ASSOCIATION OF LOCAL DEMOCRACY AGENCIES

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Summary report:

International Conference on

"The role of local authorities in the promotion of the values

of the European Constitution"

23 and 24 November 2005

Kaunas Municipality

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Disclaimer

This report does not constitute exact minutes of the proceedings of the conference, but highlights most of the main points made, concentrating mainly on practical recommendations, arguments and context settings that can assist those who will embark upon follow-up actions to this project.

Therefore, not all words or comments of all speakers will have found their way into this report.

Introduction

Arvydas Garbaravicius, Mayor of Kaunas
This conference is of major importance because of the role and responsibility that local and regional authorities have. They are crucial in the relation between the citizens and their national and international authorities because they are experienced in having dialogue with their citizens and therefore they must be consulted at all times. Through them, the citizens can be open to the world and do not have to be afraid to open up to the world.

Statement by Martini Gianfranco, President of ALDA (read out by the Vice-President Dobrica Milovanovic)
I regret not to be with you on the occasion of this important initiative promoted by our Association.
First of all, I wish to thank the City of Kaunas, the Municipal Training Centre and the Republic of Lithuania for the cordial hospitality to host our conference, and for their precious collaboration to our activity. This is the best way to demonstrate how this country feels, not only part of the Council of Europe in Strasbourg, but also part of the great plan of a European Union, able to create a political democracy, from the Baltic Sea to the Mediterranean, a guarantee of peace and development of the European people.
The proceedings of the conference face a relevant topic of great importance: "The role of local authorities in the promotion of the values of the European Constitution". It means that the attention of the participants is focused on the relationship between the establishment of a united Europe - both politically and economically - and the role of the local and regional democracies. It is also necessary to consider the European Union, not only a process inspired by economic, technical and legal worries, but also its fundamental values that are indicated in the first part of the European Constitution, even if its ratification proves to be a long and laborious process.
I am sure that the Conference will give an effective contribution to the debate on these problems essential for the future of Europe and its citizens, and that the Local Democracy Agencies and their Association, that I have the honour to preside over, will continue, with crescent engagement, their activities in favour of democracy, human rights, dialogue and a united Europe.

Dobrica Milovanovic, Vice-President of ALDA
It is a great pleasure for me to address this conference on behalf of the Association of the Local Democracy Agencies, as well as on behalf of the City of Kragujevac, in Serbia and Montenegro.

First of all, I wish to thank our host, the city of Kaunas, its Municipal Training Centre and the Republic of Lithuania for their hospitality and for their great contribution to our activity.

The Local Democracy Agencies were set up because European local and regional representatives wished to stop the war, bring peace and provide assistance to war-ravaged regions in the former Yugoslavia. As the war in that area ended, the focus of the Agencies shifted from crisis management to democratic reforms. Nowadays, the mission of the LDA network is to contribute to the difficult task of re-building local

communities, fostering sustainable development, developing a civil society, promoting respect for human rights and intercultural dialogue.

We are very proud that today the Association of the Local Democracy Agencies represents a network of more than 200 local authorities and NGOs from all around Europe committed to support the mission mentioned. The Association has succeeded in building an international recognition.

The LDAs share a common methodology that stresses decentralized co-operation between local authorities and representatives of civil society from North-Western Europe and Balkan area. We promote town-twinning as one of the most efficient means to exchange best practices and know-how between organisations and institutions. Among the partners, many initiatives have already taken place under the concept "Europe from Below".

The Agencies are playing a role in the fields of local democracy and civil society with projects focusing on intercultural dialogue, trans-border cooperation, youth participation in local public life, capacity-building, economic revitalisation or refugees. They also support community-based institutions with training and information services.

As its programmes continue to find success in South East Europe, ALDA looks to draw on its accumulated expertise in playing an important supporting role to the EU enlargement process. While its experience in the former Yugoslavia makes it an ideal partner for enlargement activities in South East Europe, the Association's expertise is applicable to other regions, too. To meet that need, ALDA has begun planning several pilot projects to implement its unique methodology and knowledge resources in countries neighbouring the Balkans.

ALDA recognizes the important effects that neighbouring countries' accession to the EU will have on the whole of South East Europe and looks forward to partnering with organisations across the continent to ensure a smooth, stable transition that benefits all countries in the region. The future strategy of ALDA is to support the EU Stabilisation and Association process for the region.

Having already joined the Council of Europe, the Balkan states are expected to join the EU themselves in the coming years, and ALDA and the LDAs will be there to support them. As the Balkans become increasingly involved in continent-wide networks, ALDA is growing to promote tolerant and effective local governance across Europe.

The Council of Europe and the Association of the Local Democracy Agencies are undertaking concrete actions in order to promote and support democratization as well as human and minority rights. We follow carefully the question in Europe about these issues and we look at the different problems that have occurred in these last months and years.

Our intention is to stimulate a further debate in order to understand the challenges in these fields opened and proposed by the European Enlargement and Constitution and try to help in finding solutions. That is why we are now discussing the main values expressed by the European Constitution.

The role of local authorities is becoming stronger and stronger in the future. Having that in mind, at this Conference we are going to face a topic which is of great importance. That is why we are working to include the project: "The role of local

Authorities and Civil society in the promotion of the values of the European Constitution", as an element in the dialogue promoted by the EU Commission with the civil society.

We hope that our work will also be taken into consideration by the European Union institutions, which are currently trying to continue the process slowed down after France and Holland rejected to ratify the European Constitution.

I believe, this Conference will contribute to the further improvement of the process essential for the future of a common Europe. It will make our role even stronger and more respectful.

Once again I would like to stress our gratitude to the City of Kaunas for being the partner and helping with the organisation of this Conference. And not only for this. Kaunas was the very first Lithuanian city which joined the Association of the Local Democracy Agencies. Moreover, the City of Kaunas was very involved in the EU Mayors project last year, that inteded to raise awareness among old and new local authorities within the EU as to the challenges and benefits of EU enlargement.

Being a country that recently joined the European Union, Lithuania and in our case its second biggest city Kaunas, are expected to play a very important role in the process of passing on know-how to the cities from accession countries.

Per Vinther, Vice-President of ALDA
An often posed question is whether this EU Constitution is a way to make the European Union more liberal or more social. A lot of thinking and reflection went into the preparation of the Treaty. Under the Belgian Presidency, the EU Commission started reflecting on how to make the union more efficient because the EU would continue to enlarge and the large states could soon dominate the smaller ones. Thus, there is a clear necessity for a Constitution. In 2001, they opened the dialogue with and the consultation of civil society, and in 2003, the draft Constitution was built.
Convincing the citizens of the need for this treaty would mean that they would need to be convinced of the values embraced in it like participation of the citizens in decision making, guarantee of democracy, transparency etc…..
Now, after the rejection of this Constitution, they have built in a period of reflection and broad debate with civil society and political parties etc. Initiatives are being taking, like for example the launch of the plan D by the Vice-President of the European Commission, Margot Wallström. The plan seeks to support to collect input of all stakeholders in the constitution drafting in the first half of next year under Austria's presidency. ALDA will continue to promote this kind of participatory democracy.

<u>Round table</u>

<u>Introduction:</u>

Antonella Valmorbida, Director of ALDA
After 10 years of field work with the Association and with its 120 members around Europe, we are continuously implementing actions, opening debate and providing a place to work with civil societies and local authorities. Through this, we want an

exchange of opinions, to learn from experiences, work on capacity building, hear best practices. For those reasons this event is important because here we are in contact with representatives of communities.

Today the values of the Constitution, like democracy, equality, respect for human rights and human dignity, are not in question but the process of the EU Constitution had a problem during the referenda. The objective of this conference is to define in which way the values embraced in the Constitution can be applied through our work. Having this conference in Lithuania is significant because this country represents the enlargement of Europe.

Looking at the participants of this conference, it is important to see the diversity in it. Present are not only representatives of new member states (like members of universities, municipalities,…) but also representatives from the Balkans (LDAs and others), people that work for ALDA, members of ALDA and partners.

Llibert Cuatrecases, Former President of the Council of Europe's Congress of Local and Regional Authorities: "The EU Constitution: a move forward or backward?"

What do we achieve with this Constitution, in other words, which are the specific aims in it?

We see different competencies also in the Constitution. Something new among the elements in the Constitution is Code 5 or the principle of respect of equality between the countries and the national identity. And more important is the focus on new structures, the focus on local and regional structures in Europe. The principle of subsidiarity defined between the European Union and its member states will no longer exist: the Constitution now focuses on the same diverse competencies but on more layers: subsidiarity has to be applied by EU/local authorities/ members states/ regional representatives…A great task is been given to the local authorities which is a positive asset for the citizens as they can take part in the decision-making process. That supports the dynamism and effectiveness.

Subsidiarity means that every single draft of a law will have to be supplemented by documents which will assess the parliamentarian impact and the assessment of the draft law by local authorities, and quality indicators will be considered (if possible also quantitative indicators will be considered). Attempt will be undertaken to reduce the costs of the decision-making process. It is a very long process to consider the different opinions and aspects in order to construct a new law, in which all stakeholders will be considered (regional, local,….). Major or big countries will have a right to veto. The different aspects shall be considered to have all EU-pillars treated: economic policy, market policy and so forth. The legislation of EU laws is based on national principles.

Without the core values such as freedom and solidarity the citizens of EU would not have this kind of life. The values of the EU Constitution are gaining importance. Solidarity is a major focus. Here we are not talking about shared competencies but about things that are of value in every member state! Support by the European Union of its members is crucial in gaining this benefit to get some solidarity that defends these rights.

It would be a pity if the Constitution will not be ratified. The draft Constitution has been approved by the majority of the citizens but not by citizens in some member states (France and Netherlands). The governments of the countries that did not

accept the Constitution by referendum maybe did not transmit this message correctly. Here as well the EU has the responsibility to bring support to the member states.

But still this document carries a lot of weight: the values and the system of values and how things have to be accomplished in the future…this is basically a document that gives the guidelines.

Ignasi Guardans, Member of the European Parliament

This conference is a perfect example to what we should be doing: informing the citizens, getting in contact with the citizens (at the local and regional level).

Europe is in a deep crisis, the most serious one it has ever had. The worst thing we could do, is to keep acting as if nothing is going bad. The EU is in a political crisis: crisis of values, ideals, methods,…everything is called into question.

