

A faint, light-colored map of Europe is visible in the background of the entire page. The map shows the outlines of the continents and major countries.

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Re-founding the European Union?

**The neoliberal European Constitution is
dead - long live the neoliberal EU-Treaty?**

**50 years after the Treaty of Rome
the EU is at a crossroads.**

What are the alternatives?

**How can the left organise to shape
the future of Europe? 12 authors**

from 9 countries address the question.

Another Constitutional Prospect for Political Europe

Antonis Manitakis

The failure of the project of the European political and technocratic elites to constitutionalise of the European Union (EU) obliges us to reconsider the foundations and the process of the political unification of the European states and the formation of a democratic and social Europe. The experience indicates that the social movements and the people of Europe can and should participate actively in this constituent process, which will surely last for a long time. This is the point of departure of the following thoughts.

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Political Europe Does Not Need a Formal Constitution; It Needs a Real One

The inglorious end of the European Constitution with its irrevocable abandonment by the European Council on June 23 2007, indicates among other things how untenable and artificial the idea of the constitutionalisation of the EU was. If this were not the case, the member states would not have abandoned it so easily. It was realised in a relatively short time that the political future of Europe cannot be built with lies and deceptive labels.

The political unification of Europe required and still requires a constitution, but a real one and not an international treaty that, for clearly ideological reasons, is misleadingly called a constitution. Political Europe requires a political constitution that will organise the common sovereignty (or co-ruling) of the peoples of Europe and will guarantee their unified political survival. It does not require a constitution which, as occurs today with all European treaties, reflects the power of bodies of an "intergovernmental character", such as the Council of Ministers, that are not accountable to and controlled by anybody.

The constitution required by a politically unified Europe can be neither the outcome of secret intergovernmental agreements, nor the spurious creation of a fictitious "Assembly" that is a puppet of the powerful national governments. It will be the outcome of struggles, discussions, consultations, controversies, social demands, political compromises and legislative and judicial practices. It will be imposed as a "real constitution" and will initially conquer the collective consciousness of the people and the citizens before being introduced as a "formal constitution" to validate what

has already been achieved as a sum of fundamental principles and rights. The real constitution will be born neither in order to cancel or dominate the national constitutions, nor in order to reject the political and constitutional autonomy of the peoples of Europe or their political and cultural identity. It will be born in order to organise their political coexistence.

The Peoples of Europe as Sovereigns of a Continuous and Inalienable Constituent Power

The failure of the European Constitution indisputably showed that a constitutionally organised and democratically legitimate political power in Europe cannot be realised when the absolute masters of the procedure continue to be the states and the intergovernmental summits. In an era of globalised economy and communications and the transgression of national states, a new and original political community of people cannot be built as long as the national states remain the exclusive or main actors of the unification process. While it is true that the states initiated Europe's political unification, the people should be present throughout the course, and at the end, of this process, armed with their sovereignty and organised into autonomous political communities, i.e. national republics.

The constitution of a politically unified Europe will arrive at some point as the outcome of a long and slow constituent process. Its masters will be the people, once the states cease to entrench themselves behind their sovereignty. Its adoption will confirm the historical transition from state sovereignty to peoples' condominium and from the Europe of states to the Europe of national republics. As long as the states remain the masters of Europe's political future, the transition from the regime of international treaties to a constitutional regime of an autonomous and primary power of the federally organised people is political unfeasible.

The great historical difference between a national constituent power and the European one is that the first originates suddenly and revolutionarily, constituting a new state or a new polity, and then withers away. The European constituent power is also unpredictable, but contrary to the previous one, is not instantaneous but continuous and multidimensional. It neither stops, nor does it depend on, the will of national governments. The European constituent procedure does not have a predetermined set of phases or a known ending point. Several citizens' and social movements were critical of the idea of a European Constitution and rejected it, because they regarded it as a construct that did not correspond to their expectations. These people have many reasons to seek to occupy the constituent procedure, which was initiated without them but for them, and demand the formation of another constitution. Their starting point can be the discussions and the public debates surrounding a European charter of rights and principles that will indicate an alternative political prospect for the peoples of Europe.

