



**HAL**  
open science

# Back to the 'future of Europe'. A political sociology of EU constitutional saga

Antoine Vauchez, Antonin Cohen

► **To cite this version:**

Antoine Vauchez, Antonin Cohen. Back to the 'future of Europe'. A political sociology of EU constitutional saga. 2008. hal-00384039

**HAL Id: hal-00384039**

**<https://hal.science/hal-00384039>**

Submitted on 14 May 2009

**HAL** is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.



European  
University  
Institute

Robert Schuman Centre for Advanced Studies

# **EUI Working Papers**

RSCAS 2008/33

**Back to the 'Future of Europe':  
A Political Sociology of EU Constitutional Saga**

**Antonin Cohen and Antoine Vauchez**

**EUROPEAN UNIVERSITY INSTITUTE, FLORENCE**  
**ROBERT SCHUMAN CENTRE FOR ADVANCED STUDIES**

*Back to the 'Future of Europe':  
A Political Sociology of EU Constitutional Saga*

**ANTONIN COHEN AND ANTOINE VAUCHEZ**

This text may be downloaded only for personal research purposes. Additional reproduction for other purposes, whether in hard copies or electronically, requires the consent of the author(s), editor(s).

Requests should be addressed directly to the author(s).

If cited or quoted, reference should be made to the full name of the author(s), editor(s), the title, the working paper, or other series, the year and the publisher.

The author(s)/editor(s) should inform the Robert Schuman Centre for Advanced Studies at the EUI if the paper will be published elsewhere and also take responsibility for any consequential obligation(s).

ISSN 1028-3625

© 2008 Antonin Cohen and Antoine Vauchez

Printed in Italy in December 2008

European University Institute

Badia Fiesolana

I – 50014 San Domenico di Fiesole (FI)

Italy

[www.eui.eu/RSCAS/Publications/](http://www.eui.eu/RSCAS/Publications/)

<http://cadmus.eui.eu>

## **Robert Schuman Centre for Advanced Studies**

The Robert Schuman Centre for Advanced Studies (RSCAS), directed by Stefano Bartolini since September 2006, is home to a large post-doctoral programme. Created in 1992, it aims to develop inter-disciplinary and comparative research and to promote work on the major issues facing the process of integration and European society.

The Centre hosts major research programmes and projects, and a range of working groups and ad hoc initiatives. The research agenda is organised around a set of core themes and is continuously evolving, reflecting the changing agenda of European integration and the expanding membership of the European Union.

Details of this and the other research of the Centre can be found on:

[www.eui.eu/RSCAS/Research/](http://www.eui.eu/RSCAS/Research/)

Research publications take the form of Working Papers, Policy Papers, Distinguished Lectures and books. Most of these are also available on the RSCAS website:

[www.eui.eu/RSCAS/Publications/](http://www.eui.eu/RSCAS/Publications/)

The EUI and the RSCAS are not responsible for the opinion expressed by the author(s).



## **Abstract**

Looking back at eight years of controversies over Europe's future, this paper develops a new research agenda towards a political sociology of EU constitutional politics. As a preliminary step, we make the case for reflexivity, that is, for a critical appraisal of intellectual practice in the constitutional debate. Two research directions are then explored: an analysis of the changing forms of the "European public sphere"; a study of the "field of EU constitutional reform". As a polity, Europe is not a social continuum, but a mosaic of fragmented public spheres and social fields that, albeit undoubtedly interdependent, are largely autonomous from one another. In this configuration, informal scenes of power are as much important as institutional centres of command to set the agenda, promote new ideas and mediate contending interests. We therefore argue that a better understanding of both the European public sphere and the field of EU constitutional reform implies moving the research agenda from analyzing institutions to studying informal cross-sectorial arenas and trans-national networks, as well as the social and professional profiles of the agents making up these institutions, arenas and networks.

## **Keywords**

Political Sociology – Field theory – European Constitution – European Convention – EU Elites





## Introduction

The constitutional saga Europe has gone through over the past eight years may well be an opportunity, if not for European citizens, at least for European studies<sup>1</sup>. It provides scholars with a quasi-experimental situation for assessing, not so much the various strategies deployed by “constitutional actors”<sup>2</sup>, but rather the heuristic performances of the contending theories of European integration. In many regards indeed, the constitutional moment could well be a turning point for European studies just as it seems to be for European Union (EU) politics. Unsurprisingly, EU constitutional saga has prompted an important stream of academic research. Most of it has developed along pre-existing and relatively confined sub-fields of European studies. On the one hand, the novelty of the conventional procedure has re-launched the long-lasting debate over treaty-making processes. Along the lines of Andrew Moravcsik’s liberal intergovernmentalism, some insisted that the apparently new method of decision-making resulting from the institutionalization of a Convention did not really change much to the “business as usual” bargaining game between member States, however acknowledging the role of a supranational entrepreneurs in framing the debate at the Convention (Magnette & Nicolaidis, 2004). More or less inspired by Jürgen Habermas and Jon Elster’s democratic theory, others on the contrary insisted on the rather innovative method of deliberation chosen at the Convention, nevertheless concluding that the Laeken process was not entirely different from previous intergovernmental conferences (Fossum & Menéndez, 2005). In short, many studies tried to assess the respective share of bargaining and deliberating in the so called consensus method, thereby showing that both governmental agency and supranational entrepreneurship did simultaneously contribute to the constitutional outcome (König and Slapin, 2006; Panke, 2006; Dür & Mateo, 2006; Landfried, 2006; Cammaerts, 2006; Closa, 2005; Magnette, 2005; Crum, 2005, 2004; Bellamy & Schönlau, 2004; Eriksen, Fossum & Menéndez, 2004). A newer stream of research, closer to the neo-institutionalist/constructivist paradigm (Beach and Christiansen 2007; Christiansen, Falkner and Jørgensen, 2002; Christiansen, 2002), has developed along two convergent lines: identify the important and most of the time neglected role institutional actors play at supranational level in continuously framing and re-framing the agenda, terms and set of options of the treaty-making process: the secretariat of the European Council, the President, Praesidium and secretariat of the Convention, the Eurogroup, or the European Court of Justice (Tsebelis & Proksch, 2007; Buchet de Neuilly, 2007; Puetter, 2007; Granger, 2005); identify the preference formation of both supranational institutions and national governments (König & Hug, 2006; König, 2005; Dimitrakopoulos & Kassim, 2005a&b, 2004a&b; Hix, 2005). On the other hand, and finally, a few articles have focused on national mobilizations during and after the Convention, highlighting the many political and social factors that led to the “yes” or “no” votes in the various European countries, and in a certain sense questioning the so-called Europeanization of European societies (Cohen & Vauchez, 2007a; Lucarelli & Radaelli, 2005).

In this paper, we build upon a political sociology approach which, in our view, is yet to be developed in European studies<sup>3</sup>. Drawing on various on-going research (Cohen & Vauchez 2007a&b; Cohen, 2007, 2008; Vauchez, 2008), we suggest to move the focus from national and supranational

- 
- 1 By “constitutional saga” or “constitutional moment”, we mean the period of time during which a “single” issue – establishing a Constitution for Europe – was at the core of European Union political agenda, roughly speaking from 2000 to today.
  - 2 By “constitutional actors”, we mean the wide range of political leaders, legal advisers, top civil servants, academics, consultants (the list is not limitative), one way or another implicated in the debate on the reform of EU treaties over these years.
  - 3 This political sociology approach is summed up in just a couple of pages in the recent Handbook of European Union Politics as a distinctly ‘French approach’ and an “almost parallel universe to hegemonic Anglo-American forms” (Favell 2006: 126).

political and administrative institutions to transnational professional communities and social fields, and in the case under study, from EU institutions to the whole field of EU constitutional reform – that is, the entire constellation of actors, groups and institutions interested in a way or another in EU reform. Based on Pierre Bourdieu’s field theory (Bourdieu, 1992, 1998), this approach proves very fruitful for the study of European politics (Kauppi, 2005), and particularly constitutional politics, for at least two reasons. By shifting the focus from institutional to social and professional characteristics of agents (Georgakakis, 2002), this type of approach highlights the sometimes common and sometimes different profiles of EU reformers, beyond their formal institutional positions (de Lassale & Georgakakis, 2008). Strangely enough, in the bulk of literature dedicated to the constitutional saga, very little has been written about the concrete actors that debated and drafted the actual treaty, at the Convention or during the IGCs. This is all the more surprising that one of the most deep-seated ‘*acquis*’ of political science is that social, professional or merely political recruitment of any given institution matters much to understanding the way the institution thinks and acts. In this paper, we argue that some specific resources and capitals were critical in order to authoritatively take part in the debate over Europe’s constitutional future, and that the constitutional process has been continuously framed by those agents who could (more than others) lean on this resources and capitals. Moreover this type of approach puts the emphasis on generally overlooked, if not ignored, venues and arenas where contending interests are informally mediated. The European field of power is not only a space where decisions are being taken between national governments and supranational institutions, but also one where ideas and representations of political legitimacy are debated and disseminated by a wide range of actors. Understanding the framing processes that paved the way to a “European Constitution” implies enlarging the picture way beyond the *centres* of political and bureaucratic command officially entitled to drafting European treaties. While the neo-institutionalist/constructivist literature focuses on each and every institution’s preferences and strategies, less institutionalized microcosms – task forces, expert committees, academic conferences, etc... – have been overlooked<sup>4</sup>. This is all the more prejudicial to a correct understanding of EU constitutional politics that the European Union is a fragmented and highly differentiated polity partially deprived of the kind of power that usually makes up the State: the power to organize in lasting arrangements the relation and hierarchy of interests between contending social groups, and to enforce them through laws, taxes, justice and police. In this paper, we argue that these *fora*, where politicians, experts, businessmen, trade union leaders, higher civil servants, academics and all sorts of Euro-implicated *elites* get together across the national and supranational levels of EU polity, but also across the various national fields of power, are not peripheral but *central* to the constitutional process.

