



Robert Schuman

Reflections on the Treaty of Rome and today's EU

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REFLECTIONS ON THE TREATY OF ROME AND TODAY'S EU *

Joaquín Roy ♦

A year of truth

It may sound too dramatic, but two years after the Spanish initial effort in February of 2005 in ratifying the EU constitutional text, it is felt that “it is now or never for the EU”. The year 2007 has been considered to be decisive for the organization for the coincidental reason that it was fifty years ago when the EU took its second daring step with the Treaty of Rome of March 1957. This epoch-making document transformed the initial European Coal and Steel Community (ECSC), announced by the Schuman Declaration of May 9, 1950, and officially born in 1951, by incorporating the European Economic Community (EEC) and the European Atomic Energy Community. The new entity was collectively and legally called the European Communities. Then it was simplified to be known as the European Community (EC), though it would come to be popularly called the Common Market, a label still used by generations of Europeans.

This thoroughly economic dimension signaled that the new creation had made it to the third stage of economic integration. It had so graduated from the second, the Customs Union, which imposed a system of common tariffs. It had come a long way from the ECSC, the first experiment that included (in a limited common market) only two products. However, they were strategic and necessary to produce weapons. The new entity was intended to "make war unthinkable" and eventually "materially impossible".

In the mid-1980s, almost three decades after Rome, the architects of the experiment realized that in order to complete the Common Market as contracted in 1957 they would need over three hundred individual regulations. This was the only way to guarantee the full circulation of goods, capital, services, and people. So Jacques Delors, president of the Commission, the EC's executive body, convinced the Council of the need to approve a Single European Act (SEA) in 1986 which had also prepared the way a few years later for the Maastricht Treaty (1992) which created the European Union.

Then the double coup came in. First, the EU adopted the euro as a common currency (anchoring the fourth level of integration, a monetary union). Second, it proceeded to execute the most spectacular broadening in its history --it almost doubled in size-- with three phases of

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additions. In 1995, Austria, Finland, and Sweden were incorporated because of the exhaustion of their "neutral" stance during the post-war period. Then in 2004, ten countries were added in a single move, eight of which had been part of the Soviet bloc for almost 60 years, plus Cyprus and Malta. Finally, in early 2007, two other countries, Romania and Bulgaria, joined the EU, bringing the total of members to 27. The EU already comprises half a billion people. All of this has been accomplished in just 15 years since the end of the cold war.¹

The impasse of the constitutional process marks its presence five years since the adoption of the euro by 300 million citizens in the thirteen countries of the EU, as well as a handful of mini-states that had previously used the currencies of the EU Member States. The euro was a success in all basic monetary operations. Although the dollar remains dominant in terms of the setting of prices and tallying debt, as an exchange currency the euro is on the verge of surpassing it. And while the dollar remains ahead of the euro as the official reserve currency, the euro is catching up in this regard as well.²

However, while these two ambitious moves proved to be highly successful, the warnings have not diminished regarding the need for the institutional reform of an organization used to dealing with fifteen more-or-less collegial members. In response, the EU committed itself to complete its legal framework with the approval of a constitutional treaty that would serve to codify and update the various proposals to render the integration project more viable and effective and give it an international profile more in keeping with demands of today's complex world. Unfortunately, the Constitution was derailed halfway through the ratification process with the rejection by Dutch and French voters.³

With the project put on hold until more favorable conditions emerge, observers have been looking towards the German presidency of the EU in the first semester of 2007, with an eye placed on the results of France's May elections. The energy of the German government and the disposition of the new leadership in Paris will certainly determine the future course of the EU.

Three crucial dimensions deserve an analysis in comparative terms of how the EU looked half a century ago and how it is today. The first is related to the different nature of its leadership, then and now. The second calls the attention to the fact that the present anniversary is in a way unfair and inaccurate in anchoring the birth of the European Union solely on the Treaty of Rome of 1957 and the implementation of the trio labeled European Communities with the addition of the EEC and EURATOM to the original ECSC. The third, closely connected with the spirit of the second, is a subtle, but decisive, contrastive approach and theory applied to regional integration then and now, and how this issue affected the process of the European Union.

