Europe Debates Its Destiny

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In this article, I propose to examine the issue that at present most mobilizes the European states and public opinion within them: the modification of the institutional-political model, in the form of a Constitutional Treaty for Europe, requiring parliamentary or popular ratification by its twenty-five member States, within a period that remains undecided. Events surrounding the consultation proposed to the European governments and their citizens, indicate – particularly if we take into account the negative votes in France and Holland, and others that may yet occur – that the European Union is divided, raising the concern that its process of regional integration could suffer interruption or even reversal. My analysis of the reasons European citizens and European states find themselves divided, with emphasis on those that separate the bureaucracy in Brussels from the EU's citizens and national governments, will revolve on two basic axes: the enlargement of the EU, recently grown from fifteen states to twenty-five, and the transformation of the EU's political-institutional model, which in securing itself to a constitutional anchor modifies both symbolically and substantively the degrees of sovereignty and autonomy of Europe's numerous political actors. So doing, this analysis will seek support in theoretical currents that, stimulated by the importance and singularity of the process of European construction, have been brought to bear on the examination of the political instruments and procedures involved, their determinants, and their consequences. Beginning with the matter of enlargement, this article will look at the recurrent problems arising from admission of the ten new member countries from the Center and East of the continent – that is, the "other Europe" – formally incorporated in May 2004, and at the decisive weight this had in the decision to formulate a Constitution for Europe. Arriving thus at my second topic, I will reconstruct the debate between a "Europe-Union of States" and a "Super-State Europe," discussing issues directly connected to this classic dichotomy – democracy, legitimacy, formation of a collective identity, division of sovereignty, and others – which, having direct impact on European citizens, will determine the acceptance or rejection of what is being proposed to them in the Constitutional Treaty.

Key words: European construction; unfinished Federal State; enlargement; constitutionalization; culture and identity.

Introduction

At a moment when the ambitious project of a politically unified Europe faces a challenge in the failure of the Europe's first Constitution to gain unanimous approval by its member-states and their societies, I propose to reconstruct the main events surrounding and conditioning the popular and parliamentary voting processes, along with the arguments both pro and con dividing the continent's governments and populations.

It cannot be denied that the rejection of the European Constitution has – in referendums conducted early last year in France and Holland, followed by a possible delay of the popular vote in Denmark, Ireland, Portugal, and Great Britain – ignited an institutional and political crisis that, even if not necessarily terminal, debilitates and calls into question the European political project, bringing on a kind of paralysis from which, for the time being, no escape is apparent.

Even the European Union's leaders, those having both confidence in the European political project and a large stake in its success, recognize that a deep reflection on that project becomes urgent and indispensable. Taking the words of the President of the European Parliament, the Spaniard Josep Borrel, the EU was created as a mobilizing effort, as a dream of peace and cooperation among countries that were historical antagonists, a dream that has been affirmed in reality while, within just fifty years, the antagonism between them has been transformed into partnership and cooperation (Borrell 2005).

The powerful motivation toward the integration of Europe that oriented the generation of Helmut Kohl took as its objective an end of the bloody history of European territorial wars. This motivation was nurtured by Schuman, De Gasperi, and Adenauer – the founder fathers – and incorporated the idea of a necessary integration of the German state into Europe. This was part of a larger effort to dilute the historical suspicious of a nation that, although weakened politically, would strengthen itself economically without delay (Habermas 2001).

The Europe of 2005, however, is not Post-War Europe, both sides of the conflict having started to consider that the goal of peace between them had, in a context of institutions and societies democratically constituted and consolidated, been reached. Yet the second intention — integration of Germany within the continent — remains a goal to be reached, especially given that the country's reunification, encompassing a population of 82 million inhabitants, could harbinger a return to old imperial dreams. This hypothesis of German regression, although improbable, strengthens the idea that peace, laboriously attained through the efforts of a half-century, remains intrinsically linked to the construction of a continental project of political unification.

Leaving aside the hypothesis raised above, which I consider fantastical, the fact the European Union embraced, as of May 1, 2004, ten new states necessarily modifies the process underway, and alters its associated problems. Recent enlargement brought within the borders of the European Union a population more diverse, both historically and culturally; in this context, the integration of the new countries and those on the waiting list

appears as or even more difficult than the integration achieved in the post-war period and the Fifties. In the Nineties, the early post-Cold War era, demands and aspirations of the member states took on greater dimension and heterogeneity, which made more essential to the construction of a new dream both the deepening of their cohesion and the formulation of a calendar of reforms reaching all spheres of daily life (Habermas 2001).

I propose adopting this evolving set of conditions as basis for reflection on this new dream. The first question being: in what would that dream consist, for European citizens both longtime and recently incorporated, those who say 'yes' to the Institutional Treaty because they deem it a carrier of new hope, and those who say "no" because they deem it insufficient to the new European reality? From there, so as to better comprehend the present conjuncture, I intend to address questions not fully solved in the process of construction of the European Union – and therefore making the process difficult – along with other questions appearing in the confluence of recent events, which threaten to interrupt that process. These latter issues turn on the axis of constitutionalization under the political-institutional model, a subject that, related as it intrinsically is to the recent expansion of the European Union's geopolitical borders, comprises what is truly new for Europe on the road ahead.

In reality, this perception of the new gets clearer if we look back a few years, to when the Treaty of Union was formulated and negotiated, and finally signed at Maastricht in February 1992. At that time, not even its own defenders ventured to speak of constitutionalizing the project of integration then underway, as this would have been tantamount to branding themselves with the discarded and offending "F" for federalist. After a decade, political leaders like Joschka Fischer, Jacques Chirac, Valéry Giscard D´Estaing, and Helmut Kohl, joined by intellectuals like Jürgen Habermas, gave political respectability and academic legitimacy to the constitutionalist perspective.

The swing toward constitutionalism arrived, as noted above, along with the project of expansion, during which a point of consensus became the perception that the old institutional machinery of Commission-Council-Parliament was at risk of imploding under the weight of new members unless a profound revision of its architecture could be carried out. The consensus reached in December, 1999, at the Council of Helsinki, seeming to suggest the necessity of constitutionalizing the institutional structure under review, did not translate, however, to consensus as to the content of such a structure (Weiler 2002).

At present, the EU's governments and its populace face new political decisions that with serious ramifications for the future of the bloc, decisions that cannot be evaded. The recent incorporation of ten new states, as adverted to above, along with incorporation of others foreseen for the near future, will change Europe politically, for better or worse, whatever apparatus is adopted. Economic prospects, promising as they may look, are not capable of motivating the voters sufficiently to induce them to support the project of continental integration. Clearly, the regime's legitimacy depends as well on its efficiency. But the great question still in play, and it is on this point that the awaited consensus has not formed, is on what terms the old machinery, with its old processes of decision and repre-

sentation, as seen under the Constitutional Treaty, will prove capable of marshalling the fundamentals that will assure creation of a European identity – an agglutination of diverse political and cultural families having specific national sensibilities and trajectories – that proposes to lead the way beyond that classic dichotomy, Europe-Union of States and Super-State Europe (Nicolaidis 2003).

This dichotomy indeed constitutes the great theoretical and practical challenge against which the European Union is squaring off, a challenge that, descending from the early years of the Union's formation, has in the current debate on the Constitution enlarged its quota of conflict and radicalism. Before embarking on analysis of the subjects that form the core of my argument, I would like to make lay out some theoretical considerations concerning the process of Europe's regional integration, a process whose complexity and particularity have concentrated on its study a vast array of general theories about regionalism in international politics.

