



Gemeinschaft Evangelischer Kirchen in Europa (GEKE)
Community of Protestant Churches in Europe (CPCE)
Communion d'Eglises Protestantes en Europe (CEPE)

The EU Constitution from a Protestant Viewpoint

A Manual for Churches

On 29 October 2004, the 25 heads of State or Government of the enlarged European Union signed the Treaty establishing a Constitution for Europe in Rome. In order that this Constitutional Treaty may come into force, it must be ratified in the Member States. This can be done either by vote in the national parliament or through a referendum. In many countries the ratification process has triggered discussions about the contents of the EU Constitution. There are also voices of concerns and misgivings about the Constitutional Treaty: “The Constitution will lead to less democracy in Europe.” “The Christian values do not appear in it.” “The EU’s priority is economic interests, and social protection continues to disintegrate.” “The EU Constitution forces the States to an increased expenditure on armaments and militarisation of policies.”

The Constitution-related debate is necessary and meaningful; after all it is the basis for Europe’s future development. For this reason we have compiled in the following some important elements of the EU Constitutional Treaty from a Protestant viewpoint. Each section consists of a short description of the contents of the Constitutional Treaty, debate on them, and assessment from a Protestant viewpoint. With this manual, the Community of Protestant Churches in Europe –Leuenberg Church Fellowship – wishes to make its own contribution to the discussion about the ratification of the EU Constitutional Treaty.

History of the EU Constitutional Treaty

“Believing that Europe, reunited after bitter experiences, intends to continue along the path of civilisation, progress and prosperity, for the good of all its inhabitants, including the weakest and most deprived; that it wishes

to remain a continent open to culture, learning and social progress; and that it wishes to deepen the democratic and transparent nature of its public life, and to strive for peace, justice and solidarity throughout the world, ...”
(Preamble)

The present EU is based upon a series of treaties, which makes the EU law highly complicated and unclear for European citizens. Furthermore, some important political areas are left unconsidered in those treaties. The Constitutional Treaty provides the EU with a clear legal basis taking account of its development from a community of purely economic interests at first to a community backed up by common values. By providing for increased legal clarity, the EU Constitutional Treaty ensures more transparency in the process of political decision-making. The Constitutional Treaty also takes account of the fact that the EU has grown now to a community of 25 States, thus bringing 450 million people together. It strengthens the position of the EU Parliament, the direct representation of the EU citizens.

“Religious inheritance” in the Preamble of the Constitutional Treaty

“Drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law, ...” (Preamble)

The wording of the preamble proved controversial until the last minute. It was not until the concluding intergovernmental conference that its final text was agreed on. During the Convention working on the draft Constitution, many churches in Europe tried to have a direct reference to God incorporated into the Preamble. This demand could not be met for political reasons on account of the different (also secular/laicistic) traditions in the Member States. Instead, the preamble has now the above-quoted reference to the “religious inheritance” of Europe as an opening paragraph.

From a Protestant perspective, it is natural that a clear distinction be made of the tasks of the State and the Church. At the same time, it is also true that both areas must carry out their tasks in responsibility to God. The religious inheritance of Europe includes the realisation that every State authority stands in responsibility to God and humankind. This being so, the wording

attained should not be underestimated. In principle, the Preamble of the Constitutional Treaty should not be considered isolated. It is a significant fact that in many other parts, especially those referring to fundamental values, the Constitutional Treaty is based on the values which are also fundamental from the Christian viewpoint.

Fundamental values

“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”
(Article I-2)

An innovation crucial for the European Union is the formulation of its values and objectives and the inclusion of the Charter of Fundamental Rights in the Constitution Treaty. The respect for human dignity and the safeguarding of human rights are values purported for the State's action. The Charter of Fundamental Rights has an article on the freedom of religion (Article II-70), right to religious education (Article II-74) and respect for cultural, religious and linguistic diversity in the Union (Article II-82). What is new and highly topical in the EU Constitutional Treaty is the prohibition of eugenic practices (i.e. prohibition of selection of persons for reasons of their genes), the prohibition of using the human body and its parts for financial gain, or the prohibition of trafficking in human beings (cf. Article II-63-65). According to II-111, the Charter can be applied to the implementation of Union law. Furthermore, the protection of fundamental rights accorded in the national constitutions remains valid in the Member States. The EU Constitutional Treaty sets the norms which might be of a particular significance also for the Protestant minority churches in Europe – and of course for all the future Accession Countries.

Status of churches and non-confessional organisations

“(1) The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.

(2) The Union equally respects the status under national law of philosophical and non-confessional organisations.

(3) Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.”

(Article I-52)

On the one hand, this article guarantees the churches the respect of their legal status under the national regulations. On the other hand, the EU commits itself to an “open, transparent and regular dialogue” with churches in parallel with a stronger participation of civil societies (in Article I-47).

From the viewpoint of Protestant churches, this is a decisive progress in comparison with the present situation, because it guarantees their legal status and opens the door to a broader space for dialogue at European level. Both articles (Article I-47 on civil societies and Article I-52 on churches) are an important contribution to a stronger participation of European citizens.