European leadership

Elitist, cultivated, cosmopolitan, technocratic, visionary, arrogant. These have been some of the qualifiers bestowed on the foundational protagonists of the European integration process. By applying these epithets to the personalities of a couple of emblematic Frenchmen (Jean Monnet and Robert Schuman) and then extending the label for German Konrad Adenauer, Italian Alcide de Gasperi, and Belgian Paul-Henri Spaak, one can easily understand the spectacular success of the project as expressed in the current reality of European Union.

Today we can see that without the original decisive leadership of the "founding fathers" nothing would have been the same. Moreover, while "nothing would have been possible without

¹ For a comprehensive collection of essays on the enlargement, see Joaquín Roy and Roberto Domínguez, eds., Towards the Completion of Europe: Analysis and Perspectives of the New European Union Enlargement. (Miami: European Union Center/Jean Monnet Chair, 2006).

² María Lorca, "The euro turns five", Miami/Florida European Union Center, EUMA, February 2007.

³ Joaquín Roy, "After the French and Dutch rejection of the EU Constitution", European Union Center/Jean Monnet Chair, May 2005 <http://www.miami.edu/eucenter/eu-france-2000final.pdf>

the work of these men” (as Monnet loved to cite the Swiss philosopher Amiel), “nothing would be lasting without the institutions, pillars of civilization”. Monnet believed the project of integration to be solidly grounded on independent entities, armed with a budget capable of meeting the expectations for success.

These men knew then that they faced a crucial choice. On the one hand, they wanted to avoid repeating the errors of the past. They rejected the inventing of grandiose pseudo-federal schemes equipped with no political will that led nowhere in terms of providing economic and social stability and were incapable of stopping the endemic European wars. On the other hand, they had to opt for innovating, in a bold and elitist move, through a decisive manner, a new, practical, “functional” approach.

Then, their decision was impelled by the firm conviction of correcting the failure of the traditional political formations, the historical parties that were part of the problem, instead of finding a solution. The leadership at the time also distrusted the masses, kidnapped by totalitarian ideologies. These dogmas, in addition to outbursts of racist hyper nationalism, had pushed Europe on the brink of suicide, risking the near destruction of its civilization, orphaned of institutional pillars.

Monnet and Schuman, and later the drafters of the Treaty of Rome, felt to be free from guilt, although they collectively accepted the European original sin for causing wars. They faced the new task of integration with responsibility (in its ethimological sense), already in their maturity years, without avoiding risks that would endanger their careers. They became responsible, not in front of “God” or “History” (as in some extremist regimes), of even the “Nation”, but to Europe, of which they disposed of its false Arian connotation given by Hitler.

Free from unneeded political ballasts, they pretended with some degree of wisdom to play simultaneously the Atlantic loyalty and the Pan European specificity. Without a nod from the United States (with its Marshall Plan and its nuclear umbrella), the integration project would had floundered. What was avoided was the dark choice between to be “a Russian colony” and “an America protectorate”.

Ideologically, they insisted on fusing liberal positions with socialist ideas. While it was assumed that the capitalist system would be strengthened in its economic dimension, it would also be reinforced with a social pact. The need for political redemption and effective reconciliation made possible the success of the cooperation between personalities of the left and right, a solution which legacy is still present today in its fundamental issues.

Thanks to this elitist approach, the founding fathers did not have to depend on opinion polls and the capricious inclinations of the masses, avoiding the effects of the “re-nationalization” of the integration process, now subjected to the electoral cycles. Today, European leaders cannot afford the luxuries of their predecessors of a half a century ago. Or, at least, they do not want to face the risks.⁴

This early privilege of having a hands-free power for deciding and influencing the first steps to be taken by the European process of integration is the key for explaining why the dawn of the EU was dominated by a political vision that was enshrined on a sectoral, concrete operation, pretending that the states are not to be the dominant actors. At the same time, a keen analysis has been detecting that the reaction coming from the national governmental structures was also present at birth, becoming from subtle to obvious in the evolution from the original Schuman Declaration to the crafting of the subsequent institutional framework to manage the European Coal and Steel Community. Moreover, this evolution became clearly and empirically demonstrable by the legal web as exposed by the Treaty of Rome that put together the new triangular structure.

⁴ For a view of a practitioner, see Angel Viñas, “¿Una víctima de su propio éxito?”, in the collective volume and special issue of Información Comercial Española, *Las políticas comunitarias: una visión interna* (Madrid: Información Comercial Española, 2006), pp. 679-726.

