

The European Constitution and the New Framework for European Foreign Policy

José Borrell Fontelles
President
European Parliament

The Constitutional Treaty project formally adopted in Rome by the Heads of State and Government on 29th October 2004, establishes the dream of a political Europe. In the field of the Union's External Action and worthy of note the Constitution Project is particularly innovative. For the Mediterranean and its civilizing dream of a future shared in peace and prosperity between its shores, the project of a European Constitution is particularly appealing as it provides the European Union with the necessary tools to face the new challenges which we are confronted with.

The evolution of the European Foreign Policy from its beginnings in the Treaty of Maastricht, until the present time, has undergone a gigantic transformation. If we consider that the European Union has quite recently begun to coordinate missions and military and police operations, for example in the Balkans and the Congo, we will see the great advances achieved.

Perhaps it is in this field in which the project of the Constitution is most innovative and from the beginning, the Convention approached the reform in the structures of the Union's foreign policy. Some of the questions put forward in Laeken claimed to have an answer for the need to study this field in depth, in order that the European Union confront the challenges demanded of it in an international context and the position it holds in the world.

The fact that the task of drafting the Constitution has coincided in time with the transatlantic crisis and the division

of Europe caused by the invasion of Iraq has strengthened the idea of a Common Foreign and Security Policy.

The preparation of a European Security Strategy in December 2003 emphasised how the crisis in Iraq acted as a catalyst, in many cases more than a serious obstacle in the development of this policy. The history of mankind is crammed full of crises which have stimulated progress. Among the important changes in the Constitution lie, in the first place, the disappearance from its structure of the *pillars* which have prevailed until now. It puts an end, therefore, to the distinction between the inter-governmental Common Foreign and Security Policy (CFSP) and the external community relations which were shown by the existence of a High Representative (Mr Solana) and the then Commissioner for Foreign Affairs, Mr Patten, now Ms Ferrero-Waldner respectively.

The important institutional innovation proposed in the Convention is the creation of a Union Minister for Foreign Affairs, who will be in charge of the Common Foreign and Security Policy, but who, at the same time, will be part of the Commission. By means of this *double membership* Commission-Council, or *double hat* as it has been called, the Minister for Foreign Affairs will be responsible for the execution of foreign policy *as a whole*. It is a measure which aims to give unity, visibility, efficiency and cohesion to European external action, by joining all sectors of foreign activity under one title. It will be a new figure which will have to demonstrate its true potentiality in practice.

In like manner, among the fundamental advances proposed by the Constitution, is the formulation of a political framework for European Foreign activity based

on the Union's objectives and principles, which furthermore intend to encourage "democracy, rule of law, universality and indivisibility of human rights and fundamental liberties, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and International Law" in the whole world.

I have taken the liberty of quoting them (Article III-292) because they represent an authentic dream and ideal of brotherhood and universality among men. By means thereof, Europe confirms itself as a planetary actor who acclaims the law and *effective multilateralism* as the only means of action on the international scene and the abandonment of the logic of power as the only means of relation in international relationships.

The European strategy of security adopted in December 2003, which I mentioned earlier on, is based on a new philosophy and on which Europe develops these principles and defines its challenges and threats, its strategic objectives and the most appropriate forms in order to try to attain a new international order.

Another important aspect is the maintenance of unanimity in the taking of decisions in the field of Common Foreign and Security Policy. The ferrous opposition of certain States made it impossible to introduce the qualified majority in this sphere.

The qualified majority is only contemplated in certain assessed cases and always in decisions which execute another previous decision adopted by the European Council, as indicated in Article III-300. However, a suspension mechanism in the ordinary legislative proceeding (*emergency brake*) is foreseen in the cases in which one State opposes the passing of a decision by a qualified major-

ity for "vital political reasons." It is regrettable in this field that neither the proposals of the Convention (qualified majority for the proposals put forward by the Minister with the support of the Commission) nor those presented by the Italian presidency (qualified majority for all the Minister's proposals) were able to defeat the opposition of a series of Member States.

As a last resort, the possibility is depicted that the Council decide, unanimously, on the transfer of certain domains of unanimity to the qualified majority by means of that which has been called *bridge* clauses, which would make the revision of the established provision in the Constitution flexible. It is interesting to note, unfortunately, that in this domain (Article 1-40. 7), the bridge proceeding is an exception to the general rule, as in this case neither the consultation of the European Parliament nor the transmission to the National Parliaments are required, which is the case in other sections of the Constitution.

