

The youth2002 constitutions

The first two weeks of July 2002 almost 1000 young Europeans visited 13 Danish Folk High Schools to contribute to the European Constitutional process. At the end of the process 2 delegates from each school met and wrote a common proposal for the Constitution of the European Union. This paper outlines and discusses some of the concepts behind the common proposal – with a sidelong glance at the original proposals.

Preamble

Who are we?

The final constitution starts: “We the peoples of the European Union...” Thus it is made clear that the constitution is created by and for a diversity of peoples with different languages, traditions, histories etc. From the outset it is established that there is unity and diversity at the same time. All the proposals have this dualism – but they strike the balance differently. The proposal of IUC speaks of “We the people...” in the singular underlining the common European identity, and Askov probably is the school going furthest down the road of common European identity, departing from the “resolve of the European citizens”.

Common heritage

The European Union and the common European identity is seen as building upon history and values. History often as the difficult past, the challenge of the divided Europe and the obligations Europe and Europeans have because of their history. The European values presented in the texts are peace, democracy and rule of law, welfare, human rights and justice.

Union and Nations

The relation of Union and Nations is not seen as antagonistic in any of the proposals. On the contrary the final proposal sees no conflict between “we the peoples” and the concept of “ever closer Union”. This point is probably posed most elegantly by IUC, speaking of a symbiotic political entity – and precisely by the IPC that underlines that the constitution deals with the sharing of sovereignty: supra-national *and* national at the same time. The participants clearly see the Union and the Nations as compatible.

Diversity and centralism

In almost all of the proposals cultural diversity is seen as very important. Ask also mentions environmental diversity as an important goal. No proposal sees a conflict between a strong Union and diversity – diversity is one of the values of the Union envisioned in the proposals. Some of the proposals even see the supremacy of a strong Union as a necessary safeguard for diversity. The Union is likewise seen by all of the proposals as a necessary European and international safeguard of stability, human rights, freedoms, peace and sustainability (environmental; social; economic).

Founding principles

The participants in the process had tough discussions on many issues during the two weeks. But the founding principles seem to be the same. The young participants want a European Union guaranteeing peace, stability and security. They want democracy, freedom, human rights, rule of law, and separation of powers (legislative, executive and judicial). There is an explicit demand for a secular political sphere, for diversity and for solidarity among the citizens.

Sovereignty and subsidiarity

The main line of thinking in the proposals is to replace the old structure of bargaining and power brokering among nations with the rule of law and justice. To do this proposals establish the Unions authority over the Nation-states in a number of fields. But at the same time attaching importance to subsidiarity and clear limits to the areas where the Union rules. None of the proposals see the Nation-states as obsolete.

The concept of rule of law and justice among nations also applies for the external behaviour of the Union, in its relations with the rest of the world.

European welfare state

The final constitution – and the other proposals – commits itself to the values of the welfare state – social security, public health systems, equality, equal opportunity, environmental sustainability etc. In this the proposals define a clear mission for the Union, internally in Europe and externally in the world.

General provisions

Becoming a member

The proposals are quite generous in their provisions for the acceptance of new members of the Union. Applicant states have to comply with the constitution and fulfil economic and political criteria – and being accepted by the parliament or in a few of the proposals by the member states. There are some differences on geographic criteria. In the Final Constitution it is a condition that new members are part of Europe (though it is not specified what that means. What about Turkey? Iceland? Russia? Rønshoved proposes an extended cooperation and partnership for good neighbours that are not in geographic Europe, in that way trying to extend the area of security, order and wealth for the benefit of all.

The proposals use the concept of European Citizenship – and the concept of National Citizenship. There is no problem or contradiction between the Citizenship.

Leaving the Union

All proposals make it quite clear that a member state can leave the Union if it wants to do so. But it is also possible to have sanctions, suspension and eventually to expel member states that do not fulfil their obligations, whether it is economic or political or human rights.

Amending the Constitution

According to the final constitution the initiative to change the constitution can come from the chambers of the European Parliament, from a petition from 1% of the citizens - or from the national parliaments. The schools propose a number of different approaches.

The procedure for deciding a change in the constitution involves both chambers of the European Parliament and all the national parliaments. Among the other proposals we see different tendencies – from European referendums over decisions in the European Parliament to decisions in all of the national parliaments. The differences here correspond to the differences in the view on the relation between Union and Nations in the Preamble.

Rights

First of all the final constitution and all the other proposals want the Charter of Fundamental Rights to be part of the European Constitution. This means that the Union and the member states are obliged to deliver on the content of the rights. If the Union or the member states do not live up to their obligations in this respect then citizens of the Union and other legal personalities have the option of using the courts to enforce the rights. This is a major change.