Two contrastive approaches

From a “vertical” perspective as shown on May 9, 1950, Europe evolved towards a rather “horizontal” approach in implementing “an ever closer union” on March 25, 1957. In essence, this oscillation is still present today. A widening “federalist” concept of regional integration was put in practice by the Treaty of Rome conception, derailing the foundational mission anchored on sectoral integration, as expressed in the Schuman Declaration.⁵

The scant lines of this intriguing document are enough proof of its intentions and offer a mechanism for obtaining the primary purpose (the end of European wars). The functionalist approach, a political theory elevated to doctrine, insisted on this need of acting upon a limited dimension, a sector. However, this tactic had to be executed in a decisive way. Instead of planning and compromising alliances, the functionalism hidden behind the Schuman-Monnet offer would build a “de facto” solidarity. Moreover, the sharing of a concrete portion of economic sovereignty (coal, steel, oil, etc.) should be placed in the hands of an entity designed for that purpose only.

The opposing approach was to be expressly elaborated with the mapping out of the European Economic Community, born at the same time as the sectoral EURATOM (designed around one industrial activity). In contrast, what was envisioned by the organization that was commissioned to manage the Common Market was in fact the seed of a federal state. Ironically, this expression that with time became a taboo, not to be mentioned any longer in official documents, was actually inserted as a blunt ending in the Schuman Declaration: “this proposal will lead to the realization of the first concrete foundation of a European federation indispensable to the preservation of peace”. This “F” word became the target of the empty chair tactic of De Gaulle⁶ and it was the trademark of Margaret Thatcher’s opposing the deepening of the EC.⁷

Forgotten by many as mere additional words with no substance, the preambles of the successive treaties that supported the founding of the initial EU provide a striking comparative glimpse about the priorities of each one of the documents and their political and economic philosophy.⁸ With this idea in mind, significantly, the preface of the ECSC treaty insists on the issues of the need for peace. It commits itself to build a new Europe based on “practical achievements” that will create “real solidarity”. It also advances the intention of raising “the standard of living” through institutions and the establishment of “an economic community” to substitute for “age-old rivalries”. In turn, the preamble of the Treaties of Rome stresses the plan for “an ever closer union” through economic and social progress, eliminating barriers and obstacles, strengthening the unity of economies and ensuring harmonious development, reducing differences in regions and restrictions to international trade. But the document ends with a commitment to preserve and strengthen peace and liberty. The result of this comparison is a subtle mirror image: the ECSC promised to implement a political goal through step by step

⁵ Lorenza Sebesta, “Los motivos de la crisis europea: una hipótesis interpretativa”, in Gustavo Morales Vega, Incentivos y dificultades para la integración en el siglo XXI: Región Andina, Unión Europea y Acuerdos de Libre Comercio. (Bogotá: Pontificia Universidad Javeriana, 2006), pp. 21-55.

⁶ Charles De Gaulle, “A Concert of European States”, in Brent F. Nelsen & Alexander C-G. Stubb. The European Union: Readings on the Theory and Practice of European Integration. Boulder, Co: Lynne Rienner Publishers, Inc., 1994, pp. 25-42; reproduced from “Europe,” in Memories of Hope: Renewal and Endeavor, trans. Terence Kilmartin (NY: Simon and Schuster, 1971).

⁷ Margaret Thatcher, “A family of nations”, in Brent F. Nelsen & Alexander C-G. Stubb. The European Union: Readings on the Theory and Practice of European Integration. (Boulder, Co: Lynne Rienner Publishers, Inc., 1994), pp. 45-50.

⁸ For an easy contrastive reading, see European Communities, “Preambles to the Treaties of Rome”, in Brent F. Nelsen & Alexander C-G. Stubb. The European Union: Readings on the Theory and Practice of European Integration. (Boulder, Co: Lynne Rienner Publishers, Inc., 1994), pp. 13-15; reproduced from Treaties Establishing the European Communities (ECSC, EEC, EAEC), Single European Act, Other Basic Instruments, abridged edition (Office for Official Publications of the European Communities, 1987).

actions (functions), while the EEC primed the tackling of the economic and social advancement. In a way, it predicted the need for the future support of the integration process, to be sustained by economic and social results easily perceived by the citizens. The maintenance of peace was to be taken for granted.