Before engaging in the study of EU constitutional politics, we make the case for reflexivity, that is, for a preliminary appraisal of intellectual practice in the constitutional debate. To be sure, a field-approach cannot but include academics themselves in the picture, and more so when, given the very nature of the process (a ‘constitutional’ one), they played a key role from the very beginning. In a European construction that is still haunted by its *finalité* (Europe-as-an-open-ended-historical-process), and never completely freed from the *finalisme* of its early founders (Europe-as-a-necessary-historical-process), explaining the past and forecasting the future are *constitutive* of the process itself, and this is where academics enter the game.

## I-Social Sciences and the Constitutional Debate: The Case for Reflexivity

One of the most difficult tasks when analyzing European “constitutional moment” is to avoid indulging in retrospective prophecies providing reasons as to why the process “had-to-go-this-way”, and – depending on the moment – “fail” or “succeed”. In very much the same way that it was once impossible to escape learned discourses filing the treaty establishing a Constitution for Europe under

---

4 This claim encounters similar attempts engaged by some historians of the European integration (Kaiser, Leucht & Rasmussen, 2009 ; Kaiser, 2009)

the “necessary” and “irreversible” course of European history (a decisive spill-over in European integration), it proved equally difficult not to retrospectively think of the French and Dutch referenda as “inevitable” failures. Although unforeseen turnarounds, unexpected reversals and unintended consequences, in short the many “ups” and “downs” of the constitutional process, should have prevented social scientists from jumping to premature conclusions over its actual *meaning*, the “lessons of the social sciences” have continuously been invoked to such a purpose. This teleological bias – often combined with explicit normative stances on the “stuff” European future should be made of – has two shortcomings: it makes away with what is probably the most important in understanding what shaped this constitutional saga, i.e. the contingent and highly uncertain nature of the outcome; it neglects the fact that forecasting the future and reinterpreting the past are social activities that fully make part of the process.

### ***Retrospective prophecies***

With the benefit of the hindsight, many “causes” can be found to what has been described as a major “crisis” of European integration: from macro-economics (mass unemployment, increased job insecurity) to politics (unpopular governments, lack of pedagogy) to macro-political economy (the ever-growing gulf between elites and the people, the coalition of all anti-globalization forces, or the hardly quantifiable *malaise* of French society), including the coming to an end of both the “*méthode communautaire*” and the “permissive consensus”. The lack of interest of public opinions to the day-to-day governance of the European Union (Majone, 2006, Moravcsik, 2006) did not prevent from a sudden concern of European peoples over the constitutional issue. There are at least three good reasons for which one should refrain from the temptation to engage in such retrospective, short-lived macro-interpretations.

First of all, these macro-interpretations cloud our understanding of the micro-social processes that in fact may well have brought the European Union closer to its citizens. Too often reduced to the single dimension of the pro- and cons-, the meanings of the referenda were far from univocal. If the vote clearly opposed electorates according to their levels of education, occupation and income (Lehingue, 2007), the political meaning(s) of each of the ballots remain particularly unclear. How could there have actually been a clear-cut answer from “the” people when the very question could be understood in a wide range of ways: “*En votant ‘oui’, à quoi dit-on ‘oui’?*” was kindly asked Ségolène Royal during the campaign. Equally unclear are the political meanings of the referendum campaigns themselves. Generally interpreted as a paroxysmal illustration of the great divide between European Union and its citizens, resulting in a halt in European integration, both campaigns could be equally understood as having boosted the politicization of European issues and the Europeanization of national politics, for they unquestionably caused an unprecedented growth of “interest” in the European Union on the part of its citizens, resulting in an unusually high electoral turnout.

Secondly, these short-lived macro-interpretations are condemned to be reversed at every step of the process. The day after the referenda rejected the constitutional treaty, the Convention on the future of Europe looked as a definite failure, leading many to the conclusion that opening treaty-reform debates to the non-specialists was both impossible and inefficient. Conversely, the day after the reform treaty was signed in Lisbon on 13 December 2007, the judgment could be slightly less stringent as most of what had just been agreed upon came from the Convention and would not have even been possible, had the usual IGC procedure been chosen from day one. Moreover, even what could have appeared to be doomed to oblivion after the referenda, i.e. the constitutional symbols and rhetoric, could well make a come back, with a revenge. As a matter of fact, many of the networks and coalitions that pre-existed or were formed during the constitutional process are now engaged in re-labelling the Lisbon treaty as a Constitution *in substance*, given its many similarities with its failed predecessor. Strikingly

enough, both opponents and partisans of the former Constitutional Treaty actually agree on this<sup>5</sup>. In other words, the historical signification of the constitutional saga is an open-ended process in which competing interpretative communities have been fighting repeatedly.

Thirdly, these retrospective short-lived macro-interpretations put the very understanding of the constitutional process at risk. When considered from such an ex-post point of view, each political move is evaluated with respect to its eventually “positive” or “negative” contribution to the whole process. Thereby, political motives and strategies tend to be read as either ill- or well-founded, as signs of, alternately, perceptiveness or misjudgement. While Chancellor Merkel’s ability in bringing about a compromise at the European Council in the spring of 2007 cannot appear anything less than far-reaching, President Chirac’s decision to submit the constitutional treaty to popular ratification in the fall of 2004 cannot but seem short-sighted. In any case, the possibility of identifying the concrete and at-the-time realistic calculations and rationales that inspired the retrospectively “ill-founded” initiatives is hard to understand. Such ex-post narrative thus ignores how well-founded were the many “illusions” that *retrospectively* became known as ill-advised, blinded by the fact that these are now seen as part of the “wrong side” of history<sup>6</sup>. It overlooks the fact that the “choice” for a referendum was constrained and that many States already had opted for popular ratification. In particular, “constitution” almost unequivocally implies “referendum” in the French political imagination (and practice) since after the Vichy regime. Moreover, popular ratification seemed all the more reasonable and realistic that opinion polls were at the time encouraging – provided the Turkish issue be purposefully put aside, as it in fact was<sup>7</sup>. Wasn’t the whole process precisely about bridging the so-called “democratic deficit” and bringing Europe closer to the citizens?<sup>8</sup>

### ***“Past” and “Future” as Issues of Constitutional Politics***

Beyond what may appear as a mere (and classical) divergence on the function of social sciences (and scientists), there is something more important. Interpretations of the past and forecasts of the future fully make part of the struggles over European integration. Invocations of the “past” and the “future” cannot be considered as external to the process itself, but should be analysed as resources or constraints framing the constitutional issue and shaping the path towards treaty-reform.

History (its “legacies”, its “precedents” and its “lessons”) has been one essential battleground for the various contending actors. As in every other critical moments in European integration (Cohen, 2007; Shore, 2000), Europe’s *telos* (*‘le sens de l’histoire’*) once again underwent a process of construction and re-construction by Euro-implicated groups and institutions. European history has been an important terrain – for academics and non-academics alike – to feed and root the various prophecies and predictions about the future of Europe. The drafters of the constitutional treaty themselves heavily invested in historical symbolism. Both “opening” and “closing” ceremonies of the constitutional process stood in the face of history: while Valéry Giscard d’Estaing stressed the

---

5 See, for instance: Valéry Giscard d’Estaing, “Les outils sont exactement les mêmes, seul l’ordre a été changé dans la boîte à outils”, *Le Monde*, 26 Octobre 2007; and Bernard Cassen, “Ressurrection de la Constitution européenne”, *Le Monde diplomatique*, December 2007; not to mention that the European Court of Justice might as well redefined the reform treaty in the line of its earlier jurisprudence defining the existing treaties as a constitutional charter. Legal scholars equally consider that “the Reform treaty is a constitution with a small ‘c’” (Somek, 2007: 3).

6 Paradoxically, the “wrong side” that will go down in history seems, this time, to be the winning side (the “no”). This process is not very different from what happened when the breakdown of the French Fourth Republic paved the way for retrospective prophecies that glorified de Gaulle’s perspicacity and condemned Fourth Republic’s leaders’ blindness (Francois, 1996; Gaïti, 1998).

