

Rhetoric and reality

(1) Isn't this just the same document?

What politicians say in Britain

"The constitutional project, as the document states, was abandoned."
- *Gordon Brown*¹

What politicians say in the rest of Europe

"The substance of the constitution is preserved. That is a fact."
- *Angela Merkel, German Chancellor*²

"A great part of the content of the European Constitution is captured in the new treaties... We have not let a single substantial point of the constitutional treaty go... It is, without a doubt, much more than a treaty. This is a project of foundational character, a treaty for a new Europe."
- *Jose Zapatero, Spanish Prime Minister*³

"The good thing is...that all the symbolic elements are gone, and that which really matters - the core - is left."
- *Anders Fogh Rasmussen, Danish Prime Minister*⁴

"They haven't changed the substance - 90 per cent of it is still there."
- *Bertie Ahern, Irish Taoiseach*⁵

"It's essentially the same proposal as the old Constitution."
- *Margot Wallstrom, European Commissioner*⁶

"Only cosmetic changes have been made and the basic document remains the same."
- *Vaclav Klaus, Czech President*⁷

"There's nothing from the original institutional package that has been changed."
- *Astrid Thors, Finnish Europe Minister*⁸

It "takes up the most important elements of the constitutional treaty project."
- *Guy Verhofstadt, Belgian Prime Minister*⁹

It "is not essentially different from the constitutional treaty... All the key institutional solutions remain... Some symbolic elements will be cleared up and some formulations toned down."
- *Janez Jansa, Slovenian Prime Minister*¹⁰

"In terms of content, the proposals remain largely unchanged, they are simply presented in a different way... This text is, in fact, a rerun of a great part of the substance of the Constitutional Treaty."
- *Valery Giscard d'Estaing, Author of the European Constitution*¹¹

"The Taoiseach and I have had a meeting this morning. We have discussed the European constitution and how that can move forward over the next few months."
- *Gordon Brown*¹²

(2) Does it create an EU Foreign Minister?

What politicians say in Britain

"The posts of Commissioner for External Relations and High Representative will be amalgamated in a single job—the Union Representative for Foreign Affairs, not a Foreign Minister... our red lines were secured."

- *Jim Murphy, Europe Minister*¹³

What politicians say in the rest of Europe

"It's the original job as proposed but they just put on this long title - High Representative for Foreign Affairs and Security Policy and also vice President of the Commission. It's the same job... it's still going to be the same position."

- *Bertie Ahern, Irish Prime Minister*¹⁴

"As long as we have more or less a European Prime Minister and a European Foreign Minister, then we can give them any title."

- *Romano Prodi, Italian Prime Minister*¹⁵

"The title of EU Foreign Minister may have been lost but the powers remained."

- *Dora Bakoyannis, Greek Foreign Minister*¹⁶

It creates a "de facto Foreign Minister."

- *Ursula Plassnik, Austrian Foreign Minister*¹⁷

"We were prepared to find a title other than 'foreign minister', but we are not prepared to change the substance of his role."

- *Spanish Europe Minister Alberto Navarro*¹⁸

"What does it matter what we call him?"

- *Nicolas Sarkozy, French President*¹⁹

"It remains the case that we managed to get a European Foreign Minister - even if we now once again call him High Representative for External Affairs and Security - who nevertheless retains all the competencies which were given to him in the Constitutional treaty."

- *Jean-Claude Juncker, Prime Minister of Luxembourg*²⁰

"With the new posts of the President of the Council and the High Representative for Foreign Affairs and Security, Europe will see its effectiveness, visibility and representativeness strengthened, increasingly as an authentic European government."

- *Spanish Prime Minister Jose Zapatero*²¹

(3) Will the Charter of fundamental rights have an impact on our national law?

What politicians say in Britain

"It will not be legally enforceable."

- *Keith Vaz, Former Europe Minister*²²

"The legal advice that we have had is that this Charter brings in no new rights."

- *Jim Murphy, Europe Minister*²³

"On the charter of fundamental rights, we secured a legally binding protocol, specific to the UK, applicable both to the British courts and to the European Court of Justice."

- *Tony Blair*²⁴

What politicians say in the rest of Europe

"It was important for the [Swedish] government to keep the Charter legally binding, which now is the case... the UK accepted this... It should be stressed that the UK was given a clarification, not an opt-out."

- *Frederick Reinfeldt, Swedish Prime Minister*²⁵

"The Charter will be binding for the European institutions, and also for member states when they implement EU law, even if it does not apply to all of them."

