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The EU Constitution: Your Questions Answered

Assembly of European Regions January 2005



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Foreword

The Assembly of European Regions (AER), the representative and political voice of 250 European regions, has played an active role in the drafting process of the European Constitution. Now that the final text of the Constitutional Treaty has been approved by the Heads of the EU Member States, it is time for the Parliaments and the citizens of the European Union to have their say.

The ratification process could prove to be even more challenging than the drafting process itself. The main hurdle to ratification is the lack of information available to citizens about the contents of the Constitutional Treaty and its practical implications for the lives of Europe's citizens. The regions have a key role to play in ensuring that the citizens are provided with easily accessible and understandable information that can enable them to make an informed decision in the referenda that will be held in many EU Member States. The AER has therefore produced this short guide to inform regional politicians and officers about the Constitution, in order to assist them in answering some of the basic questions that their citizens may ask on this topic.

This guide forms part of a wider AER information campaign on the Constitution, through which the Assembly of European Regions will be able to support a greater comprehension of the Treaty amongst the citizens of Europe and thereby contribute to the creation of a European Union that is more accessible and transparent for all of its citizens.

Riccardo Illy

A handwritten signature in black ink, appearing to read 'Riccardo Illy', written in a cursive style.

President of the AER
and President of Friuli Venezia Giulia

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What is the European Constitution?

- For an organisation to work efficiently it needs to have rules and procedures that explain how it takes decisions, what its competencies are and how its structures work.
- A Constitution is a single document that sets out the rules and procedures for an organisation or a state. Most states have formal written constitutions that define the powers of the government, parliament and courts, and set out the rights of citizens.
- The European Union, or the European Coal and Steel Community as it was when it was first created, originally consisted of six states that came together and signed an agreement, or treaty, that set out its rules of procedure. As more countries joined the organisation and it evolved into the European Economic Community, the European Communities and finally the European Union, new treaties were developed that amended this original treaty to take account of the new members and to ensure that the structures continued to work as the organisation expanded.
- The result was a European Union that was based on a set of Treaties (such as the Treaty of Amsterdam and the Maastricht Treaty), each one amending the last one, rather than a clear document that sets out the operational rules for the European Union.
- The Constitutional Treaty aims to replace all of these existing treaties and to put all the rules and regulations for the functioning of the European Union into a single document.
- In so doing, the Constitution is able to give the European Union a clearer purpose and to provide the citizen with one comprehensive document that sets out how it works.

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Why does Europe need a Constitution?

- The EU now consists of 25 countries that have chosen to work together in a wide range of areas. In order for such a large number of countries to co-operate successfully, clear rules and guidelines are needed.
- The current situation, in which these rules can be found in a whole series of treaties, is complex and non-transparent. Creating a single rulebook will improve this situation.
- The rules set out in the previous treaties were not designed to support such a large number of Member States working together. The drafting of the Constitution has allowed adjustments to be agreed which can help the enlarged Union to function efficiently.
- The Constitution modernises the EU's structures and clearly outlines EU policies, offering a sense of purpose and a simpler and more accessible set of rules that the citizens can more readily understand.

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How was the Constitution developed?

- The process of developing the Constitution was a long and careful one in which all 25 national governments participated. The Treaty has been developed in such a way as to create a careful balance between all of these interests of all the Member States.
- Representatives of interest groups, Parliaments and civil society also took part in the drafting process. In all, over 100 representatives met together over a period of 18 months in order to prepare the text. There were also regular consultations with other groups concerned with the preparation of the text, such as local and regional authorities.
- A number of drafts of the Constitution were produced before agreement could be reached by all 25 EU Member States. The final text is a compromise that take into account the main demands of each Member State. Of course, it does not incorporate everything that each Member State requested, but it does meet most of their requirements.
- The Heads of State and Government of all 25 Member States signed the Constitution in October 2004, confirming their belief the new Treaty served to strengthen the ability of the European Union to function effectively, whilst still protecting key national interests.

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What is in the Constitution?

- The Constitution has a similar format to what one might expect from the statutes of an organisation, or a national constitution. Serving as the base document for 25 countries working together, it is, however, on a larger scale.
- Firstly the Constitution sets out the mission statement for the EU, followed by its key objectives - a set of statements about what the European Union stands for.
- The second part of the Constitution contains the European Charter on Fundamental Rights and Freedoms, which sets out the rights and freedoms of every European citizen.
- Part 3 of the Constitution describes which areas of activity are to be carried out at the European level. In most cases there is little change here compared to the previous treaties. However, the Constitution does give the European Union additional powers in a few areas, including immigration and asylum policy.
- The remainder of the text sets out the procedure by which the Constitution would become law and the way in which it can be amended in the future.
- The Constitution also has a number of annexes, or protocols, which set out the way in which national parliaments should be involved in decision-making (the National Parliaments Protocol) and how the Union will ensure that it does not take decisions that are better taken at the local, regional or national levels (the 'Subsidiarity Protocol').

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How am I better off under the Constitution than under the current system?

- The Constitution will probably not change the life of the average citizen in Europe dramatically. However, it does introduce a number of innovations that can benefit Europe's citizens.
- The Constitution protects the rights of the citizen through the incorporation of the European Charter of Fundamental Rights and Freedoms. This Charter sets out a list of rights, from the right to life to the right to strike. The incorporation of the Charter in the Constitution ensures that citizens will have their fundamental human rights enshrined in law. The Charter is not intended to change existing domestic law in the member states, but future European laws will need to respect its provisions.
- The Constitution gives citizens a greater say in European decision-making by allowing citizens to petition the European institutions to take decisions on issues of concern to them.
- The Constitution makes the work of the European Union more transparent for citizens. In the past, the Council - the body consisting of Ministers from the Member States - has been criticised for passing legislation behind closed doors. The public does not know what compromises are offered nor how each member state voted. Under the Constitution, the Council will sit in public when legislating so that the public and the press can see and report the legislative process in full.
- The Constitution ensures that decisions are only taken at the European level when matters cannot be better decided at a local, regional or national level. It gives local and regional authorities the right - through the Committee of the Regions - to take the European Commission to court if it tries to produce legislation that infringes this principle.

