

THE FEDERAL TRUST

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EU Constitution Newsletter

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Since the Intergovernmental Conference came to an agreement on the EU Constitution the focus of the debate has shifted to the challenge of ratifying this constitution. This monthly newsletter will monitor the debate, events and developments surrounding the ratification process in all 25 member states. It will offer a particular UK perspective of this process and provide a forum for differing views on the debate.

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Editorial note:

This is the second issue of the *EU Constitution Newsletter*, which will monitor developments concerning the ratification of the EU Constitution in all 25 member states. It follows on from the Federal Trust's *EU Constitution Project Newsletter*, which reported on the Convention on the future of Europe and the Intergovernmental Conference which succeeded it. Editions of the *EU Constitution Project Newsletter* are available at www.fedtrust.co.uk/eu_constitution. Following the final agreement on the EU Constitution by the IGC in June 2004 the newsletter has now been relaunched with a new editorial team and a focus. The first edition of the newsletter is available at www.fedtrust.co.uk/constitution_newsletter.

1. What next for the European Constitution

By Jo Leinen MEP

After the successful work of the Convention on the Future of Europe, the eventual agreement in the Intergovernmental Conference (IGC) of June 2004 on a draft Constitution for the European Union opened the way for the third and probably most important phase of the EU's constitutional process: the ratification of the document by national referendums and/or national Parliaments. As we know, the draft Constitution itself did not change the methods foreseen for changes to the European Treaties. Agreement by the IGC and ratification according to different national procedures are the way such treaty revisions still occur.

The Federal Trust for Education and Research

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...is a think tank that studies the interactions between regional, national, European and global levels of government.

Founded in 1945 on the initiative of Sir William Beveridge, it has long made a powerful contribution to the study of federalism and federal systems.

The ratification phase is therefore the most important and difficult step on the way towards a re-founded European Union. The great risk is that the European dimension of a Constitution for the EU is lost in 25 purely national debates. In particular in those countries where referendums will be held there is the danger that these will degenerate into popularity contests for or against the governments in office. It is therefore the core task of the European institutions and everybody active in European politics to highlight in every way they can the historical European impact of the Constitutional Treaty.

What we need is an open, fair and objective effort to explain the contents and the objectives of the new Constitution to the 450 million Union citizens. This campaign should be a joint effort between the European institutions (who all supported the compromise reached in the IGC) and the member

states, whose governments have to take on the responsibility to be active advocates for the agreement which bears the signature of each and every one of them at the IGC.

The Constitution is a great step forward for the Union and without it the EU will not be able to meet the challenges ahead of it. Our task now is to inform the European Union's citizens that simply falling back onto the Treaty of Nice negotiated in 2000 will not create a workable basis for the EU. The inevitable consequence of a failure to complete the ratification of the new European Constitution now would be that the clear majority of member states, those in favour of the new Treaty, would seek ways to forge ahead, putting at risk the existing political and institutional integrity of the European Union.

From a European point of view, it would have been desirable to have a

European-wide referendum on the Constitution. Politically this was not possible at this stage. The least we now need is a coordinated approach by the EU institutions and the member states to inform and persuade their citizens. Those countries who have decided to hold referendums should co-ordinate the timetable of these plebiscites. We need a common communication strategy which highlights the costs of non-ratification and the benefits of the Constitution. Only then will it be possible for the European Constitution to clear this last hurdle of ratification and enter into force as soon as possible. With the Constitution ratified, the EU will have firm political-legal basis on which to pursue its ambitious goals of peace, freedom, security and well-being for all its citizens.

Jo Leinen MEP

President of the European Parliament's
Constitutional Affairs Committee

2. Overview of 25

No member state has yet announced a date for ratification of the EU Constitution, however several have announced their intentions to hold a referendum on the issue

Austria	No decision taken yet.
Belgium	Referendum (possibly jointly with Luxembourg, early 2005)
Cyprus	Parliamentary ratification most likely.
Czech Republic	Referendum (possibly in 2006)
Denmark	Referendum (possibly autumn 2005)
Estonia	No decision taken yet.
Finland	No decision taken yet.
France	Referendum (possibly autumn 2005)
Germany	No decision taken yet.
Greece	Parliamentary ratification most likely.
Hungary	No decision taken yet.
Ireland	Referendum (possibly in 2005)
Italy	No decision taken yet.
Latvia	No decision taken yet.
Lithuania	No decision taken yet.
Luxembourg	Referendum (possibly jointly with Belgium, early 2005)
Malta	Parliamentary ratification most likely.
Netherlands	Referendum (possibly early 2005)
Poland	Referendum (possibly in 2005)
Portugal	Referendum (possibly early 2005)
Slovakia	No decision taken yet.
Slovenia	No decision taken yet.
Spain	Referendum (possibly early 2005)
Sweden	No decision taken yet.
United Kingdom	Referendum (possibly early 2006)