This crisis is not created by the NOs to the referenda in France and the Netherlands. They were only the symbols of the volcano, to express what is under the earth, which erupted with the referenda. We can take profit of this moment of reflection and safeguard the values embraced in the EU Constitution but we need to modify the text. We will get out of this crisis if we know that there is the possibility that we do not get out of it. It could be that the worst scenario could take place. There is the possibility that the whole structure will collapse. We need to refresh to have new energy to go into the era of 2010.

We are rebuilding the borders, different Europes are working together. The Constitution as it exists now will never come into life, we will have something different but with the same values and the same goals but not the same text. It is being discussed now among people with different opinions. We started a period of reflection.

Now we are having a debate on how to debate about the problems which is a typical EU way of working. What kind of debate do we want on the EU in Europe? All the problems that the Constitution wanted to resolve are still there, even worse. The EU in the world, the Constitution as it is now, need to be adapted for the enlargement. We voted NO because of certain elements in the Constitution.

An example of the necessity of an adapted Constitution is that the EU has, in this moment, no title to have a real immigration policy but there is the necessity to handle this problem. The Constitution would give the institutions the right to handle it. For example, to help France with their immigration problems. Some is being advanced but we need to be careful because it is not in the law NOW to handle it!

The macro-EU is working well, but micro-economics are not working at all. At the micro-economic level there is a problem of cohesion, the citizens do not know what Europe can bring to them. To fight terrorism and provide a secure environment, we need a well defined EU. In this moment the EU is the most peaceful area in the world with the most fundamental rights in the world. Take the palette as a whole and the EU is working. But when you are going to the micro level, it is not.

New member states have not seen the money yet to build the promised bridges, highways, .etc. We have to realise that cheap flights for example are only possible because of Europe, because Europe takes care of stability in financial business.

When we look closer to the principle of subsidiarity we should help the EU to do what it needs to do. What can be done at the lower level, cannot be done at a higher level. The EU does not need to interfere where it does not have to. For example: beer is forbidden with the name 'Light ale' because it is not light.

Citizens have to realize that everything that is in their hands should stay in their hands. The EU has to provide for security, international policy, immigrants,…

Member states have to realize that their sovereignty is finished with the birth of the EU, we are only pretending that we can as a national state fight against immigration, terrorism, etc, but we need to stand together for that. We need the EU to cover us and protect us from these big dangers.

We have to feel like an EU citizen and give more political rights to the citizens. The idea of the Constitution needs to go to the street.

Charlotte Roffiaen, Director Active Citizenship Network, "Horizontal subsidiarity"
Most people that voted NO to the referendum on the Constitution just wanted more Europe and not less Europe! The vote was done on other problems and not on the solutions that the Constitution would bring.

The Active Citizens Network is a flexible network of associations working at national level in 30 European countries. It was created in 2001 by an Italian civic organisation called Cittadinanzattiva of which it is part. The network is flexible, without formal membership, based on concrete participation in activities and projects. About 70 organisations have already participated in our projects since December 2001. Our main goal is to promote the participation of citizens' organisations in Europe, at the national and EU level. Specific areas of work include healthcare, consumers' rights, corporate social responsibility and others.

Among these projects was one on horizontal subsidiarity. The project was born a few months after the Declaration of Laeken and the establishment of the European Convention. It was supported by the Secretariat General of the European Commission and carried out in partnership with 16 civic organisations from 15 European countries (Austria, Czech Republic, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, the Netherlands, Poland, Portugal, Romania, Slovakia and Spain). The idea of horizontal subsidiarity is now part of the Italian Constitution thanks to an amendment adopted in 2001. The Art. 118,4 states that

"State, regions, cities, provinces and municipalities favour the autonomous initiative of citizens as individuals and associations, in the exercise of activities of general interest, on the basis of the subsidiarity principle."

This means that citizens' organisations and individuals have the right to carry out activities in the general interest, without asking for any authorization. On the contrary, they must favour their development supporting and extending citizens' initiatives with their own resources, competences, experiences, etc (collaboration, partnership). However, they cannot renounce to their own responsibilities. Citizens' initiatives can only complement but not replace action.

Subsidiarity was also one of the main topics on the agenda of the Convention. We considered that it should not be limited to the division of powers and competences between the European Union and the Member States (vertical), but that it should also be applied to the relationship between the citizens and the public institutions (horizontal). The principle of horizontal subsidiarity was already implemented by the EU institutions (calls for proposals, etc) but it had no strong legal basis and many limits.

Our objective was to verify how the concept of horizontal subsidiarity could be used to interpret and promote the collaboration between citizens and public institutions in Europe. Moreover, we advocated for the introduction of the principle of horizontal subsidiarity in the draft European Constitution and, in general, in the system of EU governance. More than 500 people participated in the European and national

seminars we organised in the framework of the project. Many concrete examples of horizontal subsidiarity emerged, even if Poland is the only country in which this principle is part of the Constitution:

"We, the Polish Nation (…) hereby establish this Constitution of the Republic of Poland as the basic law for the State, based on respect for freedom and justice, cooperation between the public powers, social dialogue as well as on the principle of aiding in strengthening the powers of citizens and their communities."

We advocated an amendment to the first draft of the European Constitution (article 8):

"the right to carry out autonomous activities directed to the general interest with the cooperation of the Union and the Member States, on the basis of the subsidiarity principle."

Despite the use of all available procedures of participation in the Convention's debate (Convention Forum, Plenary session dedicated to the dialogue with civil society, meetings organised by the EESC, direct contacts with convention's members), we did not get any feedback to the proposal.

There is only the article 47 of the European Constitution on participatory democracy which defines a form of civil dialogue but it is much more limited than the principle of horizontal subsidiarity. There is also the programme on Active Citizenship by the European Commission which is in line with the principle but again it remains limited.

At present we started a debate about the implementation of horizontal subsidiarity in Italy (yearly convention in Rome, Charter of the horizontal subsidiarity etc). At the European level, we promote the collaboration between citizens' organisations and public institutions thanks to other projects such as the Charter of Civic Participation. We also decided not to use the term horizontal subsidiarity any longer for it was hardly understandable in many countries.

Liudas Mazylis, Professor Dr. of Vytautas Magnus University: "What the new member states think of the EU constitution"

My presentation is constructed on a number of contradictions. One Contradiction between the spiritual and the material. Spiritual as well as "macro" economical values are now, generally, beyond peoples' motivation in the West. They want personal, touchable "micro" economic preferences. Here, in the East, during the accession referenda, "spiritual" values were of much greater importance. "West instead of East", "civilization choice", "rejecting insecure Soviet past" were among the strongest motives when Lithuanian people were voting in their referendum.

Then the time of ratifying the Constitution for Europe came. In this respect, many other contradictions may be defined. For instance, there is an essential contradiction between relatively weak institutional innovations made by the Treaty called now "Constitutional" (compared to existing Treaties), and the prominent name itself, "Constitution". Point of view of ordinary citizen, naturally, is: when referendum, and "Constitutional" - this means, changes should be essential.

There was no referendum in Lithuania on the European Constitution, but the importance of the name "Constitution" was understood by the population in the same manner as everywhere. The Lithuanian Parliament ratified the Constitution for

Europe in November 2004, the first among 25 countries. And until now, the typical reaction when mentioning the Constitution for Europe is, "they were too much in a hurry".

In countries where referenda were conducted, citizens tended to include into their motivation different arguments very remote from the text of the document. Fears of enlargement became one of the strongest motives – both retrospectively (CEE countries), and prospectively (Turkey's accession). People argued on "Bolkenstein directive", "Polish plumber", and "coming Turks", though directly it is not connected with the Constitution for Europe. This is understandable voters' behaviour. Let us imagine a local referendum, for instance, on the redistribution of competences between the municipal council and the municipal board. It is clear that people would discuss water tariffs and transport ticket prices during the campaign but not institutional powers.

Here, the role of the media is very specific, and it does not play the same role as in domestic politics. When the media are presenting European matters of high complexity in the same manner as the hottest domestic political news, they are accumulating criticism towards Europe. Instead, long and careful explanations would be needed. However, emotional euro-skeptic campaigns will have systemic preferences before referendum. If yes, the factual increase of citizens' support towards Europe would be almost a miracle today.

Sometimes, the alternative media can be used in "presenting Europe positively". Just a little example from Lithuania's experience. Sub-municipal officials in rural Lithuanian territories made their work excessively (exceeding their official instructions): they were explaining very carefully to people the rules of direct payments for agricultural production which are extremely complicated. Though little, the contribution is important for the people. A kind of "contraposition" in Estonia: the increase of prices for bananas (symbol of "post-Soviet prosperity", because there were no bananas in a periphery of the Soviet Union for decades), fuel and sugar exactly since May 1, 2004, made reverse contribution: decrease of popular euro-enthusiasm was reliable and seems to be irrevocable.

A systemic problem is that "Europe" is beyond "normal" representative democracy. There is a critical mass of anti-European rhetoric successfully accumulated with each new European referendum. Conversely, positive presentation of "Europe" seems to have reached its limits. Re-phrasing de Tocqueville, international matters should not be solved by "demos", but what to do when, after five decades of integration, they constantly do influence their everyday life?

Murat Seyrek, ARI Movement, "Turkey and the European Constitution"
Turkey has already known a lot of obstacles before the referendum in particular with respect to their accession to the EU. For the Constitution itself some people claim that this is incompatible with Turkey. But does the Constitution give too many rights to Turkey as a new member? Are the values of the EU not compatible with the life in Turkey? During a survey about this question it was shown that terminology is important. When asked about the values they believed in, whether in a) Christian values, b) European values, c) universal values or d) Turkish values, almost nobody answered "Christian values" in Turkey, although the content of all the answers could be equivalent. Many people are scared when they do not entirely understand the terminology. This is also important in the debate about the European Constitution. At the moment there is no debate on the Constitution in Turkey at all.

Turkey must of course first debate that they will be member of the EU, and then we would even be one of the biggest members of EU. So actually they should be involved in the setting and drafting of the Constitution, but Turkey is not reflecting enough on the values of this Constitution because they first want to be a member.