7 In February 2005, Chirac had the French Parliament introduce Article 88-5 in the French Constitution rendering referendum compulsory for any further European enlargement, clearly aiming at avoiding the Turkish issue to interfere with the constitutional issue.

8 Alexander Somek (2007, 3) refers to this as the the ‘identification by constitution’ strategy.

responsibility the conventioners bore to history in his first speech to the Convention on 26 February 2002, the signing of the treaty establishing a Constitution for Europe took place at the Campidoglio on 29 October 2004, in the very room where the Treaties of Rome had been signed almost fifty years earlier. Similarly, a constitutional pantheon had emerged as a “ready-made-past-for-the-future” way before the first ratification wave had even started: along with a collection of architects (the “BCD”, for “Bourlanges-Cohn-Bendit-Duhamel”) stood some “founding fathers” (“VGE”) – and Joschka Fischer’s speech of 2000 was not far from reaching the same fate as the “Schuman declaration” when the French and Dutch votes (provisionally?) disrupted the continuous process of construction of a European constitutional memorial. More generally, a wide variety of antecedents and “invented traditions” have been called upon to establish both ruptures and continuities, advances and setbacks, alternately endowing the constitutional project with nobility or dishonour: the Philadelphia Convention, the French Revolution, the 1938 Munich agreement or, to narrow the list down to examples drawn from European integration history, the 1984 Spinelli Constitution, the EDC, or the “Empty chair crisis”<sup>9</sup>. The post-referenda crisis itself could be understood in the light of what appears as a substitute to the community method: the salutary crisis.

These usages of history in treaty-making processes are, of course, not novel<sup>10</sup>. But, the political stakes of this perpetual re-invention of a European tradition (with its “legacies” and its “lessons”) had never been so salient. The very strong presence of academics among constitutional actors (see *infra*) certainly favoured such a focus. The unprecedented scope of the treaty probably also had the effect of making the “*acquis historique communautaire*” a highly controversial matter (see particularly the debate over Europe’s “Christian legacy”). We however argue that the need to repeatedly refer to the “logic” of European integration above all relates to the sense of uncertainty and reversibility of the process shared by all EU-implicated actors. Indeed, many of the political strategies that paved the way to the constitutional treaty were actually constructed as “crisis scenarios” *intended* to reduce as much as possible this level of uncertainty by anticipating and circumventing the many pitfalls and obstacles along the way. Whether right or wrong, these rationalizations as to the possible scenarios delineated the path. Anticipated failures or successes were essential stakes in the negotiations themselves. Various worst-case scenarios – a clash over the QMV negotiation, a possible “no” vote in the UK, the absence of any possible Plan B – prompted political leaders to reach compromises and transactions and, eventually, to draft a treaty and various protocols. The many arrangements and opt-outs offered to the United Kingdom were not only the result of British weight in the negotiation, but also of a political strategy intended to *prevent* as much as possible a popular rejection of the treaty. Equally, the withdrawal of the constitutional terminology at the Berlin European Council of June 2007 was triggered by the fear of another fiasco, as a way to avoid *future* referendum among member States. In so far as they enabled the actors to define what was possible, and what was not, diagnoses and prognoses were thus an essential part of the constitutional process itself. In other words, constructing the future proved to be a critical resource for framing the present.

As a result of this intense story-telling activity, it proves impossible to distinguish experts’ forecasts from political strategies, learned exegeses from mundane struggles<sup>11</sup>.

---

9 This omnipresence of history in European debates does not preclude other forms of selective amnesia or lucidity, as the work of Christian Joerges shows (2005 & 2006).

10 Comparing the preambles of the European treaties since the fifties, Fabrice Larat evidences the fact that references to the past are a well-established political tool for the construction of *new* institutional orders (Larat, 2005). See for example the Preamble of the Lisbon treaty: “the historic importance of the ending of the division of the European continent and the need to create firm bases for the construction of the future Europe”.

11 Although the contribution of academics in the constitutional process has been largely overlooked (see however Cohen, Weisbein, 2006), scholarly expertise has proved to be an essential resource in the referendum campaigns, not so much in directly influencing political leaders’ and voters’ choices, but in outlining the alternatives (or the absence of alternative) and framing our understanding of the treaty. As John Keeler (2005) recently evidenced, this intertwining of both political and academic agendas is reflected in the fact that European Studies tend to follow the “highs” and “lows” of European integration itself. The three periods he identifies in the history of European integration – “*launch era*”, “*dark ages*”,

## II-Constitutional Politics in the “European Public Sphere”: The case of the French Referendum

At first sight, the chronology of EU constitutional process seems rather simple. According to a politically-centred narrative, it follows a linear succession of official meetings and landmark speeches: from the addresses of national political leaders (Joschka Fischer’s conference at Humboldt University in Berlin on 1<sup>st</sup> May 2000, Jacques Chirac’s discourse at the Bundestag on 27 June 2000, Tony Blair’s speech in Warsaw on 6 October 2000) to the final declarations of the Laeken European Council (15 December 2001); from the inaugural to the closing meeting of the European Convention (28 February 2002 – 10 July 2003); from the intergovernmental conference (4 October 2003 – 18 June 2004) to the signing of the Constitution (29 October 2004); from the French referendum (29 May 2005) to the signature of the Reform treaty in Lisbon (13 December 2007) and its rejection in Ireland (13 June 2008). Such a factual perspective seems all the more plausible that European news continues to be covered by the national media as *international* news and therefore to be mainly depicted as a series of intergovernmental rendezvous with their ballet of official vehicles and slamming doors (Baisnee 2005). This widespread conception that pictures the moves and counter-moves of political leaders opportunely meeting in a succession of “summits,” “conventions,” “conferences” and other “conclaves” can be seen as an international counterpart to the electoral *horse-race politics* at national level. There is however something of an ecological fallacy here that presupposes a unified and undifferentiated European political arena where political leaders would be equally interested and invested in European affairs and permanently adjusting to each other’s moves and strategies – in very much the same way as in national political fields. Now, if anything, the constitutional saga evidences the contrary. European public sphere is *not* a social continuum, but could be more accurately described as a mosaic of fragmented social fields that, albeit undoubtedly interdependent, are largely autonomous from one another. This was clearly demonstrated in the case of the French referendum. The dynamics of politicization of the constitutional issue during the campaign evidences the fact that Europe remains essentially a detour for nationally-oriented actors and strategies. The political crisis it triggered had the effect of momentarily redefining the conventions that usually structure the debates over the European Union.

### *Europe as a Detour*

Widespread political interest in the constitutional issue only started when it reached the national ratification step, clearly demonstrating a disconnection between the supranational and national levels of the so-called European public sphere (Vauchez & Cohen 2007)<sup>12</sup>. Even the social and political movements one would have assumed to be the most directly concerned by European (and international) issues – among which Euro-sceptics movements or ‘alter-globalization’ activists – were weakly mobilized during the Convention phase, and only became active when the constitutional debate intruded into *national* political fields. Although criticism of the European Union and its constitutional agenda is their primary *raison d’être*, Euro-sceptics were extremely discreet throughout the whole Convention phase. It all occurred as if it was the displacement of the constitutional debate onto the national stages that caused the intensification and densification of *transnational* mobilizations and exchanges over the Constitution (Usherwood, 2007). French anti-globalization movements (in particular the *Association pour la Taxation des Transactions pour l’Aide aux Citoyens-ATTAC*) offer a similar paradox: although one might think ATTAC’s leading role in the ‘no’ campaign is the logical outcome of a longstanding interest in European issues and investment on the international scene this was rather a consequence of a circumstantial redeployment after the movement had experienced its

(Contd.) \_\_\_\_\_

“boom era” – correspond to three distinct moments in European Studies, with, at most, a delay of 3-5 years which corresponds to the time taken for (specifically doctoral) research.

12 An evidence of this relative disconnection is the fact that “after a meeting of the European Council the individual head of government addresses himself to the particular national public sphere” (Kaelble, 2002: 13).

first national and, more so, international setbacks (Agrikoliansky, 2007)<sup>13</sup>. Equally, the transnational mobilization of French right wing catholic movements in the campaign to include a reference to Europe's Christian legacy in the preamble of the treaty owes more to the logic of internal competition *within* Catholicism, and more precisely to the reconfiguration of French Catholic right, than to the sudden and imperious need to root the constitution in Christianity, the Pope himself having given up on it (Airiau 2007). Most of the times, as these examples show, European issues are just another opportunity for *national* sector-specific struggles to be fought on another terrain and by other means. To put it differently, part – if not most – of the profits expected from engaging in the European constitutional debate were located in the national political fields. The intense mobilization over the European Constitution was not so much triggered by a long-lasting and shared interest in Europe, but it was fuelled by an internal dynamic of sector- and nation-specific interests that turned Europe into a (temporary) terrain of pre-existing confrontations.