3. News from the Institutions

The European Parliament discussed its approach to the EU Constitution in its plenary session on 13-16 September. Its President Josep Borrell, conscious of the fact that his term in office will be marked by the ratification process, stressed that it was the European Parliament's most important task to foster debate on the draft Constitution to ensure that citizens knew on what they were voting in a referendum. This debate should be 'Europeanised' to avoid the vote on the EU Constitution becoming a vote on national domestic issues.

Mr Borrell announced that the Committee on Constitutional Affairs would prepare a report on the EU Constitution, which would be put to a vote on 15 December. Before this date, however, he promised that three or four debates would take place in the European Parliament on the major issues of the EU Constitution. In the event of a positive outcome, this vote would make the European Parliament the first Parliament to approve the draft Constitution. MEPs are hoping this will kick-start the debate, and are considering visits to national parliaments in the course of 2005 to promote the European Parliament's position on the EU Constitution.

On behalf of the Constitutional Affairs Committee Jo Leinen, its chairman, put the question about their intended communication strategy to both the Council and the Commission. The Committee also inquired what the Council and the member states were intending to do to facilitate a common approach and a co-ordinated timetable of ratification.

At the meeting on 2 September of the Constitutional Affairs Committee the co-rapporteurs of the European Parliament report on the EU Constitution, British Labour MEP Richard Corbett and the Spanish Conservative MEP Inigo Mendez de Vigo, jointly emphasised the need for the European Parliament to take a 'pedagogical role' in the ratification process.

The European Parliament is also currently undertaking hearings of the

incoming Commissioners, which are part of the investiture procedure of the new Commission. The hearings are taking place over the period from 27 September to 8 October, and the European Parliament will take a vote on the 25 member Commission as a whole at the plenary session on 25-28 October.

In preparation of these hearings the Commissioner-designates were asked to answer two written questionnaires. One questionnaire was sent to all candidates, while a second questionnaire was tailored specifically towards each candidate's portfolio. The Commissioner-designate for institutional relations, Margot Wallström, who is also in charge of drawing up a communication strategy, emphasised in her response to the question in her specific questionnaire on what she intended to do to ensure the EU Constitution was ratified, that the role of the Commission was to inform citizens in a clear and objective way on what the Constitutional Treaty meant, without interference in the national debates. She made it clear that the task of bringing the ratification process to a successful conclusion lays with the member states' governments and that there was neither a legal basis nor a budget for the Commission to campaign in favour of the EU Constitution.

In order to ensure a co-ordinated communication strategy ahead of the ratification process the Dutch Presidency has decided to make 'Communicating Europe' the topic of an informal meeting of European Affairs Ministers, which will take place on 5 October. This meeting is the follow up to a ministerial conference on the same topic held in April during the Irish Presidency.

Three leaders have already agreed jointly to support the EU Constitution. José Luis Zapatero invited Jacques Chirac and Gerhard Schröder to a trilateral informal summit meeting on 13 September. During this display that 'old Europe is as good as new' the three leaders stated that they will jointly support the ratification of the EU Constitution and pledged to promote actively the ratification process. Prime

Minister Zapatero also repeated that he wanted his country to be among the first to ratify the EU Constitution, which will be done through a referendum (probably early next year.)

Ulrike Rüb

The Federal Trust

[Speech by Josep Borrell, 14 September](#)

[Committee on Constitutional Affairs](#)

[European Parliament Questionnaires to Commissioner-designates](#)

[Le Monde](#)

4. The UK Debate

It is now generally accepted that a major reason for the Prime Minister's decision to accept in April of this year the principle of a referendum in the UK on the European Constitution was a short-term electoral one. He believed the Labour Party would suffer in last June's European Elections if it were the only major party opposing such a referendum. As an electoral tactic, his change of policy was only partly successful. Labour's results in June were appalling, but those of the Conservative Opposition were also disappointing. Ironically, the United Kingdom Independence Party seems to have benefited particularly from the confusion caused in Conservative ranks by the Prime Minister's unexpected volte-face.