The Theoretical Debate

Without proposing to examine the plurality of these theories, I want to bring to the debate those lines of thought helpful to our comprehension of the present European conjunction. Starting with the duality between a "Union of European States" and "Super-State Europe" referred to above, among the first things confirmed is that in following the classic theoretical spectrum associated with the construction of Europe, we see that the different approaches to explaining that construction coincide in how the standard of the relationship between nation-state and union constitutes a central question on which rests the legitimacy of the project of European regional integration (Schild 2001; Schmitter 1996).

This perspective, which will serve as my guideline, leads me to demarcate three currents that fundamentally address the question. On one side stand the state-centric approaches, distinct in their two modalities: liberal-intergovernmentalist (Moravcsik 1993; 1997) and neo-realist (Krasner 1982; 1995; Grieco 1988; Mearsheimer 1990), which despite differences coincide in the "principal-agent" paradigm they both adopt, under which the nation-states composing the European Union constitute the key actor[s] in the Union's process of integration – which is to say, the entity or entities from which decisions flow and in the service of whose interests are placed the community's institutions. This approach rests on the idea that sovereignty, as a condition that cannot be divided among different authorities in the same place at the same time, and therefore suggests that no significant transfer of power from the member states to European institutions or to other actors may occur. With reference to the legitimacy of the nation states' exercise of their recognized role, that of principal agent of the process, this aspect is unquestioned, to the extent that what needs to be legitimized is not the identity of these states in terms of Europe, since they carry their own legitimacy, but rather the European state policy whose legitimacy depends on its recognition by the national actors (Bartelson 1995).

Some distinction among the approaches examined above can nonetheless be noted. The liberal intergovernmentalists develop the idea more pronouncedly than do the neo-realists of negotiation among governments, arguing that the European Union of today is the product of a sequence of deals, each of them worked out to set the agenda for the succeeding period of consolidation. This interpretation suggests that the EU, although an international regime, in administering economic interdependence through a political negotiation found in an interaction between the formation of national preference and intergovernmental strategy, secures the national actors' incentive to cooperate and gain stability. As basis of this position, the perspectives of power – the central neo-realist focus – are less essential than those of economic development (Moravcsik 1993; 1997).

Opposite these are arrayed the neofunctionalist and federalist strains, which converge in envisioning the EU as an "unfinished federal state," following the words of the first president of the European Commission, Walter Hallstein, suggesting that a full federal state would have to substitute for the national state in its central governing functions[1]. In this aspect, the two currents appear interlaced, which permits their being joined under a single banner, that of "federal functionalism" or that of "functional federalism," a combination which yield, according to Morten Kelstrup (1998), the scant political success of the European federalists in the 1950s, obliged as they thus were to combine federal objectives with a functional vision in specific sectors of the integration process. This does not, however, impede their differentiation on the basis of other aspects.

Turning now to the neofunctionalists: their initial efforts – per a prior critique of functionalism developed by David Mitrany[2] and at the apogee of the development of comparative studies, but abandoning or modifying some of its concepts – were motivated by the perception that Western Europe was, due to certain characteristics attending its process of integration, and more than any other region, an object for study of the first importance (Schmitter 2002)[3]. The influence of these efforts was visible from the first steps of European integration, behind the strategy used in the formation of the European Coal and Steel Community (CECA), later the Atomic Energy Community (Euraton), and the European Economic Community (CEE). Throughout the process, neofunctionalism incorporated into its theory a greater number of variables, making it more complex in its analysis of what was happening in Europe, allowing neofunctionalism to foresee, by the evolution of institutions and policies implanted in the region, a wider spectrum of possible effects. As a result, the concept of "spill-over" was being supplanted by that of "spill-around," signifying that the reflection until-then established, concentrated on a particular sector of integration, was growing more ample and incorporating the organizations the growth of whose competencies and powers, due to unexpected consequences arising in the exercise of functions and tasks on the national level, demanded a supranational reframing. (Dougherty and Pfaltzgraff Jr. 2001).

This factor of supranationality, which the neofunctionalists and federalists have in common, does not impede differentiation of them according to numerous other conceptual and substantive attributes. To the federalists the EU presents itself essentially as a

political project to be thought about and organized in the present, and not as the outcome of the increasing complexity of the tasks that, having surpassed the possibilities for execution in the national sphere, and would be better undertaken in the sphere of the Union. Proceeding from this premise, the creation of a "Europe of States" requires a political mobilization supported by objectives not simply linked to interests, but above all to values and beliefs (Habermas 2001). This position, defended explicitly by German Minister of Foreign Relations Joschka Fischer in May 2000 in a speech delivered at Humboldt University, Berlin, has its roots in the 1950s, when Robert Schuman, then France's Minister of Foreign Relations, expounded the idea of a European Federation as indispensable to the preservation of peace. With this initiative Schuman marked the beginning of a new era on the continent, a proposition that – having suffered setbacks and advances all along the trajectory of European construction, has a rebirth now in the form of Europe's first constitution, with all the power and potential conflict inherent in such an instrument.

Between these two positions stand those who describe the EU as a emerging system of governance which is multi-leveled; that is, as a polycentric rather than hierarchical form of organization and political decision-making in which the national states, while no longer the sole significant actors in the process, remain the points at which sovereignty, albeit mitigated, resides. Below and above this center are positioned and interwoven different components of governance, forming complex networks in which national, regional and continental actors – and public and private as well – meet (Wallace 1999).

Per For writers like Schmitter (2002), this theoretical approach remains no more than a patchwork, in that while incorporating intergovernmentalist, neofunctionalist, and institutionalist theory, it does not bring them together in a unified theory, nor in a synthetic comprehensive vision of the process of European regional integration. In the view of others, however, this ambivalence is due to the fact that the EU is a work in progress, a process in which domestic, intergovernmental and pan-European politics combine, across borders that are ambiguous. This lack of definition brings into the game one of the most sensitive issues for member states and societies, namely the division and sharing of sovereignty among the three spheres of power: the nation, the regional, and that of the Union; in light of this question each sphere generates, in putting forward its particular form of legitimacy, a multiplicity of identities within a single territory (Deschouwer 2000; Schild 2001).

It is in view these differing options, sharing as focus the basic institutional issue that divides the European population at present, the place it holds and the functions to be exercised within the Union by the national state, that the European project is being judged. In a scenario in which new peoples and cultures will have to share the values, principles, and aims on which the EU was formed, issues like democracy, legitimacy, social cohesion, forms of citizen participation and human rights from the core of what is being put on the table in a context in which the ballot box will set Europe's course for the coming years.

The Institutional Debate[4]

As this text has pointed out more than once, political-institutional issues will, with the admission of territory comprising 100 million inhabitants of different origins and cultures, take on a decisive weight in the debate on the Constitutional Treaty and in the results of the referendums conducted in France and Holland. This weight, which became evident during the '90s, when the process leading toward the admission of Poland, Hungary, the Czech Republic, Slovenia, Estonia, with Slovakia, Latvia, Lithuania, Bulgaria, Rumania, Cyprus and Malta shortly to follow, acquired critical force beginning in May 2004, when these states were institutional incorporated into the Union. Further steps in this direction have been take, particularly as regards Turkey, which throughout its efforts to move closer to Europe had elicited fierce resistance on the part of both governments and citizenry – from the left labeling the country a "Trojan horse" for Washington, from the right prophesying an Islamic inundation – now has *carte blanche* to initiate negotiations for admission (Semo 2005). Along this course stands a long list of aspirants – Bosnia-Herzegovina, Croatian, Serbia, Macedonia and Albania; more long-range, Belorus, Georgia and Armenia, on whose aspiration action may be delayed for an unforeseen period by the uncertain status of the European Constitution's approval.