When the EEC and the EURATOM projects became operational and with their ratification in sight, Monnet supported the new stage of the integration process from the backstage perspective of the Committee for the United States of Europe, the consultative and lobbying entity where he took refuge when he declined having a second term as president of the High Authority. However, this was not his standing attitude. He had expressed doubts about the switch to a “horizontal” Europe, away from the “vertical” sectoral approach that presided over the logic of the Schuman Declaration and the foundation of the ECSC.⁹ When the design of the European Defense Community collapsed, Monnet and others pondered about the next move and saw that in absence of an alternative project, the future of the Coal and Steel scheme was in doubt. They then turned their attention to other sectors that could be identifiable. They found them in the area of energy and transport, and narrowed them down to nuclear energy. This identification, once more, was in tune with the preoccupations of the U.S. administration that under Eisenhower engaged in the selling of the “Atoms for Peace” initiative.

Theoretical prisms

From the point of view of the theory of integration, the ideological/philosophical support of the Schuman/Monnet idea was explained by the “functional” theory expressed earlier by David Mitrany.¹⁰ As reinterpreted by Monnet, the function dictated the shape of the pieces of the organization, not the other way around. Hence, the novelty and specificity of the High Authority was called by the precise, revolutionary function of the pooling of the coal and steel industries. As reshaped and enriched by Ernest Haas in what was known as “neofunctionalism”, this theory downgraded the role of the state as a delivering actor to meet the demands of the complex societies of Europe.¹¹ The key for the successful implantation of this logic of integration was the “spill over” effect of one sector acting under the pressure of “pooling” sovereignty to cover other portions of the economic and societal fabric.

The exhaustion of the “neofunctionalist” view gave ground to the rise of an analytical and theoretical mapping that owed much to the realist tradition. In turn, it devolved due credit to the role of the states and national governments. “Liberal Intergovernmentalism” then interpreted that the success of the subsequent stages of the EU from the Treaty of Rome to Maastricht could be easily explained by the cooperation of the governments, downplaying the autonomous work of the institutions.¹²

⁹ Jean Monnet, Memoirs. (London: Collins, 1978); Jean Monnet, “A Ferment of Change”, in Brent F. Nelsen & Alexander C-G. Stubb. The European Union: Readings on the Theory and Practice of European Integration. (Boulder, Co: Lynne Rienner Publishers, Inc.), 1994, pp.17-24; reproduced from Journal of Common Market Studies, 1 (1)(1962): 203-211; Francois Duchene. Jean Monnet: The First Statesman of Interdependence. (New York: W.W. Norton & Company, 1994); Robert Schuman. Pour l' Europe. (Paris: Nagel, 1963); Walter Hallstein, United Europe: Challenge and Opportunity. (Cambridge: Harvard University Press, 1962).

¹⁰David Mitrany, A Working Peace System (London: Quadrangle Books, 1966). See excerpt in Mitrany, “A Working Peace System”, in Brent F. Nelsen & Alexander C-G. Stubb, The European Union: Readings on the Theory and Practice of European Integration. (Boulder, Co: Lynne Rienner Publishers, Inc., 1994), pp. 77-98.

¹¹ Ernst B. Haas, The Uniting of Europe. Political, Social and Economic Forces, 1950-1957 (Notre Dame: Notre Dame University Press, 2004).

¹² Andrew Moravcsik, The Choice for Europe. Social Purpose and State Power from Messina to Maastricht. (Ithaca, N. Y.: Cornell University Press, 1998); also: Andrew Moravcsik, “Negotiating the Single European ACT: National Interests and Conventional Statecraft in the European Community”, in Brent F. Nelsen & Alexander C-G.

The problem was that no matter what degree of credit the institutions are rewarded, the reality is that the EU could not cope with the new task (“function”). As created by the post-Maastricht revolution, Brussels prepared for the incorporation of a large group of countries of which a majority was previously under Soviet influence. The structure was seen as framed for a small number of national actors with a certain degree of cohesion and development level.