15 Turkish NGOs are currently represented in Brussels. The biggest challenge for them is the uncertainty of EU membership. NGOs have to work towards EU membership and at the same time think and work on the values of the Constitution. There are also many NGOs in Turkey working actively for the promotion of the EU like ARI Movement.

Round table debate

First it was mentioned that there are often technical problems for participation.

Crisis has blocked a little bit but what is this crisis? A crisis can give an opportunity to get to good solutions. Others said that there was not a crisis in the EU because a real crisis happened in Poland with Solidarnosc but not here about the Constitution. One person mentioned that if the EU is really going through such a deep crisis nobody within the EU would have moved on with the enlargement. On the contrary, they have taken a step forward with Turkey in October 2005.

A reaction to all of this was that the EU is in crisis because the goals and reasons for the existence of Europe are in questions. And if you look from the outside (international) we are good and not in crisis. But from the inside there is a crisis. We must organise because otherwise we are as a whole in risk. There are things that are positive and things less positive.

Is the EU Constitution more social or liberal? Does it go back to the old conflict between oppositional ideas? How to overcome this contradiction between socialism and liberalism?

This fake conflict was used in national debates and exploited by local politicians who use Europe for their own sake. They thank their national government when something goes good and blame the EU when something goes wrong. Brussels bureaus often do not consider the local problems of the national countries problems enough. The EU has made a step with the Constitution to become more social (even though it is liberal). The problem is one of the used methodology not so much a problem of ideals. If the Constitution would have been written, bearing in mind having a referendum on it later, it would have been a different Constitution because now it was written to be voted for by governments.

Governance has got much to do with subsidiarity. Can governments be overcome because federalism is vertical and the EU wants subsidiarity?

To the issue of the opposition between governementalism and federalism: this opposition is not, as such, in conflict. There are things that should be tackled at local level and others which should be tackled at a higher level.

We need answers and solutions to these questions as provided by the treaty. It is going to be very difficult now to come to a new consensus for a new kind of Constitution. This type of confusion we cannot have again in the future and that depends on the ratification of the Constitution. Most of the citizens have ratified this Constitution already.

Is the EU the biggest place of peace? Those who voted against the Constitution believed that the EU is not safe enough in this sense (for example Northern Ireland or

the Basque land) These conflicts have been exported to conflicts as for example in Yugoslavia and Africa but actually their problems reflect the conflicts that take place within Europe.

It was also criticised that the Constitution is difficult to read for the citizens which might be one raison for the NO.
We achieved transparency or we did not, we cannot speak about 'improving' it because we have one or the other (gradations of democracy).
Regarding this comparison with being pregnant or not, the response was given that one cannot make this comparison with democracy: you have better democracies and worse ones. Democracy grows. No country can say that they have the perfect democracy, they all have their problems. The EU Constitution is an instrument to keep working in the direction of a better democracy. We will probably always be working on it and keep working on it.
Acknowledged was that the text of the Constitution is difficult but it does simply not work to only write policies in it. It was not meant to be shown like this for a referendum in the beginning. In the minds of the people it became the book of the Constitution but it started as a Convention. With 25 countries the text is always a consensus. The part on human rights is not so difficult as the part on the functioning of the EU.

In the beginning we thought NOs might imply the death of the EU but now we see that this is not the case. For example Switzerland is not part of the EU and the Swiss population voted on Schengen and the free circulation of labour and people in Europe. This was an important vote within a country like Switzerland. They voted in favour of this, which means a huge step forward.
Time is on our side and we have plenty of time for it.

Working Group 1: Local government best practices in the implementation of the values of the EU Constitution

Numerous concrete examples were given already in the survey and it was one of the objectives of the conference to complete this list. Therefore, in the first working group a best practice catalogue concerning the implementation of the values of the European Constitution at the local level was compiled. The group also clarified which were the stakeholders and the methodologies used.

Examples of best practices:
→ Construction of paths with marks through the mountains for blind people so that they can enjoy the environment, too. The initiative was taken by the local community and was carried out by the city of Zagreb in cooperation with the association for blind people.

→ An example of best practices concerning the implementation of the value of human dignity can be shown by the retirement system that Zagreb has constructed. After the war, pensions were much too low and the city decided to introduce a minimum pension rate of 200€. Unfortunately, only Zagreb could apply this law because the rest of Croatia is not rich enough to do so.

→ Children and education also form a point of focus in Zagreb. They get free books provided by the municipality. Again this is only foreseen by for the city of Zaghreb since the other cities in Croatia are too poor at present.

→ An example that included the principle of participation and subsidiarity were the construction of barriers for disabled and elderly people. The Active Citizenship Network organised in cooperation with the municipalities the construction and inauguration of these ramps. Sometimes it worked and sometimes it did not, depending on the sensitivity of the mayors. The Network brought expertise as an organisation from/for citizens and the municipality brought the technical knowledge and financial support. They included also other NGOs and target groups. To involve the youth into this project, they let young people put stickers everywhere were they thought there was a barrier for disabled.

→ To get the youth to be active citizens, the Active Citizenship Network gave them the chance to make proposals/to give ideas on cultural and sports projects. Spaces for youth are often missing. They would then asses the presented projects and after approval, the young people initiated their proposal receive the funding to fulfil these projects

→ Rights charts: the Active Citizenship Network constructed totems describing their rights all over the city

→ Elderly: The town of Mogliano Veneto has a series of objectives, amongst them is the aim to improve the situation of the elderly. They wanted to try to limit the amount of people that end up in elderly houses to let them be independent or to let the family take care of them. For this reason, they organised additional home-care services and built houses specifically for the elderly. These houses will be constructed in a way that they can live by themselves but with the necessary service and commune places to eat or where they can do their hobby and talk with each other.

→ Initiatives towards the youth in Mogliano Veneto: they can participate in the debates of the municipality by electing youth counsellors. These youth counsellors have no real power but they do have the freedom to give their ideas and opinions.

→ Development of activities raises the need for money so the city of Mogliano Veneto decided that services like water, electricity,…could make profit in order to use this profit to support and develop other services for the citizens.. The profit from the water and electricity company is reused to improve environmental protection and services for citizens. They intend to provide service quality and also take care that the enterprise has a well-qualified infrastructure with good workers that are properly paid. This idea was exported to the city of Zagreb, too.

→ Information for the people on the Euro is a necessity because many people in Lithuania blame the Euro for the increase in prices. They complain that life got more expensive, but the Euro also brought stable interest rates and very cheap flights. The Euro made it also easier to compare prices and to buy cheaper products abroad.
It is possible though to think of local actions to prevent this rise in prices. If all citizens, for example, avoid the restaurants that profit from the Euro to raise their prizes, these restaurants will be forced to lower their prices. Frequentation of restaurants did anyhow decrease with the raise of prizes on the whole.
In Lithuania they already prepared and informed the population of the Euro (put prices on them, make it possible to pay in private companies with Euros, organised exhibitions of Euro coins).

→ Croatia has opened up but there is a need to listen to public opinion in a better way. Some people changed their opinion concerning their will to enter the EU because they are afraid to lose their stability. Activities have been organised to the ideas of living within the EU, not specifically the EU constitution values, but values that living in the EU imply. So actually Croatia could use some help and advice on how to build up a communication strategy.

→ Liberal Youth in Lithuania: organised a seminar which was the result of a cooperation between the NGO-sector, the government and the business sector. It is thus possible to combine these three sectors for active citizenship. One example of a campaign was the construction of a Euro tunnel in the main street to make the Euro more attractive. In many cases, as here, NGOs are too weak to carry out these projects on their own and need support/ partnership with local authorities. Institutions are also often too weak without the support of the NGOs! So there is mutual benefit in these kind of cooperations.

→ Authorities in Rome wanted to get to know the needs of immigrants in Rome. But for this they had to get in contact with them and this contact was made through immigrants' associations and organisations. In that way, they could reach the goals together. The result was that immigrants were involved in voting and even candidacy for election was possible.

Stakeholders:
-local authorities
-target groups: marginalized, disabled, youth,…other associations or individuals
-non-profit organisations: active NGOs in the field
-services of private interest
-private companies

Methodologies:
-initiative: - target groups
            - local groups
-needs assessments: involvement of target groups
-proximity information
-research about existing laws
-participatory planning: collaboration between local government and target groups

-benefit for the target group
-activity to make profit (even in governmental business like water, electricity,…) in order to finance initiatives in the field of public services : welfare activities

The role of local authorities in shaping a future Europe
Group 2
The discussion emphasized two major issues:
- Politics: major decisions are taken on a national level and in very centralised states like France, Italy or Hungary, local authorities have no or little means to influence these decisions.
- Financial problem: the local authorities have very few financial means and human resources to put into international decentralised cooperation. Moreover, these types of projects are difficult to offer to the citizens because these they do not bring about short-term, but long-term results.

Recommendations to the European Union institutions:

-To emphasize the essential role of local authorities as link between citizens and State and EU institutions
- To include local authorities in a more active way in the decision-making process at the European level and in the development of new funding options
-To provide precise information about European funds for local authorities

Recommendations to European local authorities
-To include a European dimension in their activities with citizens
-To inform their citizens about the different European institutions
-To promote initiatives fostering European solidarity

Experiences from applicant and non-EU countries on the values of the Constitution
Group 3
The values of the EU Constitution have already been incorporated in the national Constitutions a long time ago and thus the values themselves are not the main issue. The problem is that there are no tools for implementing the values within the EU. Although the Laws guarantee specific rights and values, often there are no instruments that guarantee that they are respected.

Furthermore, it is very difficult for the citizens to decide whether they are in favour or against the EU Constitution when, in many cases, they even do not know their own national Constitutions. Therefore, they do not know what they can gain or lose and they start to fear, like for example in Turkey, that one day they will have to remove their own national Constitution.

Recommendations:
-More educated and straight forward local authorities who understand the concept and are able to implement it at local level
-Active citizenship: bottom up and top down
-Involvement and cooperation of all community stakeholders
-Education of citizens with concrete examples from their everyday life and working environment

-Long-term support to the work of NGOs, the democratisation process is not over with EU integration!! In most of the new EU countries NGOs are left without sufficient financial support for their work and they are now facing serious problems.