While it may be true that the salience of the constitutional issue in the French public debate is by no means an indicator of the emergence of a de-nationalized and unified European public sphere, it is nonetheless significant<sup>14</sup>. As indicated above, it is essentially in order to establish an authoritative position *nationally* that these various groups felt the urge to build *transnational* networks. This had the side-effect to extend pan-European mobilizations on a whole range of issues so far dealt with essentially at the national level. Groups as diverse as political parties, trade-unions, local governments, non-governmental organisations, or interest groups were actively involved in developing transnational coalitions (through protests, congresses, meetings, websites, petitions, publications) in which a wide range of common platforms for constitutional claims were being built. If such a fact does not bear witness of a unification of European societies into one homogeneous political field, it nevertheless indicates that transnational strategies are now fully part of the repertoire of *national* collective action and politics (although, of course, variations occur from member State to member State). To put it in the words of Pierre Bourdieu, the referendum campaign exemplified an “extension of the national legitimization circuit” (Bourdieu, 1998) that makes activism at the European level a productive detour, a (now) legitimate terrain for engaging (or pursuing) national sector-specific battles. In other words, the national forms of European debates, albeit perennial, are not contradictory with the rise of cross-national interconnections resulting in the decline of national public spheres' autonomy.

This is the reason why it is vain to try and distinguish the national from the European when analyzing the electorate's reasons to vote for or against ratification. In the real world, there is no such thing as a clear and objective divide between a strictly *European* issue that voters could (and should) address exclusively and *national* issues that voters should (and could) disregard during referendum consultations<sup>15</sup>. As if there existed “one” perfectly unified and identified European issue, and not a variegated set of national- and sector-specific issues that the constitutional treaty itself addressed altogether. As if national issues could be abstracted from European policies<sup>16</sup>, when citizens precisely *perceive* Europe and its policies through their *national* consequences in their most localized manifestations.<sup>17</sup>

---

13 Among other elements is the fact that the European Social Forums (particularly in London in 2004) did not trigger the same degree of mobilization as the previous ones, putting in question the very possibility of building a genuine European social movement through that specific channel.

14 This element confirms previous empirical findings taken from the study of European social movements that rarely develop in some sort of genuinely supranational dynamics (Balme, Chabanet & Wright, 2002; Imig & Tarrow, 2001).

15 This strict divide is defended by authors like Pascal Perrineau (2005).

16 A point that Andrew Moravcsik (2006) unconvincingly tries to argue by pointing out the fact that European citizens focus on “national” issues (unemployment, security, health) supposedly distinct from “European issues”, leading him to the bizarre conclusion that even macro-economic issues have nothing to do with European integration since the relationship between European monetary policy and its national economic results is still uncertain.

17 Analyzing the isolation of rural areas like Aveyron – “political, geographic, human, economic, or social isolation” (Delbos, 1994) – as having determined the “no” vote to the Maastricht Treaty, without even considering the fact that

### *From Interdependency to Fluidity: the Referendum Crisis*

The French referendum also evidences the fact that, far from being fixed and stable, the frontiers between national and sectorial issues that normally structure the debate on European integration, get partially blurred under the pressure of momentary (but increasingly frequent) processes of intense *politicization*. Typically, the dramatization of the French referendum campaign of April-June 2005, both inside the country (a “historical moment for the country”) and outside (a “turning point for Europe”) – illustrates how these various national and sectorial definitions of the stakes can open up into a temporarily unified arena of interaction.

In many ways, the French referendum can be analyzed as a dynamic of multi-sectorial mobilizations (Dobry, 1986) that resulted in a sudden *extension* of the social sectors implicated in the struggles over European integration and a *densification* of the political moves exchanged both within the political field and across a variety of other social fields. Among the many indicators of this growing interest in Europe across fields, professions and institutions, the unexpected success of the countless books published on the European Constitution (a topic generally considered as being un-marketable)<sup>18</sup>, and the astonishing level of attention from ordinary citizens (polls indicated that Europe had become the “number one topic of conversation” in France for several weeks: Rozès, 2005) are particularly striking. As evidenced by Michel Dobry, in such moments of political crisis, sector-specific logics of collective action tend to be altered by multi-sectorial interferences, resulting both in dramatic changes in the value of resources and capitals within one given field and in the demise of deep-seated (but sectorial) representations in this same field: visions of the world tend to circulate in-between usually distinct and rather isolated social fields and taken-for-granted conventions over what is legitimate and what is not are often questioned in radically new ways.

Quite strikingly, in the case of the French referendum, the categories that usually frame the debates over European integration, such as the national and the supranational, the technical and the political, suddenly appeared to be arbitrary and ill-founded. Supranational competences and policies that had been defined in former European treaties became the topic of heated national controversies. Sectorial and technical issues that had been agreed upon within the restricted and semi-public circles of EU policy networks became passionate cross-sectorial and political matters. At the apex of the campaign, it seemed that no single issue once considered as strictly supranational or national could be clearly delineated. The very destiny of France was at stake in the European Constitution, and *vice versa*, European future was at stake in the French ballot. The controversy over the so-called Bolkenstein directive is quite emblematic of this momentary overlapping of national and supranational levels. Although the issue had long remained in the hands of EU-implicated decision-makers and had barely been publicised in the national public spheres, the directive suddenly emerged at the heart of the campaign as a highly politically-sensitive issue – incidentally placing the French representatives in Brussels in a delicate position, as they had readily agreed on it until that point. Conversely, the fact that the directive had become a symbol of neo-liberalism (and a cause for the no-vote) did a lot to convince the European Council of March 2005 in Brussels to call the Commission for amending it – as a favour conceded to the French government. More generally speaking, the conventional wisdom about what foreign political leaders may and may not say and do in national public spheres suddenly vanished. European leaders made numerous intrusions in the campaign, against the tacit rule of non-intervention from foreign leaders in national politics. Rarely before (if ever) had so many non-national political leaders so frequently interfered in a national campaign, commenting on French “*malaise*”, “leading role”, or “decline”, all the way down to explicit appeals to voting ‘yes’ or ‘no’<sup>19</sup>. To the point

(Contd.) \_\_\_\_\_

these rural areas are (in comparison with urban ones) the most directly concerned by “European issues” of which every farmer/voter has a personal and a practical knowledge via the Common Agricultural Policy (whose “local effects” may well have “caused” the no vote), is simply wrong.

18 “Les ouvrages sur la Constitution s’imposent comme de véritables succès de librairie”, *Le Monde*, 27 April 2005.

19 See, among other examples, Jean-Claude Juncker, “Vous devez voter ‘oui’”, *Journal du dimanche*, 27 mars 2005.



that Jacques Chirac himself had to press on the national public channel (France 2) for the cancellation of a political broadcast already scheduled for the 21<sup>st</sup> of April (“100 minutes pour convaincre”) during which the unpopular José-Manuel Barroso was to speak<sup>20</sup>.

In other words, it all occurred as if for a couple of weeks, the French public sphere had undergone a stringent process of Europeanization (a vertical Europeanization in the terms of Koopmans and Erbe, 2004) while, at the same time, the European polity underwent a brief moment of “nationalization”, all EU-implicated leaders being attracted to the logics of the French political field. Conversely, what followed the French and Dutch referendum can be read as convergent attempts from a variegated set of national and European actors to bring the discussions over Europe back in its ordinary (specialised, segmented, semi-public) forms. As a matter of fact, the strong politicization of the issue was tentatively countered by all sorts of political technologies deployed after the no votes. The most immediate aim was to bring the discussion back into the hands of the usual suspects of EU treaty reform: experts, high civil servants and government representatives. This also aimed at re-establishing a strict divide between the national and the European levels. The creation of various experts committees in charge of drafting a new compromise, such as the “Amato group” composed of individuals highly experienced in EU affairs<sup>21</sup>, the launching of a new intergovernmental conference under the German presidency, the decision to avoid publication in the Official Journal of the European Union of a consolidated text prior to ratification of the Lisbon Treaty, were among the political moves that helped confining the debate in more restricted circles. Equally, the eradication of constitutional terminology and symbols at the Berlin summit in June 2006 (regarded as a major cause of the failure)<sup>22</sup>, as well as the renouncement to new referenda were only few of the many political tools used to re-channel the debate into more secure and predictable hands, that of national parliaments<sup>23</sup>.

In sum, the French campaign is a good standpoint for observing and arguably improving our understanding of the processes of politicization or de-politicization European affairs go through at regular intervals. Contrarily to existing scholarship (Moravcsik, 2006), we argue that this process politicization is exactly what brings Europe closer to its citizens, albeit with a very high degree of simplification<sup>24</sup>. While, arguably, the terms of the French electoral campaign had never been so arcane, given the length and complexity of the constitutional treaty itself, the campaign evidenced an unprecedented process of politicization of (and interest in) European issues. Besides, with 27

---

20 « Qui a écarté M. Barroso de France ? », *Le Monde*, 31 March 2005.