Economic and social policy

“The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion ...” (Article III-209)

In connection with the economic and social policy, attention should be paid to the separate domains of competence of the EU and the Member States: The EU is responsible for the implementation of the internal market in which free movement of persons, services, goods and capital is ensured in accordance with the Constitutional Treaty (cf. Article III-130). This also includes the free movement of workers and the freedom of establishment of companies within the internal market. The Member States commit

themselves to a close coordination of their economic policy in accordance with “the principle of an open market economy with free competition” (cf. Article III-177). At the same time, the EU and the Member States commit themselves to the implementation of the aforementioned fundamental social rights and a policy of social cohesion. It falls within the competence of the Member States, however, to set out the law and fundamental principles of the social security system, and the EU has only a coordinating function. The Constitutional Treaty also puts forward different criteria for the economic and social policy. It is the task of current policy to combine them together in order that none of the objectives named might be neglected.

For Protestant churches, it is important that the EU Constitutional Treaty contains provisions for safeguarding the social and economic rights of those who cannot protect themselves as they are not so competitive as others. The principles of subsidiarity and proportionality (cf. Article I-11) are its important elements. This means that superior organs assume only the tasks which cannot be carried out by smaller entities. This is a decisive prior condition for the nearness of the EU policy to people.

Common foreign and security policy

“The Union’s competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union’s security, including the progressive framing of a common defence policy that might lead to a common defence.” (Article I-16, para. 1)

One of the objectives of the EU Constitution Treaty is the increasing development of a common foreign and security policy, among others the creation of the post of EU Minister for Foreign Affairs. The common security and defence policy includes the gradual framing of a common defence policy of the Union. This will lead to a common defence as soon as the European Council, acting unanimously, so decides. It enables the EU to carry out the missions for whose implementation it may use civil and military means. Such missions specified in the Constitutional Treaty are among others joint disarmament operations, humanitarian tasks and rescue operations, military advice and assistance tasks, conflict prevention and peace-keeping tasks, use of combat forces as part of crisis management

including peace-making measures and operations for post-conflict stabilisation. (cf. Article III-309).

Concerns have been expressed by a number of Member States that this may lead to increasing militarisation of the EU policy. Some Member States see their policy of neutrality endangered by that. What is controversial in this regard is above all Article I-41, para. 3 of the Constitutional Treaty which obligates the Member States to progressively improve their military capabilities and establish a European Defence Agency whose task is to implement any measures needed to strengthen the industrial and technological base of the defence sector. On the other hand, the Constitutional Treaty underlines the obligation of the Union to preserve peace, prevent conflict and strengthen international security in accordance with the principles of the United Nations Charter and those of the Helsinki Final Act. Another task set out in this connection is to foster the sustainable development of developing countries (cf. Article III-292). It should be remarked that the stipulation of unanimity in determining a defence case (Article I-41, para. 2) means a considerable obstruction to the use of military means.

Consequently, the question about EU’s future foreign and security policy does not depend so much on the Constitutional Treaty itself as the implementation of the provisions under constitutional law in a concrete policy. From the perspective of Protestant churches it is an improvement of the Constitutional Treaty to have expressly embedded civil means of peace-keeping and conflict prevention. Yet, the priority of peaceful conflict prevention could have been made clear more emphatically.

EU Constitutional Treaty and EU citizens

On 12 January 2005, the European Parliament in Strasbourg approved the EU Constitutional Treaty by a large majority (500 votes to 137, with 40 abstentions). The MEPs are of the opinion that “taken as a whole, the Constitution is a good compromise and a vast improvement on the existing treaties”. Although the approval of the European Parliament does not have any binding effect, it has a strong political significance that the people’s representatives have so clearly endorsed the Constitutional Treaty.

The EU Constitutional Treaty will come into force on 1 November 2006 if all the 25 Member States have ratified it till then. Ratification means that the text of the EU Constitutional Treaty can be accepted or refused only in its entirety. It is no longer possible to make amendments on the text of the Treaty. The European Parliament has pointed out, however, that the text of the Constitutional Treaty may be changed once it has been approved.

From a Protestant viewpoint, the Constitutional treaty is, despite some points of criticism, a considerably improved basis for the living together of people and States in Europe. Therefore, we support the ratification of the Constitutional Treaty.

Berlin/Brussels, 9 May 2005

The Presidium of CPCE:
Prof. Elisabeth Parmentier, Strasbourg;
Prof. Michael Beintker, Münster;
Council President Rev. Thomas Wipf, Bern

The Treaty establishing a Constitution for Europe was published in the Official Journal of the European Union of 16 December 2004.

Link: <http://europa.eu.int/eur-lex/lex/en/index.htm>.



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At present 104 Protestant churches in Europe (including five South-American churches originating from Europe) belong to the Community of Protestant Churches in Europe (CPCE). Lutheran, Reformed, United and Methodist along with pre-Reformation churches such as Hussites and Czech Brethren grant each other pulpit and table fellowship on the basis of the Leuenberg Agreement of 1973.

Presidium:

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Prof. Michael Beintker, Munster;
Council President Rev. Thomas Wipf, Bern

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