Neilas Tankevicius Head of Division for Political and Institutional Cooperation European Union Department, Ministry of Foreign Affairs of Lithuania, "On the future of Europe"

On 29 May and 2 June 2005, voters in France and the Netherlands rejected the Treaty establishing a Constitution for Europe. Reacting to this, the European Summit on 13 June 2005 agreed to start a "reflection period", which would be used to better involve societies into discussion on the future of Europe.

This ratification crisis is different from other cases in 1992 and 2001, it is far more complex and it is not possible to identify one or a few concrete articles of the text which cause voters' dissatisfaction. In fact, the main themes in the national discussion were questions of national politics, and general attitude towards the EU. Arguments against the Constitution, which were based on the text itself, were mostly drawn from the articles which are in force now.

Therefore, even if the Constitution was prepared in a more democratic way (European Convention, public debates), it was an attempt to solve the problem of the democratic deficit. Therefore, the results of referenda in the EU founding countries were a surprise for Lithuanians.

One of the most important accents of the Constitution was the focus on democracy and principles of subsidiarity and proportionality: the protocol on subsidiarity and proportionality, according to article I-5 on respect of regional and local self-government, a breach of subsidiarity principle can be submitted to European Court of Justice by the Committee of Regions.

In Lithuania the Constitution was ratified in the Seimas (national parliament), the discussion was quite rapid. Lithuania became the first country to ratify this document. To understand why, we must pay attention to the timetable of the debate on the future of the EU: it coincided with negotiations for Lithuanian membership in the EU. Therefore, Lithuanians debated the future of the EU and future of Lithuania in the EU at the same time. In May 2003, 91% of voters in a referendum supported EU membership. So one year after that referendum, it seemed unnecessary to hold another one.

European leaders decided that the first step to bring back the confidence into the Union is to take important practical decisions. Two directions can be identified: an agreement on new financial perspectives, and reforms needed to cope with the challenges of globalisation (research, universities, demography, energy, security).

In parallel, the Commission has announced a "Plan D" which aims to support national debates on the future of Europe. Main themes identified by the Commission include the social and economic development of Europe, attitude towards the EU and its tasks, borders of Europe and its role in the world.

At the moment, the Constitution remains as a guideline for future discussions.

Summary by Per Vinther, Vice-President ALDA

A considerable amount of time has been spent during the conference on a general discussion about the pros and the cons of the Constitutional Treaty. This would seem to indicate that there are still very mixed feelings about what the Treaty entails for the EU citizens. The objective of bringing the EU closer to its citizens has clearly failed.

The main sentiments expressed were the following:

The contents and values of the Constitutional Treaty are seen as positive, e.g.
- the inclusion of the Charter on Fundamental Rights,
- the simplification of the EU decision-making process,
- the increased transparency.

The method and presentation of the Constitutional Treaty are seen as negative, e.g.
- the mere use of the word "Constitution" may have made many people apprehensive (and fear that their national constitutions would eventually disappear),
- the wide use of national referenda for the ratification may have been a mistake as the concept is too complex for the "man or woman in the street",
- the ratification may have taken place too soon in some countries leaving the feeling of insufficient time to digest.

Some intriguing novel ideas were mentioned:
- The possibility of granting European Citizenship to a person who is not necessarily a citizen of an EU Member State (for which the EU would need the legal personality proposed in the CT).
- Holding an EU wide referendum on the ratification of the Constitutional Treaty rather than the country by country approach.

Feelings were expressed that following the French and Dutch referenda a "crisis" exists in the EU in the sense that politicians have lost touch with the citizens! It may well have back-fired that many politicians in the past have been quite happy to make Brussels the scape-goat when the blame has to be placed somewhere for an unpopular decision. The sentiment was also expressed that representatives in Brussels of Civil Society Organisations, consulted during the Convention, may have lost touch with their roots.

It was repeatedly lamented that consultations of civil society have not been genuine. The authorities are paying lip service only on this issue and provide little or no feed-back to serious inputs from civil society.

The results of the questionnaire and the discussion in the three working groups have shown that the fundamental values promoted in the Constitutional Treaty are not "unknown" to the local authorities or civil society, inside and outside the EU. This has been demonstrated by the many interesting examples of "best practices". However,

there might be a tendency to forget to ensure that these values are integrated in the everyday activities of the various players. Hence the suggestions that

- Local authorities should establish a function in their administration, which ensures respect of fundamental values,
- Local authorities should work closer with civil society organisations as intrinsic partners who could help ensure this respect,
- Local authorities should support CSOs in finding donors for their activities and themselves act as donors to the largest extend possible,
- Local authorities should become pro-active links between EU Institutions, national Government, and the citizens.

As far as the ratification of the Constitutional Treaty is concerned there seems to be no clear perception of the next steps. A covert, piece-meal approach of "implementing" urgently needed elements of the Treaty can already be observed.

But if the proposed Constitutional Treaty truly represents a balanced compromise between the interests of all stakeholders, then the field should not be left open to a "pick and choose" attitude. Leadership from the top is needed!

No Constitutional Treaty does not mean the end of the EU but the Treaty of Nice cannot in the medium term be a crutch for a handicapped EU!

Annex

AnnexI List of participants

Mac Geever	James	Municipality		Lithuania
Milovanovic	Dobrica		Deputy Member of ALDA, CoE	
Drangenyte	Jurgita	Vytautas Magnus University	Student	Lithuania
Rauleckas	Rimantas	Municipal Training Center	Project Coordinator	Lithuania
Gadeikiene	Romena	Municipal Training Center	Project Coordinator	Lithuania
Claude	Anne-Catherine			
Zanchettin	Flavio	SPIM SPA	President	Italy
Sebastiano	Rizzo	Comune Mogliano Veneto	Chief Secretary of Mayor	Italy
Mazylis	Liudas	Vytautas Magnus University	Professor	Lithuania
Fischer	Dorothee	ALDA	Management and Media Officer	German
Van der Wielen	Sofie	ALDA	Assistant	Belge
Paris	Martial	ALDA	Assistant to the Director	Swiss
Landrin	Sabrina	ALDA	Assistant	French
Valmorbida	Antonella	ALDA	Director	Italy
Toriello	Stefania	ALDA	Joint management Decentralised cooperation	Italy
Vinther	Per	ALDA	Vice president	

Elia	Barbara	ALDA		
Ghisletta	Dario			
Cuatrecases	Llibert	Congress of local and regional authorities (C.P.L.R.E.)	Former President of the Council of Europe's Congress of local and Regional Authorities	Spanish
Guardans	Ignasi	European Parliament	Member of the Eur.Parliament and member of the Committee on Constitutional Affairs	Spanish
Roffiean	Charlotte	Active Citizenship Network	Director Active Citizenship Network	Italy
Heidbreder	Eva			German
Murat	Seyrek	Ari Movement		Turkish
Garbaravicius	Arvydas	Kaunas Municipality	Mayor of Kaunas	Lithuania
Cvirkate	Jovita	Department of Social Affairs Kaunas Municipality	Senior Specialist	Lithuania
Tibay	Csaba	NeTe-CIFE-Hungria	Vice President	Hongarian
Benuzzi	Michela		Interpreter	Italian
Battista	Elena		Interpreter	Italian
Bertoldi	Emiliano	Osservatorio sui Balcani/ Fondazione Opera Campana dei Caduti		Italian
Michiline	Samuela	Tavolo Trentino con la Serbia	Coordinator	Italian

Vidovic	Davorko	City of Sisak	Mayor	Croatia
Rauzan	Paola	LDA Sisak	Delegate	Croatia
Tankevicius	Neilas	Ministry of Foreign Affairs of Lithuania	Head of political unit	Lithuania
Tirviene	Jovita	Kaunas Municipalty	International Relations Office	Lithuania
Zecic	Wendy	City Assembly of Zagreb	Chief of the president's Office	Croatia
Meic	Juraic	City Assembly of Zagreb	Member of City Assembly	Croatia
Gottlicher	Jadranka	City of Zaghreb	Senior Advisor in Mayor's Office	Croatia
Clerici	Marco	Comunedi Lainate	Consiglieri Delegato	Italy
Gudilauskiene	Edita	Kaunas Municipality		
Povilas	Kupryn	Kaunas Mesto sativaldytin	Miesta pleita departement	
Laimona	Kasputi			

Annex II

Presentation of the main results of the survey conducted by ALDA in September by Dorothee Fischer

Background to the survey
Thanks to a European Commission grant, the Association of the Local Democracy Agencies conducted a survey in the year 2004 on its members' experiences dealing with the participation of civil society in the decision-making process at the local level. In this survey, different NGOs and local authorities from Eastern and Western Europe replied to a questionnaire, which gives an insight into the inclusion of civil society in the decision-making process in different European regions.
A conference held in Barcelona in July 2004 presented the best practices identified and the analysis based on the answers to the questionnaire to a wider audience. One can say that this whole process – from the survey to the conference – was a real achievement: around 60 representatives of civil society organisations and local

authorities from Western and Eastern Europe had not only the opportunity to discuss and share these analyses, but also to be informed about concrete experiences and case studies. The full report is available on the website: www.ldaaonline.org.

In2005, ALDA used the same methodology again – a survey held throughout Europe, in different kinds of institutions with a wide diversity of results – to focus on the role of local authorities in promoting the basic values of the European Constitutional Treaty (European Constitution), that is the ***respect for human dignity, freedom, democracy and pluralism, equality, rule of law and respect for human rights, pluralism, non-discrimination, equality between women and men.***

The Association of the Local Democracy Agencies can rely on a European network of more than 190 local authorities and civil society groups. The members of the Association as well as the partners of the LDAs are fully committed bodies in working towards the respect for the European Constitution values, at the local level.

Among these institutions, the local authorities play and will continue to play a specific role in the protection of human rights, the respect for minority groups, the inclusion of citizens' expectation in the political agenda – among other values that are at the core of the European Constitution.
The 2005 survey not only aimed at drawing on the same methodology, but also at extending the results of the 2004 inquiry, in particular the question 'What are the most important values that could be considered common values for building a Europe of its citizens?'. In the 2004 survey, local authorities and NGOs answered: active participation and responsibility of the citizens; cultural diversity; respect / rule of law; gender issues. The European Constitution now embodies all these values.
The present challenge is to establish, which role local authorities will have to play in promoting and protecting these major political commitments.

