

The new european constitution – from Laeken to Rome

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Einführung und Begrüßung von Ingolf Pernice

Sehr geehrter Herr Premierminister,
Exzellenzen,
Lieber Herr Schröder,
Meine Damen und Herren,

Im Namen der Humboldt-Universität und ihres Walter Hallstein-Instituts für Europäisches Verfassungsrecht begrüße ich Sie sehr herzlich zur sechsten Humboldt-Rede zu Europa. Als Referenten möchte ich natürlich Sie, Herrn Premierminister Verhofstadt, ganz besonders willkommen heißen.

Die Deutsche National-Stiftung und unsere Universität haben diese Reihe in Zusammenarbeit mit dem Veranstaltungsforum Holtzbrinck ins Leben gerufen, nachdem vor dreieinhalb Jahren der deutsche Außenminister Joschka Fischer an dieser Stelle seine Visionen über eine Verfassung der Europäischen Union erläutert hatte.

Er hat damit dem europäischen Verfassungsprozess den entscheidenden neuen Impuls gegeben. Jetzt ist die Regierungskonferenz am Werk. Der Europäische Rat vom 12./13. Dezember in Rom soll den „Vertrag über eine Verfassung für Europa“ beschließen. An diesem Wochenende gehen die Außenminister in „Enklave“, um die strittigen Punkte zu klären.

In diesem kritischen und auch historischen Moment, in dem um die Zukunft des erweiterten Europas, seine Verfassung und damit auch um seine Stellung und Rolle auf der globalen Bühne gerungen wird, ist es uns eine überaus große Freude und Ehre, dass Sie, Herr Premierminister, unserer Einladung an die Humboldt-Universität gefolgt sind, trotz Ihres überfüllten Terminkalenders, trotz des Streiks an unseren Berliner Universitäten!

Sie sind eine der Quellen für den Erfolg des Verfassungsprozesses bis heute, denn Sie haben unter Ihrer, der belgischen Präsidentschaft die berühmte Erklärung von Laeken auf den Weg gebracht. Mit ihr wurde der Europäische Konvent über die Zukunft Europas ins Leben gerufen, mit dem das Verfahren der Vertragsrevision eine neue, parlamentarische und damit demokratische Dimension erhielt das Mandat für den Konvent mit über 40 schwierigen Fragen formuliert und insbesondere:

auf höchster politischer Ebene das bis dahin geltende Tabu gebrochen, dass die Europäische Union eine Verfassung haben kann, ohne ein Staat zu sein oder zu werden.

Heute geht es um die konkrete Gestalt einer Verfassung für die Union, die sie handlungsfähig und demokratischer macht und die für den Bürger verständlich und annehmbar ist. In vielen Mitgliedstaaten wird es ein Referendum geben. Es hat nur Erfolg, wenn die Bürger verstehen, was sie entscheiden.

Vielleicht gelingt es Ihnen – und, wenn nicht Ihnen, wem sonst könnte dies gelingen – den Anstoß zu geben für die Überwindung weiterer, verbliebener Tabus und nationaler Borniertheit; wir wären glücklich, wenn ein solcher – unverzichtbarer – neuer Impuls wieder von dieser Universität ausginge.

Meine Damen und Herren,

Herr Verhofstadt ist Jurist, Arbeitsrechtler. Er war, so sagt der im Internet publizierte Lebenslauf über ihn, „un adolescent rebelle“, mehr also als ein schwieriger Schüler. 1982 mit 85% der Stimmen mit 29 Jahren zum jüngsten Parteivorsitzenden gewählt, reformierte er – als Politiker „neuen Stils“ – die liberale PVV zur Bürgerpartei VLD – Vlaamse Liberalen en Democraten. Sein Motto: neuer Liberalismus. 1985 zog er als Nachfolger von Willy De Clercq ins belgische Parlament.

