

Esko Seppänen, MEP, in the National Forum on Europe, in Dublin 27.1.2005

My home country Finland resembles Ireland in many respects. Both of us are militarily non-aligned countries. People in both countries have lived as part of a greater power. Among the 15 "old" Member States in the European Union, Finland and Ireland have the shortest history as independent states. In both countries there is a strong will for democracy and sovereignty, and we Finns have defended our views in two wars against a bigger power. We like to remind others that among the countries at war, Helsinki and London were the only capitals which were not occupied during the Second World War. Both Finland and Ireland have a constitution of our own where the national and historical characteristics and the rule of law have been written down. If we do not defend our own Constitution, others will not do it.

With the new Constitution, the EU is being militarized and federalised. It is a fundamental law that has primacy over our own laws. The Court of Justice of the European Union has the monopoly to interpret it, and also the old interpretations of the Court will gain constitutional approval.

The political elites speak about a Constitutional Treaty, but according to the draftsmen of the European Parliament report "by virtue of its nature and substance, this Treaty establishes a genuine Constitution".

By this genuine Constitution a totally new union is being established. At the same time the old union is abolished, and it needs to be done - according to the *Vienna convention of the law of treaties* - unanimously. Thus, if even one member state opposes, the new Union can not be established.

The Convention

It is a common belief that the Constitution was drafted by a Convention called for this purpose. This is not the case.

The Constitution has four parts and 36 Constitutional protocols. The protocols are as much Constitution as any other part.

The Convention only prepared *the first part of the Constitution*, but even that was not voted upon. Actually, the draft constitution was dictated by the presidium, a kind of politburo of the Convention. In his book *The Accidental Constitution*, Peter Norman describes a "Hilton-group" that gathered always before the plenary of the Convention to prepare what was to be decided by the plenary. In fact, the constitution was drafted in a very secretive way by some kind of political freemasons.

The Convention did not represent the whole diversity of the opinions of the EU citizens. The fewer representatives there are, the more unrepresentative is the whole, in this case representing half a billion people. Among the 207 members and substitute members of the Convention, the Conservatives and Social democrats were over represented and those political directions that were not in their respective governments were under represented.

Part II of the Constitution, the Charter of fundamental rights, was being prepared before the actual Constitutional Convention took place. The earlier Convention was allowed to write down only those fundamental rights that had already been accepted by the member states in international agreements and declarations. There was not even one new fundamental right added to those. The Charter was supposed to be included in the Constitution as such, but that did not happen. Tony Blair was not ready for it.

Nobody knows who has drafted *part III (the largest part) of the Constitution*. The text was introduced into Convention, but it was not widely discussed. In the final meeting, it was not even distributed in all the official languages, including my own.

Nevertheless, even this part III of the Constitution was presented to the Inter-Governmental Conference as the result of the work of the Convention, and it has full Constitutional status. The left wing parties in my group in the European Parliament who are worried about globalisation,

consider this part as neo-liberal, and for this reason we want the Constitution to be rejected. The right of the Commission to negotiate international trade agreements is taken to mean privatisation of public services and welfare state, and it is a further reason to vote No in the referenda.

About militarization

We who represent non-aligned countries are worried about the militarization of the union.

The Constitution has two different categories of military articles.

Every member state has to commit itself to giving military security guarantees to all other member states. These *collective EU security guarantees* resemble the security guarantees of article V of NATO. It is this particular article V which makes NATO a military alliance. Why not it does not do the same to the EU? This article 41.7 of the Constitution is fully compatible with NATO in all defence related questions.

From the non-alignment point of view, this wording was changed from bad to worse in the Inter-Governmental Conference. In the Defence working group of the Convention we tried, together with John Gormley and Proinsias de Rossa, to draw the text into a less militaristic direction. And, in the draft text prepared by the Convention, the security guarantees were placed into a declaration (the declarations are never legally binding). The IGC, however, wrote them into the text of the Constitution in a completely NATO-consistent way.