Meanwhile, the European Constitution ratification process has slowed down after the results of the referenda in the Netherlands and in France. Another element to be taken into consideration is the dialogue opened by the European Commission with civil society in order to assess the steps undertaken towards the adoption of the Constitution and the Enlargement together with the citizens.

In the following, the results of the 2005 survey will be presented, which were the basis of discussion of the two-day international conference. The survey is based on a questionnaire that we circulated among all the members of the Association of the Local Democracy Agencies and the whole network of the LDA programme. It was mainly directed at local authorities and NGOs to analyse how they foster the values of the European Constitution and what they think of the document in the first place.

The European Union Constitution: values to be shared ?
The so-called proposed "European Union Constitution" is in fact an international Treaty with the aim to include in a unique document all the different steps and elements, which brought about the construction of a unified Europe since the Treaty of Rome in 1957. But not only that. From a patchwork of laws and Treaties (and institutions), it offers a comprehensive and integrated approach to the new and enlarged Europe. Some articles of the Treaty set out to strengthen the European Union but it is rather the whole document, which makes possible, by one (even if

long) reading, the understanding of the structure, the values, the functioning, the competences, the decision-making of the Union. This is a radical step ahead. It came very shortly after another very profound challenge: the 2004 Enlargement of the European Union to 25 member States. However, these two processes (Enlargement and Constitution) are coming together out of a simple necessity: such a large organisation needs a clear and simplified reference to the basic rules and features.

After the negative response at the referenda for the ratification of the Constitutional Treaty in France and the Netherlands, the process (planned to be concluded by December 2006) is not officially in stand-by but, practically, all the referenda have been postponed to some undefined date.

Clearly, something went wrong even if the provisions of the Constitutional Treaty are really "better" than the existing situation. Probably, this something comes from a lack of understanding and the enormous distance between the processes in Nice and in Brussels and the citizens of Europe. Probably, the objective was too difficult to understand in this format. However, the occasion must be seized to take a step forward to understand who we are – we Europeans – and what defines us in positive terms and not only by focusing on what we are not. The exercise is difficult in any circumstances but we need to try. According to the Treaty establishing a Constitution for Europe, those values are mentioned in the Article I-2. Indeed, there is no geographical limit to this Europe, which is defined only by the capacity to represent and implement these values and the democratic rules.

Faced with such a large challenge, local governments and civil society have a role to play: to transfer information and knowledge by being intermediaries between the European Institutions and the citizens. They are also called upon by the "Constitution" to implement laws and rules by the principle of subsidiarity.

Today, however, their principal role is to contribute to rebuilding a genuine and credible contact with the final beneficiaries of the European Union Constitution.
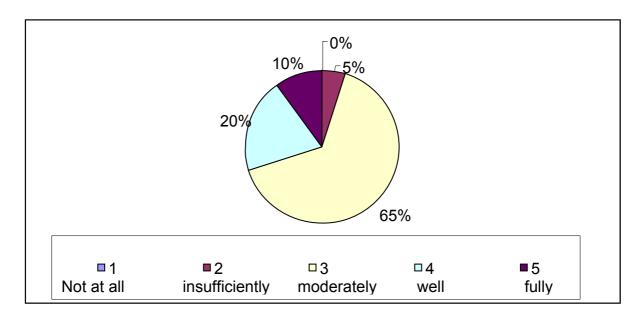
Results of the survey

The survey is based on 20 questionnaires. We did not distinguish between NGOs and local authorities. Answers were received from Italy, Switzerland, Belgium, Bosnia and Herzegovina, Serbia and Montenegro, England, Norway, Lithuania and France – so examples from different European realities are included and where it is interesting the country of reference is given.

Some answers are presented in percentages, where there were multiple choice questions. For the more open questions, we summarised the main results, tried to outline some common tendencies and give best practice examples.
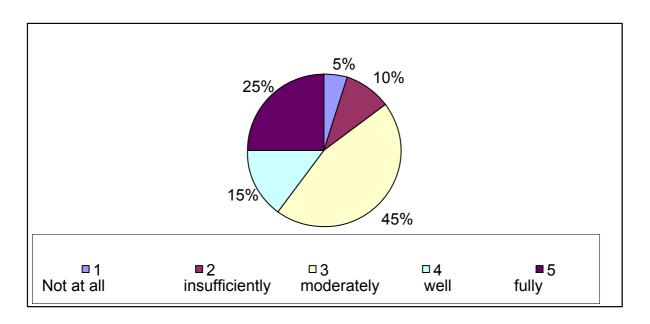
Question 1

Did you feel informed about the main aspects and new elements brought by the Convention?

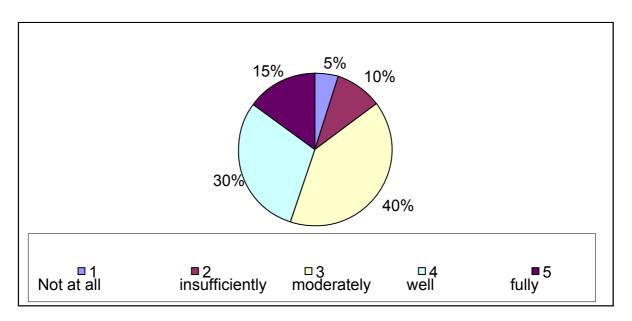| ■ 1	■ 2	□ 3	□ 4	■ 5
Not at all	insufficiently	moderately	well	fully

Question 2

Is your administration/NGO sharing the values[1] defining the European Union and expressed by the draft Constitutional Treaty?

□ 1	■ 2	□ 3	□ 4	■ 5
Not at all	insufficiently	moderately	well	fully

Question 3

If yes, are you active in promoting these values?

□ 1	■ 2	□ 3	□ 4	■ 5
Not at all	insufficiently	moderately	well	fully

Question 4

If yes, how are you active in promoting these values? Please add examples and/or express you policy.

a) Human dignity:
In most answers it was stressed how NGOs and local authorities try to contribute to create humane living conditions for their citizens. To achieve this, the reduction of poverty is crucial as well as fostering economic conditions in which there are no unemployed or where unemployed people can be reintegrated into the job market. One municipality from Italy mentioned in this respect that to them it is also important

to integrate foreigners in a better way, to promote participation and social responsibility.

Concrete actions in this area include micro-credit grants (used in Bosnia- and Herzegovina) as well as educational activities, in particular training (to learn acquire new professional skills) and awareness raising campaigns in form of public debates, meetings with politicians and the city administration. Moreover, open access to information sources of the city government was considered essential. The internet was mentioned as one important tool to make regional institutions more accessible to all the citizens.

However, several answers underlined that there are some groups of society that need special protection and support, among them are Sinti and Roma, widows, young people, elderly and handicapped people. Most of them at present do not have access to all areas of public life and this should be improved, for example better physical access to public services for handicapped people. One municipality from England introduced the "every child matters"-programme on children's rights.

Liberty:

In the answers to this question, there were no significant differences between answers coming from local authorities and NGOs in countries that until recently lived under a totalitarian regime and those that have a longer democratic tradition already. Both groups underpinned that the freedom of expression is among the most important liberties for the citizens. This involves on the one hand the free access to information (cf. human dignity, access to public information which is more and more done via the internet) and the free expression of one's opinion (even if it is does not reflect the opinion of the dominant power) on the other hand.

Methods to do so include debates, forums, seminars as well as fostering the founding of civil society organizations and political parties that can present the citizens' interests. It was also stressed that free democratic elections are an essential means in this area as well as projects on interethnic dialogue and capacity building or educational initiatives as a whole.

Sometimes the answers were already referring to other areas of fundamental human rights, that is equality or democracy. For example, it was stated that minorities and other disadvantaged groups should be represented by spokesmen in order to guarantee that they are not discriminated against.

Democracy:

Some of the answers to this aspect were kept very general. Free and independent annual elections were listed among public access to documents (possibly via the internet), public meetings, improvement of the quality of life as well as an open and free press, all aspects which were also mentioned for the preceding values.

One common tendency in all answers was the focus on direct or participatory democracy, where citizens' influence on local governance is high. Sometimes this type of democracy was underlined as the ideal type of democracy (in particular the new democracies such as Bosnia and Herzegovina or Serbia and Montenegro) which the local authorities and NGOs should aim for, where others (for example a local authority from Switzerland) gave concrete examples of how citizens are involved in

the decision-making process through referenda and petitions. Therefore, exchanges of good practices can be a very efficient tool to have new democracies learn from the experiences of their neighbours.

Other terms used in this context were "democracy from below", active citizenship and participation.

Examples of initiatives varied significantly. One Lithuanian municipality mentioned funding they provide to support NGO projects, for example youth or social projects and neighbourhood associations. Whereas a municipality from Belgium intends to reform the Code of local democracy in order to make the budget of the local institutions more dynamic to guarantee clarity, democracy and efficiency.

An Italian municipality includes important stakeholders in pilot projects on urban planning and consults NGOs at a regular basis on different local governance issues.

Several people mentioned that they would like to include young people in a more active way in the decision-making process. One of them mentioned that they organize trainings and workshops to raise awareness among the local administration and civil society.

Equality:
Some answers referred clearly to the equality between the two sexes and efforts that are being made to reduce differences with respect to payment and career opportunities. For example, one local authority in the United Kingdom has introduced lists to assure the presence of both sexes in the local institutions (every list has to have 50% of women and every first and second seat of each list have to be a man and a woman).

Others referred to ethnic aspects of equality including race, language and religion. One NGO from Bosnia and Herzegovina stressed for example that they have a gender and ethnicity balance within their staff and they work with all ethnic groups in their area.

Moreover, the integration of the following groups was among the work priorities of local authorities and NGOs all over Europe today: displaced people and refugees (in particular in the Balkans), elderly people, disabled people and other socially and economically marginalized groups.

One case study which can be specifically presented in this context is the project "European Chart of Twinnings for Equality" that the Italian Municipality of Ravenna conducted within the Town Twinning Programme of the European Union. The project consisted of a conference on citizens' fundamental rights, with particular focus on equality. Representatives from various European cities from Italy, Germany, Hungary, Poland, the UK, France and Sweden were participating in the event to exchange best practices. Each city had to describe its experience in the field of citizens' rights such as non-discrimination, cultural, religious and linguistic diversity, children's rights, the rights of elderly people and the integration of disabled people. At the end of the meeting, the involved cities signed the "Charter of Twinnings for Equality". Through this, they engaged themselves to foster equality for all disadvantaged groups of society and to continue the exchange of good practices. This project strengthened and widened the relationship of the twin cities and created synergies among them by initiating cooperations on various social topics.