Nach erfolglosen Wahlen 1995 nahm er sich ein Jahr frei zum Nachdenken in der Toskana und hatte dann sein Comeback als Präsident der Flämischen Liberal-Demokraten 1997. Neue Ideen zu den Problemen seines Landes und Erfahrungen u.a. als Mitglied der

Ruanda-Kommission führten ihn 1999 zum Wahlsieg. Mit einer liberal-sozial-grünen Koalition schickte er die seit 41 Jahren mitregierenden Christdemokraten in die Opposition. Wer Belgien kennt, weiß, dass hierzu eine ungeheure Kraft, politisches Geschick und Kreativität bei der Zusammenführung gegensätzlicher Interessen erforderlich war. Genau dies brauchen wir auch für das neue erweiterte Europa.

Meine Damen und Herren, Herr Verhofstadt hat Verständnis für den Streik an unserer Hochschule. Ich möchte den Streikenden danken, dass wir diese Veranstaltung über die Zukunft Europas hier heute durchführen können. Sie werden sich nicht wundern, dass ich sage: Der Streik ist mehr als legitim! Wer die Mittel für die Bildung zurückschraubt, sägt an dem Ast, auf dem wir alle sitzen, in Deutschland und in ganz Europa. Es geht um die Zukunft Europas, und damit sind wir wieder beim Thema.

Herr Premierminister, obwohl wir alle sehr auf Ihren Vortrag gespannt sind, möchte ich noch drei Worte des Dankes sagen, bevor ich das Wort an Herrn Kollegen Schröder für die Einführung und dann an Sie übergebe:

Dank an die Firma Agfa-Gevaert, die uns nach der Veranstaltung zu einem wunderbaren Empfang einlädt, und an Herrn von Kyaw, früher ständiger Vertreter Deutschlands in Brüssel, der uns geholfen hat, Sie als spendablen Partner für heute zu finden.

Dank an das Veranstaltungsforum Holtzbrinck, mit dessen freundlicher Hilfe es uns immer gelingt, unseren Veranstaltungen einen passenden Rahmen zu verleihen.

Dank vor allem natürlich an Sie, Herr Premierminister, dass Sie mit uns über die Zukunft Europas sprechen wollen und dabei schon von der Sprache her als echter Europäer auftreten: Sie sprechen auf Englisch, obwohl das (noch) keine Landessprache Belgiens ist, aber Sie erlauben nachher und verstehen Fragen auf Flämisch, Französisch oder Deutsch, wenn jemand diese Sprachen vorzieht.

Ganz herzlichen Dank!

Das Wort hat Herr Professor Richard Schröder für die Deutsche Nationalstiftung.

Rede von Guy Verhofstadt

Rector,
Excellencies,
Ladies and Gentlemen,

The London Council of Foreign Ministers was launched exactly fifty-six years ago today on November 25, 1947. The Council was attended by the four victors of the Second World War, who were also the four occupying powers in Germany. This was the Council that decided to divide up Germany and implement the Marshall Plan. Both decisions had a major impact on the history of Germany and Europe. In fact, this decision led to the traumatic division of Europe, which was not undone until 1989.

Today, 56 years later, Europe looks totally different. The Berlin Wall has come down, and the dream of achieving a single Europe is within reach. The Europe of the six founding members has gradually expanded to include the British Isles, the Mediterranean countries, the Scandinavian countries and now the countries of central and eastern Europe. This process of unification is not yet complete, for the Balkans and Turkey will surely follow. We must also develop a long-term relationship with Russia. But on May 1, 2004 a new era will begin: A unified Europe will become reality.

Ladies and Gentlemen,

These are historic times, and not just because of the enlargement of the European Union. The dream of a politically unified Europe, based on a single constitution, is also moving closer with every passing day.

In fact, the unification of Europe goes hand in hand with more intensive European integration – something which I would call a process of constitutionalisation. This process started twelve years ago in Maastricht. It continued in Amsterdam and Nice. And it accelerated with the Declaration of Laeken and the Convention. It is now up to the Intergovernmental Conference to complete this process by approving a genuine constitution.