Going on to another subject, the Constitution facilitates and strengthens a foreign representation of the Union before third parties, which had not been given its full scope until now. The obligations of the collaboration in the diplomatic representations of the Member States are strengthened, making possible, arising from its legal personality, for the Union to have real instances of political representation in third countries, like the present delegations of the Commission which would become delegations of the Union. With regard to the foreign representation, the Constitution also aims at the creation of a European External Action Service, under the direct command of the Union Minister for Foreign Affairs. The Constitution indicates other fields in foreign relations which should be called to mind, such as the positive modifications introduced in the Common Commercial Policy. We should not forget that if the European Union is one thing, it is a great commercial power. The Constitution situates the Common Commercial Policy under the title of external action, an unmistakable sign that it "will be carried within the framework of the principles and objectives of the Union's exter-

nal action." It is undoubtedly a great achievement for all internationalists. The development which it will be given and the real value which it establishes in favour of a world and a commerce which is both more just and more equitable remains to be seen.

We should also mention a final field in which the Constitution introduces a notable advance in the field of cooperation with developing countries and humanitarian aid. The recent disaster caused by the tsunami which has devastated south east Asia, has once again emphasised the importance of the European Union relying on combined genuine instruments to stand up to these disasters, for example. The Constitution furnishes specific fundamental points of law, subject to the ordinary legislative procedure which will facilitate a genuine action by the European Union in these domains.

I have not wished to develop the advances which the Constitution is making in the field of the Common Security and Defence Policy, as this is not the object of this analysis, but I would like to insist on the solidarity clause included in the Constitution. According to this clause, a Member State when faced with a terrorist attack or a natural or man-made disaster will be given assistance by the other States (Article III-329), which is an authentic instrument of solidarity among the members of the Union.

As President of the European Parliament, whereby I have the privilege of serving all the Europeans, I cannot fail to allude to the role that this institution plays with regard to external action.

Of the two great traditional tasks of a Parliament, those of legislation and control, the significant increase in the role of the European Union in foreign policy, means that the European Parliament is also increasing its competence in this field. The changes proposed by the Constitution will facilitate these tasks. For example, the creation of a Minister for Foreign Affairs in the Union will simplify the control of the Parliament which will have only one interlocutor.

The advances proposed by the Constitution provide us with further examples: the simplification of the budgetary pro-

cedure will provide the European Parliament with new fields of control, influence and negotiation and we should remember that it is the sole community institution which is directly elected by citizens. Another field which will strengthen the role of the Parliament is that of the Commercial Policy, whereby the Constitution establishes that the consent of the European Parliament will be required in order to close commercial agreements, as well as obliging the Commission to periodically account for the negotiations held.

One of the most important aspects of the European Foreign Policy in years to come will be the relations with its neighbours following the success of the latest extensions. The policy of good neighbourliness promoted by the European Union will have the benefit of new opportunities for development with the mechanisms proposed by the Constitution. In this framework, the different policies and instruments to promote cooperation and economic, social and political reforms needed in Mediterranean countries and in the Middle East, will be one of our main priorities. It was thus depicted in the European strategy of the policy of good neighbourliness developed by the Commission in May last year.¹

In this chapter one is obliged to refer to the Euro-Mediterranean Process which was initiated in Barcelona ten years ago, in the content of the peace negotiations between Israelis and Palestinians. It is now time to revitalize this by making good use of the changes which have taken place recently in the region. Peace, security and prosperity, so longed for, are common challenges on both shores. Dialogue is, therefore, essential among the Mediterranean peoples. In March 2004 the Euro-Mediterranean Parliamentary Assembly was constituted (EMPA), whose objective is to strengthen the parliamentary dimension of the Process of Barcelona in which the European Parliament plays a very important role. This forum may become a very important tool for dialogue between Europe, the Arab States and Israel, by means of which it will give impetus to the commencement of a hope for a definite peace in the region.

¹ European Neighbourhood Policy, Strategy Paper, Communication from the Commission, Brussels, 12th May 2004, COM (2004) 373 final, http://europa.eu.int/comm/world/enp/pdf/strategy/Strategy_Paper_EN.pdf

The Union's Foreign Policy requires without doubt a policy of good neighbourhood and needs to find a solution for the

conflicts and inequalities which are tearing the Middle East and the Mediterranean basin apart. I am sure that the

advances in foreign matters which the Constitution will provide will make the changes we all need possible.

European Strategy for Mediterranean Security (PESC/PESD)

The European Security Strategy, approved by the Brussels European Council (12 – 13/12/2003) opens up two lines of evolution: the first being the consolidation of the concept of security nearest to "soft security" and "human security," outlined in the report of the *Study Group on Europe's Security Capabilities* entitled "A Human Security Doctrine for Europe" (Barcelona, 15/9/2004). It highlights the connection between internal tensions and international threats, as well as incorporating new dimensions, such as the environment and human movements. Following this line, the conclusions of the Brussels European Councils (17-18/6/2004 and 16-17/12/2004) state, respectively, that the means that have been employed can be considered from a multidisciplinary, pragmatic and long-term perspective; at the same time, greater priority will be given to actions against the causes, rather than actions against the effects and each case will be considered on its own merits.