Here I would like to include a parenthesis considering the question of the possible incorporation of Turkey into the EU among the countries seeking admission with full rights, given the passions both pro and con aroused by this issue in the population and governments of Europe. I do not intend to elaborate on this at length, as it is not the principal concern of this article, but merely to note certain points that open the way to reflecting on the perception, as much on the part of Turkey itself as on that of the European states, of difficulty of housing in one political and economic structure identities and values of questionable compatibility. I refer to the fact that Turkey, having a population of only 10 million fewer than Germany – 70 million inhabitants, 99% of the Muslim – would in approximately a decade become the only Islamic nation that is part of the EU.

This prospect was set loose in October 2005, when Austria, having argued that Turkey should accept the role of "privileged partner," and after many hours of debate in the chambers of the European Council in Strasbourg, made an about-face and accepted the idea of its inclusion with full rights of membership. In this context it is fitting to ask what are the reasons, from both sides, that make it possible to wager on such an integration, having so little orthodoxy (Semo 2005)?

From the EU's perspective, the admission of Turkey on one hand signals the abandonment of the idea of a culturally homogeneous Europe, with a clear religious identity, and becoming at once a relevant actor in the Mediterranean and the Mideast, given that 97% of Turkey's landmass and 90% of the population lie in Asia. We must remember, however, that this admission, along with those of the other candidate nations, would affect the internal equilibrium of the Union, and the capacity of its institutions to absorb this new contingent of residents, demanding a change in the institutional and functional

architecture of its system of decision-making – especially in view of the prospect that Turkey might, in just a few decades, become the most populous of the EU's member states (Vasconcelos 2005).

From the Turkish perspective, the prospect of admission to the EU equals – to one sector of public opinion – a stimulus to the process of political, economic and social reform underway in the country, as the better part of its body of law would have to be brought into conformity with European legal norms. This strengthens the positions of the reformist and progressive factions which, staked on principles like democracy and human rights, come close to what is required by the EU. Going the other direction, radical Islamic and ultra-nationalists factions oppose the plans of the government in Ankara, accusing it of making concessions to the EU with the aim of joining a Western "Christian club," and arguing that the country should instead establish relation with the Islamic world and along with it form a regional common market (Starobinas 2004).

In any case, it is essential to note that Turkey is a secular country, despite the predominantly Muslim population. Its constitution, a legacy of the 1923 revolution led by Mustafa Kemal Atatürk on the wreckage of the Ottoman Empire, envisions rigorous separation of state and church (Starobinas 2004). This facilitated approval of the commencement of negotiations with the EU, whose terms for full membership, well-founded in the *l´acquis communautaire*, include no reference to religion. This posture, criticized by some European countries, is consistent with the demonstration Europe, cradle of secularism, made in omitting from its Constitutional Treaty any mention of Christianity. To do otherwise would have signaled a lack of respect for the secular nature of the European project, self-defined as universal and not as a Judeo-Christian monopoly. Turkey puts itself therefore within formal requirements. It is hoped that both parties, during their period of approximation and increasing mutual knowledge – which will likely go on more than ten years — show themselves capable of building common objectives, loyalties and identities that, superimposed on the differences and particularities defining them, may form in a region of exacerbated conflicts, a political community of peace and democracy (Magnoli 2005).

Closing, then, this parenthesis on Turkey and proceeding to the analysis of the political-institutional issues surround the May 2001 incorporation into the EU of 100 million new inhabitants: it was foreseen that this enlargement would have a decisive impact in the formulation of the Constitutional Treaty, and on subsequent the debate over its approval. In reality, the problems brought about by the admission of these new states are unarguably greater than those attending prior enlargements of the EU, in 1954, '73, '81, '86, and '95. In the case of the present enlargement, the admission of countries from Eastern and Central – or "the Other" – Europe provokes profound mistrust, in that they bring in their baggage the legacy of five decades under communist regimes, which could complicate their adaptation to what has been and is being required of them – namely, a commitment to the Europe's shared values, the complexity and volume of this change substantially increases. Additionally, there is the fact that their level of economic develop-

ment, significantly below that of the Union's existing members, will call for policies to balance and distribute resources that could produce resistance on the part of the older members of the EU who still depend on community benefits and subsidies (Philippart and Sie Dhan Ho 2001).

The question of expansion can in fact be viewed from another angle. What really ought to arouse concern, according to socialist French senator Robert Badinter, a lawyer and unflagging defender of the European Constitution, is not the admission of this or that country, given how each case is negotiated over years, but the unlimited expansion of the EU's borders, an expansion that could extend as far, for example, as the borders of Iran and of Iraq. In reality, Badinter sees the true issue – at once the most difficult and the one accorded least reflection – in the question of the EU's geo-political limits[5]. Undeniably, the lack of certainty about how far Europe can extend, perhaps to taking in the 46 countries of the European Council, including Russia, has a profoundly destabilizing effect on European public opinion.

This may serve as a reminder to those opposing the Constitution out of fear that it would facilitate the admission of states they consider undesirable, that juridically the new text neither eases nor impedes expansion, in that the admissions of May 2004 and candidacies negotiated on that occasion adhere to the criteria set previously, at the Council´s meeting in Copenhagen, in 1993 (Philippart and Sie Dhan Ho 2001). Without intending to prolong this discussion, as it is not my subject *per se*, I want to draw attention to the theoretical and substantive richness with which its analysis is vested, in that achieving the regional political integration of peoples with differing histories, cultures, languages and experiences – in many cases resistant to conciliation – demands formation of a collective identity that, though based in pluralism and difference, can carry out a legal and legitimate political project accepted by its conjoined populations: a community of law, democratically constituted.

Turning now to the institutional debate about the EU, I want to stress that it is not wholly self-contained. An adequate grasp of reform of the European normative model must encompass a multiplicity of aspects and dimension that take in, beyond a reflection on the manner in which the institutions are organized, with what powers they are endowed, and how they operate, the political context in which they are situated, the interests they represent, and the normative and cognitive beliefs attending the proposed changes. In this sense, demands for institutional reform in the present European context rest on three basic questions: first, an extensive social and economic agenda that, coupled with political reforms, would have to embrace a considerable portion of the spheres of daily life, which brings about the necessity of a parallel reform in the Union's institutions; second, the admission of new countries, increasing the size and heterogeneity of the bloc, will produce a significant impact in distribution of economic and financial resources and in that of political resources, requiring a consolidation and reformulation of the avenues of popular representation that ensure full participation in the various decision-making arenas; finally, changes in the global economy and global geopoli-

tics and the EU's desire to fortify Europe's role in the world will intensify the need for reforms that unify the approach to foreign policy and to the international politics of the region (Olsen 2002).

I would remind us, all the same, that the present impasse, whose outcome cannot clearly be seen, is not the first instance of an apparent interruption in Europe's progress down the path of political unification, whether for reasons essentially political-institutional in nature, economic and financial reasons, or a combination thereof. Even in the '50s, following the constitution of the Coal and Steel Community, France rejected the creation of a European Defense Community that envisioned formation of European common army subject to the authority of a Minister of Defense and contingents to be provided by member states. This plan for a military Europe, which arose as a way of resolving the thorny question of German rearmament – the European army would be subordinate to a European Parliamentary Assembly, elected by universal suffrage – brought with it the idea of the creation of a future federal or confederated political community founded on separation of powers and a representative system comprising a bicameral legislature.

The European defense initiative, debated through 1953 and '54, and finally ratified by five of the states comprised in the "Europe of Six," nonetheless fell short of approval due to its rejection by the French National Assembly, which saw it as manifestly federalist in inspiration. This failure put off for some years the idea of forming a political community, creating an opening for the immediate realization of an economic objective – the only one around which there was consensus – pointing in the direction of a common market, rationalizing production and bringing greater welfare to the population and thereby consolidating the project for the establishment of an economic and monetary community (Camargo 1999).