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What are the key changes introduced by the Constitution?

- Because the European Union has recently expanded to include 25 countries, decision-making has become more complicated. The Constitution therefore attempts to adapt the current rules for decision-making, to ensure that the European institutions can continue to work effectively.
- With 25 Member States it would not be possible for every decision made by the European Union to be taken unanimously. If this were the case, it would be very difficult to take any real decisions and the European Union would gradually grind to a halt.
- The Constitution therefore increases the number of areas where decisions can be taken by a majority vote. However, in those key areas that are particularly sensitive for the Member States, such as tax issues and defence, decisions can only be taken if there is unanimous agreement.
- The Constitution prepares the ground for a single EU foreign policy and creates a new post - the EU Foreign Minister - who will represent the EU externally. He/she will not, however, replace national Ministers for Foreign Affairs.
- The Constitution includes the EU's Charter of Fundamental Rights and Freedoms, setting out the rights of the Union's citizens.
- The Constitution gives more power to the European Parliament - the institution directly elected by the citizens - so that it has the right to vote on most EU decisions.

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When will the Constitution become law?

- The Constitution can only become law once it has been ratified - or approved - by all 25 EU Member States.
- Each Member State has its own rules about how it can approve new European treaties. In some countries, the decision is taken by a vote in the Parliament. In others, the law states that a referendum must be held, in order to allow the citizens to make the decision.
- In some countries there is no law on this, and it is then up to the government to decide whether or not it will hold a referendum. Many countries in this position have decided that their citizens should have the opportunity to vote on the issue and have therefore decided to hold a referendum.
- All Member States must come to a decision before November 2006.
- If all 25 Members have ratified the Constitution by this time, it will become law.

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What happens if my country does not ratify the Constitution?

- The Constitution itself says that it can only become law if all 25 Member States approve it.
- If, in November 2006, some Member States have not ratified the Constitution, because the population has voted against it or the national parliament has rejected it, the European Council will meet to decide how to proceed.
- Saying 'no' to the Constitution does not necessarily mean that a country will have to leave the European Union. If one or more countries say no, it is likely that the EU will try to find a solution to allow the country to remain within the organisation, either by trying to re-word those areas of the Constitution that have proved unacceptable, or by allowing the country to remain under the existing treaties.
- If the Constitution is not ratified, the European Union will not suddenly grind to a halt or cease to exist. The EU has a whole set of treaties upon which it currently bases its work. If the Constitution is not ratified, these Treaties will remain in force.
- However, these Treaties were not designed for a European Union of 25 members, so there will be a need to develop additional legislation to ensure that the EU can function as effectively as possible. This will be a much slower and less far-reaching process than the project put forward in the European Constitution.

Does the Constitution give more power to the European institutions?

- The Constitution does not substantially extend the range of policy areas where decisions are taken at European level.
- National governments still retain their decision-making powers in areas such as defence, foreign policy and tax.
- The Constitution says that decisions in the European Union are to be taken as closely as possible to its citizens, with the European Union acting only when the desired results cannot be achieved through action at the local, regional or national level.
- The Constitution does give more power to the European Parliament, the only European institution that is directly elected by the citizens. It therefore increases the democratic accountability of the European Union and further increases the ability of the citizens to influence the EU's decisions.
- The Constitution will also give national parliaments more of a say in European issues. They will be able to vote on whether to try to block specific pieces of European legislation.
- The Constitution will make European decision-making more transparent, as people will know how their governments voted on particular decisions.

Does the Constitution create a European ‘superstate’?

- No, the Constitution does not aim to create a superstate. It is national governments that are the key actors in the European Union, together with the European Parliament which is elected by the citizens. Decisions taken at the European level are therefore taken by elected representatives who are representing the interests of either their country or their constituents.
- The unelected body - the European Commission - simply has the right to draft legislation and to monitor its implementation. It does not have the right to take decisions about what legislation is adopted. It has much the same role as the civil service in the Member States.
- The Constitution clearly sets out the relationship between the European Union institutions and the Member States. It states that the Union is the servant of the Member States and that all the Union's powers come from the Member States.
- The Constitution states that the laws of the European Union override the laws of the Member States. This however, is nothing new. By joining the European Union in the first place, a country agreed to abide by this principle. If the new treaty is not ratified, European law will still continue to override national law as it does at the moment.

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Will Turkey become a member of the European Union if the Constitution is ratified?

- No, the decision on whether Turkey will become a member of the European Union is in no way related to whether the Constitution is ratified. This is a separate issue.

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Will our country have to use the Euro if we ratify the Constitution?

- No, a country can ratify the Constitution and still chose not to adopt the Euro.
- The Constitutional Treaty states that Member States will co-ordinate their economic policies. There will be a single currency, the Euro, for Member States that wish to participate and meet the conditions. It does not say that countries have to participate in this single currency.

The Assembly of European Regions (AER)

is the political organisation of the regions of Europe and the speaker for their interests at European and international level.

It represents 250 regions and 12 interregional associations. The AER played an active role in the drafting of the Constitutional Treaty and was successful in ensuring that many of its demands were taken into account in the final text.



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