The traditional custom of modifying the original Treaty of Rome with subsequent documents composed of amendments was considered as imperfect and obsolete. Hence, the decision to design, discuss and approve a new legal framework that would be called a “Treaty establishing a Constitution for Europe”, known for short as the “Constitution”. After a long, open, elaborate process, democratic as much as possible, within the intergovernmental logic, the result was a huge text, a sort of encyclopedia of principles, regulations and methods that only a minority of legal experts could comprehend and make sense of. It is not surprising that some governments, in an exercise of hypocrisy because they commissioned high level representatives to participate in the drafting process, expressed doubts about the ratification possibilities of the “Constitution”. Meanwhile, some European societies gave clear signs of planning to use the referendum opportunities to punish their own governments and Brussels for problems experienced in their own context and for fears hovering their heads. The result is that the constitutional process has been frozen since the rejections rendered by the French and Dutch electorates.

With the perspective of the historical context present during the times of the Schuman Declaration and the Treaty of Rome, the obvious contrast is given by the decisive (negative, oppositional) presence of a divided public opinion and the absence of an effective political leadership, much needed in times of crisis.

Friends in Madrid

As a repeat of the Spanish initiative two years earlier to lead the ratification process, the representatives of eighteen European countries (with the moral support of two other) of the EU met in Madrid on January 25, 2007. These twenty Member States had already approved the constitutional project or had promised to do so (Portugal and Ireland). Only Spain and Luxemburg had ratified the complicated code in popular referendum. The rest prudently had bestowed their seal of approval in a parliamentary process.¹³

Stubb, The European Union: Readings on the Theory and Practice of European Integration. (Boulder, Co: Lynne Rienner Publishers, Inc., 1994), pp. 211-234; reproduced from International Organization 45(1) (1991): 651-688. For a selection of the classics on European integration theory, see: Dimitri Chrysochoou, Theorizing European Integration. (New York: Sage, 2001); Thomas Diez and Antje Wiener, eds. European Integration Theory. (Oxford: Oxford University Press, 2004); Gary Marks, Governance in the European Union. (London: Sage, 1996); Ben Rosamond, Theories of European Integration. (Palgrave: New York, 2002); and the very useful anthology of writings on theory and practice: Brent F. Nelsen, and Alexander Stubb, eds. The European Union: Readings on the Theory and Practice of European Integration. (Boulder: Lynne Rienner, 2003).

¹³For an analytical view on this attempt: José Ignacio Torreblanca, “España toma la iniciativa europea”. ARI N° 8/2007 - 23.01.2007. For a selected review as reflected in the press: Mark Beunderman, “Luxembourg calls off EU constitution conference”. EU Observer <http://euobserver.com/9/23321/?print=1>, Jan. 23, 2007 ; Andrés Ortega, “En busca del tratado perdido”.

http://www.elpais.com/articulo/internacional/busca/Tratado/perdido/elpepiint/20070122elpepiint_6/Tes, 22 enero 2007; Wolfgang Munchau, “Europe’s constitution may not be dead after all”. Financial Times, Jan. 23, 2007; George Parker, “Minister and friends seek to save EU treaty”. Financial Times, Jan. 23, 2007; Financial Times. “A better starting point for Europe’s constitution debate”. Jan. 25, 2007; Margot Wallström, “From muddle to huddle in Europe’s”. Financial Times, January 25, 2007; Quentin Peel, “Fresh battle lines drawn over revised constitution for Europe”. Financial Times, Jan. 31, 2007; The Economist. “A monster lives again”.

http://www.economist.com/world/europe/displaystory.cfm?story_id=8487466, Feb. 3, 2007; Andreu Missé, “Veinte países de la UE aceptan cambios para recuperar la Constitución europea”. El País, 27 enero 2007 http://www.elpais.com/articulo/internacional/Veinte/paises/UE/aceptan/cambios/recuperar/Constitucion/europea/elpepiint/20070127elpepiint_3/Tes; El País, Editorial. “El enfermo europeo”. http://www.elpais.com/articulo/opinion/enfermo/europeo/elpepiopi/20070127elpepiopi_3/Tes, 27 enero 2007;

These “Friends of the Constitution”, as they called themselves, had and still have a common goal. They yearn for the revival of the approval process. They regret with pain that a handful of millions of European citizens have taken as hostages more than 60 percent of the population of the EU, numbering half a billion voters. Twenty Member States have seen their EU plans derailed and frozen by the stubbornness shown by two dissidents (actually, only a portion of their potential electorate) and the ambivalence expressed by two others (the United Kingdom and the governments of the Czech Republic and Poland).