The Intergovernmental Conference has reached the home stretch. By the end of the year we must have the new basic rules governing how the unified Union will work. An initial attempt in this direction was taken in Nice, but it failed to achieve the desired result. In fact, this was clear even before Nice had finished, when a declaration on the future of the Union was included in the Treaty.

One year later at Laeken we opted for a revolutionary new method to help us sketch out this future: the Convention. To be honest, this has proven to be an unexpected success, for it was definitely not self-evident early on. In fact, at Laeken we thought that the Convention would, at the very most, set out a number of options from which the Intergovernmental Conference could draw. But the Convention has gone much further than that. Under the leadership of Valéry Giscard d'Estaing, a single global consensus-based text was approved, and when this text was presented at the European Council in Thessaloniki, the impact was very real.

This approach radically changed the nature of the Intergovernmental Conference. In contrast to Maastricht, Amsterdam and Nice, the current Conference did not begin with a blank slate, but with a fully fledged basic text. So it would be a mistake of historic proportions if the result of the Convention were to be unravelled or if we were to start over from scratch, as if the Convention had never taken place.

After all, the Convention enjoyed a very high degree of legitimacy, which it derived first and foremost from the fact that it was composed of representatives of the governments, national parliaments, the European Parliament and the Commission. It acquired additional legitimacy through the fully open and transparent manner in which it worked for sixteen months. And it also derived legitimacy from the results that it submitted. The Convention discussed and

assessed all options – no fewer than five thousand amendments. And it succeeded in submitting a single draft constitution.

Moreover, in the heated debates currently under way, people sometimes forget that the Convention made spectacular progress in a number of areas and sometimes even managed to break age-old taboos. In fact, an example of this is the very term 'constitutional treaty'. I can still vividly remember how, around this time two years ago, I travelled to the capitals of the Member States in my capacity as president of the European Council to rally support for the Declaration of Laeken. I had no problem here in Berlin, but in other capitals there was little enthusiasm for an EU constitution. That is one sacred cow that has now been slain.

But that is not the only one. The list is long, and I think it is interesting to go through it, for it includes: a single constitutional treaty that integrates all existing treaties; the incorporation of the Charter of Fundamental Rights of the European Citizen; a unique legal personality for the Union; the merger of the so-called 'pillars'; the possibility for the Union to join the European Convention on Human Rights; a better and more transparent description of the powers of the Union and the Member States; respect of subsidiarity; a hierarchy of standards; a drastic simplification of instruments and procedures. Even the role of the Commission President and the European Parliament have been expanded and strengthened. The position of a European Foreign Minister will be created, and this individual will also serve as Vice President of the European Commission and President of the Foreign Affairs Council. All of this - which two years ago was nearly inconceivable – has now been achieved. Other proposals made by the Convention have clearly not yet been achieved.

These must be negotiated right up to the last minute. Here I am thinking of the extension of qualified majority decision-making. I feel that this is the most essential item. A Union consisting of 25 or more Member States must remain capable of taking action, and must be able to keep working efficiently and make decisions. The Convention has suggested expanding qualified majority voting to include a number of areas, such as justice, home affairs and financial perspectives. That is a good thing. We must now ensure that this is not undone. In fact, we should go further, by introducing qualified majority voting for fiscal and social matters, and for the common foreign and security policy.

This brings me to the second point of the discussion: foreign policy. The creation of the position of a European Minister of Foreign Affairs is good, but it is not enough. If, in the long run, we want to have a genuine foreign policy, then we must also create the possibility of enhanced cooperation and structured cooperation on defence.