21 The ‘Amato group’ – also called the Action Committee for European Democracy – was an semi-official group of politicians with strong academic credentials led from 2006 to June 2007 by former Italian Prime Minister Giuliano Amato and funded by the Robert Bosch Foundation. On the 4th of June 2007, the group presented a draft of a New Treaty and Supplementary Protocols. It was allegedly an essential basis for the compromise built by the German presidency at the European Council of 21-22 June 2007 in Berlin.

22 The European Council of Berlin on 19 June 2007 explicitly gave up this terminology in its mandate for the IGC: “The constitutional concept, which consisted in repealing all existing Treaties and replacing them by a single text called ‘Constitution’, is abandoned”.

23 Another example of the attempt to avoid as much as possible the re-opening of a politicization process is the proposal of the French government to withdraw from the French Constitution the obligation to consult the citizens through referendum for any new enlargement of the EU (that had been introduced only two years before in 2005, see supra).

24 There is no incompatibility in nature between European polity and policies and traditional electoral politics. If “lessons” are to be drawn from empirical social sciences, an essential one could be that no process of politicization is a priori impossible (or, worse, illegitimate). Whether this politicization is counter-productive since, in the words of Andrew Moravcsik, “popular response is ignorant, beside the point, and ideological” (Moravcsik, 2006), is a terrain social scientists should better not engage in – such remarks showing little understanding of what politicization processes are made of. Politicization can not be anything else than the outcome of the retranslation/reformulation of more or less complex issues in the terms of the dominant oppositions and divisions within a given political field, resulting from the multiplicity of motives and agendas of political agents. Thereby, at the heart of any process of politicization lies a sort of “simplification” and eventually “misunderstanding” with regards to the way in which the public problems and issues had initially been formulated by experts and public decision makers (this is not the same thing as “ignorance”).

referenda in the various member States since 1991 (de Vreese, 2004; Hooghe & Marks, 2006), the politicization of European polity – although still confined – has undoubtedly increased and will probably go on increasing<sup>25</sup>.

### III-The Field of EU Constitutional Reform at Work

The spectacular (though momentary) *enlargement* of the social spheres enrolled in the debate over European constitutional future was however counterbalanced by the equally striking (and enduring) *monopolization* of the actual treaty reform by a restricted range of actors. The multiple positioning of these treaty reformers in various institutional or informal venues points at both the social resources and transnational networks of these constitutional ‘tycoons’. Specific individuals have continually been involved in this constitutional process, although it may have been under different guises over time. More than individual (and “heroic”) figures, however, it is a whole constellation of actors, networks and institutions forming what we suggest to call the “field of EU constitutional reform” that decisively framed (Benford and Snow, 2002) the constitutional process along specific categories of thought and action – diagnoses and solutions – that predefined the entire debate. Not only did these reformers share certain ways of reasoning, but they also shared some social and professional characteristics.

Such a perspective helps to understand the relative closure of the constitutional debate over a specific agenda, as well as the divide between Euro-reform elites and, not only the ordinary citizens, but also the ordinary political elites at national level. When it came to campaigning, the mental gap between the transnational group of insiders that triggered the constitutional reform and the national political leaders that were suddenly at the forefront to convince the people of the benefits of it all, appeared to be wide, and in some occasions wider than *among* the various contending national leaders themselves – whatever their political leanings regarding the treaty. Put differently, the social and professional barriers and gateways as well as the specific array of resources necessary to participate authoritatively and persuasively in the constitutional debate did produce a “cognitive gap” over the priorities of European integration, that is key to understand the “simplifications” and “misunderstandings” that resulted from the abovementioned politicization process. This field approach also helps to shift the focus from official centres of command to more informal scenes of power, from political institutions to social networks. To be sure, this is not a variant of some sort of conspiracy theory. Rather, we argue that a better appraisal of what EU institutions do and of how EU institutions think requires studying their relations both with each other and with other institutions, in short what lies *in-between* them – e.g. the various cross-sectorial arenas, trans-national networks and informal sociability. This is particularly true in the case of the constitutional process that triggered a series of cross-sectorial meetings between academic experts, top civil servants, political leaders, economic consultants and interest groups’ lobbyists. Methodologically speaking, this implies using a number of research strategies too often neglected in the literature on European integration, albeit classical in political sociology and political science, ranging from the more ambitious prosopographical analysis to a mere socio-historical contextualization. Such empirical methodology is critical in seizing the background, capitals, positions and ties between actors within a relatively autonomous social sphere.

#### *A Constitutional Elite*

While the leading role of EU institutions in the constitutional process has been deeply scrutinized, little is known about the social background of the individuals making up these institutions. Great

---

25 Whether or not such participation necessarily brings legitimacy to European polity is another issue. However, Andrew Morvacsik’s somewhat cynical “depolicitization” strategy (Morvacsik, 2006) seems quite unrealistic after fifteen years of campaigning that put the demand for democratic legitimacy at the core of popular expectations.

attention has been given to the European Convention, for instance, but the social and professional and even political profile of the conventioners remains partially unexplored.

In what follows, we argue that a transnational network of constitutional experts and/or political entrepreneurs – among whom Giuliano Amato, Olivier Duhamel, Iñigo Mendez de Vigo are the most prominent figures – played a decisive role in framing the issues and in setting the agenda of the constitutional reform *across* the many institutional and informal venues that shaped this process (Cohen, 2007, 2008). These experts/entrepreneurs with strong backgrounds in law and academia played a central part, not only before, but also during and after the Convention, in the expert committees convened by the European Parliament and Commission under the umbrella of the European University Institute (Amato Report), in the committee for constitutional affairs of the European Parliament (Duhamel Report), in the two Conventions on the Charter of Fundamental Rights and European Constitution (Mendez de Vigo was a member of both) and in many others informal or institutional venues – including IGCs. Defying the usual categorizations of the national and the supranational, the institutional and the informal, but also the political and the technical, the individual agents constituting this network precisely define themselves by their multiplicity of positions within, and social ability to cross the borders between, the various segments of the European field of power. Not only did these experts/entrepreneurs share impressive levels of academic and legal capitals, but the more prominent and central they were in the process, the higher was their level of diploma, professional position in academia and legal capital (Marrel, 2006).

This is all the more important that law was really the *lingua franca* at the Convention. Paul Margette rightly pointed out that the final draft of the constitutional treaty owed very much to the ways of reasoning that men such as Giuliano Amato managed to impose in the debates – “in the name of simplification” (Margette, 2005; Margette & Nicolaidis, 2004). If these mostly legal arguments had any impact, however, this is not so much the natural outcome of the “logics of law”, but more probably the result of the receptiveness of the conventioners themselves to such a “common sense”. As a matter of fact, the Convention itself was at the image of its leaders. If the primary condition for being appointed, the political capital was not the only feature shared by the members of the Convention, also enjoying a significant level of legal and academic capital, including a large number of members trained in and/or practicing law. Around 40% held a law degree – which is significantly higher than in national parliaments (if we exclude the rather exceptional case of Italy) – and the same proportion had had a professional occupation in academia prior to their political career (see further in Cohen, 2007, 2008). Drawing the profile of the constitutional elite therefore points at the social logics that lie behind an efficient and authoritative participation in the various political, expert, or bureaucratic venues enrolled in the constitutional process.

It would be highly misleading to consider this important presence of both lawyers and academics as self-evident (“how-could-a-convention-on-institutional-reform-not-be-dominated-by-the-number-one-specialists-of-institutional-reforms-i.e.-lawyers?”). This overlooks the fact that the Convention – its genesis and its *raison d'être* – was in itself the product of a preliminary process of social construction that channelled the many concerns over Europe's future and reform (its many democratic, social, fiscal even military deficits) into one constitutional agenda and narrowed it down to an even more “legal” issue: the simplification, reorganisation and constitutionalisation of the treaties. Along with the Amato Report (*What form of Constitution for the European Union? Strategies and options to reinforce the constitutional nature of the Treaties*) quickly followed by another EUI Report (*A Basic Treaty for the European Union. A study of the reorganisation of the Treaties*) and of course the Duhamel Report (*Report on the constitutionalisation of the Treaties*), the fact that both the alleged drafters of the Laeken declaration – Franklin Dehousse and Koen Lenaerts (Margette and Nicolaidis, 2004, n16)<sup>26</sup> – were not only renowned experts regularly working for the Belgium Ministry of Foreign Affairs, but also well established EC law scholars deeply involved in this transnational legal community is

---

26 Franklin Dehousse and Koen Lenaerts have been nominated judges at the European Court of Justice in 2003.

interesting in this regard. This concentration of efforts may well account for the fact that the “simplification” and “reorganisation” of the treaties, a classic of lawyers’ agenda (legal rationalization), made its way to the political forefront while the issue had remained so far absent from the debate (de Witte et alii, 2008). Equally, the idea that the so-called “democratic deficit” could be reduced by the constitutionalisation of the treaties or even by a formal Constitution might be a pertinent legal equation, but it can not be considered as an entirely “natural” reasoning (except if we admit that law is a second nature equally shared by everybody)<sup>27</sup>. Actually, few government representatives initially had a Constitution in mind including when drafting the Laeken declaration. In other words, the *naturalization* of the constitutional agenda – the fact that, for instance, many conventioners (the president of the Convention taking the lead) and a variety of academics after (or before) them thought pertinent to compare the Brussels Convention to the Philadelphia Convention, or the fact that many citizens reacted to this pomposity with their own constitutional imagination (the republic, the nation, the revolution) – is may be, and paradoxically, the greatest success of this constitutional elite. Constitutionalization became *the* only horizon of EU reform, and this momentarily crowned the efforts of a legally-minded European elite while denying at the same time other possible terrains of discussion<sup>28</sup>.