The Model of Representative-Parliamentary Democracy Does not Correspond to the Europe of the Peoples

As to the model of democracy that suits Europe, it should be understood that the constitutional organisation of the common rule of the peoples of Europe can be neither a simple reproduction of the national constitutions, nor a copy of national parliamentary democracy. This is so because a politically unified Europe does not and cannot have its own separate people, different from the peoples of Europe.

The democracy demanded in Europe cannot mirror national, representative or parliamentary democracy. The classical scheme of representative democracy, which presumes and entails the construction of a people (a politically unified *demos*), is not reproduced in Europe. The latter is currently a union of many peoples and states and seeks to evolve into a Europe of the many national *demos* and multiple republics respectively. The prospect of building a supranational parliamentary republic at the European level with a unified people or *demos*, which will be considered the source and legitimisation of all European powers, is not feasible. This model of governance at the European level will necessarily be centralised, extremely bureaucratic and authoritarian.

If elections, political responsibility, publicity, transparency, dialogue, constant accountability, the separation of powers and the state of law are inalienable organisational achievements of every European political institution, the absence of a European people and a European *demos* renders every attempt to imitate national parliamentarism a dangerous and futile caricature. Moreover, the institutions of representative democracy and the birth of a people or of a nation, in the political sense of the concept, are connected with the constitution and the existence of a national state.

The political unification of Europe is not leading to the formation of a new supranational state or a federal super-state that will act as a centralised, bureaucratic state super-power, suppress and rule the national European states, and compete with other super-powers. The EU is not a state and cannot evolve into one. It rather appears as a new type of democracy under construction, which cannot be developed as long as it remains attached to the paradigm of the national state.

From Economic Integration to Political Unification

It is apparent that the process of the political unification of Europe is at a crucial crossroad. *It needs to pass from economic to political integration.* It is required by the people, sought by political leaderships and elites, demanded by the single European market, and imposed by globalisation. Yet, the transition from one state of affairs to another is not so simple. It stumbles on insurmountable obstacles that are both objective and sub-

jective. The political unification of Europe faces a huge political dead-end, emanating from an historical contradiction that must be overcome, if Europe is to proceed with its unification.

The EU is today a union of states, perceived as such by those politicians and technocrats who determine its future. It was treated as a union of states by both the European Constitution and the Reform Treaty. Nevertheless, a politically unified Europe amounts to something more than a simple union of states. It entails the creation of a new, original political society, whose precise form we do not yet know, that will constitute a union of peoples. The transition from one regime to another presupposes and entails the retreat of state sovereignty and its replacement by the condominium of the peoples, i.e. the peaceful transition from the shared sovereignty of the states to the common sovereignty of the peoples. It is a contradictory historical process, since its development depends on the will of those who are inevitably going to lose their power, namely the national states. In addition, its favourable outcome depends on the active participation and the consent of those, in the name and on behalf of whom political unification occurs, namely the peoples of Europe. We can only speak of a real European constituent power when the subjects of the constituent process cease to be the states and their governments, and is replaced by the peoples of Europe. This will occur when the preamble to another constitution for Europe declares: "We, the Peoples of Europe" and not as was stated in the European Constitution "We, the states and the citizens of Europe".

By the way, it should be stressed that popular sovereignty can neither be replaced nor substituted by a supposedly European "civil society", a notion so dear to the technocratic elites. The general reference to European citizens in the context of the EU - as reflected in the constitutional treaty - is deceitful and devoid of meaning, since the citizens act exclusively at the national level while European citizenship is under construction. The political consequences of such a fact are the abandonment of the European citizens to the blind and merciless laws of the market without the protection of their national constitutions.