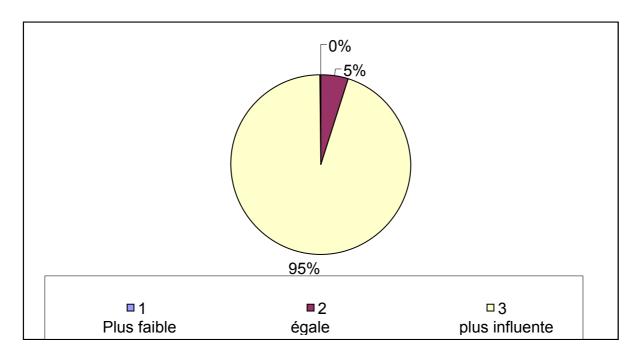**The rule of law and respect for human rights, including the rights of persons belonging to minorities**

The answers on this aspect were quite diverse. Some referred to the fact that these kinds of decisions are rather taken on the national level than on the local level. One local authority from Serbia and Montenegro indicated that the rule of law in the Balkans has to deal with international trials these days implemented by the international community. Nevertheless, it would be desirable to have more project work in this area, also with the help of international partners such as twin municipalities.

This methodology is already used by one Italian local authority. They consult elected representatives of their foreign partners in certain decision-making processes.

Another new method was the introduction of Ombudsmen or a spokesperson for minorities to ensure that the basic human rights are fulfilled in the community. One municipality in Lithuania even introduced a Commission of Petitions that is in charge of promoting legal tools for defending the citizens' rights.

Again education plays an important role here. Some local authorities mentioned that they organise debates and information meetings with civil society organisations. And one NGO is holding information meetings and trainings for citizens and schools to inform them about their rights and human rights in general.

Question 5

Que devrait être le rôle des autorités locales/ONGs dans l'avenir de l'Union Européenne?

■ 1	■ 2	□ 3
Plus faible	égale	plus influente

Comments made why a stronger involvement of local authorities is desirable:

- Local communities are the basis of a wider community. They are in direct contact with the citizens and their experiences. Like this they can contribute to important decisions with respect to the social and economic framework.
- The role of NGOs and local governments is essential to build up a European Union that can be democratic. Civil society breathes by participatory processes that start form the local level, not through big and far away institutions.
- Because the role of the EU institutions is becoming more important, the distance between ordinary citizens and the centres of power are increasing. Local governments and NGOs are therefore very good intermediating tools since they are the institution that are closest to the people.
- It is important to include local authorities in a stronger way to defend local matters at the European level in a better way.
- Bearing in mind the difficulties of the EU in transmitting its aims, opportunities and significance to the grass-root level, a stronger role of the NGOs within the EU would help to reduce the informative gap between the EU institutions and the people. Thus, the NGOs would act as delegates of the EU principles and values, transmitting them directly to the citizens.
- It is of great importance to take into consideration local governance practices to enhance understanding and exchange.
- Norway is no member of the EU, so it is necessary to give a personal view to this. First of all, people belong to regions and more than just to a national framework. It is easier to make progress in implementing democratic values in such a context – between mutual regions or municipalities – than on a Foreign Affairs level. This concept which we call "county-to-county" means that the closer connection between idea and process/discussion creates results and improvements for the citizens.
- If the European Union strongly involves local authorities, this will help to have local responses to the citizens' problems that often are local problems.
- The social environment will be more complicated in the future. The available volume of information is getting bigger and bigger like a snowball. So the citizens have to form networks and institutions in which they can participate and which help to reduce the complexity of the environment.

Comments made why the involvement of local authorities should remain at the current level:
- Regions should keep a strong voice, but not overthrow either the European Parliament or national parliaments.

Questions 6
What should the role of Local Governments be in the future framework of the European Union? How could this be made possible?

The answers to this question were very similar to the comments to the question number 5, all of them were in favour of increasing local authorities' influence on the decision-making processes at the European level.

One interesting aspect was that several people were convinced that a stronger role of the Committee of the Regions and the European Parliament would help to bring local authorities close to the decision-making processes and this would at the same time

contribute positively to European integration. One local authority gave the following comment:

"One has to go back to the idea of Europe as a continent of cities. Relations between cities that means the city as a collective property, public space where one is free. One should look at the European White Book on European governance, where it is underlined how the Commission must take into account regional experiences. (…) The Committee of the Regions should take a more pro-active role as the most efficient instrument in this area."

There was no clear tendency as for the methodology. Most questionnaires did not answer this question. One person mentioned public debates, meetings or working groups. Two others stressed the importance of education awareness-raising on EU issues among the citizens to avoid that they feel lost with the directives and regulations from the EU. Like this, local governments can function as a sort of mediator between the citizens and the European Union. They can inform the EU on the real problems of the citizens and inform its citizens of current EU decisions and developments.

Thus, finding methods to increase "democracy from below" in the European Union is definitely an issue for further debates.

Question 7
Other considerations:
These are some additional comments that were made with respect on the role of local authorities in the implementation of the values of the European Constitution:
- Switzerland is not a member of the European Union. During the last months, (July and September 2005), the people voted for two bilateral treaties between Switzerland and the EU. This is a very positive development. The adhesion of Switzerland to the EU is among the strategies of the government, but there is a strong opposition and difficulties to foresee that it will happen in the future.
- The European Union is far away from the daily life in Kosovo. Only the standards defined by the UN and the European Union are debated in Kosovo. This is actually a definition of significant European principles, but they are not presented like that. The LDA Kosovo participated in the realisation of a 15 minute feature on the dreams on Europe that the Kosovo people have. The topic was broadcast on Arte on 4 October 2005 in the framework of a thematic evening on Europe.
- Encourage female leadership, how to create networks and business by their own
- Establish further town twinnings in East European countries
- To establish a regional organisation of local authorities in those countries which are now opening up for a democratic way. By having an interest-organisation for municipalities, the municipalities themselves will be improved (at the political and executive level).
- Help municipalities with a legal framework which is of basic importance for ensuring the rights of citizens. We think of national laws and local regulations taking care of town planning, expropriation, taxes etc. This is a set of laws which is of great importance for the local councillors
- Work against corruption

Conclusion to this survey
One of the main messages of the survey is that local authorities should be included in a more active way in the decision-making process at the European level. They can fill the (information) gap between EU institutions and the citizens. Democracy would be stronger as the local authorities and NGOs are the ones closest to the citizens and thus only they can listen, explain and communicate between the core level of the EU, that is the citizen, and the institutional level. On the other hand, the values embraced by the Constitution are shared by most local authorities and NGOs.

Annex III

Eva Heidbreder, The EU's long run to its citizens: The genesis of a "Treaty for a constitution for Europe"

How did the draft of a constitutional text for the EU develop? What were the aims behind, how were they put into action, and where did the process lead to? The purpose of this paper is not to provide a deep-cut analysis but a review of how the constitutional treaty evolved, as idea, as project and as physical document. Both these elements are to shed some light on what the goal at the heart of the project, that is to "bring the EU to its citizens", was conducted in order offer a modest contribution to our broader understanding of the what the EU is today.

INTRODUCTION: WHAT ARE THEY TALKING ABOUT?

Trying to make sense of the "genesis of the European Union's constitution", the first question at stake is: what exactly are we actually talking about? The official title of the draft constitution is *Treaty Establishing a Constitution for Europe*. Strictly speaking, we are faced with a treaty, an agreement between independent states that sign a contract between each other. Yet, as the name "constitutional" treaty indicates at the same time, the commitment made in this treaty as well as the actual scope of its meaning go beyond ordinary international treaties between states.

A prominent scholar of the constitutional process, Bruno de Witte, has described the constitutional treaty as whale (*une baleine/una balena/ein Wahl/waleń*) "it looks like a fish, it acts like a fish – but it is not". What then is this animal? Looking at how and why the constitutional treaty was initiated, how it was written and, finally, how it failed shall shed some light on this question.

In this vein, I will proceed along four questions: First, why a constitution? This query lays at hand especially considering that the final document remains to be an international treaty – is the talk about a constitution thus mere rhetoric and if not, why should it be anything more than a traditional treaty? Second, how can one write a constitution for the EU? The approach chosen, that is to set up a convention, was a new approach with little previous knowledge about. We will thus have a look at the general features and ideas behind the method. This leads us to the third question: what happened in the Convention? To get a notion of the workings of the Convention and why it produced the Treaty at hand, it is essential to go beyond the the formal composition and mandate of the body to scrutinise the dynamics driving the negation and drafting process within the Convention. Finally, with respect to the rejection by the French and Dutch citizens it is unavoidable to ask: was the Convention in the end a failed mission? Hinting at possible reasons for the rejection of the constitution, this

final section's main aim is to outline which alternatives and paths to proceed the process of giving the European integration process a constitutional frame which might be feasible.

The Challenges: Why a constitution?

With its *Laeken Declaration* the European Council delegated in December 2001 the task to engage in drafting a comprehensive document, which could eventually guide to a constitutionalisation of the Union, to the *Convention for the Future of Europe*. This decision has to be understood against the background of the challenges the heads of states and governments within the European Union saw themselves faced with, and which could no longer be ignored. Symbolically, the context of the reunion itself can be read as indicative for the main concern driving the decision. While outside the European Council some 80,000 people protested[i], the political elites inside decided that they had to bring the EU closer to its citizens by increasing the transparency, legitimacy and democratic accountability of the EU. Three streams of events fostered the dissatisfaction outside and the need to act inside: the rapid acceleration of deepening EU integration throughout he preceding years, the radical widening of the entity with the upcoming eastern enlargement, and prominent debates which raised general questions about a probable final shape of the EU.