- *Margot Wallstrom, European Commissioner*²⁶

The Protocol looks flawed juridically. Regardless of the UK's exclusion clause, the EU courts will be bound to develop jurisprudence in fundamental rights matters which steadily evolve into general principles of EU law which all member states must respect. Moreover, the European Court of Justice will be blind to the nationality of an EU citizen who chooses to invoke the Charter under EU jurisdiction."

- *Andrew Duff, Liberal Democrat MEP*²⁷

"The legally binding charter of fundamental rights contains and guarantees citizens' most important rights in the European Union. Those attempts that envisaged the charter of fundamental rights as some kind of a goal to be attained - let's say a future guidance only - have failed, and we now think that a social Europe, a Europe of freedom has been reinforced on some very important points."

- *Ferenc Gyurcsany, Hungarian Prime Minister*²⁸

Jacques Ziller, a professor at the European University Institute in Florence, said that the idea of one country opting out of the Charter was "nonsense" and would quickly be challenged in the courts.

- *Report in European Voice*²⁹

"In Brussels yesterday Antonio Vitorino, a former European justice commissioner, questioned the legal basis for the British opt-out. Commission legal experts take the same view and expect the British opt-out eventually to be tested in the courts."

- *Report in Guardian*³⁰

Leaked legal advice to the European Scrutiny Committee from Parliament's legal advisor Michael Carpenter said that it was very unlikely that the protocol could stop the Charter affecting national law: "This is a high standard to set, and I doubt if what appears to have been agreed secures this result."

- *Report in Telegraph*³²

(4) Finally... are politicians being straight with us?

What politicians say in the rest of Europe

"The good thing about not calling it a Constitution is that no one can ask for a referendum on it."

- *Giuliano Amato, Former Italian Prime Minister* ³³

"Public opinion will be led to adopt, without knowing it, the proposals that we dare not present to them directly." ³⁴ "All the earlier proposals will be in the new text, but will be hidden and disguised in some way." ³⁵ "What was [already] difficult to understand will become utterly incomprehensible, but the substance has been retained... Why not have a single text? The only reason is that this would look too much like the constitutional treaty. Making cosmetic changes would make the text more easy to swallow." ³⁶

- *Giscard d'Estaing, Author of the European Constitution*

"They decided that the document should be unreadable. If it is unreadable, it is not constitutional, that was the sort of perception... Because if this is the kind of document that the IGC will produce, any Prime Minister - imagine the UK Prime Minister - can go to the Commons and say 'look, you see, it's absolutely unreadable, it's the typical Brussels treaty, nothing new, no need for a referendum.' Should you succeed in understanding it at first sight there might be some reason for a referendum, because it would mean that there is something new."

- *Giuliano Amato* ³⁷

"The aim of the Constitutional treaty was to be more readable; the aim of this treaty is to be unreadable... The Constitution aimed to be clear, whereas this treaty had to be unclear. It is a success."

- *Karel de Gucht, Belgian Foreign Minister* ³⁸

"Britain is different. Of course there will be transfers of sovereignty. But would I be intelligent to draw the attention of public opinion to this fact?"

- *Jean Claude Juncker, Prime Minister of Luxembourg* ³⁹

Sources:

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- ⁴ Jyllands-Posten, 25 June 2007
- ⁵ Irish Independent, 24 June 2007
- ⁶ Svenska Dagbladet, 26 June 2007
- ⁷ Guardian, 13 June 2007
- ⁸ TV-Nytt, 23 June 2007
- ⁹ Agence Europe, 24 June 2007
- ¹⁰ Slovenian Government Communication Office, 23 June 2007,
- ¹¹ European Parliament Press Release, 17 July 2007 and Telegraph, 27 June 2007
- ¹² Press conference in Belfast, 16 July 2007
- ¹³ Hansard 11 July
- ¹⁴ Irish Independent, 24 June
- ¹⁵ Speech in Lisbon, 2 May 2007
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- ¹⁷ APA 24 June
- ¹⁸ FT, 19 June 2007
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- ²⁰ Press conference, 28 June 2007
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- ²² 22 November 2000
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- ²⁴ Hansard, 25 June 2007
- ²⁵ Evidence to Swedish parliamentary committee, 26 June 2007
- ²⁶ Telegraph 12 July 2007
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- ³³ Speech at LSE, 21 February 2007
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- ³⁵ Sunday Telegraph, 1 July 2007
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- ³⁹ Telegraph 3 July 2007