



OCGG Government Section

Advice Program
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The European Constitution

Project
Ratification

The Constitution Is Alive - Ratification Must Go On

Recommendation to the
Principals of the European Union

by André Nilsen

Despite the unsuccessful referendums in France on Sunday 29 May and The Netherlands on Wednesday 1 June, the European Constitution is still alive. The leaders of the institutions and governments of the European Union have a moral, political, and legal duty to ensure that the ratification process continues in the remaining Member States.

WHAT IS THE SITUATION SO FAR

As many as 9 of the 25 Member States have already accomplished ratification. Austria, Germany, Greece, Hungary, Italy, Lithuania, Slovakia, and Slovenia have accomplished ratification through parliament. Spain has accomplished ratification through referendum.

MAIN POINTS

The Constitution is still alive despite defeats in France and The Netherlands. The leaders of Europe have a duty to keep the ratification process on track. Everything should be done to secure victory in the next referenda. If necessary, Turkey and Lisbon should be scrapped. Germany and Spain must lead.

ABOUT THE AUTHOR

André Nilsen is the Chairman and Managing Director of the OCGG and a DPhil candidate in political economy at Oxford. He has an MPhil from Oxford and did his undergraduate studies at Oslo, Washington, Heidelberg, and Harvard. He can be contacted at andre.nilsen@oxfordgovernance.org

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Only 2 of the 25 Member States have so far failed ratification. France and The Netherlands have both failed ratification through referendum.

A majority of 14 of the 25 Member States have yet to attempt ratification. Belgium, Cyprus, Estonia, Finland, Latvia, Malta, and Sweden have planned ratification through parliament. The Czech Republic, Denmark, Ireland, Luxembourg, Poland, Portugal, and the UK have planned ratification through referendum.

WHAT IS LIKELY TO HAPPEN NEXT

It is a fairly safe assumption that of the Member States that have yet to attempt ratification all those ratifying through parliament will be able to accomplish ratification.

Of the remaining ones ratifying through referendum, we have always expected failure in the UK and we should now probably assume failure in the Czech Republic and Ireland – whereas it seems reasonable that we can count on success in Poland, Denmark, Portugal, and Luxembourg.

If this forecast is right, the result will be that 20 of the 25 Member States accomplish and 5 of the 25 Member States fail ratification.

THIS IS NOT A PROBLEM

Such a scenario, where at least 4/5 of the Member States accomplish and up to 1/5 of the Member States fail ratification, is already provided for in declaration 30 of the final act of the Constitution, which stipulates that the matter in such a case is to be referred to the European Council for resolution.

The consensus has long been that such a situation could be solved in the following way: The Member States that have accomplished ratification would enact the Constitution among themselves whereas the Member States that have failed ratification would have to either try again or step out into a special arrangement. This is indeed what should happen.

Some will argue that the solution provided for in declaration 30 of the final act of the Constitution was designed only to deal with the UK and perhaps one or two smaller Member States. It may be true that this was the intention but there is no rational and objective reason why it should not be relied on to deal with also France and The Netherlands. Although they are important Member States, they are not indispensable if it comes to a hard choice between them and the future of the European Union as a whole.

IMPLICATIONS RIGHT NOW

It is very important to keep all this in mind now in the hysteria and confusion in the aftermath of the unsuccessful referendums in France and The Netherlands. It has several important consequences for the current situation:

- First, it means that the Constitution is far from dead.
- Second, it means that the ratification process must go on.
- Third, it means that all efforts should now be focused on winning the referenda at least in Denmark, Luxembourg, Poland, Portugal, and if possible in the Czech Republic and Ireland.

THE CRITICAL TASK

The principals of the European Union must urgently identify and implement the actions necessary to win the referenda at least in Poland, Denmark, Portugal, and Luxembourg, and if possible in the Czech Republic and Ireland.

If data suggest that voters in these Member States worry about the possible ac-

cession of Turkey, the Lisbon agenda, or any other controversial issue – then these issues should be scrapped decisively, immediately, and publicly from the political agenda of the European Union. Time has come for tough choices, firm actions, and clear speech.

What counts now is acting in the interest of the long term global interest of humanity. This requires a multipolar world. This requires a unified and strong Europe. This requires a European Constitution. Now is the one unique historical opportunity to get it. Anything else is nothing but a means to this end.

ACT LIKE STATESMEN

The leaders of all the institutions and governments of the European Union must recognize that the Constitution is still alive and that they have a moral, political, and legal duty to ensure that the ratification process continues in the remaining Member States.

However, now that France has sidelined herself alongside the UK, a particularly heavy responsibility to take leadership and keep the momentum up rests with Germany and Spain.

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Registered Address:
141 Rampart Rd
Salisbury SP1 1JA
United Kingdom

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