Lastly, a proposal has been made to drop the system whereby the EU Presidency rotates every six months. The point here is not to decide whether we will have an elected Presidency or a predetermined team Presidency, but to ensure that the Presidency is a factor of coherence and continuity. The introduction of the post of President of the European Council does not mean the dreaded introduction of a presidential system, but it will give the Union a much-needed recognition factor - a face, as it were.

Ladies and Gentlemen,

Europe can be structured in accordance with two models. The first is what Charles de Gaulle called "*l'Europe des Etats*", an intergovernmental model that focuses on national interests.

The second model is a federal Europe, which is also known as the Community model. In this model, the Union consists not just of Member States, but also of citizens, and focuses on the general interest of the European Union as a whole.

Belgium is well known as a passionate supporter of the Community model, a federal Europe, and a Europe that is as democratic as possible.

The proposals made by the Convention are clearly a step in this direction. They reinforce the Community model, namely: a decisive Commission which is therefore limited in size; more decisions taken by qualified majority; a more transparent system for calculating the qualified majority that takes account of both Member States *and* population. The proposals also seek to

ensure that institutional balance is maintained between the Council as the representative of the Member States, the European Parliament as the representative of the people, and the Commission as the body looking after the general interests of Europe.

Protecting the proposals made by the Convention must therefore be our point of departure.

We are not interested in reaching agreement at any price. If reinforcing the Community approach cannot be found in the compromise on the table, then we will not accept it.

Belgium is not alone with this view, for this is also the basic assumption of the six founding Member States - and they are supported by a number of other Member States. What brings all of these Member States together is the desire to ensure that decision-making within an enlarged Union is made easier instead of harder. Once again, this implies establishing a more transparent and democratic method for calculating the qualified majority; applying qualified majority voting to more policy areas; limiting the size of the Commission; and at the same time ensuring equal access to the Commission for all Member States. These, together with a flexible review clause for future changes to the treaty, are the common themes facing us as they and we move into the final stages of the negotiations.

Ladies and Gentlemen,

Let us not have any doubts. The direction indicated by history is quite clear. The future of Europe lies in the construction of a federal Europe. I am weighing my words carefully here, because this is a loaded concept. But the trend is unmistakable, even if it is moving ahead in fits and starts.

We first created a single market; we eliminated our internal borders; we created a European Central Bank and we introduced our own European currency. Since Amsterdam we have been working on a common foreign policy with a High Representative, who will soon be a genuine Foreign Minister. We already have Schengen and Europol, and soon we will have a European public prosecutor. And now, we are working on a European defence, an issue where the debate is still raging. Some countries have made concrete proposals which the 25 current and future Member States are now debating in the European institutions.

The next stage in European integration will no doubt be financial in nature. At least, part of the current national tax contributions must be replaced by Community funding. This will enable the Union to pursue a policy based on its own resources, allowing us to avoid a paralysing debate between net contributors and net recipients.

In short, it is clear that the European Union is evolving inevitably towards a federal institution. A federation which, on the basis of a constitution, respects its constituent Member States' autonomy and powers.

There is nothing unique about this process. Exactly the same thing happened in the United States of America in the 19th century. The constituent states of the USA unified to develop a federal state to which they steadily transferred greater powers. Moreover, during that process the federal American state gradually spread from the Atlantic to the Pacific Ocean. The parallels are striking: as the Member States transfer greater powers to the European Union, that Union is spreading from the Atlantic towards the Urals.

Today, that very same European Union whose powers and territory are systematically being extended, must now be able to take its place on the world stage. Naturally, this has consequences for the world order that was our legacy from World War Two: first a bipolar world, then - after the implosion of Communism - a unipolar world. In other words, Europe's emancipation impacts this world order.

I am convinced that herein lies the fundamental cause of the current tension between the European Union and the United States. Of course, economic factors like differences of opinion over Kyoto, disarmament and world trade also play a role. But the more deep-seated, underlying reason is that the United States are seeing the emergence of a European Union which is demanding a voice in international affairs.