For this reason, the majority of the Europeanist and federally-inclined population consider that the result, in the first place, is not fair. In the second place, it damages the general welfare of the EU in a complex and uncertain world that needs the effective action of political blocs and economic conglomerates, equipped with impacting influence and political vision. An EU marooned half way, with institutions thought for a half a dozen of members, when it is already housing twenty seven, is not the best method to advance.

Facing this situation, the Spanish government took the initiative and convoked the Madrid meeting to exchange ideas to help the EU get out of the constitutional trap. The government of Rodríguez Zapatero seems to have taken the same risk accepted when coming to power in 2004, when it planned the early referendum as a launching pad of its Europeanist example. Spain delivered magnificently with more than two thirds of the votes as “yes” for the text.

Let’s remember that the Spanish path through the EU labyrinth reveals a perceptive oscillation. Observers easily will note the contrast between the enthusiasm by which the successive administrations led by Felipe González since 1982 took the process of European integration and the ambivalence of the government of José María Aznar, especially his second term from 2000 to 2004 supported by an absolute majority.

In part because the adventure taken by U.S. President George W. Bush in Iraq, Aznar led the inclination of the “New Europe” towards a neo-Atlantism, damaging the deepening of the EU. Although the Spanish government (and the representatives of the governing Partido Popular, delegated by Madrid) actively participated in the elaboration of the Constitution,¹⁴ the discussions of details caught Aznar when retiring from power with a veto inflicted on the voting system. This decision retarded the process and placed in a wrong timing, casting further doubts in other electorates and governments eager to obtain last minute advantages of dubious effective power results. Only the electoral victory of the PSOE got rid of this obstacle.¹⁵

Nonetheless, the subsequent difficulties of the ratification process advised Madrid of a margin of prudence during the “reflection period” to be taken in search of solutions. This term was exhausted without innovative ideas. Hence, the Spanish government took the initiative, coinciding with the German presidency, of providing an incentive for finding a solution. It was not easy and the meeting ended with no decisions. It was further discovered that even this group of “friends” had contrastive opinions. Under the pressure of other governments, Luxemburg decided to postpone its follow-up meeting.

The record and the background of the Madrid extraordinary conclave show that Spain and the most daring allies consider that the text should be further reinforced with more social warranties and the strengthening of the subsidiarity dimension (respect for state and local sovereignty). They

Newsweek. “Europe’s sneaky attempt to revive its Constitution”.

<http://www.msnbc.msn.com/id/168480358/site/newsweek/print/1displaymode/1098/>, Feb. 5, 2007; Andy Clark, “What next for the European Constitution?”. , Jan. 25, 2007.

¹⁴ For selected books authored by Spanish protagonists: Josep Borrell; Carlos Carnero y Diego López Garrido, Construyendo la Constitución Europea: Crónica Política de la Convención. (Madrid: Real Instituto Elcano, 2003); Diego López Garrido, La Constitución Europea. (Alicante: Bomarzo, 2005); Iñigo Méndez Vigo, El rompecabezas: así redactamos la Constitución Europea. (Madrid: Biblioteca Nueva/ Real Instituto Elcano, 2005).

¹⁵ Joaquín Roy, “Spain’s Return to “Old Europe”: Background and Consequences of the March 11 and 14, 2004 Terrorist Attacks and Elections”. Miami European Union Center/Jean Monnet Chair. Vol. 5, No. 6, March 2005. www.miami.edu/eucenter/royaznarfinal.pdf

also demand better protection for the environment, attention towards climatic change, legislation to regulate immigration, an effective energy policy, more precise conditions for new membership, and a deepening of the European security and defense policy.¹⁶

Other members, with a more cautious approach, signal that these measures are already present in the existing treaties. The text then should be reduced to codify some of the most innovative initiatives: a stable presidency with a two years and a half term, extended to a second fro a total of five years (a mandate coinciding with the term of the president of the Commission and the Parliament), a Foreign Minister doubling a Vice President of the Commission, the expanding of the qualified majority vote, and a reinforcing of the power of the Parliament.¹⁷ This represents a challenge for the German presidency, facing a unique opportunity of showing leadership and searching for equilibrium.

