

Where now for the Constitution?

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The EU's proposed constitution seems to be stalling. Together with a sharper edge to the familiar row about the Union's long term budget, this has plunged the Union into crisis. But this is not for the first time in its history and it has always managed to overcome such crises, albeit after losing much time and often without finding the best solutions.

The most important point is the constitution. So far, thirteen countries have voted in favour of the new treaty, and a fourteenth yes vote, from Belgium, is imminent. But two countries – France and the Netherlands – have said no.

So, of the countries that have so far expressed an opinion, a clear majority are in favour. Even in those countries where a referendum was held, if you add them together, the total numbers voting in favour outnumbered those voting against. If this trend continues, we will find ourselves in a situation where most, but not all, of the EU has endorsed the treaty. But we need more than just a majority: we need unanimity. What is to be done?

There are various extreme possibilities. One possibility is that the whole constitutional treaty might be abandoned. But the problem with this option is that the need for reform which the treaty was designed to address hasn't gone away. We can't simply say, « Oh well, it was a nice idea to make Europe more effective and democratic, but never mind ». In fact, without the most crucial of the constitution's reforms, the Union would risk eventually grinding to a halt.

Another extreme possibility would be to ask those few states that have rejected the constitution simply to vote again, without further ado, in light of its acceptance by the majority. This is also a dubious option. It would give the impression of forcing the constitution through without listening to people's objections. This perception would do nothing to aid the

European cause in the long run. The issues, fears, misunderstandings and genuine concerns raised in the referendum debates must be addressed.

When EU leaders met in June's European Council, they rejected these extremes and instead called for a "period of reflection". However, nobody has proposed a structure or a timescale for this period, nor a method of reaching conclusions from it. In the meantime, individual countries are free to continue with their ratification procedures on a timescale of their choice.

It's far too early to know whether our reflection will give rise to a revision of the treaty text, and, if so, how fundamental that revision would be. But, as Tony Blair said in his speech to the European Parliament, before we re-examine the text we must address the context. Several issues have overshadowed the debate on the constitution: the EU budget, enlargement, reform of the CAP, the proposed services directive, and not least, getting the economies of France, Germany and Italy moving again. Many of the discussions in the referendum campaigns, when they were not concerned with domestic politics, were around issues such as these.

None of them are easy to solve, but they cannot be left to fester. If they can be addressed to general satisfaction, perhaps it will be easier to see a way on EU reform in general. Address the context first – and then turn to the text.

In the long term, it's conceivable - though optimistic - that the current text could be salvaged, perhaps with protocols appended to address specific concerns. It's more likely that parts of the document itself will be rewritten. Part III, a compilation of articles from earlier treaties, is an obvious candidate for rewriting since this part was never thoroughly examined by the Convention which drafted the treaty. It was widely perceived as entrenching out-of-date policies. It was also Part III that made the constitution excessively long and detailed. Part I, by contrast, might need little or no adjustment – or perhaps just clarification where its terms gave rise to serious misunderstandings.

Alternatively, it has been suggested that the best way forward will be to enact a number of smaller treaties to implement separate aspects of the constitution's planned reforms, starting with the less controversial ones. This might, of course, be possible – but it would unravel the package and what is controversial in one country is not the same as what is controversial in another. And, of course, these will still need to be ratified by every country.

Also, some aspects of the constitution, such as the requirement for the Council of Ministers to debate new laws in public, could be put in place without treaty changes – though, relatively speaking, these provisions are not the most crucial ones and not very numerous.

In all this, there is a danger that unravelling the package in this way could lead to ineffective, piecemeal reforms – while failing to address central issues. That would please no-one. Wherever we go from here, it must be in a direction that maintains and improves the EU as a democratic, responsive and efficient way of addressing the common challenges of our continent. Only then can the Union can continue to earn the majority support from citizens across Europe which it has enjoyed for most of the time since its inception.

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