Four months after the European Elections, there is no reason to believe that short-term tacticking has given way to strategic analysis of how any eventual referendum on the Constitution might be won. There are undoubtedly some among the Prime Minister's colleagues who hope that another member state will already have blocked the Constitution's ratification by 2006, for when the British referendum is tentatively scheduled. Others, on the more pro-European wing of the Labour Party, are beginning to complain that more needs to be done at least to make a start on campaigning for a 'yes' vote. They fear the risks inherent in simply waiting for next year's General Election and then relying on a

triumphantly reelected Labour government to sweep aside popular doubts on the European Constitution. The Trade and Industry Secretary, Patricia Hewitt, has publicly expressed her unease at this prevarication. It is not clear that even a re-elected Labour government could undo in twelve months the legacy of fifteen years of relentless and often uncontradicted Eurosceptic assault on British public opinion.

If there are divisions within the Labour Party about the timing of any campaigning preparing the way for a referendum, there are also uncertainties about the nature of the campaign to be waged. It will be tempting for the government, implicitly or explicitly, to portray the referendum as an existential choice about Britain's European future, with a 'no' vote shattering forever Britain's position within the European Union. It can only be a matter for speculation how effective such a presentation might be. Legally, Britain cannot be forced to leave the European Union. The government would need to tread very carefully in its rhetoric during any referendum campaign. British public opinion has not forgotten what it generally now sees as governmental hyperbole and disingenuousness in the lead-up to the war in Iraq.

Important clues as to the government's likely referendum tactics are to be found in its recently published White Paper on the European Constitution. The document clearly tries to strike a balance between the undoubted seriousness of the position were Britain to be the only country saying 'no' to the Constitution, and the difficulty of precisely forecasting now what the consequences of such isolation might be. On a more philosophical level, those who remember the terms in which the Conservative government of the early 1990s tried to recommend the Maastricht Treaty as an 'end to federalism' will find definite echoes of that rhetoric in the White Paper. The New Labour government clearly believes that anti-federalist polemic goes down well with the British electorate. How wise and effective this polemic will be, given the substantial and continuing

federalist elements in the European Union's structures and institutions, is another question entirely.

Our editorialist of last month, Sir Stephen Wall, recently gave an interview to the Daily Telegraph, in which he complained about the British Treasury's willingness to flirt with anti-European rhetoric and argumentation. Many analysts believe that the uncertain and hesitant approach to European questions of this government since 1997 has at least partly been a product of the clash between the Europhile Mr. Blair and the more Eurosceptic Mr. Brown. Some, indeed, believe that Mr. Brown's 'Euroscepticism lite' is a matter essentially of political positioning, rather than of any deeply held conviction. If he feels offended by this claim, the Chancellor can perhaps take comfort from the reflection that many French commentators are currently saying the same about Mr. Fabius and his recently expressed opposition to the European Constitution. Although the intellectual and political starting-points may differ from country to country, we will undoubtedly see over the coming months many such unexpected similarities and echoes between the ratification procedures for the Constitution in the various member states we are observing.

Brendan Donnelly
The Federal Trust

[Sir Stephen Wall's Interview in the Daily Telegraph](#)

[Government White Paper on EU constitution](#)

5. Countries of the month Finland

The Convention and the new Constitution for the European Union have certainly stimulated debate about European integration in Finland, but it is probable that the actual processing of the Constitution in Eduskunta, the unicameral national parliament, will not lead to any conflicts between or within political parties.

Since 1995 Finland had been governed by a 'rainbow coalition', a cabinet that under the strong leadership (particularly in EU issues) of Prime Minister Paavo Lipponen brought together five parties across the ideological spectrum and controlled around 70 per cent of parliamentary seats. But after the parliamentary elections held in March 2003 a centrist coalition between the Centre Party, the Social Democratic Party, and the Swedish People's Party took office, and this new government has a much narrower majority in the legislature. The broad parliamentary majority enjoyed by the Lipponen governments had stifled debate on Europe and reduced the impact of the opposition, but now the government is attacked both from the right, by the National Coalition, and from the left, by the Left Alliance and the Green League. This has contributed to livening up debates on Finland's place in Europe, with particularly the National Coalition criticizing the new government for its lack of commitment to future integration, especially in defence and foreign policy issues.