Berlin expectations

What are, then, the real perspectives of the project? It depends, in the first place, on the energy applied by the presidency and on what kind of positive cooperation it receives from the most audacious allies, and second how the negative opposition can be neutralized.¹⁸ Finally, it all also depends on what kind of legacy the German presidency would delegate to the succeeding presidencies of Slovenia and France. While the enthusiasm of Slovenia will be backed by a general consensus, it remains to be seen who will preside in France, and what kind of attitude the new leadership will show once in power, free from the constraints of the electoral season. Only then the EU will be able to have a real reading of the demand made by Nicolas Sarkozy to negotiate a “mini-treaty” and the promise made by Ségolène Royal to subject any project to a new referendum. In any event, it all will be ultimately hinged on the solution offered by the United Kingdom under either a new Labour leader or, worse, Tory conservative, (which has threatened to bury the Constitution) in Downing Street.¹⁹ This may help to end or at least to clarify the Hamletian doubt that has perennially dominated the British mind regarding the EU. Czechs, Polish and allies will probably in the end endorse a consensus, without risking appearing that they are applying to leave the Union.

The double burden is still on the German presidency. On the one hand, it was commissioned with a clarification of the Constitutional process. On the other, it had to face the drafting of a declaration in commemoration of the 50th anniversary of the Treaty of Rome. The first temptation was to make the two issues apart, without even mentioning the polemic text in the address due on March 25th. This alternative was the chosen in view that a direct mention of the Constitution would be taken as an unneeded irritation, before the actual plan of tackling what to do with the text or its content in May and June. So, the elected solution apparently was to avoid the direct reference. Instead, euphemisms such as “political engagement” were to be used. The sensitive point of the conditions for membership would be solved by maintaining the door open but insisting on the requirement of meeting all the criteria. The second challenge was still equally daunting because it involved electing between issuing one bland, general, diplomatic statement, or elaborating on the accomplishments and the future missions to be taken by the EU. A

¹⁶ For a complete analysis of the alternative scenarios and their impact on Spain’s interests, see: Gil Carlos Rodríguez Iglesias y José Ignacio Torreblanca, “El futuro de la Constitución europea: opciones para España”. Real Instituto Elcano, 2006.

¹⁷ For a review of the alternatives: Araceli Mangas, “El rescate del Tratado Constitucional: ¿qué y cómo se puede salvar?” Real Instituto Elcano, – ARI N° 17/2007, 12 febrero 2007.

¹⁸ The amount of policy papers produced before and during the German presidency is impressive. See a sample: Thomas More Institute, “What European revival? Objectives, ambitions and limits of the German EU-presidency in the first semester of 2007” 18/12/2006, <http://institut-thomas-more.org/showNews/119>

¹⁹ Sources Say, “UK conservative leader determined to bury EU Constitution”, March 7, 2007.

compromise seemed to be accepted with the insertion of references to the euro and the social model.²⁰

All this has to be placed in the context of the record shown by the activity rendered by the Member States in all the long period of reflection since the shock of the French and Dutch rejections of the Constitution. The balance is pessimistic and does not say much regarding the primacy of the initiative of the governments as exposed by the “liberal governmental” view. From May of 2005 to mid 2007 not a single fresh, concrete, innovative idea (beyond the convoking of the Madrid meeting and the testing of words by the German presidency) has come from the capitals of Europe.²¹ In contrast, at least the Commission has tried to explore a strategy of explaining the process and alternatives (e.g., the task taken by Vice President Margot Wallström). The Parliament has energetically pursued a similar line with practical studies (Duff-Voggenhuber report). Meanwhile, all initiatives and speculations hinge around three basic alternatives. The first is sticking to a plan for the approval of the existing text, a process that would only be possible if there is a second referendum in the two rejecting states. A positive outcome would then convince the doubtful to take the same route by avoiding the public referendum. The second is the rescuing of the treaty by getting rid of the unneeded ballast and presenting it as a reduce text. The third is the opposite, which involves the salvaging of the good merchandise now encapsulated in the EU ship at risk of sinking. Let it sink, advocates of this solution say, and just implement the needed measures, subject to ratification by the governments or parliaments. This practical solution would avoid another fiasco.

Conclusion

What is doubtful is that the reformed institutional framework will fit the new demands of an “ever expanding Union”, without explaining in a comprehensive document what the nature of the resulting entity is. More practical observers insist that this labeling is not needed, because the reality is that the EU is a unique creature.²² This common sense notion is significantly in line with two other referential anchors.