Some years later, in the early '70s, in the course of debate on the incorporation of new member states – concretized in 1972 with the admissions of Great Britain, Ireland and Denmark – it became evident that it was necessary not only to advance to construction of the common market and of a future economic and monetary union, but to update and deepen community institutions. This brought about creation of the European Parliament, in 1981, an Institutional Commission that, presided over by Altiero Spinelli, undertook the formulation of a Treaty of Union that revived the federalist perspective, which had gradually receded as the intergovernmentalist perspective had gained strength (Spinelli 1988). The document, approved by 237 votes to 31, with 43 abstentions, was addressed to national parliaments, inviting them to convince their own governments to go to ratification. In it was foreseen the incorporation of treaties in force and the supplanting of a diversity of existing legal instruments by a single system of justice. The result was negative, in that only the Italian parliament managed to ratify the project (Camargo 2004).

In contraposition with the Spinelli Project, the Single European Act (SEA) was signed in December of 1985 and took effect in July, 1987, winning quick approval by the Union's then 12 members. This new instrument did not resume the debate about articulation between the national and supranational spheres, limiting itself to some reforms of

existing treaties without changing their natures. The SEA's rationale was essentially economic, in that rules and institutions were shifted so as to facilitate the realization of the single market, as a space without borders in which free circulation of persons, capital, services and goods would be assured, along with the economic and social cohesion that was indispensable to full adherence to the project, which provided for inclusion of less developed countries from Southern Europe. The Single Market, envisioned as becoming a reality in 1968, though the vision was not fulfilled, implied perforce the creation of an Economic and Monetary Union (EMU) and of a single currency for the entire region, objectives only formalized with the Maastricht Treaty in 1992. Even so, the SEA made effective institutional gains, among them the introduction into the juridical sphere of new sectors, such as common external policy and regional cooperation, which had not made an explicit appearance in the Treaty of Rome (Noel 1987; Pourvoyeur 1990).

Within this structure of losses and gains the need for political cooperation was certainly little addressed by the Single Act, which because it did not put forward any new effective modalities for inter-institutional relations that would make the Community's decision-making process more transparent gave ammunition to those fighting for a reduction of what they considered a "democracy deficit."

These are some of the impasses that dogged European construction up to the signing of the Maastricht Treaty on 7 February 1992. The treaty can be seen from a dual perspective: on one hand it incorporates the old and somewhat ambiguous idea of political union, which had increased immediacy following the fall of the Berlin Wall and during the ongoing and rapid reunification of Germany; on the other, it absorbed the proposal for economic and monetary union that, as formulated in 1988 by Jacques Delorme, defined the steps and timetable toward a single currency and a European Central Bank. Still, it set aside a Franco-German initiative, launched in 1990 by Chancellor Helmut Kohl and President François Mitterand, stressing the need to conjoin political union and economic and monetary union, proceeding with them at the same pace. This linking did not occur; the latter advanced – in terms of the successful rooting of its rules and standards, translated into the establishment of a European single currency adopted in 1999 by twelve countries[6] – while the former preserved the intergovernmental format of the past, along with the same rule of unanimity in voting (Camargo 2004).

In any case, the Maastricht Treaty combined and completed the existing prior instruments, advancing in the direction of providing a definite configuration to policies for external relations, security and defense. In parallel, while foregoing the proposal by the French and German heads of state to harness political union to economic and monetary union, it left open the project of a Federal Europe – seen by many as necessary in view of how Germany's progressing reunification might have unleashed thoughts about an opening toward the countries of the East (Quermonne 1992). The effort, however, to reconcile different and often opposing views on the nature and purposes of European unification contributed to low receptivity on the part of the member states, as perceived at the time of the Treaty's approval. Its lack of precision, permitting multiple readings, instilled more

doubts than certainties in the European electorate on the nature and real meaning of what was being put before them.

We should not forget, however, the Union's internal problems, the then-current shifts in the continent's geopolitical equilibrium as a result of the end of the Cold War and of the global economic crisis, the effects of which on the populations of the European countries limited their governments' options. In effect, at the moment the new Treaty of Union was presented to the populace of Western Europe, the oft-described "European fortress" was confronted with the disintegration of the Eastern bloc, the fragmentation of Central Europe, and the fall of the Berlin Wall, relocating to the European Community's peripheral vision the conflict among different modalities and monetary turbulence put at issue by the decision made at Maastricht to advance in the direction of a political union, a single currency and an independent Central Bank before the end of the century (Joxe 1993).

In such a context of changes and new challenges, the effective turning point in the evolution of the EU was marked by the European Council, meeting in Helsinki in December 1999, the occasion at which the chiefs of state and of government made the decisions increasing to twelve the number of countries admitted to negotiations of their joining the Union and conferring on Turkey the title of possible candidate to such negotiations, once the required political and economic criteria had been fulfilled. It was also at this meeting that the calendar for reform of European institutions was set.

With the increase of the European Union, on the horizon of a decade, from fifteen members to nearly thirty, Europeans addressed to themselves a number of questions: what confers a shared identity on Europeans, uniting them as Europeans? And what institutional model would ensure better function and greater efficacy in the Union's processes of decision, homogeneity, and relations with the citizen?

These queries brought about infinite discussion among jurists, political scientists, and politicians across Europe. At the height of this debate, at a conference bringing together the member states' political and academic spheres at Berlin's Humboldt University in May 2002, German Foreign Minister Joschka Fischer presented the idea of a need for a transition from the then-existing Confederation of States to a comprehensive parlamentarization within the framework of the European Federation, as urged by Robert Schuman fifty years before. The German minister's chief arguments were founded on the conviction that the European institutional system prevailing to that point, would not have the capacity to take the challenge of the introduction of the single currency, the future incorporation of new members, the Balkans War, and common policies for external relations, security and defense (Joerges 2000).

The model envisioned by Fischer presupposed, of necessity, the existence of a bicameral European parliament and an administration, likewise pan-European, exercising legislative and executive power within the Federation. These would be anchored by a Constitutional Treaty regulating, among other elements, the division of sovereignty between European institutions and national states. Within this, Minister Fischer distanced

himself from the concept of a superstate transcending and replacing national democracies (Borzel and Risse 2000).

However, even with consensus on this point, the German foreign minister was conscious of the criticisms that would be launched against his proposal from numerous quarters, finding their common ground in the fact of Europe's being a continent replete with differing peoples, cultures, languages and histories, and the fact that the national states were an indispensable factor in legitimizing the process of integration, particularly in a conjuncture in which globalization and Europeanization were creating superstructures remote from citizens and anonymous actors (Olsen 2000).

Anticipating these objections, Fischer affirmed that the federal model he was proposing retained national states and did not eliminate their institutions, seeking to make them partners in the process. Advancing European integration would be imaginable only if carried out on a basis of a sharing of sovereignty between the Union and the national states, a thesis that served as response to a basic theoretical question: how the legitimacy and support on which the process depended in turn depended on the perceived quality of the relationship between the member states and the Union (Joerges 2000).

Fischer's exposition aroused intense debate in the European academic community and brought this issue to the heart of public opinion. Without intending to reproduce this debate, I would like to highlight some points common to various criticisms and others that demonstrate a clear divide between positions on Fischer's proposed institutional model. Many of these pointed to the ambiguity of Fischer's vision regarding a number of subjects, including division of sovereignty in the Federal arena. While Fischer defined the European Federation as "nothing less than a parliament and government exercising effectively the legislative and executive powers within the Federation," he spoke of a "division of sovereignty between the European Union and the national states, and the need to maintain these states within the Union" (Joerges 2000) Thus his vision of the European Federation was ostensibly something less than a supranational state but more than the combination of the institutions then functioning within the European Union. Others asked how to make the community's institutions simpler and more transparent, more democratic, more efficacious in a context of thirty countries rather than fifteen, permitting progress toward integration in parallel with preservation of the national states (Borzel and Risse 2000).