THE STATE OF THE EUROPEAN INTEGRATION PROJECT

After a long period of standstill, the project of European integration gained new momentum in the late 1980s and accelerated from then on. After the Single European Act (1987) had established first more ambitious aims for the then European Community to go further ahead, major landmarks were the Treaty of Maastricht in 1992 that established the European Union and contained the explicit aim to work towards a political union. It was followed by the Treaty of Amsterdam (1996), and the renewed treaty revision of Nice in 2000 which prepared the Union to take the applying new member states on board. The completion of the Monetary Union with the introduction of the Euro is just one very obvious symbol of accelerating integration. The chain of Intergovernmental Conferences (IGCs) indicates however also something beyond the increased deepening efforts. One European Council after another was to deal with left-overs of the preceding treaty revisions, which again were handed on as left-over left-overs to the next meeting. When the EU heads of state and governments met in Nice in a seemingly never ending meeting incapable to produce agreements, the difficulties of IGCs to resolve the Union's challenges to proceed with integration were most obvious. Pressed to finally resolve the remaining necessary reforms to prepare the EU for eastern enlargement, European Councils seemed increasingly incapable to deliver – yet, although the results of Nice remained to be contested, they were sufficient for the time being and to accommodate the accession of ten new states, however based on an agreement on the lowest common denominator.

THE ENLARGEMENT OF THE UNION

The need to reform EU policies and decision-making procedures in this relay race of IGCs was particularly urgent in the light of the Union's upcoming eastern enlargement. Apart from the criteria the candidate states had to comply with, the only pre-condition the EU had imposed on itself was that enlargement could only be

realised once the Union was sufficiently prepared.[ii] Yet, while the most pressing hurdles to prepare the EU for its new member states were basically resolved with Nice, the more far-reaching implications of further widening the entity provided another motivation for setting up the Convention. Even more than the enhanced deepening through treaty reforms, also the massive extension of the Union was decided by the political elites without only very limited involvement of EU citizens. Faced with slowly dropping public support for the enlargement project, the heads of states were again confronted with the problem that the quantitative and qualitative extension of the EU was detaching them from their constituencies.

THE BIRTH OF NEW (OLD) IDEAS

The major kick-off for an extensive constitutional debate was a speech delivered by Joschka Fischer, at the Humbold Universität in Berlin in 2000. Stressing that the ideas and visions expressed were "not a declaration by the Federal Government's position, but a contribution to a discussion long begun in the public about the 'finality' of European integration" triggered broad debates throughout Europe which turned around the major challenges the EU was faced with. The ideas catapulted into the public debate by Fischer's speech were not all new, on the contrary, they referred to a long tradition of particularly federalist ideals driving the EU integration. The debates following Fischer's speech did also not result directly in a political programme but speaking the challenges the EU faced levelled the ground "can retrospectively be seen as the first major call to write a Constitution for the Union".

THE DEFINITION OF AIMS

In sum, the European project was faced with rising resistance by its citizens due to the qualitative and quantitative acceleration integration. At the same time new visions and ideas for a more united and constitutionally bound Europe emerged in debates about the *finalité politique*, that is the ultimate shape of the entity. These problems were officially put on the agenda by the European Council of Laeken in 2001. Four major challenges were recognised, first, the need to *legitimise* more clearly the speeding up processes; second, to strengthen the *efficiency* of decision-making in the EU (not at least with respect to still further enlargements); third, the *simplification* of the incrementally grown legal framework of the Union consisting to have one rather than three treaties, and fourth, to make the EU a more *transparent* system for its citizens and thus strengthen its *democratic* accountability. Put in a nutshell, the aim was to bring the European Union coloser to its citizens.

THE MANDATE: HOW TO DO IT?

Having agreed that changes were necessary and that these had be tackled effectively, a central problem remained: how could these goals be realised? Although the notion of a constitutional text was in the air, the mandate which was spelled out in Laeken did not foresee a constitution to be written but asked for a "final document which may comprise either different options, indicating the degree of support which they received, or recommendations if consensus is achieved" which "will provide a starting point for discussions in the Intergovernmental Conference, which will take the ultimate decisions". Before moving on to how this limited mandate was stretched to its ultimate limits by producing a document with much more symbolic value than a

draft for an IGC, a short outline of the formal features of the *Convention for the Future of Europe* is to sketch out the basic features of this body.

THE CONVENTION METHOD

As indicated above, the traditional method to reform the Union by treaty revisions in European Councils had proven an increasing difficulty to deliver comprehensive solutions for complex problems. The most obvious expression of it was the meeting of Nice in 2000. Yet, the year 2000 experienced also a new method applied for the first time. To draft the *Charter of Fundamental Rights of the European Union*, a Convention under the auspices of the former German Federal President, Roman Herzog, was set up which completed the task with widely respected success. Thus, a new tool for drafting critical documents on the EU level was established. Having to decide how to proceed with the unresolved issues of Nice, it was almost this new method almost inflicted itself as alternative path.[iii] It was picked up by the *Laeken Declaration on the Future of the European Union* spelling out the formal composition and basic conditions for the convention.

THE COMPOSITION OF THE CONVENTION

Altogether, the Convention had 60 members, the most relevant and influential figure of whom was undisputedly its Chairman, the former French president Valéry Giscard d'Estaing. The former Italian Prime Minister Giuliano Amato and former Belgian Prime Minister Jean-Luc Dehaene served as Vice-Chairmen. The member states delegated one representative for each Head of State or Government (15 persons), 13 representatives of the candidate states for EU accession participated. The participants from accession states had, however, limited voting powers in the body in that they were not allowed to veto any final agreements. The link to citizens was to be formally ensured by a high participation number by Parliamentarians, 30 from the national parliaments of the member states and 26 for the candidate states. Finally, 16 member of the European Parliament participated and only two members of the European Commission.

MEETING IN THE "SHADOW OF THE IGC"

The power and scope for action given to the members of the Convention was limited by a dominant Praesidium. However, guided by its Chairman Giscard d'Estaing, results were much more far-reaching than expected in the beginning. Going beyond the actual mandate to prepare a text on the basis of which the following IGC could draw its decisions, two particularities gave the final paper more thrust than the mandate might have intended. First, the Convention produced one single text including basically everything – and therefore also being long and complex. Unwrapping this agreement to renegotiate single issues would have born the risk in the IGC to get trapped in negotiations and to get again lost in disagreement. Second, selling the final draft treaty as a constitutional text gave the document high symbolic and normative value which appealed to be not associated with yet another treaty revision but a substantial qualitative step forward in EU integration. The Convention had to consider at all times what the member states were in the end willing to agree giving its text a chance of survival. Nonetheless, once it was to face those who were

to decide on its survival, the final shape and labelling gave it much more scope than might have initially been intended by the Laeken Declaration.
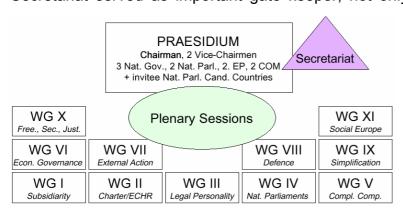
Respecting the Convention as a body to prepare a text for the next European Council to decide on, we should keep another important fact in mind. The convention did not prepare a text to be approved by popular votes (with the exception of some countries). While, for example, Irish representatives in the Convention were aware that the text would have to be to meet their citizens' expectations at home, other states were not even aware of a referendum in their borders when the final text was passed. Discussions on an approval through referenda were started only after the completion of the document, which was hence consciously written to meet the conditions under which it could be approved by an IGC and neglected broadly citizens' potential votes.

THE CONVENTION: WHO SAID WHAT TO WHOM?

To understand better the workings and the output of the Convention, we have to go beyond its official set-up to look behind the scenes and try to grasp the dynamics driving the drafting process. With respect to the mandate given to the Convention, the output was more than initially envisaged. The way in which the Convention was conducted and grace to its generous self-definition, foremost by its Presidium, allowed the main actors to widen the mandate substantially and to deliver indeed a document which is generally treated as *constitution* of the EU.

THE ORGANISATION WITHIN THE CONVENTION

The drafting process was steered, and in great parts controlled, by the Presidium. The Presidium was assisted by a Secretariat whose General Secretary was the retiring head of the British Foreign Service John Kerr. The timing and agenda setting for all meetings of the various parts of the Convention were solemnly decided between the Presidium and the Secretariat, or more precisely between their two heads since the members of the Secretariat "were not assigned to any other members of the Presidium directly. So, the only connection between the two institutions was Giscard and Kerr". Under this strong personalised guidance, the Secretariat served as important gate keeper, not only for those articles that were taken up, but also against those that remained not considered.

Apart from the monthly general discussions in the plenary, eleven working groups were created to deal with specific aspects. The Convention unfolded in three stages. A first listening stage lasting from March to June 2002; followed by an examination stage in which the working groups considered the topics until the second half of 2002. Finally, a proposal stage was dedicated to the discussion and drafting of articles. Apart from deciding on the schedules and agendas of working groups, the Presidium chaired all

The organisation of the Convention on the Future of the EU

PRAESIDIUM
Chairman, 2 Vice-Chairmen
3 Nat. Gov., 2 Nat. Parl., 2. EP, 2 COM
+ invitee Nat. Parl. Cand. Countries

Secretariat

Plenary Sessions

WG X
Free., Sec., Just.

WG XI
Social Europe

WG VI
Econ. Governance

WG VII
External Action

WG VIII
Defence

WG IX
Simplification

WG I
Subsidiarity

WG II
Charter/ECHR

WG III
Legal Personality

WG IV
Nat. Parliaments

WG V
Compl. Comp.

their meetings. Although the preparatory documents came out of the working groups, the influence by the Presidium remained the most decisive factor.

Apart from being represented by their directly elected parliamentary representatives, an internet forum made available all documents to the general public and organised civil society organisations to promote a public debate alongside the Convention.

TREATING INSTITUTIONAL REFORM, AN EXAMPLE

What is quite striking about the working groups is that there was none concerned with one of the core aspects, namely institutional reforms. Instead the discussions on institutional issues started only in January 2003 and were handled directly by Giscard d'Estaing. In April, proposals by the Presidium were submitted and discussions in the plenary were held only until May. Despite the fact that the views on the subject matter diverged greatly, there was no resubmission of it to the plenary but the Presidium held consultations with four constituent groups until 4 June. The formally revised text was presented on 10 June, shortly before the concluding session on 13 June 2003. Illustrating this extreme example of the rigid and straight forward top-down steering in the Convention allows nonetheless at least two readings. On the one hand, in the actual process there was only very limited room for bottom-up opinion formation by the members of the Convention. On the other hand, keeping discussions controlled (if not constrained) and given only limited scope for disputes on highly controversial issues was maybe the only mode to reach the results produced in the given time frame despite the variance of views represented.