The second line is the drawing up of a strategic vision for the EU as an international actor. The EU proposes to be more and more active, to assume greater responsibility, to equip itself better, to improve its capabilities and to work in close collaboration with third actors, such as the G8 or NATO.

At the same time, the conclusions of the 6th Euro-Mediterranean Conference (Naples, 2-3/12/2003) grant more importance to the political aspects of the partnership and reinforce the connection between the PESD and the Barcelona Process. The security dialogue has become more visible and has allowed some of the Mediterranean member countries to participate in formation activities and exercises.

The emphasis put on the structural measures is reflected in the conclusions of the Meeting of EuroMed Foreign Ministers (The Hague, 29-30/11/2004), that insist on the support of the *Partnership Building Measures*, such as the Maltese diplomats' seminars, the EuroMeSCO network, civil protection co-operation and crisis management.

Furthermore, the final report on the EU Strategic Partnership with the Mediterranean and the Middle East (Brussels, 17-18/6/2004) identi-

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fies the fight against terrorism and organised crime, the proliferation of weapons of mass destruction and the resolution of regional conflicts, such as in the Middle East, as the principle international threats in the Mediterranean region.

For its part, the Declaration on the fight against terrorism (Brussels, 25/3/2004) incorporates the antiterrorist clauses in the agreements established with some of the Mediterranean member countries (for example, Egypt) and reinforces the co-operation between the judicial authorities and the police.

In relation to the non-proliferation of weapons of mass destruction, a specific clause has been introduced in the new Euro-Mediterranean framework agreements and it works in favour of the effective fulfilment of the multilateral and political agreements on non-proliferation.

Finally, and as stated in the conclusions of the Euro-Mediterranean Foreign Ministers mid-term Conference (Dublin, 5-6/5/2004), the methodology used will be worked on in order to bring together the security concepts on both sides, strengthening the commitments on values and common principles and emphasising the need to implement specific activities. This will mean that the dialogue at high ranking civil service level will intensify and the reinforced co-operation between smaller groups of countries will become more established. A new co-operation mechanism will be studied which is more adaptable to the new international reality and that will probably include the establishment of consultation, working groups and *ad hoc meetings*, as much in the regional scope as in the sub-regional.

European Security Strategy (ES):

<http://www.consilium.eu.int/uedocs/cmsUpload/031208ESSIIIES.pdf>

EU Declaration on Combating Terrorism (EN):

<http://ue.eu.int/uedocs/cmsUpload/79635.pdf>

EU Strategic Partnership with the Mediterranean and the Middle East (EN):

http://europa.eu.int/comm/external_relations/euromed/publication/2004/euromed_report_78_en.pdf

EU Strategy Against Proliferation of Weapons of Mass Destruction (EN):

<http://ue.eu.int/uedocs/cmsUpload/st15708.en03.pdf>

The Barcelona Report of the Study Group on Europe's Security Capabilities. "A Human Security Doctrine for Europe" (EN):

www.lse.ac.uk/Depts/global/Human%20Security%20Report%20Full.pdf

NATO security strategy (Mediterranean Dialogue and Istanbul Cooperation Initiative)

Between June 2003 and December 2004, NATO has reinforced co-operation in the Mediterranean region in two ways.

On the one hand, and coinciding with the celebration of the 10th anniversary of the Mediterranean Dialogue (8/12/2004), its transformation in Partnership. The framework of bilaterally multilateral co-operation in the Mediterranean region (made up by Algeria, Egypt, Israel, Jordan, Mauritania and Morocco) will reinforce both the practical co-operation, as well as the political dialogue. It will concentrate on aspects such as the fight against terrorism, the co-operation on border security and the assistance for defence systems reforms.

On the other hand, through the launching of the Istanbul Cooperation Initiative (28-29/6/2004). Thought of as a parallel bilateral initiative to the Mediterranean Dialogue, it complements it by extending co-operation on practical security issues to countries in the Greater Middle East area (consisting of Bahrain, Qatar, Kuwait and the United Arab Emirates). It will tackle issues such as the fight against terrorism, the proliferation of weapons of mass destruction, border security, the management of civil crises, assistance for defence systems reforms, the training and the eventual participation in some Peace Association exercises or in specific operations directed by NATO.

About the Mediterranean Dialogue:

www.nato.int/med-dial/home.htm

About the Istanbul Cooperation Initiative:

www.nato.int/issues/ici/index.html

Speech by the Secretary General of NATO, Jaap de Hoop Scheffer (Munich, 12/2/2005): www.nato.int/docu/speech/2005/s050212a.htm

Elisabeth Dalmay
IEMed