One way or another, independent of these proposals, Fischer explicated his major thesis, putting on the table the main concerns of European governments and citizens embarking on a project to constitute a new juridical persona and a new political space intended to accommodate 100 million new citizens. Were we to summarize the questions Europe's citizens were posing, to themselves and each other, with this new reality on the horizon, we might say that the raw nerve was the word "federation," which even mitigated as it had been in the greater part of proposals emerging from governmental and academic circles, evoked a European Leviathan that could compromise or even corrupt national democracies. For those who shared this concern, a European Federation could never be sufficiently democratic (Leben 2000).

The European Council met at Laeken, Belgium, 14-15 December 2001, and sought to address these issues by convocation of the European Convention, to be presided over by Valéry Giscard d'Estaing. The basic issues on the Convention's agenda included: democratization of integration via citizen participation in the process of deepening the Union; increasing transparency through a clear division of competencies between the Union and member states; unification and reorganization of extant treaties with a view toward formulating a new Treaty of Union, to comprise a Constitution for Europe. The plan, approved by consensus, was presented to the European Council in Salonika, 20 July 2003.

In this manner, the proposals formulated by the German minister, as much as those serving as basis for the Convention, are distinguished from prior reform processes within in the EU by the "constitutional" nature of the questions addressed. This signifies, in the interpretation of jurists specializing in international law, that the EU, as envisioned in the new Treaty, would no longer be purely an organization concentrating on economic questions. In its new institutional configuration, the Union would come to carry out, explicitly, unified political action well beyond the positions and joint actions until then exercised. Precisely for this reason, it became essential for the European governments to expand the discussion to civil society.

It was from this perspective that, in the plenary session of the Convention, on the future of Europe, convoked in June 2003, the final proposal for the Constitutional treaty was launched, after lengthy debate and numerous changes, and approved by the European Council at its meeting in Brussels, June 2004 (Unclares 2003). The response on the controversial issue, the political model to be adopted, was that of a Federation of Democratic States as guarantor of a supranational democracy. The most radical proposal for a Federal State, present in all the debates – the creation in the international sphere of a juridical entity of public law, and in the internal sphere, a conjunction of non-sovereign units, whose autonomy would be limited to the capacity of financial and administrative self-regulation – was eliminated due to special opposition by the United Kingdom. A clear division was stipulated between shared competencies and competencies exclusive to the Union (Cintra and Cintra 2000).

From this point, what aspects of the new European Union Treaty might be seen as responsible for its rejection by many sectors of the European population? This question is pertinent, according to a great number of evaluations, if its premise is that what is being judged is the Constitution and not membership in the Union. Yet it may be fitting to think otherwise: the reasons for rejection lying not in new aspects of the Institutional Treaty being presented, but in what was being left out, in the fact that institutional measures, orientations of the economy, and social policies, in the context of weakening of European social-democracy and the arrival of countries from "the other Europe," gave no clear and satisfactory answers to the challenges being put on the table. This lack of correspondence between what the citizens expected and what was offered to them would have deepened the chasm between Brussels and the national elites of European citizens who would have been excluded from the benefits a politically unified Europe might bring.

The Present Conjuncture

The interval since 29 May 2005, the date on which the French electorate, in a consultative referendum, said "no" to the European Constitutional Treat by a majority of 54.87% – an action repeated in the Netherlands on 1 June of that year, by 62% of the voters – is not yet sufficient to permit clear evaluation of a voting process that, still far from finished, carries arguments borne on different ideological currents, flowing out of contradictory needs and diffuse perceptions of the route into which Europe ought to be guided.

One of the more self-evident points in the minds of the European political and national elites, reinforcing the idea of a gap separating Brussels and the member states' governments from their citizens, was that the "yes" would win an ample margin of victory throughout Europe. This conviction was strong enough to induce ten EU governments – those of Spain, France, the Netherlands, Luxembourg, Poland, Denmark, Portugal, the Republic of Ireland, the United Kingdom, and the Czech Republic – to convoke referendums without hesitation, even though only the Republic of Ireland and Denmark were constitutionally obligated to ratify the Constitutional Treaty by plebiscite. The government of Germany, although strongly confident of a "yes" vote, proposed to carry out ratification by parliamentary process, this being the sole means permitted under the country's constitution.

The governors' lack of understanding as to what was really in the minds of the governed became eminently clear in the case of France, the first country to reject the Treaty, when straw votes taken by the major labor union, the Confédération Générale du Travail (CGT, General Confederation of Labour), and in the ranks of the Socialist Party, as rejection of the Constitution rose past the 50% mark in polls, showed a reality completely different from that anticipated. This distance between government and society opens an initial avenue for reflection, showing the weight of domestic issues in determining the negative popular votes on the European Constitutional Treaty, and how the two spheres, the national and the European, appear to public opinion to have taken up a shared baggage of errors, shortfalls and contradictions. This admixture, in the perception of responsibilities attributed to any instance of decision, of the national and the European, and ambiguities inherent in it, are practically inevitable. They become only more so when European institutions appear remote from citizens and lacking in transparency, breeding mistrust among the segments of the populace that have no clear understanding of the real implications of the EU in their daily existence. This problem grew acute at the prospect of a Constitution for Europe because the national and European political elites championed the "yes" not via a campaign to clarify the content and reach of the Institutional Treaty, but by threatening chaos as the alternative.

Even so, on the eve of the referendum, the debate on European construction was intense among a large part of the body politic. The case of France is paradigmatic in that polls indicated approximately 83% of the population discussed this issue daily, which was

born out in a high turnout, even in comparison with national elections – the greatest in twenty years. The negative result is attributed to the fact that, along with skepticism about the new Treaty, the unpopularity of President Jacques Chirac and his then-Prime Minister, Jean-Pierre Raffarin, visibly tipped the balance toward rejection (Migueis 2005).

In the Netherlands, the vote for the "no" was likewise a surprise to those supporting the "yes," as this country, one of the European Community's six founding members, has remained among its most ardent advocates. Its radical shift can also be explained, in part, by crisis in the domestic political sphere, arising from the opening of a gap between parties and voters and between social movements' leaders and their members and sympathizers. Surveys in the Dutch press show that the leadership of major social movements, unions, parties, professional associations, churches, environmental organizations, and patronage groups ardently endorsed the "yes," while the majority of their adherents went for the "no". These latter, feeling betrayed by their traditional representatives, transformed the nature of the referendum, in which participation was 62% despite the fact that voting was not obligatory. No longer was this solely a matter of taking a position on the European Constitution, but of weighing in on how the expansion of Europe's borders would threaten employment, on the introduction of the euro and the attendant rise in prices, on the degradation of public policies, and on other problems that, touching the voters' day-to-day existence, were imputed with or without reason to the Union. Voters feared as well that Brussels would cast in doubt Dutch policies decriminalizing certain recreational drugs, permitting euthanasia, and extending the right of marriage to same-sex couples; above all they feared being submerged in a Union expanded to 25 states in which the Netherlands would become a minor province, with no real power.