Since the start of the Convention there has also been more debate about national EU policy than before. Much of this is explained by the rapid progress made in developing the EU's common foreign and security policy, as security policy questions are always high on the Finnish political agenda. The debate has thus focused more on the place of Finland in Europe's political architecture, not so much on the Constitution itself. Individual articles of the Constitution, such as the above-mentioned solidarity clause, extending the Commission's powers in commercial policy, and the size of the Commission, have certainly made headlines, but the Constitution – whether it is good for Europe and Finland or not – has not been the subject of disputes among the political elites.

The idea of putting the Constitution to a referendum was raised before the elections to the European Parliament held in June, and the debate on the need to consult the people has continued until the autumn. While the government and the parliament have not taken final decisions on the issue, it is very unlikely

that Finland will hold a referendum. The three parties in the government, the Centre, the Social Democrats, and the Swedish People's Party, are all against holding the referendum, and the same applies to the main opposition party, the conservative National Coalition. The Green League, the Left Alliance and the True Finns are in favour, and the Christian Democrats have not decided their position on the issue. The primary reason why the main parties and Prime Minister Matti Vanhanen (Centre) are opposed to holding the referendum is that according to them the Constitution does not result in any significant transfers of power from the member states to the Union.

With the referendum thus ruled out, the Constitution will be ratified by the parliament. It appears that the Eduskunta will start processing the issue in spring 2005, or at the latest in the fall of that year. It is still unclear what decision rule will be used in the parliament, but even if the 2/3 majority rule is applied, there should be no difficulties in building the needed majority in favour of the Constitution. After all, of the parties represented in the Eduskunta only the True Finns (with 3 MPs out of 200) seem to be against the Constitution. It is expected that the parliament will approve the Constitution before the end of 2005, or in spring 2006 at the latest.

Professor Tapio Raunio
University of Tampere

Spain - not so simple as it looks?

Early in the summer the Spanish Government announced that it would hold a referendum on the Constitutional Treaty by mid February 2005. Exactly what question will be put to the electorate remains unknown, but what is emerging at this stage is that the road to ratification may not be as easy a ride as the government hoped. Two major difficulties are gaining in salience, the opposition from a number of regional parties to the Constitution and a growing fear of widespread abstentions on polling-day.

Polls still feature Spaniards among the most pro-European within the EU. Yet over the years, disenchantment over the Common Agricultural Policy and over the EU's commercial and development policy have undermined the uncritically favourable approach to the EU which used to be that of the average Spaniard.

The Intergovernmental Conference was itself a first prominent sign of the break of the overall Spanish consensus on EU matters. The energetic defence of the Nice provisions by the Aznar government and its generally Atlanticist vision for the EU marked a shift in the traditional federalist approach of successive Spanish governments since accession to the EC in 1986. Even so, Europe remains in Spain a discrete and specific issue. The defence by Aznar of the Nice provisions advantageous to Spain did not capture the imagination of the average Spaniard.

Even if, as is likely, the two major Spanish parties agree to work together for the ratification of the Constitution, there is a real risk of an asymmetric result, that is of wide regional differences in support for the Constitutional Treaty.

On the eve of their Party Conferences a number of nationalist/regionalist parties have already announced their intention to vote 'no' to the EU Constitution, to abstain or only vote 'yes' if a number of conditions are met. A particularly lively debate is taking place in the Catalan region. Discontent with the selection of Spanish representatives at the Convention, together with the perception of insufficient recognition for legislative regions in the Constitution, and the Constitution's withholding of correspondence rights in the European Union for minority languages such as Catalan have put traditionally pro-European nationalists in collision with the Constitutional Treaty. The use of the term 'European Constitution' has itself raised expectations. Gaps that were tolerable in previous European Treaties now seem unacceptable in a document proclaiming itself to be a 'constitution.'

This debate is taking place at a time when Spain has already entered a process of reform of its regional statutes

(a process triggered by the Basque country) and, as a consequence, a process of general reform of the Spanish Constitution. For some, irrespective of recognition in the Constitutional Treaty, the transformation of the state is arguably to be made first, and inescapably, at domestic level. Compared to the UK, Spanish regions are lagging behind as regards adequate mechanisms of representation in EU institutions, and in their participation in the formation of Spanish European policy positions when regional competences are concerned.

