. Secondly it is possible to compare the final version with the draft of the European Convention. Again it is clear that regressions and restrictions were introduced and that the Intergovernmental Conference (IGC) stepped back. But thirdly when compared to the now valid EC/EU-Treaties in the "Nice Treaty", the ETUC is convinced that the new Constitution is better and support is the only pragmatic and realistic approach for Trade Unions.
7. The ETUC welcomed the outcome of the European Convention. The Convention proposed the integration of the Charter of Fundamental Rights into the Constitution and also made progress on social issues. The Intergovernmental Conference however, did not follow and has delivered only a second best solution. This outcome shows the limits of the intergovernmental method compared to the more open, more democratic and transparent process of the European Convention.
8. The Executive Committee of 9-10th June 2004 reinforced pressure on the governments to move forward, and on the eve of the European Council, the ETUC issued a last appeal to the Heads of State and Government to make more progress on social issues. Small improvements were made (e.g. a reference was included to the Tripartite Social Summit) but finally, the Heads of Government and State agreed to a lower common denominator than the Convention's document. A national veto in tax policy, even for the fight against cross-border fiscal fraud, was re-established.

9. The most innovative part of the new Constitution is Part I, which was under intense discussion for 18 months giving a new framework of action to the European Union after the unification of Europe. *Generally speaking*, a number of achievements were reached:

- Important objectives, principles and values (such as solidarity, equality, non-discrimination, equality between men and women etc.) will be reinforced;
- the blocking capacities will be reduced by abolishing the national veto in some areas;
- co-decision (between Council of Ministers and the Parliament on an equal basis) will become the ordinary legislative procedure;
- new powers will be given to the European Parliament over legislation and the annual EU budget (including agriculture);
- the EU acquires a single legal personality;
- the new President of the European Council will be elected for two and a half years making the role more visible and ensuring a bigger coordination role;
- 18 month team presidencies will replace the 6 month rotation presidency hopefully ensuring more coherence in activities;
- the post of a European Foreign Minister will be created so that the EU can speak with one voice and play a more visible role in world affairs;
- a new "double majority" voting system (States and population) will be introduced (the Convention proposed 50% of the Member States and 60% of the population, but the IGC increased the figures to 55 respectively 65 %, adding, unfortunately, a large number of complementary provisions, emergency brakes and exemptions partly compensated by the opportunity to establish enhanced cooperation among willing Member States);
- European symbols (such as the flag, the anthem Ode to Joy, the slogan "United in Diversity", and the euro – which is more than a symbol) will be anchored;
- a simplified set of legal instruments: European Laws and European framework laws will replace directives and regulations; etc.

10. Compared to the Nice Treaty and *considered from a more specific social perspective*, the new European Constitution is a step forward:

- The new Constitution will recognise specifically the role of the *Social Partners* and of the Tripartite Social Summit;

- "*Social Market Economy*" and "*Full Employment*" will be anchored amongst the Union's objectives (in the Nice Treaty the terms are "open market economy" and "high employment") as well as the promotion of "*social justice*" and "solidarity between generations" and the combat against "social exclusion and discrimination";
- *gender equality* will become a value of the Union;
- social policy will be expressly recognised as "shared competence" and not only "complementary" competence;
- the Constitution will incorporate the *Charter of fundamental rights (with important social rights)*, which thereby acquires legally binding force and is judiciable in the European Court of Justice; the Charter strengthens fundamental rights and makes them more visible including social and Trade Union rights;
- a horizontal policy provision on environment, consumer protection and gender mainstreaming and also a social clause will be part of the Constitution;
- a *legal base for Services of General Economic Interest* will be created;
- new possibilities of *economic coordination inside the Euro zone* including the possibility to implement common tax policies, for instance "green" taxes by qualified majority voting, will be incorporated;
- social security of migrant workers no longer requires unanimity;
- open coordination will be recognised as a tool for social and industrial policy; the Commission can propose guidelines particularly in matters relating to employment, labour law, working conditions, social security, industrial policy;
- the right of initiative for Citizens will be provided: if they manage to collect one million signatures in a significant number of Member States, they may ask the Commission to submit an appropriated proposal to the legislator on matters where citizens consider that a legal act is required.

11. It is clear that the ETUC and its affiliates did not achieve all our goals. But nevertheless, we achieved the maximum possible in the given political, social and economic situation during the 18 months of the Convention and the 12 months of the IGC. Therefore the ETUC supports the Constitution – despite its limits – because the advantages the Constitution brings for working people and citizens are real and certainly an improvement over the present provisions. During the ratification process, the ETUC and its affiliates will continue to stress the importance of progress by reinforcing and modernising the European Social Model and by strengthening Social

Europe. Rejection would have the effect of paralysis of the EU for an indeterminate period ahead and so play into the hands of the many opponents of the EU who would love to see it flounder into irrelevance. Globalisation, the power of multi-national capital, and the need to combat neo-liberalism mean that trade unions and civil society need a developing EU with strong social values. The new Constitution is imperfect, some areas are weak, but it is the only one on the table and needs to be seen as a starting point of a long process, certainly not the end of the story. The ETUC and its affiliates will do its best to ensure that this first step is not the last and that Social Europe in particular can make strong progress in future.

12. In view of the next revision of the treaties, the ETUC is ready to take its place in a future (third) Convention and to submit concrete proposals to strengthen social Europe, transnational trade union rights, to improve the provision on economic co-ordination and governance, to introduce qualified majority voting in social policy and taxation, to align Part III with Part I in respect of the commitment to full employment, to the social market economy and the horizontal clause, and to update old provisions.

13. In the next period, the ETUC will be campaigning for:

- Full employment, economic growth, sustainable development and social justice;
- Transnational rights for workers and trade unions;
- Acceptable social dialogue systems in all EU countries;
- Decent public services and high quality welfare states;
- Labour standards in services based on the principle of country of destination rather than origin;
- Equality;
- Further constitutional steps which develop social Europe.

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