What had been expected at the beginning, had voting proceeded according to plan, was an agenda of referendums in the United Kingdom, the Republic of Ireland, Poland, Portugal, Denmark and the Czech Republic, even with the possibility that the negative result in France contaminated the subsequent votes. This contamination does appear to have occurred, as became evident in the case of the UK, were the thinking was first to postpone the referendum, and then to suspend it, and in Portugal, where it was decided to postpone it for an indeterminate period. Going the other direction, Luxembourg with its 450,000 inhabitants who represent Europe's highest national levels of education and of living standard, approved the Constitution by an ample majority in July of 2005, being the thirteenth state of the EU to do so. In Poland, the referendum set for 25 September 2005 was not conducted, was expected in October 2006, and has been deferred again. Poland's former foreign minister, and current deputy in the European parliament, Bronislaw Geremek, acknowledged that a "yes" by France would have signified a decisively attractive trend, contrary to the "no" that would demobilize the country, particularly as the electoral system in Poland requires 50% turnout for the referendum to have validity. If this quorum were not reached, the question would be deferred to parliament, which – given its conservative majority – might not approve the Constitutional Treaty.

In reality, in Poland as in France and the Netherlands and other member states, the European question is subjugated to the internal political debate, has been noted. The governing Social Democrats, identified with the process of European integration, have met strong opposition from the forces of the right, who make opposition to the Constitutional Treaty a rallying point, decrying as a crucial issue its lack of any reference to Europe's Christian roots.

Indeed, the religious question and its place in European identity ignited an intense conflict around the constitutional project, resolved with the decision to include neither the word "God" – the position opposing that argued by Poland, in whose own constitution the word does appear – nor the word "laicity," inclusion of which was supported by Belgium and more strongly still by France, in whose charter separation of church and state is a cornerstone of the Republic. France would have preferred that this principle figure explicitly in the Treaty, while Poland sought clear reference to Christianity. In its final version, the new text opted for a compromise, via a formula of vague reference to "Europe's religious, cultural and humanist heritages".[7]

Returning to the subject of voting on the Constitutional Treaty: its approval in the Czech Republic also looks less than easy. Even thought the Social Democratic party, basically pro-European, governs the country and has promised that voting on the new Treaty would be carried by referendum, the Czech constitution, while it does not provide for such a modality, requires that a special law be voted in by a two-thirds majority. Attaining this proportion is difficult in light of the weakness of the governing coalition. In opposition, the Communist party, always opposed to the country's joining the EU, waves the flag of loss of sovereignty, while the right, represented by the Civic Democratic Party (ODS), traditionally pro-European and which dreams of a greater market as a principle of pan-European unification, opposes the new Treaty as being too leftist. A final obstacle to be overcome is that, as recent polls by Eurobarometer indicate, only 19% of Czechs intend to vote. The Czech Republic also deferred its referendum on the Constitution.

In the Nordic countries, the "no" would come basically from the left, for whom the Constitutional Treaty is a clear threat to their model of the social welfare state, among its functions the financing of a high level of social services for all workers, employed or not. Effectively, the arguments in Sweden and Denmark are the same, and come from the same camps, as were marshaled against the adoption of a single currency in the 2003 referendum: lack of democracy and transference of sovereignty, which in the shadow of the new Treaty would emigrate to Brussels, consolidating the victory of neoliberal economic policies. But Sweden's government, unlike Denmark's, which looks toward a referendum of as-yet-undefined date, is wary of the prospects for a "no" in view of the negative vote on the euro, and has decided on a vote by parliament, whose approval is virtually assured (Truc 2005).

This is the panorama stretching ahead for Europe. According to most predictions, there remains a long process of reflection and negotiation during which one can expect points of equilibrium and of consensus that could ward off retreat or stagnation in the

project of Europe's integration. Further steps have been taken in this direction, especially considering the large number of states that have been recently incorporated and those at the door demanding to be regarded and received as equals. But this challenge, perhaps the Union's greatest, obligates the Union to turn to itself and reflect on how such a challenge should be met, in the face of the overwhelming logic of the global market, whose principal vector, competition, leaves ever less room for effective democratic policies under which peace, social justice and equality constitute not a utopia but a concrete objective worth staking all one's chips.

Final Considerations

The analysis to this point clearly shows that the EU is crisis, and that the European political project has suffered an interruption, maybe even a retrocession. Nonetheless, I believe that the long course already followed, in which setbacks and interruptions did not impeded advances and gains of great significance for all the member states, is irreversible. One reason is that these states and the very population that has participated in this process, now readying to decide whether to take a pause in which to reevaluate the project or to take another step – perhaps the most significant since the creation of the first European communities – do not want to see a closing of their mutual borders nor a resurgence of threats of conflict and war on a fragmented continent.

In concrete terms, the new treaty is not strictly speaking a constitution, as many call it, in that the Convention for the Future of Europe did not have, officially, the character of a classic constitutional convention, although it did deliver to the Intergovernmental Conference and present to European public opinion a constitutional document. It is not the formal juridical status of the new document that is being questioned, but rather its effective social and political meaning, the manner in which it will impact the daily lives of European citizens, whose number, as has been examined here, increased substantially with the expansion of the Union's borders (Weiler 2002).

The new document, even with the significant changes it entails, especially in political-institutional affairs, can be construed essentially as an exhaustive compendium of treaties signed over recent decades. The text's extension and complexity, not its formal ambiguity, may best explain the misunderstanding and mistrust on the part of the majority of the population respecting the rules and standards that will effectively come to regulate both their day-to-day existences and the functions of European institutions.

From this additional premise I would like to go on to examine some of the principal issues and demands bearing responsibility for popular rejection of the Constitutional Treaty by a segment of the European population, while relating them to the consideration already accorded them in the argument submitted to this point.

Leaving aside the domestic motivations of the different member states, a subject already examined, Europe's citizens – specifically, those already having belonged to the

Union prior to its most recent expansion – concentrate their discontents and grievances, some old and some more recent, around a given number of questions both specific and general. Among them, the enlargement itself, seen as excessively rapid, is a cause of great concern. In this arena it is alleged that there should have been greater clarity in the selection of candidate countries and the determination of the conditions required for admission, by the argument that rules which were relatively correct and effective for the administration of a Europe of fifteen members, such as the right of free movement, may bring trouble in the context of twenty-five. The current perception, in reality, of the recently-incorporated populations in the East is that beyond representing challenges to the old cultures and values of Western Europe, they are prepared to accept any level of compensation for any kind of work, which would impact employment and job quality in the countries of the Union.

It is worth noting that this freedom of movement was not born yesterday. The free circulation of business, persons, capital and services, made possible by the elimination of borders and abolition of internal tariffs, replaced by a common external tariff, was the very *raison d'être* of European construction. To neutralize the possible negative economic consequences of this practice on the poorest regions, which would accentuate asymmetries, common policies like the creation of community funds for these countries are assured in the Constitution. It was this kind of aid that at another point in the Union's growth permitted Ireland, Portugal, Spain, Greece and Italy to catch up economically.

The new Treaty in fact neither impedes nor fosters such free movement. It may nonetheless be slowed if there is greater support for funds destined for development in the new member states. This would give the enterprises and populations of these states enhanced interest in remaining in their own territorial space, in turn stimulating local markets to create new jobs. Absent such support, Central and Eastern European workers might well emigrate to the West where, given their willingness to accept a lower wage or salary than a Western worker of comparable skills, there would be an attendant rise in job dislocations.

The matter of such funds can be viewed from another angle, focusing our attention on the possible creation of an additional problem. The fact that resources anticipated for this purpose have to be divided among a greater number of recipients – even if it is worked out that the new arrivals must wait a set number of years to have right to the same benefits as prior members – could amplify fear and discrimination. The population is apprehensive that coverage may not be sufficient to extend to all those it must include, causing the right of seniority to be no longer recognized.