To my mind, the emancipation of Europe - sixty years after its liberation by the United States - is not just inevitable, but also rather positive. During the Balkans conflict we all looked on powerlessly as concentration camps sprouted up on the European continent once again, just 1,000 kilometres from Brussels. Once again, we had to wait until the Americans put an end to a European war.

Then came the deep divisions in Europe over Iraq. Only when all the Member States had already taken up their own positions did the European Council discuss the matter. And all we could do was note how divided we were. That was when it became very clear to me that we will only develop a genuine common foreign policy when we have our own powerful, credible defence capability. Doing so will oblige us to decide in times of crisis whether or not to use that capability. Only in that way is there a chance to develop a genuine common foreign policy.

A few months ago, together with the German Chancellor, French President and the Luxembourg Prime Minister, I launched some proposals aimed at fleshing out the concept of European defence and, in any case, making them more tangible. And I am totally convinced that such a European defence capability will see the light of day. After all, every opinion poll and Eurobarometer survey indicates that European citizens very much like the idea of a European defence force.

Ladies and Gentlemen,

Let us not deny it: There is a great deal of mistrust in the United States with respect to Europe's defence plans. I note and I regret that such a prospect is regarded as a threat on the other side of the Atlantic. That lack of trust constitutes a break with US policy during the first four decades of our joint European adventure. From the establishment of the European Coal and Steel Community to the early nineties, the United States encouraged European unification. Washington was rightly convinced that this also served US interests.

After all, we do share the same values.

The past decade, however, has seen a shift in that attitude. To my disappointment, I find that the United States now all too frequently view the integration within the European Union as conflicting with its interests, in the same way as it initially regarded the euro as a rival to the dollar rather than a tremendous tool for integration. Similarly, the USA regard European defence policy today as a threat to its own position of power, not as a tool for Europe's emancipation.

And yet there is no need for such mistrust. From our point of view, Europe's defence is not a strategic move against the United States or a move intended to undermine the Atlantic Alliance. On the contrary, a common European defence capability will make Europe a full and strong partner of the United States. A common European defence capability will complement the Alliance, endowing it with a strong, credible European pillar. A European defence capability will restore the required balance in NATO.

After all, two years after September 11, 2001, two years after the United States, Europe has also fallen victim to international terrorism in a shocking manner. The bombings in Istanbul, a European city, have killed dozens of people and wounded hundreds more. The suffering may not be on the same scale as on September 11, but each human life lost to terrorism is one too much.

The tragedy in Istanbul must strengthen us in our conviction that Europe too needs greater energy and might. It must strengthen us in our conviction that Europe must quickly develop its own defence capability. And it must strengthen us in our conviction that it is important for Europe and the United States, as well as for other countries, to work on a joint strategy – as fully fledged partners.

That is why the time has come for us Europeans and Americans to stop mistrusting each other and to stop doubting each other's intentions. We have shared interests. By developing a

European defence we can join forces as equal partners in order to better propagate our shared values and better coordinate and pursue our war against terrorism.

Rector,

Ladies and Gentlemen,

The next few months will no doubt be crucial. The Constitution is the final piece of one of the most important developments in Europe's history – the phase of peaceful unification.

However, there remains one question that we must address. What if the basic assumptions of the Convention are not approved? What if, at the end of the year, the Intergovernmental Conference fails to approve an ambitious and coherent constitution? What if the draft of the Convention is unravelled? What if little or nothing remains of the Community consensus?

These questions are neither rhetorical nor hypothetical. It is clear that some are moving in this direction – in some cases openly. Some Member States, even before joining the Union, reject the political aims of the European project. Some Member States see the European Union simply as a union for economic cooperation, or, worse still, merely as a source of funding. But these countries must be only too aware of the implications of their attitude. The consequences if the Intergovernmental Conference were to fail cannot – and must not – be underestimated. The burning desire for enlargement would be quenched.