Amendments of the content

On top of this the young Europeans have some proposals for new rights for the European citizens. In one of the few votes among the 26 representatives working on the final constitution it was decided that: “every adult has the right to marry and the right to found a family”. Thus giving gay couples the right to marry and found families. The representatives unanimously decided that there should be a right to free public education from primary to first higher education qualification; a right to nonformal education (strengthening civil society); a right to a decent standard of living, right to free and accessible health services, and rights to a sustainable environment finish the picture.

In the introduction of the charter in the constitution the young Europeans strengthen the impact of the rights, with the amendments of the rights they emphasize the European Union’s obligations to ensure the humanistic values from the age of enlightenment and the solidarity of the welfare state that has been developed in the 20th century.

Institutions

The major institutional change is the strengthening of the European Parliament and the introduction of parliamentary democracy on the European level. The Parliament gets full legislative power, and elects the head of European government.

European Parliament

The young Europeans propose a European Parliament with two chambers (Chamber of Citizens and Chamber of States) – that both have to agree if the laws are to be adopted. The first chamber of the parliament represents the people – the members are elected by universal suffrage, and the number of representatives reflects the number of voters. These principles were the same in all proposals. The second chamber of the parliament represents the member states – or corresponds to the member states. This is the common ground of all proposals. In the final constitution it is stipulated that the governments appoint representatives for each and every specific issue. In some of the other proposals the representatives are appointed by national parliaments, in some they could be members of national parliament. None of the proposals have the option of general elections - but some leave the selection procedure to the national states. This is another instance of how the balance between Union and Nation states is different in the different proposals.

The Executive

The head of the government in the final constitution is elected by the first chamber of parliament – but must be approved by the second chamber. The head of the executive then appoints a government that has to be accepted by a 2/3 majority in both chambers.

The Head of the executive power is elected by the Chamber of Citizens in the final proposal - and must then be approved by the Chamber of States. The head then appoints a government that has to be accepted by 2/3 majorities in both chambers. This "prime-minister" model is supplemented by the proposal of the introduction of the position of a president with representative and coordinative functions in the proposal of Rønshoved. Other schools propose the direct election of a European President by the citizens of Europe - or in the proposal of Askov a directly elected Chief Commissioner.

Parliamentarism

Parliamentarism is present in the final constitution - the executive can be dismissed after votes in both chambers, but only after a majority of 2/3. In the proposals of Rønshoved and Snoghøj it is only necessary to have an absolute majority in both chambers to dismiss

the executive. The final proposal (and the majority of the schools) in this way give the executive a more protected position vis a vis the parliament.

Legislation process

The legislation process in the Final Constitution takes place with the parliament in the central position. A law is passed with a majority in both chambers. Most of the other proposals are minor variations on this theme. In the proposal of Askov the first chamber is being given more weight. Here proposals that have been accepted in the first chamber will be law if there is not a 2/3 majority in the second chamber.

If the two chambers do not agree the Final Constitution provides for a conciliation procedure with negotiators from the two chambers. According to the Final Constitution a compromise from this procedure must be accepted by a 2/3 majority of each chamber. It is not quite clear why the compromise has to be carried by qualified majorities in both chambers. If no compromise is reached the Final Constitution provides the option of a decision carried only by the first chamber - Chamber of Citizens - by a majority of 3/4. The citizens have the right to propose legislation if 1% of the population petition for it. According to the Final Constitution such proposals have to be placed on the agenda of the Chamber of Citizens. In the proposal from Rønshoved it is possible for a number of citizens to initiate a referendum on local and EU levels.

Opting out

In the Final Constitution it is possible for a Member State to temporally opt out from decisions - provided it can convince 2/3 of the members of the Chamber of States that it is a justified vital national interest.

Other institutions

A number of advisory bodies are proposed in the final constitution as well as in the schools' proposals. Among the first of these are the European Youth Forum, the Committee of the Regions, and the Social- Economic Committee.

The Ombudsman institution deals with maladministration and protects citizens and legal personalities in the Union.

The European Central Bank is an independent institution in charge of the monetary policy. One of the more radical proposals is the one on a common European armed force. In the Final Constitution there is an opt-out provision for any member state on this point.

Courts

There are no major differences over the Constitutional Court (CC) - with the function of defending the constitution and ruling on conflicts between the institutions and member states. A couple of the proposals combine the functions of the CC with the functions of a supreme or higher court.