THE CRITIQUE FROM WITHIN

In sum, we can assert that the way in which the Convention was conducted was double edged sword. It produced a draft constitution going far beyond the expected results. Moreover, some observers claim that it was the most open, public, and democratic process of constitutionalisation ever. This can surely be asserted if compared to historical accounts of drafting processes of national constitutions. Yet, measured on the self-set aims of within the EU, the Convention left parts of those involved with a bad after taste. Strong critique was uttered all the way along and shows very prominently in the *Alternative Report: The Europe of Democracies* attached to the Convention Secretariat's final report. The Alternative Report, written by a number of participants of in the process, goes very far in its criticism claiming that the "draft EU constitution was never drafted through normal democratic methods".

At the same time, the way in which Giscard d'Estaing conducted the drafting process ensured that "[h]is success rate was phenomenal even in areas where preferences were firm, and concessions were most difficult to be achieved. This is one of the reasons that the process is encountering significant problems for ratification".

THE FINAL DRAFT: WHAT IS IT?

What then did enter the daft treaty, what do these more than 470 pages tell us? Instead of providing a detailed analysis of its contents, the following is a limited account of the major changes and continuities of the document. As often stressed, it

does not very much resemble what could be considered a comprehensive and parsimonious ideal type of a constitution. In this vein, it is necessary to investigate further how to understand the text as it stands. Why is it so long, where are its three parts derived from, and what does this peculiar structure – so unlike a constitution – tell us about the being of its subject itself, the European Union?

THE THIRD PART

The draft constitutional treaty falls into three major parts[iv], the heaviest of which and actual cause for many complaints about the disproportional length and technical nature of the overall text stems from the third section comprising 341 articles. However, rejecting the Constitution due to this part seems slightly contradictious since it contains basically those elements that existed since the foundation of the European Community. The most radical change this part introduces is to unite the incrementally extended and added patchwork of Treaties. Hence, it combines the Treaty of Rome and the Euratom Treaty (1957), as well as the Treaty establishing the European Union (1993) in order to achieve the simplification demanded. Adaptations of the content were only introduced in order to accommodate innovations in the first part of the overall text. Why then is this bulk of articles at all added to the "constitution" if there is nothing new and apparently little constitutional about it?

The answer lies in the particular character of the EU itself. The Union is not a state but a union of states. As such, it has full responsibilities in some areas and limited powers in other fields where it shares competences with the member states. Although it is accepted that EU law is prior to national legislation, it is strongly restricted by the fields it covers. The reach of the EU legal acts apply thus to those, and only to those, areas in which the states have officially delegated parts of their sovereignty. Without the third part of the composed text spelling out the technical nitty-gritty behind this, the IGC could have decided to pass the innovative first parts only. This, however, would have implied that the text had lost its legal binding quality to be a "declaration" rather than a "constitution" – or at least a legally forceful similar treaty for the EU.

THE SECOND PART

The special status of the EU and its legal reach are also essential to understand the meaning of the indeed new second part, the *Charter of Fundamental Rights of the Union*. The Charter was already solemnly proclaimed by the European Council of Nice in 2000. The fundamental difference introduced is that with the ratification of the constitutional treaty the Charter would have gained a legally binding status, which it still lacks as it stands to date.

A fact to keep in mind with respect to what was outlined in the last paragraph, the basic rights and norms the Charter spells out are global in character but apply only to those policies areas in which the EU has competences. Another more general change foreseen and connected the Charter was the accession of the EU to the *European Charter of Human Rights* by the Council of Europe, subordinating the EU to the rulings of the *European Court of Human Rights* in Strasbourg. One of the reasons why the EU was so far not able to join this or any other international agreement is the fact that it does not possess a legal personality. In other words, the parts of the EU which were created in Rome in 1957, the old European Community, are legally an actor who can enter contracts. The Union, established by the 1993

Maastricht Treaty, lacks this status. Unifying the treaties, the constitutional treaty would have resolved this state to simplify the different units to one EU with legal personality, a point that guides us to the first part of the document, comprising the most relevant changes.

THE FIRST PART

The first bares the most serious real changes of the overall text which thereby addresses the major technical remedies prescribed by Laeken and not achieved by the preceding IGCs. It must suffice here to merely flash out a couple of elements. Apart from giving the EU full legal personality, the first part clarifies EU competences with particular emphasis on subsidiary. That is the principal according to which decisions in the EU should be taken on the closest level (local/regional/national/EU) to the citizen possible and strengthens national parliaments' means to control the Commission in matters of subsidiary. An important adaptation is, moreover, the simplification of legal instruments to shift from a multitude of decision-making processes to a few standard procedures. Furthermore, EU institutions are adopted to ensure their more efficient functioning as single standing organisations and across the different bodies. Last but not least, the first part spells out the general objectives of the Union, states the fundamental rights it is based on and defines the citizenship of the entity.

In essence, the constitutional elements of the new first parts take legally binding meaning from the old, yet simplified and condensed third part of the treaty. This peculiar and complex structure of the "EU constitution" arises inevitably from the special nature of the EU, which is not a state and was not to be transformed into one by the Convention.

THE "NO" VOTE: WHAT NOW?

The constitutional treaty was, after a long struggle stretching again over numerous and none a single IGC, accepted by the heads of states 18 June and Governments and signed on 29. October 2004. It followed a number of ratifications in member states until the ratification process was abruptly frozen when the treaty was rejected in two referenda. On 29 May, respectively 1 June 2005 the French and Dutch citizens voted against the constitutional text. Having described the drafting process, the voices of protest which accompanied it, and the result in its complex, if not confusing, shape: was it after all no surprise that the constitution failed when put to the people?

THE ALTERNATIVES

After the failed referenda the member states decided freeze the ratification in all states process giving up the planed entering into force on 1 November 2006. They are to return to the issue only in the first half of 2006 to decide how to further proceed. What options are imaginable?
In theory, it might in the end be up to a European Council alone to decide what to do. A clause in the constitutional treaty states that if the text is ratified by four fifth of the member states after two years, it will be up to the European Council to decide on what to do. In practice an approval through such a procedure would be not

acceptable and obviously run counter the goals of more transparent, legitimate and democratic decision-making. As Giuliano Amato points out, what has to happen for a recovery of the constitution is that it really has to meet its aim to bring the EU institutions and elites closer to its constituencies.[v] To respond to the popular disagreement it is, of course, indispensable to know why the constitutional treaty failed in France and the Netherlands. It is still to early to provide comprehensive analyses. Still, the most immediate debates and recent data indicate that not actual changes introduced by the treaty caused the dissent.[vi] Rather than the new and innovative first two parts, the third part and the long-standing policies were perceived to bare dangers that should be rejected. For the draft itself, this would also offer the option hold referenda could be held on the less disputed first parts only – with the above illustrated consequences of a legally much less forceful declaration. Yet, once more this would not resolve the initial problems of an estrangement between political decision-makers and their EU constituencies. Another thinkable option would be to re-open negotiations and start the process all over again. This, however, raises a big set of new questions because how could be assured that the process would lead to more acceptable outcomes and produce a comparable but new draft? Moreover, given the difficulties of the IGC had to finally agree and sign the present text can be seen as a foretaste of what the re-negotiation of only chosen parts would be likely to produce. Instead of finding concessions for the "no-countries" to make a "yes" more acceptable is very probable to lead to more claims by other states and a drifting apart of the Convention's comprehensive product.

THE RECENT INITIATIVES

The uncertainty about which alternative path might guide where is also reflected in the most current attempts to slowly reconsider what to do with the constitutional treaty. The first organisations on the search for possible solutions were the European Parliament and the European Commission. As the both the European and the national parliaments gained important new competences with the constitution, their strong incentive to save the project lays at hand. Yet, even though the direction is clear its attempts to date are still unclear. While a report by the responsible committee (not even backed by the members of the committee) promotes an approach to defend the text in its entity and to prevent any un-wrapping, it is not clear what the position of entire European Parliament is. At the same time the network of member states parliaments, COSAC, has lately pressed ahead to safeguarded its foreseen new rights on Commission control announcing in mid-November that although lacking the formal legal basis they were to go ahead by using the tool.

Short of a "plan B" after the referenda, the "Commission has proposed a Plan D for Democracy, Dialogue and Debate, not as a rescue operation for the Constitution, but to stimulate a wider debate between the European Union's democratic institutions and citizens". Being less direct concerning the absolute need to save the constitutional text, the bottom line of the Commission is that the member states have to get more evolved to promote the EU in their countries. Finally, some national political leaders have very recently taken up the issue again. Apart from the French president Chirac's announcement to soon provide "an ambitious proposal" for the EU[vii], some attention has been on the new German chancellor Merkel's proposal after her success in mediating between the stiff positions on the EU budget in mid-December 2005. Whether the intended proposal to save the constitution adding a non-binding declaration on the "social dimension of Europe" will have any chances

for success remains however to be seen. More clarity and firm statements can be expected only when the European Council will take the subject back on its agenda in it he first half of 2006.

CONCLUSIONS

To evaluate that the failure of the referenda was produced by the genesis of the text would be too simple an interpretation. More so, it would not meet up to the achievements the Convention indeed produced for many of the complex tasks it was given. Nonetheless, the process suffered from a number of inconsistencies and contradictions that made it eventually fail in its most important mission: to bring the EU closer to its citizens.

As pointed out, some actors carefully venture to make advances for a return to the constitution. Yet, at the end of 2005 it remains uncertain what will happen to the text. A fact is that the problems due to which it was drafted remain existent. One could even argue that instead of resolving questions of legitimacy and attachment with citizens the popular "no" has rather amplified than resolved the problems. Hence, returning to the image used in the beginning: the whale does not swim. To make the constitution forward, it has to find another way to reach its citizens. We should therefore maybe change the image and consider a very different little animal. Bumble-bees (*un bourdon/un bombo/eine Hummel/trzmiel*) is according to laws of aerodynamics not able to fly, but we all know that they do. It might be possible that also the constitution can transform itself to a very different shape – and maybe, since it cannot swim, it could fly.