### *Cross-sectorial arenas*

With the identification of the common social and professional characteristics of the constitutional elite, studying collective and individual trajectories is at the same time a way to grasp the *relations* between the various actors and institutions that make up the “field of constitutional reform”. Tracing the actors as they move across the frontiers of the social segments that make up the European polity, and circulate in-between academic, political, economic or bureaucratic arenas is key to understanding the constitutional process as a whole. It helps to identify the various *loci* of coordination and of frame alignment (Snow, 1986) of this highly differentiated set of arenas and institutions. Multi-positioned individuals and cross-sectorial arenas operate as critical sites in which a constitutional common sense is being built (a routinised bulk of arguments, a restricted set of alternatives, a toolbox of solutions) – if not a series of tacit agreements.

Standing at the crossroads and interface between the different poles of the field of constitutional reform, some highly multi-positioned individuals are themselves instances of coordination, whether they work in the shadows, like Hervé Bribosia<sup>29</sup>, or in the limelight, like the two vice-presidents of the Convention, Jean-Luc Dehaene and Giuliano Amato. The rather exceptional but paradigmatic case of Giuliano Amato is a good example of this multiplicity of institutional and informal positions, given the fact that there is virtually no position he has not held during the constitutional process: from chairing the expert committees created at the European University Institute in 1998-1999 to being vice-president of the Convention in 2002-2003 via sitting at the European Council as Italian Prime Minister in 2000-2001 (that is, during the IGC) as well as in the “Laeken Group” set up by the Belgian Presidency to monitor the preparation of the Laeken Council during the second semester of 2001<sup>30</sup>,

27 Among the paths not taken, one could have imagined, for instance, that a uniform procedure for the elections at the European Parliament bringing MEPs closer to the citizens by narrowing the size of their constituencies would have been much more efficient.

28 The preponderance of such a legal-centered political agenda is also the product of other similar undertakings engaged at the same time from the Charter of Fundamental Rights (Madsen, 2008) to the European judicial cooperation (Mégie, 2006).

29 Hervé Bribosia is a young Belgium legal scholar, who would become successively rapporteur in working groups of the EUI on the reorganisation of the treaties, a co-editor of various academic publications on the matter, and a policy adviser at the Convention secretariat.

30 Otherwise called Advisory Board or Brainstorming Group, the Laeken Group was composed of Giuliano Amato, Jean-Luc Dehaene (the two future vice-president of the European Convention), Jacques Delors, Bronislaw Geremek, Louis Michel and David Miliband.

ending up as chairman of the group of “wise-men” that revised (in fact reshuffled) the constitutional treaty so as to present a “new” text to European Council of June 2007 in Berlin. As exceptional as Amato may be, this ubiquity is not unusual among constitutional experts/entrepreneurs. However overlooked in the existing literature, the contribution of such “multiple positioning” to the shaping of the constitutional process is all the more decisive that, as they move from one arena to another, they act, in Norbert Elias terms, as “special functionaries coordinating the game” (Elias, 1978, p. 86). Working on both sides of the constitutional game, calling for academics to take into account political imperatives and for political leaders to draw on the lessons of academic work, or in other words, framing the political demand (European Union institutional agenda) while simultaneously designing the academic supply (European studies’ scientific priorities), they help synchronize and align the timing and priorities of both of these otherwise differentiated fields.

Equally important in such a perspective are the cross-sectorial arenas (expert committees, think tanks, kerns, working groups, parliamentary inter-groups) where Euro-parliamentarians meet consultants, European top civil servants come across academics, and European commissioners run into interest groups’ lobbyists and so forth. Just as in other complex and highly differentiated fields of power, these “neutral *fora*” (Bourdieu & Boltanski, 1976) located at the crossroads of otherwise distinct, if not antagonist, institutions and groups, have been essential to the formation of a constitutional common sense. As they seem to produce an “objective” discourse, different from the ones of each of the contending interests while at the same time fair to anyone of them, these *intermediary* and hybrid arenas are of particular interest for studying how sector-specific compromises and arrangements were built: from the institutionalization of long-lasting relations between the Church and European institutions to the definition of a European civil society including both non governmental organizations and interests groups (Michel, 2007; Saurugger, 2007), including the reformulation of the relationship between the supra- and infra- national levels of government (Pasquier, 2007).

On the whole, tracing individual trajectories and, through them, tracking the interlocking networks and overlapping memberships within the “field of EU constitutional reform” reveals a constitutional politics far more complex and changing than any institutionalist reading would let one believe *prima facie*, linking together distinct and often conflicting poles, roles and institutions (public/private, political/academic, national/EU-wide, European/International).

### ***The Convention as an intersection***

By and large, the Convention is what most attracted scholarly attention, to understand the preference formation of institutional actors at national and supranational level (in the abovementioned literature, see in particular: König & Hug, 2006; Dimitrakopoulos & Kassim, 2005a & 2004a), as well as to assess the respective share of bargaining and deliberating in the so called consensus method (see among others: König and Slapin, 2006; Panke, 2006; Dür & Mateo, 2006; Closa & Fossum, 2005; Magnette & Nicolaidis, 2004). Analysing the internal proceedings, procedures and decision-making processes of the Convention, the existing literature is almost entirely focussed on measuring the contribution of this institutional innovation to the ideals of deliberation, publicity, transparency and consensus it had initially heralded<sup>31</sup>, and/or to the marginalization of the traditional intergovernmental method in treaty-making processes. Taken as an isolated and self-sufficient social arena, the Convention may appear to be deliberative. However, political communication strategies from part of the members of the Convention themselves – in particular stressing the absolute novelty of the convention-method (openness, transparency...) – should not be confused with social and political reality. The internal debates at the Convention were deeply embedded in a set of external social and political collection actions that eventually managed to venture therein. If the amendments submitted

---

31 Very much in the line of Habermas or Elster’s theories of deliberative democracy (2001).

by the members of the Convention were considered by the Praesidium less from the point of view of their intrinsic pertinence than with regard to the political weight of their authors (Buchet de Neuilly, 2007); if the intrusion of new issues was more than anything else the result of the activism of multi-positioned members of the Convention promoting the interests of the various sector-specific organizations to which they belonged (Pasquier, 2007); then perhaps an internist and formalist reading of the Convention's proceedings is not enough to convince that there was actually something new under the sun.

First and foremost, the opening of the treaty-making process to Members of Parliaments (both national and European) and actors from the so-called "civil society" (through consultations, hearings and reports) did not neutralize the "intergovernmental bargain" (Magnette & Nicolaïdis, 2004; Crum, 2004). As Buchet de Neuilly exemplifies the effects of this institutional innovation have largely been neutralized by the Praesidium and its secretariat, but also by other Euro-experienced political actors that had an essentially technical understanding of the core reforms at stake (QMV) – in line with the previous intergovernmental conferences. Among others, the Secretariat General's high-ranking civil servants at the Praesidium proved to be the natural guardians of the continuity of the *méthode communautaire*. More generally, the convention members, far from being isolated, constantly operated as mediators with the "outer world". Its mission being to proclaim in constitutional terms what Europe *is* and how it *should* work by naming and formalizing its institutions and fundamental principles, the Convention was an essential arena for mediating interests not only between a great variety of political and national groups, but also in-between competing policy networks that various members of the Convention were "representing". Figures such as the Commissioner for Justice and Interior Affairs Antonio Vitorino, standing at the crossroads of legal (trained as a lawyer, himself a legal scholar, he has been a member of the Portuguese Constitutional Tribunal) and political realms (a former socialist minister and former president of the *Commission des libertés publiques* of the European Parliament), are emblematic of these intermediation activities: acting as a go-between, he was among those who asked for the lawyers and judges to be given an opportunity to express their views before the Convention and was successively asked to chair a group of legal experts on the matter – the "Circle of Discussion on the Court of Justice"<sup>32</sup>.