Article 41.7 is the defence clause, but the Constitution goes further in the direction of militarily demanding tasks: crisis management articles are more about offence than defence. Crisis management is always done outside the borders of the EU, and when it is peace making, it is an aggressive act. It is conducted by battle groups which are apt to operate "in most demanding missions". According to the Constitution EU operations do not need the mandate from the United Nations. The actions can be illegal from the point of view of international law!

The member states commit themselves, by the Constitution, to increase their spending on armament and military resources. The most militarist countries are granted a right to a *permanent structured cooperation* (article 41.6) which includes the common preparation of wars. From our militarily non-aligned perspective protocol number 23 attached to the Constitution is very dangerous: in practice, it is all about the militarization of the union. Its implementation is being followed by the European Defence Agency, also written into the Constitution.

The establishment of the EU battle forces has been started already, even before the Constitution has entered into force. In the Capability Commitments Conference on 22.11.2004, nineteen Member States committed themselves to the idea of EU battle troops by 2007, as stipulated in the protocol number 23. These troops are composed of mercenaries.

The political elites of Finland or Sweden do not want to have a debate about the Constitution and its effects on our military non-aligned status. In Austria, on the other hand, a national discussion is going on, and I think this aspect needs also to be debated in Ireland.

About federalisation

In the Convention, the first article of the Constitution the one which appeared throughout the whole one and a half-year drafting period stated that the Union exercises its competences *on a federal basis*.

At the last minute, it was noted that this would reveal the true nature of the Union, and on the last night the text was changed to say "on a Community basis". Nobody knows - or tells - who decided to change the text.

The new formulation describes the method of federalisation: the Community method. It means that power is centralised to the Union's own institutions and that the power exercised by the democratic bodies of the member states is replaced by the supranational decision making.

During the last night of the Convention, the constitutional flag, the anthem, money and the (supra)national day (Europe Day) were added to the Constitution. Nobody knows - or tells - where these suggestions came from.

In addition to these symbols the positions of the union president and foreign minister can be treated as signs of the emerging federal state. These new positions are not only symbols but reflect also the new competences giving the Union more power in the fields of foreign, security and defence policies.

Also the composition of the Commission is being federalised. This institution consisting of civil servants is aimed at resembling the government of a federal state. In the future all states do not have their own commissioner, and, alas, the "European commitment" is included in the selection criteria of all commissioners. As a result of this, the candidates who are nominated by their home countries but who do not support the federal power can be excluded from the Commission.

Far too little attention has been paid to the fast developing idea of *Area of Freedom, Security and Justice*. It is about the gradual harmonisation of civil laws and asylum and immigration legislation.

Supranational laws

The new legislative procedure written into the Constitution means the transfer of power to the supranational institutions.

The commission has the monopoly in initiating legislation. *The ordinary legislative procedure* will be the old co-decision procedure, and according to that the supranational European Parliament (where the bigger member states have more members than the others) and the Council decide together upon the laws. Both have a veto. In the Council, the most populated member states have, however, greater veto power than the small countries due to the fact that each piece of legislation can be vetoed by a minority of four countries comprising 35% of the population of the Union.

The number of those legislative acts that fall under the ordinary legislative procedure, increases from 37 to 86. This is a remarkable transfer of power towards supra- or euronationalism, i.e. eurofundamentalism. The Constitution also includes 43 new legal bases to be decided by qualified majority voting. This power, gained by the institutions of the Union, is lost by the national parliaments.

From my long experience as a member of the national parliament, I can state that protocol number 2 concerning subsidiarity does not solve the above-mentioned problem. If one third of the national parliaments reacts and opposes a legislative proposal, the Commission has to reconsider the proposal, but this does not mean that it has to change it.

I very much appreciate this opportunity to speak to you here in Ireland - which is a more democratic country than my own. You vote. Have a fair referendum!

Go rev ma agive.