It is not accidental that the European Constitution ignored the will of the peoples, declaring unblushingly that the regime of the Union is: "inspired by the will of the citizens and the states of Europe". The absence of the word "people" is not a coincidental omission. It demonstrates that the "contracted" conceived the politically integrated Europe as a union of states, established on the vague, obscure and indefinable legalisation of the will of the "citizens". The masterminds of this initiative undermined popular sovereignty, without rejecting the state sovereignty. They are ready to eliminate the power of the people that is the foundation of national democracy and remain silent over the founding principles of European democracy, rather than link European integration to the

principle of popular sovereignty. They accept the transference to the EU of the areas of competence of state sovereignty, stripped of their democratic legitimisation.

The Reform Treaty: The Institutional Part of the European Constitution Without its Ideological Veil

If we take a close look at the Reform Treaty, we will note that it has not drawn any lessons from the rejection of the European Constitution and continues instead to move within the same institutional prospect where member states remain dominant. Apart from some trivial modifications, the Reform Treaty repeats at the institutional level, namely in the mode of governance (majority voting, division of competences between the EU and the member states, Presidency, Minister of Foreign Affairs, number of members of the European Commission etc.), what was foreseen by the European Constitution in its first part. Hence, the institutional part of the European Constitution remains. The weaknesses of the Nice Treaty, which constituted one of the political excuses for the institutional regulations of the European Constitution, are managed in the new treaty in the same manner as they were in the European Constitution.

However, it could be argued that the Reform Treaty has one positive aspect, if compared with the European Constitution: it leaves the constitutional process open-ended. This might be a benefit to those who fight for another, more promising and radically different but feasible direction for the unification policy of Europe. What is bankrupt and has failed is not the political unification of Europe in general as a prospect, but a particular method of its unification policy that has as its basic instrument the intergovernmental logic and the neoliberal notion of the "functional integration of Europe. The latter is based on the idea that economic integration will gradually and automatically bring about political unification.

The Need to Disengage Political From Economic Integration

The greatest vindication of the opponents of the European Constitution stems from the realization of the need to disengage the political from the economic integration of Europe. This is an achievement that should not be underestimated. With the rejection of the European Constitution it was realised that the political unification of Europe is relatively autonomous from the economic one. The two are not identical. Economic unification is simply the material precondition and the true basis of political unification. This is why political unification should be conceived

as a relatively autonomous process that depends on and follows the process of economic integration, but has its own goals and needs. For this reason, political unification requires political institutions that will not simply manage the integrated European economy and only serve the governance of market economy, but will be able to realise autonomous political goals and the common aims of the European peoples. These aims are linked to peace, the peoples' survival of a nuclear and/or ecological disaster, and the safeguarding of their liberties, their labour and their economic prosperity and social security.

Now that the greater part of economic integration, i.e. the integrated market economy, is complete, the institutions of the EU do not necessarily have to be the handservants of the market economy. In other words, EU institutions should not function as mere tools that blindly serve the market economy, i.e. as its administrative and managing superstructure. The political unification of Europe will occur when the future of the peoples of Europe is defined by themselves, directly or through their representatives, and not by the laws of the market.

The Political Unification of Europe and the National and Political Identities of the Peoples

The process and the progress of the political unification of Europe does not depend so much on its integrated economy, but rather on the cultural, political and constitutional identities of the peoples of Europe. It is impossible to ignore the political and cultural specificities of each people separately, and sacrifice them in the name of a common or single cultural and political European identity. A European political identity will be the outcome of the particular national and political identities of the member states. *Political Europe will be built in the name of its peoples, from its peoples and together with its peoples, themselves organised into separate and autonomous republics, in the context of their respective states and while fully exercising their sovereign rights.* The Europe of the peoples will respect and will not weaken the national identities, as these are reflected in the political and constitutional structures of each country. Political Europe can only be conceived as a union of separate and diverse entities.