For all these various reasons, the research agenda needs to move on from the study of internal exchanges within the Convention to that of social *intersections* between the Convention and the various groups that tried to influence its agenda. The contest over constitutional concepts waged in the Convention – "civil society," "governance," "regional Europe," etc – is not just about various competing ways of speaking Europe (in this line of research, see for example Diez, 1999). Rather than purely speculative discussions over Europe's future, these were the spearhead of concrete actors and policy networks trying to secure their position in the context of a major European reform. As a "window of opportunity" for a series of policy networks, the Convention triggered a whole movement of organization and reorganization of both concepts and interest coalitions. The progressive re-labelling of interest groups into the more encompassing and noble category of "civil society" – whose components were granted with large access to the working groups of the Convention – is one of the exemplary outcome of a series of transactions – in that case between the Convention, trying to establish its democratic legitimacy, a small set of academics, trying to strengthen their role as experts in "European governance"<sup>33</sup>, and interest groups themselves, trying to lobby the European institutions – that redefined the repertoire of collective action in treaty reform. Initially highly antagonist and thereby inaudible by the Convention, the "territorial lobbies", i.e. the various transnational organizations defending the participation of local and regional levels of government in the definition of European policies (the Council of European municipalities and regions, the Assembly of European Regions, the Eurocities' network...) changed their lobbying strategy when realizing they were risking

---

32 Some elements of this narrative can be found in Marie-Pierre Granger (2005:10).

33 Such a transaction replicated that of the 'Governance' *Livre blanc* of the European Commission a few years before.

to falling into the vague category of “civil society”. The important constitutional results they finally obtained from building a common platform went along with a redefinition of their repertoire of action as well as of what should be understood by a European “local and regional interest” (Pasquier, 2007).

## **Conclusion**

Politicization might well have been what caused the failure of the treaty establishing a Constitution for Europe. De-politicization, however, might as well be what will cause the failure of the European Union in the future. Did the constitutional saga bridged or widened the “democratic deficit”? The forthcoming election to the European Parliament may give an answer to this question. In any case, the role of the social sciences should not be to take sides against or in favour of a greater or lesser politicization, but rather to understand what in both cases appears as strategies from part of the actors. In this paper, we suggest that a better understanding of these strategies implies to shift the focus on the actors themselves, on their capitals and positions in the field, as well as on their competitions and struggles to impose *their* definition of what Europe should be.

- Agrikoliansky, E., 2007. Une autre Europe est-elle possible ? Les altermondialistes français et la Constitution. In : A. Cohen & A. Vauchez, eds. *La Constitution européenne. Elites, mobilisations, votes*. Bruxelles : Presses de l'Université libre de Bruxelles, pp. 209-236.
- Airiau, P., 2007. Disputatio Dei. L'action politique des catholiques français partisans de « l'héritage chrétien ». In : A. Cohen & A. Vauchez, eds., *La Constitution européenne. Elites, mobilisations, votes*. Bruxelles : Presses de l'Université libre de Bruxelles, pp. 197-209.
- Amato, G. & Bribosia, H. & de Witte, B. eds., 2007. *Genèse et destinée de la Constitution européenne*. Bruxelles : Bruylant.
- Baisnée, O., 2005. The French Press and the Difficult Portrayal of 'Europe'. In: H. Drake, ed., *French Relations with the European Union*. Londres: Routledge.
- Balme, R. & Chabanet, D. & Wright, V., 2002, eds., *L'action collective en Europe*. Paris : Presses de Sciences Po.
- Beach, D. & Christiansen, T., eds., 2007. Political Agency in the Constitutional Politics of the European Union. Special issue. *Journal of European Public Policy*, 14(8).
- Bellamy, R. & Schönlau, J., 2004. The Good, the Bad, and the Ugly: The Need for Constitutional Compromise and the Drafting of the EU Constitution. In: L. Dobson & A. Follesdal, eds., *Political Theory and the European Constitution*. London: Routledge.
- Benford, R. D. and Snow, D., 2002. Framing Processes and Social Movements: An Overview and Assessment. *American Review of Sociology*, 26, pp. 611-639.
- Bourdieu, P. & Boltanski, L., 1976. Les lieux neutres. *Actes de la recherche en sciences sociales*. pp. 3-8
- Bourdieu, P., 1992. *An Invitation to Reflexive Sociology*. Chicago: University of Chicago Press
- Bourdieu, P., 1998. *State Nobility. Elite Schools in the Field of Power*. Stanford: Stanford University Press.
- Buchet de Neuilly, Y., 2005. *L'Europe de la politique étrangère*. Paris : Economica
- Buchet de Neuilly, Y., 2007. Des bâtisseurs de traités. Continuités et discontinuités du processus conférentiel. In : Cohen A. & Vauchez A., eds., *La Constitution européenne. Elites, mobilisations, votes*. Bruxelles: Editions de l'Université de Bruxelles.
- Cammaerts, B., 2006. The eConvention on the Future of Europe: Civil Society and the Use of the Internet in European Decision-Making Processes. *Journal of European Integration*, 28(3), pp. 225-245
- Campana, A. & Henry, E. & Rowell, J., 2007. L'Union européenne et la construction des problèmes, In : *La construction des problèmes publics en Europe*. Strasbourg : Presses universitaires de Strasbourg, pp. 5-30
- Christiansen, T., Jorgensens K. & Wiener A., 1999. The social construction of Europe. *Journal of European Public Policy*, 6(4), pp. 528-544.
- Christiansen, T., 2002. The Role of Supranational Actors in EU Treaty Reform. *Journal of European Public Policy*, 9(1), 33-53.
- Christiansen, T., Falkner G. & Jorgensen K., 2002. Theorizing EU Treaty Reform: Beyond Diplomacy and Bargaining. *Journal of European Public Policy*, 9(1), pp. 12-32.
- Cohen, A. & Wesibein, J., 2005. Laboratoires du constitutionnalisme européen. Expertises académiques et mobilisations politiques dans la promotion d'une Constitution européenne, *Droit et société*, pp. 353-371.



- Cohen, A. & Vauchez, A., 2007a. *La Constitution européenne. Elites, mobilisations, votes*, Bruxelles : Presses de l'Université libre de Bruxelles.
- Cohen, A. & Vauchez, A., 2007b. Law, Lawyers, and Transnational Politics in the Production of Europe. *Law and Social Inquiry*, 32(1), pp. 75-82
- Cohen, A., 2007. Le "père de l'Europe". La construction sociale d'une histoire de la construction européenne, *Actes de la recherche en sciences sociales*, 166-167, pp. 66-79.
- Cohen, A., 2008. Transnational Statecraft: Legal Entrepreneurs, the European Field of Power and the Genesis of the European Constitution. in: Petersen, H., Kjær, A.-L., Krunke, H. & Rask Madsen, M., eds., *Paradoxes of European Legal Integration*, London : Ashgate, pp. 111-127.
- Closa, C. & Fossum, J., eds., 2005. Deliberative Constitutional Politics. *European Law Journal*, 11(4), pp. 379-467.
- Closa, C., 2005. Deliberative Constitutional Politics and the Turn Towards a Norms-Based Legitimacy of the EU Constitution, *European Law Journal*, 11(4), pp. 411-431.
- Crum, B., 2004. Politics and Power in the European Convention. *Politics* 24(1), pp. 1-11.
- , 2005. Tailoring Representative Democracy to the European Union : Does the European Constitution Reduce the Democratic Deficit? *European Law Journal* 11(4), pp. 452-467.
- De Lassale, M. & Georgakakis, D., eds, 2008, *La nouvelle gouvernance européenne. Les usages politiques d'un concept*, Strasbourg : Presses Universitaires de Strasbourg
- Delbos, G., 1994. De l'isolement comme déterminant du "non" à Maastricht. L'exemple du référendum du 20 septembre 1992 en Aveyron. *Revue française de science politique*, 44(1), pp. 3-22.
- Deloche-Gauchez, F., 2007, La Convention européenne sur l'avenir de l'Europe, In : G. Amato & H. Bribosia & B. de Witte (eds.), *Genèse et destinée de la Constitution européenne*, Bruxelles : Bruylant, pp. 47-85
- De Vreese, C., 2004. News Matters : Influences on the Vote in the Danish 2000 Euro Referendum Campaign. *European Journal of Political Research*, 43 (5): 699-722
- De Vreese, C., 2007. The EU as a Public Sphere », <http://www.livingreviews.org/lreg-2007-3>
- Diez, T., 1999. Speaking 'Europe': the politics of integration discourse. *Journal of European Public Policy*, 6(4), pp. 598-613.
- Dimitrakopoulos, D. G. and Hussein K., eds., 2005a. Preference Formation and EU Treaty reform, Part II. *Comparative European Politics* 3(2), pp. 131-203.
- , 2004a, eds. Preference Formation and EU Treaty reform, Part I. *Comparative European Politics* 2(3), pp. 241-375.
- Dimitrakopoulos, D. G. and Hussein K., 2005b. Inside the European Commission: Preference Formation and the Convention on the Future of Europe. *Comparative European Politics* 3(2), pp. 180-203.
- Dimitrakopoulos, D. G. and Hussein K., 2004b. Deciding the Future of the European Union: Preference formation and Treaty Reform. *Comparative European Politics* 2(3), pp. 241-260.
- Dobry, M., 1986. *Sociologie des crises politique*, Paris : Presses de la FNSP.
- Dür, A. & Mateo, G., 2006. Bargaining Efficiency in Intergovernmental Negotiations in the EU: Treaty of Nice vs. Constitutional Treaty. *Journal of European Integration* 28(4), pp. 381-398.