Another point intensely debated by European public opinion, serving the argument of the "no" faction, is the question of democracy, an issue pointing clearly to the challenge of preserving and consolidating national democracies in the context of the expansion of the Union and greater integration of its member states. This brings us directly back to Schmitter's observation that the future of democracy *in* Europe depends on the democratization *of* Europe (Schmitter 2001).

European citizens' perception of a democracy deficit in the region is not new. But in the context of the present enlargement, it becomes an acute concern. It is feared that the incorporation of nations coming in on a trajectory of non-democratic practice will give rise to new issues and problems that could in turn create an excessive concentration of competencies in the hands of the Union. Pointed out along with this is the fact that integration has not yet brought into use mechanisms for citizen representation, which would require the European Parliament to be transformed into a body with full legislative function, as well as the participation of the population in direct election of the European chief executive (Menendez 2000).

For some writers, Eric Stein among them, there would be a correlation between the level of integration of an international organization and public perception of the lack of democracy and legitimacy in the structures and functions of its institutions. This would explain how the debate on this kind of deficit emerged in the recently-integrated European Community, extending from there to other institutions, like the World Trade Organization (WTO) and international finance agencies, thus becoming an important component of the present opposition to globalization (Stein 2001).

I would like to note, however, that skepticism by Europeans about the legitimacy of their institutions is a recurrent posture, historically, no more so on the level of the Union and other regional and global entities than on the national level. This flows in part from the fact that in step with growth of the acceptance of democracy there occurs a general growth in frustration on the part of ordinary persons in trying to get their problems on the political agenda. There is an increase in the perception on the part of the citizens of democracies, old or new, that only familiar mechanisms – the expansion of suffrage, for example, or redistributive policies – remain available, and these mechanisms have perhaps exhausted their means and capacity for action. Another factor enters in the way present conditions around the democratic regimes differ from those prior in how they propose to bring together democracy and the market – an always unfortunate combination, according to Robert Dahl (1998) – with the incontrovertible victory of the market. If to this is added the fact that, irrespective of differing histories, cultures and preferences, democracy is constituted in actuality along two basic axes, the popular and the constitutional, the legitimacy of democracy becomes – in the European context – harder to nail down. It is asserted that the European *demos*, a "European people," is a non-existent phenomenon and hence none of its institutions, including the Parliament, can in fact represent it (E. Stein 2001).

This argument is, however, rebutted by writers like Habermas, affirming that "a nation of citizens cannot be confused with a community of pre-political determination deriving from common origins, language and history, because this undermines the voluntary character of a contractual nation, the collective identity of which is not anterior to and cannot be viewed in isolation form the democratic process" (Habermas 2001). From this perspective, the formation of a nation of citizens, or rather the contrast among pre-political and contractual conceptions of nationhood, already appears in the formidable

historical attainment represented by the modern national state, which creates its primary form of social integration beyond personal relations in a new and abstract solidarity conferred by law. While ancestral tongues and common ways of life facilitate the process of constructing a sentiment of nationality, this is part of a circular process in which national consciousness and political citizenship establish themselves in a dynamic of reciprocity. In reality, national consciousness has been formed as much by mass communication via newspaper readers as by mass mobilization of activists and voters (Habermas 2001).

Expanding on this with new arguments, Schmitter reminds us that, historically, the creation and constitutionalization of European states arose before the advent of the *demos* in these states. In Great Britain, France, Spain and Portugal, the state was in many cases established long before the "feeling of belonging to a single and like community". As a result, the history of the evolution of European national states shows how, throughout the 19th Century, new forms of national identity were being forged in the population by way of a process of abstraction in which dynastic and local loyalties gradually dissolved and gave way to the consciousness that the people, as citizens, were members of a single nation (Schmitter 2001).

It becomes clear, in this theoretical context, that democracy is not depleted in its popular element. As the liberal constitutionalists tell us, it must be governed by constitutional principles that bring security and stability. Under this postulate, there are no natural definitions of those prerogatives to be kept in the hands of the people, or of the market, or of civil society, and those to be accorded to institutions. But it is possible to argue, from accepted standards, that the ideal system would be that capable of bringing itself into being via a satisfactory balance between these two strata (Schmitter 2001).

In this sense, as regards the EU, the perception of ongoing expansion in the institutional stratum in detriment to the popular lies at the root of mistrust of the Constitution by a great number of citizens who feel increasingly distant from Brussels. Still, it is possible to put forward a counter-argument that Europe's democratic credentials appear no different, in practice, from those of the member nations, now that the constitutionalist revolution has advanced significantly in these two spheres, and become a highly sophisticated machinery, while the popular stratum continues to have little power of representation or of action (Schmitter 2001).

If this is so, what are the reasons for the negative view taken of the EU's democratic credentials? One might point out the fact that the democratic system now in formation and operation on a supranational level is generally compared with highly sophisticated democracies that have evolved over years and even decades to their present states of development, whereas democracy at the national level is evaluated in reference to the form it currently takes. This overlooks how, as Robert Dahl (1998) alerts us, the word "democracy" loses its meaning if its variations across time and space are not taken into account. I should expand on this by noting how, given that the EU is the only supranational democracy, there are no standards in place to enable relative comparisons or judgments.

Proceeding from here, from the fact that the credentials presented by the national and supranational spheres do not differ greatly in their democratic bona fides, we can bring to the discussion of the EU's democracy deficit – or strictly speaking the perception of such a deficit – an additional factor conducive to understand, this being legitimacy. Even as there has been an advance in the establishment of democratic institutions and practices, by way of the constitution now in question or whatever other document approved or to be approved, a considerable part of public opinion would presumably maintain its denial of a right on the part of the Union to intercede in certain issues and domains that should kept subject to decision at the national or local level. This is not peculiar to the EU, however. Practically all government bureaucracies confront the same resistance. Dispute over the attributes of power constitutes an intrinsic part of the political process and bespeaks how the EU, instead of employing contrivances to uphold the status quo, or to repress shifts in competencies, has to accept disparities and differences over time and space, and refrain from construing the situation as traumatic. Far from a finished political model that is rationally defined, well organized, and unified, the Union locates its sole possibility of survival in the ability to accept and organize variation – in beliefs, rules and institutions – and thereby to construct an identity from objectives and in democratic commitment (Schmitter 2001; Mény 2002).

How, then, to advance the formation of an identity beyond national boundaries? What are the empirical pre-conditions, the necessary functional prerequisites? Habermas proposes 3 basic points of departure: existence of a European civil society, based in citizenship; construction of a capacious public arena for political communication; and creation of a political culture that can be shared by all the Union's citizens (Habermas 2001). These conditions can serve as points of reference more for complex and convergent developments, such as the creation of new paradigms, rules, and institutions, and – above all – of elaboration of a new concept that is post-national and not merely an attempt to transpose national structures or models. To make this possible it would be necessary to restore the balance between the popular, at present weakened, and the institutional levels by way of changes and small adjustments, among them making the Commission, the Council, and the Parliament directly responsible to the citizen, strengthening the conduits of transmission via the parties and transnational organizations, reinforcing the role of national parliaments in European policy-making, and making direct democratic reforms, such as referendums and others that can arise in the course of events. This kind of analysis takes the perspective that a constitution could intensify and direct the process to the point of convergence and give impetus to the creation of new constellations of power, not be merely a manifestation of the reallocation of power, as has been until now the case (Habermas 2001).

