openeurope

briefing note

Who's afraid of a referendum? What do the public think?

In the December 2001 "Laeken Declaration" which launched the constitutional process, EU leaders admitted that citizens "feel that deals are all too often cut out of their sight and they want better democratic scrutiny" and agreed that a way needed to be found to stop the "creeping expansion of the competence of the Union".

The Declaration called for "better responses to practical issues and not a European superstate or European institutions inveigling their way into every nook and cranny of life." The political leaders also talked about "restoring tasks to the Member States," and said that powers could be returned to the national and local level.

So it is ironic in the extreme that a process which was launched to bring Europe 'closer to its citizens' is set to end in an attempt to sneak the remnants of the rejected Constitution past voters, while refusing to hold the referendum which was promised.

When "no" means "yes"

Since the no votes and even before, EU leaders have displayed total contempt for the democratic process.

Valery Giscard d'Estaing, the author of the Constitution, said: "People say 'We cannot vote again.' What is this joke? We have to vote again until the French see what the stakes are." (Agence Presse, 12 June 2006)

Giscard d'Estaing has also argued that: "It is not France that has said no. It is 55 percent of the French people." (FT, 23 May 2006)

Even before the referendums Luxembourg Prime Minister Jean-Claude Juncker said: "If it's a Yes, we will say 'on we go', and if it's a No we will say 'we continue." (Telegraph, 26 May 2005)

As Juncker previously noted, this is the way the EU has worked in the past. He said: "we decide on something, we leave it lying around and wait and see what happens. If no one kicks up a fuss, because most people don't know what has been decided, we continue step by step until there is no turning back." (Economist, 24 September 2004)

Fooling the voters?

Now EU leaders are displaying their contempt for democracy in a different way. They talk about how to fool voters by changing the words – but not the substance of the constitutional treaty.

For example, a leaked letter from Angela Merkel to other EU leaders proposed that:
"The consolidated approach of part one of the constitutional treaty is preserved with the necessary presentational changes." She proposed "To use different terminology without changing the legal substance" and to "Replace the full text of the Charter of Fundamental Rights by a short cross reference having the same legal value."
Another letter from Merkel summarising their recent discussions noted that:

"A certain number of Member States underlined the importance of avoiding the *impression* which might be given by the symbolism and the title 'Constitution' that the nature of the Union is undergoing radical change."

But while EU leaders are prepared to change the words, they are not prepared to change the substance of the constitution. Spanish Europe Minister Alberto Navarro said, "We were prepared to find a title other than 'foreign minister', but we are not prepared to change the substance of his role." (FT, 19 June 2007)

As Italian Prime Minister Romano Prodi has pointed out: "as long as we have more or less a European Prime Minister and a European Foreign Minister, then we can give them any title." (Speech in Lisbon, 2 May 2007)

Giuliano Amato, the Italian Interior Minister and Vice-Chairman of the European Convention which drafted the Constitution, has argued that EU leaders should "change the name, but not the substance" of the EU Constitution in the new text. He joked that "the good thing about not calling it a Constitution is that no one can ask for a referendum on it!" (Speech at the London School of Economics, 21 February 2007)

The whole way in which EU leaders describe what they want to achieve suggests a deeply undemocratic approach, which is radically opposed to the supposed goals set out in the Laeken Declaration. They often talk in terms of 'getting the new treaty past a referendum'.

As Peter Mandelson puts it: "Anything that crosses the threshold of requiring a referendum will immediately run into difficulties. We have to come to terms with the fact that *getting any constitutional treaty past a referendum* in our member states will be an uphill struggle."(Independent, 3 July 2006)

The UK Government is once again claiming that the new version of the Constitutional Treaty is just a "tidying up exercise". Margaret Beckett claimed that it will simply "tidy up the rule book of the European Union now that we're twenty seven and not twelve or fifteen. (BBC Sunday AM, 17 June 2007)

<u>If this isn't a big change – why are other countries holding referendums?</u>

Despite EU leaders' desire to avoid referendums on the revised EU constitutional treaty, there will almost certainly be votes held at least two other EU countries – Ireland and Denmark. France will also need to amend its national Constitution in order to ratify the new treaty.

Ireland: In *Crotty v. An Taoiseach* (1987) the Supreme Court of Ireland established that EU treaty changes can only be agreed through amendments to the Irish Constitution. The Irish Constitution can only be changed if the Irish people approve

it in a referendum. EU leaders will therefore be unable to avoid putting the revised constitutional treaty to a vote in Ireland.

Denmark: The Danish constitution requires that the country must hold a referendum if a new EU treaty represents a transfer of sovereignty. The only way the government can avoid this is if 5/6ths of the parliament agree that the treaty doesn't transfer sovereignty. It is therefore normally difficult to avoid a referendum in Denmark – although the country did not hold a vote on the Nice Treaty.

France: Nicolas Sarkozy fought and won an election making it clear that he would not hold a referendum. But while the UK Government is insisting that the revised Constitutional Treaty has lost its "Constitutional elements", in France the Government has admitted that MPs will have to amend the French Constitution in order for it to be passed.

Netherlands: There is likely to be pressure for a referendum, because the no vote was so overwhelming (nearly two thirds said no). The original referendum was triggered by the Parliament rather than the Government. This time the Government has said that a group of constitutional wise men should rule on whether a referendum is needed.

Voters in every single member state want a referendum

Opinion polls from across Europe show that there is widespread support for holding national referendums on any new treaty which gives more power to the EU.

A TNS poll of all 27 member states in March found that 75% of all people in the EU want a referendum on any new treaty which gives more powers to the EU. In the UK, 83% would want a vote to be held. A substantial majority of voters in all 27 countries want a referendum.

If there was a referendum on a treaty giving new powers to the EU, on average 41% of people in the EU would vote for it, with an exactly equal 41% voting against. But UK voters would vote more than three to one against a new treaty (67% - 21%). Majorities would also vote "no" in 16 other EU countries, including Germany.

An FT/ Harris poll this month also found that 75% of Spaniards, 71% of Germans, 69% of Britons, 68% of Italians and 64% of French believe the revised EU Constitution is important enough to warrant a referendum.

Business opinion

UK business is particularly worried about the new voting system that is likely to be in the revised constitutional treaty as it would reduce the UK's voting strength by 30% - meaning that even more EU regulation would be passed than at present.

A recent ICM poll of 1,000 UK Chief Executives found that 54% thought that the benefits of the EU's single market were now outweighed by the burdens of EU regulation.

89% wanted to "establish clear fixed limits on the powers of the EU."

52% thought EU was "failing" and wanted to take back powers, while only 36% thought it was a "success" and should have more powers.

In particular, 71% thought that the UK should take back powers over employment and social policy.

When respondents were asked "Do you think that Britain should or should not renegotiate the existing EU treaties so that they are reduced to trade and association agreements only?" 60% thought it should, 30% thought it should not.

Conclusion:

Fundamentally, this is about democracy. The Government promised a referendum which is long overdue; now they want to take it away again. When MPs permanently give away powers which we have only *lent* to them in the first place, the voters should have a say. In the UK, no-one under the age of 50 has had a chance to have a vote on the direction of the EU. The fact that they might vote "no" is not an acceptable argument.

As the Former President of Germany Roman Herzog put it:

"People have an ever increasing feeling that something is going wrong; that an untransparent, complex, mammoth institution has evolved: divorced from practical problems and national traditions; grabbing ever greater competences and areas of power; that the democratic control mechanisms are failing - in brief, that it cannot go on like this." (Die Welt, March 2007)