Finally, even among the nation-wide parties, those with a strong basis in the traditional Spanish regions are becoming aware of the dissatisfaction of some among their regional supporters with the Constitution. There is a real fear that this dissatisfaction, together with the ambiguous and technical nature of much discussion of the Constitution in Spain, may lead to widespread abstentionism at the time of the referendum. The result of the first Irish referendum on the Nice Treaty is much in the minds of those hoping for a positive outcome of the Spanish referendum. It would be a major surprise if there were not to be a substantial majority in 2005 for the European Constitution in Spain. But regional variations and an unpredictable level of turnout make the result more difficult to predict than first impressions might suggest.

Dr Anna Vergés Bausili
The Federal Trust

Update...

From time to time when significant events have happened in the national ratification processes we will update our previous national reports.

The debate is heating up in the French Socialist party. Laurent Fabius - currently number two in the Party - is making the headlines, initially stating that he would reject the Constitution unless four conditions, designed to attenuate the supposedly undesirable effects of what

he regards as a liberal Constitution, were fulfilled. Those conditions had only little to do with the Constitutional Treaty itself and everyone, including their author, quickly forgot about them. Fabius is now campaigning for a 'no' and his influence could be considerable. A former Prime Minister under the Mitterrand era, he is a heavy weight within the party and his arguments are being relayed by other members, including the secretary Manuel Valls. On the other hand, Lionel Jospin recently announced that he supports the 'yes' camp. Many commentators argue that personal rivalries and ambitions could be playing at least some part in this debate within the Socialist Party.

The Greens will hold a European wide referendum in November and the decision will have to be approved by 50% of the national parties, gathering at least 50% of the voters.

Despite those uncertainties, polls in France are still very favourable. Two thirds of the surveyed would vote in favour of the Constitution. It remains to be seen whether the discussions on a possible Turkish accession could have an impact on French attitudes.

S  verine Picard
The Federal Trust

'Pour moi, c'est oui', by Lionel Jospin, *Le Nouvel Observateur*, 23 September 2004

Le Monde
Lib  ration

6. And finally...

As mentioned earlier the Commissioners nominated by the new President of the European Commission, Jos   Manuel Durao Barroso will be appearing in front of the European Parliament as part of the investiture procedure of the new

Commission. The hearings are taking place over the period from 27 September to 8 October. In next month's edition of this newsletter, Dr Martyn Bond will review these hearings and offer insights on how the new Commission's term is likely to be defined.

These hearings coincide with the announcement that former European Commissioner Peter Sutherland KCMG will become the new Federal Trust President from 1 October 2004. News of this announcement can be read at www.fedtrust.co.uk.

7. News from the Federal Trust

Recent Publications

European Essay No. 32

Silvana Gliga: **Constitution and Community. Social underpinnings of a legal order.**

Available at www.fedtrust.co.uk/essays

European Policy Brief Nr. 6:

Professor Jo Shaw: **What happens if the Constitutional Treaty is not ratified?**

European Policy Brief Nr. 5:

Brendan Donnelly and S  verine Picard: **The impact of the European Constitution on asylum – beyond the myths**

Available for download at: <http://www.fedtrust.co.uk/policybriefs>

Forthcoming Publications

European Essay No. 33:

Anthony Brown: **Ireland's National Forum on Europe**

European Policy Brief Nr. 7:

Anthony Dawes: **Enhanced Cooperation: An end or a beginning?**

Available from early October from the Federal Trust:

publications@fedtrust.co.uk

Forthcoming Seminars

'**The European Union in 2007: New Members, New Interests**', 6 October, Romanian Cultural Institute, 1 Belgrave Square, London. For further information or to register please contact Alexis Krachai: alexis.k@fedtrust.co.uk

'**The EU Constitution: What Impact on Transatlantic Relations?**', 13 October, Committee Room 3A, House of Lords, London. Further information available at www.fedtrust.co.uk/anglo_american. To register please contact Alexis Krachai: alexis.k@fedtrust.co.uk

'**Ratifying the EU Constitution**', 18 November, Czech Embassy, London. For further information please visit www.fedtrust.co.uk/embassy or contact Dr Martyn Bond: martynbond@fedtrust.co.uk

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