This solution, however, is not immune to problems, as recent European events demonstrate. Paradoxically, the Constitution proposed is generating not an agglutination of disparate wishes and positions around points of possible convergence, but an exacerbation of the contradictions and criticisms that threaten to paralyze the process of integra-

tion underway. The arm-wrestling goes on, showing that, alongside the politico-institutional issues, the economic question – especially its social aspect, touching directly on housing, employment, income distribution, and policies for development of the member states, and considered at a point when the Union's financial expenditures will extend to a significantly greater population – accentuates the conflict.

It is in this context that there is an increasing perception among certain politicians and intellectuals, particularly the French, and on the part of a significant share of the European population, that the Constitutional Treaty is excessively liberal and that the new Europe that seeks to come into being, dominated by an essentially financial logic, constitutes a threat to the social-democratic victories obtained through recent history. They believe that the member states fully incorporated in 2004 and those whose candidacies stand accepted, by dint of having passed years under authoritarian or totalitarian regimes with economic policy concentrated in the hands of the state and now finding themselves at once unfettered by this and incorporated into the great European market, would champion ever more liberal and less pro-regulatory policies.

It is important to consider, however, that the Constitutional Treat does not bring changes in this respect and that, in reality, it only consecrates the triumph of liberal economic thinking that is currently dominant in the world and has, in Europe specifically for at least two decades, spread beyond the traditional liberalism of the Anglo-Saxons to contaminate even the social-democratic and socialist parties of various member states. The logic whereby, through the past twenty years, economic practices adopted in the post-War period, such as government control of the economy via regulation, nationalization and redistribution, have been effectively dismantled and supplanted by deregulation, privatization, and pressure against redistributive measures, does weigh in varying degrees in the new Treaty (Habermas 2001).

There is no need for me to enumerate exhaustively here the principles of Union included in the Constitutional Treaty. The inventory is long, given that the majority of delegates to the convention and representatives of member states gathered in 2003 would not relinquish the list of aims that figured in the prior treaties and that give an exceedingly economic and liberal tone to European construction. To neutralize them, political, social and environmental objectives were incorporated into the new design, among these being reference to a "social market economy," brought in to soften the earlier principles of a "highly competitive market economy" and "an internal market in which competition is free and unfalsified". This addition in substance and rhetoric was in the event insufficient to change the perception of those who argued that the social-democratic values characteristic of Europe since the end of the 19th Century were losing ground in recent decades and that the Constitution did nothing to restore them (Quatremer 2005).

Many other issues remain to be discussed, particularly those linked to the Constitution's institutional architecture, in view of how power and the extension of competencies of the Union relative to member states – and transparency and proximity to the citizen – have direct influence on the degree of perceived legitimacy and acceptance in the

mind of the citizen. I do not intend to dwell on this point, simply to note that the ratification process is still far from closed. A question is in order: in the event the Constitution should fail to win be approval, in view of how this requires ratification by the Union's twenty-five members, what steps can be taken to avoid the project's simply falling by the wayside?

One of the apt responses is the possibility of modifying the Constitution. But for this to be effective, there must be unanimity among the twenty-five member states and the amendments would have to be ratified by all, whether by referendum or by parliamentary action. In the face of such difficulties, some convention delegates suggest the introduction of less rigid and more prompt modalities of revision, such as adopting a qualified-majority system in given decisions such as those addressing common policy, abandoning the rule of unanimity – as in fact the Constitution proposes. In the context of a possible partial revision, however, such a change in procedure, already having been the object of harsh debate during the negotiation of the Constitutional Treaty, remains among an extremely sensitive point. It would effectively modify relative voting weights in the Union, favoring the more powerful member states. Revision makes sense in the minds of European citizens only if it is articulated with the body of the Constitution itself.

There are also those like Jean Claude Juncker, Luxembourg's Prime Minister and a former president of the European Council, for whom a renegotiation of the Constitution, an possibility advanced by the French electorate, would be unthinkable. In Juncker's estimation, "the Constitutional Treaty presented is the correct response to many of the questions posed by Europe's citizens"[8]. However, in his opinion, many articles of the Constitution on which there is relative consensus could be salvaged; examples being the designation of a Foreign Minister for the Union by diplomats of the member states and by the Commission, and the manner whereby the president of the Union, per the Constitution, would be elected for a mandate of two and one-half years. In any case, while the Constitution's fate is not sealed, negotiations among Europe's leaders go on, with a view toward prorogation of the period for ratification, already deferred to 2009.

It is important to bear in mind nonetheless that should the Constitutional Treaty not win approval, the European Union will not come unmoored. It would remain under the mantle of the Treaty of Nice, signed in April of 2001 and going into effect two years later, delineating the juridical bases of the integration process, assuring viability of the Union's government until 2007. In reality, the Treaty of Nice opened the way to discussion of a great number of the questions being raised now, seeking institutional solutions that serve for the admission of new countries – ten of which already stand at the portals of the EU – and allow concurrent further integration, by a strategy of "small steps", of a federalist character. In this last aspect, the result was more limited since, in the wake of the decision by the Intergovernmental Conference to adjourn, the mandate necessarily devolved solely to the domains directly linked to the integration of new members, leaving for a post-Nice the more general institutional reforms. The leaders of the EU, assessing at this juncture the necessity of creating new institutional mechanisms to permit more secure advance in

the course proposed, called a new Intergovernmental Conference with the explicit mandate of preparing the EU institutionally for the expected expansion (Unclares 2003). The effort was protracted and bore fruit in a plan under the Constitutional Treaty, approved by the European Council on 18 June 2004 and now in the arena to be judged by the population and governments of the twenty-five member states of the Union.

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Translated from Portuguese by Jess Taylor

Notes

1   Walter Hallstein, German Christian Democrat and first president of the European Commission, held the post from the time the Treaty of Rome took effect, in 1958, to 1967. His increasingly emphatic affirmation of the Commission's importance as an executive body, based in his federalist convictions, drew fire from those who argued for a Europe of Nations, among them French president De Gaulle, whose opposition resulted in Hallstein's removal from office.

2   In Mitrany's version of functionalism, in part elaborated between the world wars, the process would be enacted thus: as result of effective cross-border cooperation, the loyalty of beneficiaries would make cooperation increasingly easy and efficient. Eventually would come a point at which the sum of these loyalties and of aspirations respecting functional transnational arrangements would consolidate the supremacy of a new global or regional policy.

3   See also: Ernst Haas (1964), Leon Lindberg (1963) and Stuart A, Scheingold.

4   This section of the text is a modification and updating of an article I published in the periodical *Contexto Internacional* (Camargo 2004).

5   Robert Badinter, at present a Socialist Party French senator, was named Minister of Justice by President Mitterand in 1981, and served in that capacity until 1986. During his tenure, and via his efforts, the death penalty was abolished in the country. From 1986 until 1995 he served as president of the French Constitutional Council. He opposes full EU membership for Turkey, arguing for a different form of cooperation.

6   The Single Currency Treaty, signed in Maastricht in February 1992, took effect in November of the following year. In January 1994 the European Monetary Institute was created, and introduced new mechanisms for fiscal regulation of the member-state economies. In 1997 the Stability and Growth Pact was adopted, aiming to secure stability in exchange rates between the euro and the currencies to remain outside the emerging euro-zone. In 1998, eleven countries qualified for inclusion in the euro zone, and in the year after, eleven currencies were replaced by the euro, which became the shared currency of Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain; two years later Greece also entered the euro zone. From this point, the Central Bank assumed responsibility for monetary policy, defined and executed in euro terms. In January of 2002 euro notes and coins entered into circulation, and in short order the euro became the sole legal tender of countries within the zone.

7   Preamble of the treaty that establishes a constitution for Europe.

8   Statement made by Jean Claude Juncker, Prime Minister of Luxemburg and then president of the Council of Europe, at the meeting of the council held on 16 and 17 June, 2005.

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