With regard to the institutional level, this position translates into the obligation of Community instruments to respect the national and political identity and the constitutional autonomy of each country. The national constitutions organise and guarantee the collective autonomy and the power of self-determination that each people possess. The constitutions achieve this by instituting processes of representation and participation. Through these processes, the peoples acquire self-consciousness and realise their political substance. They are recognized as political subjects with their own autonomous will. National governments represent

the peoples at the intergovernmental institutions of the EU. The participation of the European peoples in the political construction of Europe, either directly through referenda and the direct election of representatives, or indirectly through collective social demands and the action of national, local, regional and trade-union representatives, constitutes an indispensable form of democratic legitimisation.

The European peoples exist through the democracies of their states, and the democracies exist through the constitutional recognition and exercise of their sovereignty. Without the peoples no democracies can exist, and without democracies there can be no peoples.

When European constitutional democracy is complete, it will constitute an historically unique political entity. This entity will constitute a union of multiple national demos and an original co-articulation of peoples organised in autonomous democracies. It will be founded on the mutual recognition, the respect and the inter-penetration of distinct political and national identities, rather than on their absorption. Political Europe does not aim to shape a common political identity but a novel form of political coexistence of multiple political societies. This is the primary political challenge it faces.

With regard to the organisation of internal governance, i.e. the relations between the European institutions, the European republic of the national republics will overcome the dilemma that runs through the EU since its conception and has condemned it in a constant oscillation between the intergovernmental and supranational modes of governance. It is not necessary to choose between the powers of the Council of Ministers and the powers of the Commission or the Parliament. For the Europe of the peoples, the primary issue will not be to reorganise the relations between Community institutions or instruments, but rather the relations between the national democratic institutions and the respective Community institutions on the basis of equity and the division of sovereignty. Therefore, one fundamental principle that should govern the political integration of Europe is that the European republic of the multiple *demos* neither imposes itself on the national republics, nor overrules them. The European republic should not adopt a vertical structure of governance with the European constitutional rules standing above the national ones. It should not impose a relationship of hierarchy between European and national institutions, but rather a relationship of equality,

European Democracy as an Inter-national and Inter-constitutional Democracy

A European inter-constitutional republic presupposes a horizontal governance based on dialogue and cooperation, which will occur under terms of equality between different political and constitutional authorities. These

include the constitutional courts and the European Court of Justice, the national parliaments and the European Parliament, the national executive bodies and the Commission. European inter-constitutionalism is the basis of the creation of a common European constitutionalism.

Viewed from this angle, political Europe requires in the long-term political institutions that will govern the economy and will secure the transfer of authority and responsibility from the representatives of states and their governments to the peoples themselves and to their directly elected representatives, i.e. to a body of representatives of the peoples.

The famous democratic deficit of the EU will begin to be confronted when, among other things, the Council of Ministers that currently functions outside any political control and accountability is subjected to the participation of the peoples and the control of their representatives. Such a control could be achieved, for example, through a second Parliament, a Parliament of the national parliaments, or a common Assembly of the representatives of the peoples. The model of power currently promoted at the EU level is authoritarian and centralized, imposed beyond the peoples and the national republics. It demands the sidelining of national constitutions and justifies the overlooking of individual and social rights, in the name of the absolute superiority of Community law over national law. The constitutional achievements of the peoples, the social gains of the workers, the liberties and the rights of the individual appear to be outmoded and rusty obstacles to the prevalence of homogeneous rules of work and political behaviour. As far as the cultural and political identity of the peoples and their constitutional autonomy are concerned, they too must be withdrawn as nationalistic remnants when they pose obstacles to the fulfillment of the sacred goal of a "fully competitive market economy".

The political unification of Europe is advancing, although not perhaps in the way that some of us would want it to. Even if its direction and rhythms do not correspond to the demands of our time and the needs of the people, the political, cultural and ideological deliberations have not ended. The union of approximately thirty states with different people and cultures, different and often rival histories, and different political and constitutional identities, is not a linear or evolutionary process. It does not occur from one day to another and cannot be achieved with decrees or with constitutions. The political history of the peoples has its own timing and its own logic, cannot be extorted or compelled, and, above all, cannot be judged or assessed according to our own wishes, aims or ambitions. The political unification of the European states constitutes the most original and promising prospect for all the people of the world.