One is the elaborate evolution of theoretical framework analyzing the EU, balancing the supranational primacy and the intergovernmental reaction, finally pondering with rather hybrid solutions such as the multi-level governance and the fusion proposal.²³ The other is the geniality once pointed by a key practitioner and crafter of one of the most decisive stages of the integration process, Jacques Delors. The EU, after all, he said, is a UPO (Unidentified Political Object).²⁴ Perhaps that explains in part the resistance of the German presidency to define it in precise terms. And this also may explain in part why the Constitutional cover has encountered so many difficulties.²⁵

Finally, all this shows that things apparently were much simpler and clearer during the first five years of the history of the EU from the Schuman Declaration to the Treaty of Rome of March

²⁰ Sources Say, “EU presidency seems to advance in 50th anniversary declaration” March 9, 2007; *Diario las Américas*, “UE no mencionará la palabra Constitución en 50 aniversario”. 7 marzo 2007.

²¹ José Ignacio Torreblanca, “Tiempo de aniversario, tiempo de trincheras, riesgo de ruptura.” ARI N° 16/2007 - 12.02.2007.

²² Philip Stephens, “All that needs to be said about Europe’s next half-century”, *Financial Times*, March 7, 2007.

²³ Nicolás Mariscal, *Teorías políticas de la integración europea* (Madrid: Tecnos, 2003).

²⁴ Helen Drake, *Jacques Delors: Perspectives on a European Leader* (London : Routledge, 2000).

²⁵ For a discussion of the nature of the EU, see Joaquín Roy, “The Nature of the European Union”, in Peter Van Der Hoek (ed.), *Public Administration and Public Policy in the European Union*. (N.Y.: Taylor and Francis, 2005), pp. 77-111; “La naturaleza de la Unión Europea”, in *La Unión Europea y el TLCAN: integración regional comparada y relaciones mutuas*. (México: UNAM, 2004. Joaquín Roy, Alejandro Chanona y Roberto Domínguez, compiladores), pp. 183-202; “La naturaleza y la estructura institucional de la Unión Europea: un laberinto para la sociedad civil y el cabildeo” Miami European Union Center/Jean Monnet Chair. Vol. 5, No. 3. February 2005. www.miami.edu/eucenter/roycivilsocietyfinal.pdf; “The European Union: an introduction”, Joaquín Roy and Aimee Kanner, *A Historical Dictionary of the European Union*. (Blue Ridge Summit, PA: Scarecrow Press, 2006), pp. xli-lix.

25, 2007. The difference was that then there was an identifiable leadership and a mission to be accomplished –to stop the European wars. This task was to be implemented by a function. Once this was identified, the institution was created. Today, the absent leadership is not capable of defining the function. That is why the institutions that are needed to manage this mission do not seem to be able to be reshaped by either an elaborate constitutional treaty, or by a simple document.

To sum up, with a historical perspective, when the EDC failed by a stabbing inflicted by the French Assembly, the leadership then saw the danger of the disappearance of the ECSC. Then, it was decided to push forward for the relance leading to the foundation of the vertical atomic energy and the horizontal economic treaty. The impasse that succeeded the success of the approval of the new structure presided by the Common Market, caused by a combination of factors including the obstacles caused by the national leadership (De Gaulle, most especially, but not exclusively), inertia and economic depression, lasted three decades until another French leader, Jacques Delors, rescued the EC with the Single European Act (SEA). Only time will say if today the EU is just barely beginning another long period of eurosclerosis.²⁶ Worse, fears are that the process may suffer a regression if enough potential allies listen to the modern siren songs that propose the transformation of the EU into an organization of European States.²⁷ But the challenge of today is similar to the one existing in 1955 and 1985.

²⁶ For a speculation on the future of the EU: Joaquín Roy. “El futuro de la Unión Europea”, in Joaquín Roy, Alejandro Chanona y Roberto Domínguez (compiladores), La Unión Europea y el TLCAN: integración regional comparada y relaciones mutuas. (México: UNAM, 2004), pp. 217-232.

²⁷ For a review of the difficulties encountered by regional integration in Europe and America during 2006, see: Joaquín Roy, “Europa y América en la encrucijada: Inercia y Vértigo de la integración regional” Occasional Paper. European Union Center/Jean Monnet Chair, Vol. 6 No. 42. Special, September 2006.