Negotiations on the financial prospects for the period from 2007 to 2012 would be launched under disastrous circumstances. And those Member States which do indeed agree to the proposals of the Convention would have no other choice but to move forward together. In other words, I am convinced that the failure of the Intergovernmental Conference would mark the start of all kinds of enhanced cooperation. We would inevitably see a two-speed Europe emerge, a core Europe, a European Federation within the European Union.

Fifty years ago, Belgium took the strategic decision to work together with Germany, France, Italy, the Netherlands and Luxembourg to achieve "an ever closer Union" to quote the text of the Convention. Since then, European integration has formed the primary pillar of our foreign policy.

I can understand that not all Member States have the same opinion. Upon closer analysis, that is in itself perhaps not so serious. It means we can work together perfectly with 25 or more countries on all areas where we are in agreement. But this can only be the case if one explicit condition is met: That those Member States which do feel that the objective of the European project is important, which do believe in "an ever closer Union", are given the opportunity to pursue that goal too. There is a tool which enables them to do this: enhanced cooperation. The task now is to use this tool in a number of new policy areas and to supplement it with other tools such as structured cooperation. Naturally, all these forms of cooperation must be accessible to all Member States who want to become involved in them. Of course, these forms of cooperation must be pursued in consultation with the Commission and under the democratic supervision of the European Parliament.

Ladies and Gentlemen,

Since the first Treaty of Rome, each new stage, each development in the momentum of European integration came about when Germany and France made a concerted effort. It began when visionary French and German politicians decided to place their coal and steel production under a joint authority. Things moved a stage further when France and Germany decided to eliminate their shared borders. And then there came a temporary high point when France and Germany decided to introduce a joint currency. Belgium and the Benelux countries have always been a partner to the Franco-German driving force behind European integration.

While it is true that France and Germany are on the threshold of a qualitative leap in their relations, I am convinced that we, too, are on the verge of a similar escalation in European integration. Enhanced cooperation between France and Germany can once again be the

driving force behind the political integration of a united Europe. In the coming years, as in the past, Belgium will play its part – with 25 if it can, with fewer if it must.

The ideas, suggestions and proposals that I hear and read concerning closer cooperation between Germany and France certainly appeal strongly to me, whether it is a question of collective diplomatic delegations, joint parliamentary meetings, promoting knowledge of each other's languages, greater cultural interconnection or dual nationality. It is striking that suggestions are not limited to cooperation between countries and governments. The aim is chiefly to bring peoples closer together. This could be the start of a new European avant-garde, and Belgium certainly wants to play a part in this avant-garde right from day one.

Rector,

Ladies and Gentlemen,

A dark cloud of pessimism hangs over the Intergovernmental Conference. And we have very little time left – a month at the most. I am not one of those who believe that what cannot be achieved in December, will suddenly become possible in February. If this year's Intergovernmental Conference fails, then the likelihood of a re-examination in the short term is slim. In that case we will be heading directly for a two-speed Europe.

Nevertheless, I hope that it will not come to this. All the countries taking part in the Intergovernmental Conference have, either in the recent or more distant past, experienced where a divided Europe can lead. All of them have seen how European integration – and European integration alone – can lead to peace, stability and prosperity in Europe.

We are faced therefore with a historic challenge. Fifteen years after the fall of the Berlin Wall, the European Union will grow from its original six Member States to 25. Almost 50 years after the Treaty of Rome - via the European Coal and Steel Community - we have the unique opportunity to develop a genuine European Constitution and a political European Union. The European dream is gradually becoming reality. It would be a mistake to miss the crucial step we now have the opportunity to take. What's more, it would be a step backwards in the history of European unification.

With the Laeken tasks in hand and the Treaty of Rome in sight, I would like to appeal to each of the 25 countries: Ask not what Europe can do for you and your country, but what your country can do for Europe. European integration is on the verge of taking a crucial step. The step towards a truly one and free Europe. Let us take this crucial step together.

Thank you.