The European Court of Justice is in charge of judicial matters in the Union. In the final constitution potential conflict with the European Court of Human Rights (ECHR) is taken care of by the ECJ recognizing decisions taken by the ECHR. There will probably be a number of cases dealing with human rights if the charter becomes an integrated part of the constitution as proposed.

The Court of Auditors deals with the revenue and expenditure of the Union and its institutions - thus securing sound administration.

Citizen's involvement

The Final Constitution stresses the obligation of all institutions to involve citizens in the work of the institutions. In the Ask proposal this intention is very specific with the

provision of European Houses, in the Askov proposal there is a demand for the involvement of civil society actors in policy and law making.

Language

The administrative language of the Union in the Final Constitution is English - possibly supplemented by others after decision in the two chambers. At the same time all national languages within the territory are recognised. In a number of the schools' proposals it is specified that all official documents of the Union shall be translated into all national languages.

Competence and legislation

In the Final Constitution the principle of subsidiarity is underlined - that decisions should be made at the lowest possible level. The first eight themes "Union competences" are reserved for Union decisions unqualified. Some of the schools introduce other principles. Ask opens for other cooperation between member states. IUC adds proportionality to the principle of subsidiarity - and a Subsidiarity Committee. Ry introduces the concept of a mixed economy as a principle for the Union. Rønshoved the 4 freedom flows: capital, services, products and people - and sustainability as the overruling principle.

Union competences

- 1) The first of the Unions areas of competence is Foreign Trade, Aid and Foreign Policy. In this way the Union regulates its foreign relations unanimously.
- 2) The second area of Union competence is Environmental policy. If we look to the texts of the schools' proposals sustainability is at the centre. In the proposal of Ry it is explicitly stated that member states are free to introduce higher standards - and at Rønshoved the same concept is introduced under the headline of minimum regulation standards.
- 3) The final constitution provides for a common asylum and immigration policy. Askov supplements with the demand for a framework for a global police organisation. Rønshoved proposes a common police force that handles violation of federal law.
- 4) Agricultural and fisheries policies are under the common Union policy in the final constitution. Askov stresses the need for encouragement of ecological production and minimisation of additives. Snoghøj proposes sustainability as a fundamental value, together with social standards, technological advancement in accordance with health considerations.
- 5) Structural and regional policies are under the common jurisdiction. In the Ask proposal it is specified as a commitment to support and develop the underdeveloped regions within EU.
- 6) In the final constitution corporate tax and community VAT is under the Union jurisdiction. Giving the Union independent governance over taxes is a big step. It is contradicted by Ask, that reserves taxation for the national states - but allocates a fraction of national VAT for Union needs. Ry proposes VAT, tobacco and environment taxes for the Union. Snoghøj is the most radical - making taxation possible and decided upon by normal Union legislation.
- 7) The single market policy.
- 8) The Union is responsible for the labour market policy in the Final Constitution. In the proposals from Ry, Rønshoved and Snoghøj this is specified in the areas of unemployment benefits, employability, competitiveness and work conditions.

Co decision areas

In a number of areas the constitution foresees co decision between the Union and the member states.

Education and culture is mentioned as a co decision theme in the Final Constitution. This is specified in some of the schools' proposals. A number of those deal with transfer of credits especially for higher education. Askov proposes minimum levels common to all subjects and syllabi. Rønshoved and Snoghøjs proposals discuss education's role in securing coherence - Snoghøj through lifelong learning. It is clear throughout the proposals that education should be diverse and decided upon in the national states. The Final Constitution has Social Policy as one of the co decision areas. In Snoghøjs proposal this is specified as the Union ensuring that the member states take adequate measures for adequate social assistance and that the Union can assist in the financing if necessary. Ry goes in the same direction in the establishment of a European wide minimum living standard.

Information and media policy is yet another co decision area in the Final Constitution. In the proposal of Snoghøj it is exemplified in freedom from censorship, freedom of information, ensuring of the provision of telecommunications, intellectual property etc.

Health care and insurance is yet another area of co decision. In the Snoghøj proposal this is specified as the obligation of the Union to take ensure that the national states provide free health care services, and sufficient food and water. At the same time the Union should ensure adequate public services.

Scientific research is an area parallel to education, health care etc. in the Final Constitution. All citizens should have access to science - and the Union shall promote ethical development, research and application of results of research.

The Common Security Policy is the last area of co decision in the final constitution. In the proposal of the IPC there is a clear demand for humanitarian values also in this area of politics - and for cooperation between the Union and the National States.

The 13 proposals

The text of the Final Constitution and 9 of the schools' proposals are available in an excel-sheet with a synoptic ordering for detailed comparison.

Comments are more than welcome

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