- Elias, N., 1978. *What is sociology ?* London: Hutchinson
- Eriksen, E. O., Fossum, J. E. & Menéndez, A. J., 2004, eds., *Developing a Constitution for Europe*, London, Routledge.
- Favell, A., 2007. The Sociology of EU Politics. In : *Handbook of European Union Politics*. London : Sage Publications, pp. 122-137
- Fossum, J. E. and Menéndez, A. J., 2005. The Constitution's Gift? A Deliberative Democratic Analysis of Constitution Making in the European Union. *European Law Journal*, 11(4), pp. 380-410.
- François, B., 1996. *Naissance d'une Constitution. La Cinquième République 1958-1962*, Paris : Presses de Sciences Po.
- Gaïti, B., 1998. *De Gaulle prophète de la Cinquième République*, Paris : Presses de Sciences Po.
- Georgakakis, D., 2002. *Les métiers de l'Europe politique. Acteurs et professionnalisations de l'Union européenne*, Strasbourg : Presses Universitaires de Strasbourg
- Granger, M.-P., 2005. The Future of Europe. Judicial Interference and Preferences. *Comparative European Politics*, pp. 1-25.
- Habermas, J., 2001. Why Europe needs a Constitution? *New Left Review*, pp. 5-26.
- Hix, S. 2005. Neither a Preference-Outlier nor a Unitary Actor: Institutional Reform Preferences of the European Parliament. *Comparative European Politics*, 3(2), pp. 131-154.
- Hooghe, L. & Marks, G., 2006. Europe's Blues: Theoretical Soul-Searching after the Rejection of the European Constitution. *Political Science & Politics*, 39(2), pp. 247-250.
- Imig, D. & Tarrow, S., 2001, eds., *Contentious Europeans. Protest and politics in an emerging polity*. Lanham: Rowman & Littlefield.
- Joerges, C., 2006. On the Disregard for History in the Convention Process. *European Law Journal*, (12) 1, pp. 2-5
- Joerges, C., 2005, eds., *Confronting memories – reflecting history*. *German Law Journal*, 6(2).
- Kaiser, W., 2009, *Transnational Networks in European Governance: From ECSC to the EU*. *Journal of European Public Policy*, to be published
- Kaiser, W., Leucht, B. and M. Rasmussen, 2009, *The History of the European Union. Origins of a Trans- and Supranational Polity 1950-72*. Abingdon: Routledge.
- Kaelble, H., 2002. The Historical Rise of a European Public Sphere? *Journal of European Integration History*, 2 (8), pp. 9-22.
- Kauppi, N., 2005. *Democracy, Social Resources and Political Power in the European Union*. Manchester: Manchester University Press.
- Keeler, J. T. S., 2005. Mapping EU Studies: The Evolution from Boutique to Boom Field 1960-2000. *Journal of Common Market Studies*, 43(3), pp. 551-582.
- König, T. & Hug, S., eds., 2006. *Policy-Making Processes and the European Constitution: A Comparative Study of Member States and Accession Countries*. London: Routledge.
- König, T. & Slapin, J., 2006. From Unanimity to Consensus: An Analysis of the Negotiations at the EU's Constitutional Convention. *World Politics*, 58(3), pp. 413-445.
- König, T., ed., 2005. Methods and Measuring Positions on European Constitution-building. *European Union Politics*, 6(3), pp. 259-376.

- Koopmans, R. & Erbe J., 2004. Towards a European Public Sphere ? Vertical and Horizontal Dimensions of Europeanised Political Communication. *Innovation: The European Journal of Social Science Research*, 17 (2), pp. 97-118.
- Landfried, C., 2006. Difference as a Potential for European Constitution Making. *European Law Journal*, pp. 764-787.
- Larat, F., 2005. Present-ing the Past: Political Narratives on European History and the Justification of EU Integration. *German Law Review*, 6(2).
- Lucarelli, S. & Radaelli, C. M., 2005. *Mobilizing Politics & Society? The EU Convention's Impact on Southern Europe*. London: Routledge.
- Majone, G., 2006. The common sense of European integration. *Journal of European Public Policy*, 13(5), pp. 607-622
- Magnette, P. & Nicolaïdis, K., 2004. The European Convention: Bargaining in the Shadow of Rhetoric. *West European Politics*, 27(3), pp. 381-404.
- Magnette, P., 2006. *Au nom des peuples. Le malentendu constitutionnel européen*. Paris :Cerf.
- Magnette, P., 2005. In the Name of Simplification: Coping With Constitutional Conflict in the Convention on the Future of Europe. *European Law Journal*, 11(4), pp. 432-451.
- Marrel, G., 2006. Les *Constituants* au Parlement européen. Profils, trajectoires et capital juridique des eurodéputés impliqués dans l'activité constitutionnelle sous la 5<sup>e</sup> législature (1999-2004). Paper given at the Conference, *Capitales et capitaux juridiques en Europe* Université Paris I-Sorbonne/Groupe *Polilexes*, 15 Sept. 2006 (on file with the authors).
- Mégie, A., ed., 2006. Arrêter et juger en Europe. Genèse, luttes et enjeux de la coopération pénale, *Cultures & Conflits*.
- Michel, H., 2007. La 'société civile' dans la 'gouvernance européenne'. Eléments pour une sociologie d'une catégorie politique. *Actes de la recherche en sciences sociales*, 166-167, pp. 31-37.
- Moravcsik, A., 1999. A New Statecraft? Supranational Entrepreneurs and International Cooperation. *International Organization*, 53(2), pp. 267-306.
- Moravcsik, A., 2006. What Can We Learn from the Collapse of the European Constitutional Project. *Politische Vierteljahresschrift*, 47(2), pp. 219-241.
- Panke, D., 2006. More Arguing Than Bargaining? The Institutional Designs of the European Convention and Intergovernmental Conferences Compared. *Journal of European Integration* 28(4), pp. 357-379.
- Pasquier, R., 2007. L'Europe des régions en actes ? Processus conventionnel et construction d'un intérêt territorial européen. In : Cohen A. & Vauchez A., eds., *La Constitution européenne. Elites, mobilisations, votes*. Bruxelles : Presses de l'Université libre de Bruxelles, pp. 93-112
- Perrineau, P., 2005. Le référendum français du 29 mai 2005. L'irrésistible nationalisation d'un vote européen. In : Perrineau, ed., *Le vote européen 2004-2005 : de l'élargissement au référendum français*. Paris : Presses de Sciences Po, pp. 229-244.
- Puetter, U., 2007. Intervening from outside. The role of EU finance ministers in the constitutional politics. *Journal of European Public Policy*, 14(8), pp. 1271-1292.
- Radaelli, C., 2000. Logiques de pouvoirs et récits dans les politiques publiques de l'Union européenne. *Revue française de science politique*, 50(2), pp. 255-275.
- Reh, C., 2007. Pre-cooking the European Constitution ? The role of government representatives in EU reform. *Journal of European Public Policy*, 14(8), pp. 1186-2007.

- Rozes, S., 2005. La renationalisation du débat européen. *Le Débat*, pp. 29-43.
- Saurugger, S., 2007. Démocratiser l'Union européenne par le bas ? Des 'groupes d'intérêt' à la 'société civile organisée'. In : Cohen A. & Vauchez A., eds., *La Constitution européenne. Elites, mobilisations, votes*. Bruxelles: Editions de l'Université de Bruxelles.
- Snow, D. et al., 1986. Frame Alignment Processes, Micro-Mobilization and Mouvement Participation. *American Sociological Review*, 51(4), pp. 464-480.
- Shore, C., 2000. *Building Europe. The Cultural Politics of European Integration*. London, Routledge.
- Somek, A., 2007. Postconstitutional Treaty. *German Law Journal*, pp. 3-10.
- Stone, A., 2007. Integration and Constitutionalism in the European Union. In : Cohen A. & Vauchez A., eds., *La Constitution européenne. Elites, mobilisations, votes*. Bruxelles: Editions de l'Université de Bruxelles.
- Tsebelis, G. & Proksch, S., 2007. The Art of Political Manipulation in the European Convention. *Journal of Common Market Studies*, 45(1): 157-186.
- Usherwood, S., 2007. Sceptical or Simply Opposed? Anti-EU Groups and the Constitution. In : Cohen A. & Vauchez A., eds. *La Constitution européenne. Elites, mobilisations, votes*. Bruxelles : Presses de l'Université libre de Bruxelles, pp. 167-182.
- Vauchez A., 2008. The Force of a Weak Field. Law and Lawyers in the Government of the European Union (for a Renewed Research Agenda). *International Political Sociology*, 2: 128-144.

Author Contacts

Antonin Cohen

Assistant Professor (University of Picardie, Amiens)

antonincohen@aol.com

Antoine Vauchez

Marie Curie Fellow (EUI, Florence)

Research Fellow at the CNRS (CURAPP, Amiens)

Antoine.vauchez@eui.eu

