

European Constitution Against (Economic) Rise in Europe

By Peter Gonda*

1. Starting points

The draft of the Treaty establishing a constitution for Europe (further only European constitution) – something hard to imagine in this form only a few years ago – is „on the table“ today. In case the draft is accepted, it represents a barrier to an economic rise (or „resurrection“) in Europe¹. It means a preservation of the present falling away as regards economy dynamics and standard of living in the European Union countries, behind e.g. the USA or more dynamically developing economies.²

It also means that the EU is against getting closer to its own (though absurd) goal defined in the Lisbon strategy „to make the EU the most competitive, dynamic, and knowledge and experience based economy in the world until 2010“. The unrealistic nature of this absurdly defined goal is being proved by a long-term opening of scissors between economic performances, productivity and technological forwardness in the EU (especially in the continental regions) and the USA. Unchanged measures, which are being used to achieve this goal in the EU, confirm it.³

Although the objective of this article is not to characterize the economic problems of the EU countries, we would like to illustrate the point and mention a remarkable decrease in economic performance in Sweden when compared to the USA from 90% in 1975 to 75% in 2002 (see Chart No. 1) which also had an impact on citizens incomes (see J. Norberg)⁴. It proves to be right despite the fact that after the great economic crisis significant regulatory, centralistic and redistribution tendencies were introduced in the USA. The conditions for a sustainable economic development dynamic are in the USA much better than in the EU.

Chart No. 1: Economic Performance Ratio – France, Germany and Sweden compared to the USA

GDP per capita in PPP	1975	2002
France / USA (%)	79,1	75,4
Germany / USA (%)	74,3	71,7
Sweden/ USA (%)	90,6	75,3

Note: PPP - power purchasing parity

Source: OECD

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¹ The article focuses on criticism of the European Constitution with respect to desirable economic progression in Europe. I am convinced that it applies also on non-economic (values and civilisation falling behind) in Europe. The term „Europe“ is used only for illustration, it of course means the people living in this region, primarily in the EU countries.

² Singapore, New Zealand and Australia may serve as examples.

³ The EU tenaciously promotes „stimulation“ through public programs of support for labour market, science, research, etc.

⁴ Norberg, J.: End of the „Swedish Model“

2. Main reasons for Europe's falling behind economically (and loss of power position)⁵

Today's economic problems experienced by several EU countries (including issues of unemployment, low effectiveness or poor motivation to carry on business and low labour mobility level) have roots in the past, as well as being anchored in the ongoing process of integration. They are a result of the abandonment of traditional (classic) principles that were sources of (not only economic) wealth of part of Europe in the past⁶: competition, personal freedom, responsibility, and ownership rights.

Reasons for economic underdevelopment in Europe:

1. too high level of redistribution through public spending, notable government's influence on the economy, excessive weight of compulsory social solidarity and guarantee of social (too high) rights,
2. unification and reconciliation of economic conditions to serve purposes of single market and transfer (centralisation) of decision making from a national onto supranational, federal level.

Ad. 1: High level redistribution, government measures, regulation of the market and social rights (above a justifiable level of social solidarity)

These are the problems that occur predominantly in the states of „wealth“ (the three European countries listed in the chart no. 1) although their legislation is incorporated in EU norms. They do not take seriously warnings of widely recognised economists. We can only point out the over 200 year old message of Scottish economist and philosopher Adam Smith that is relevant even today:

„Statesman who would attempt to determine the ways in which private individuals should employ their capital, would not only burden his attention with the most pointless task, but he would usurp the authority that cannot be trusted to any council, any senate and which will never be more dangerous than in the hands of a man who believes in his illusive ability to exercise it.“ (Adam Smith)⁷.

Ad. 2: Unification (harmonization) of economic conditions to serve the purposes of a single market, centralisation of decision making – transfer from a national onto supranational, federal level

It is a paradox, but in order to create a competitive environment within the common EU market unified (technical, ecological and other) norms, one currency, minimum rates for indirect taxes have been introduced. It has and will have an opposite effect: averaging out of economic competition and restraint in search for better conditions and thus a drawdown of economic performance and living standard of people in the EU.

It is almost forgotten that the competition is characterised by diversification and not by harmonization. Using the words of Pascal Salin we can say:

„...competition is possible and desirable especially when people are different and live in different conditions ...“ and as regards tax harmonization “...seen from the economic theory and real world points of

⁵ Loss of previous power position is especially so in the case of France, Great Britain, Germany and the Netherlands.

⁶ Economic boom in Great Britain a few centuries ago may serve as an example.

⁷ Hayek, F. A.: Road of Serfdom (Bratislava, 2001).

view there is no reason for harmonization of VAT and income taxes. People either by moving around or by transfer of their savings should decide in which tax and public expenditure environment they want to live.“(Pascal Salin)⁸

On the contrary, in the USA (although it is a federative republic) respective states feature various tax and social systems. In the European Union, top representatives of Germany, Sweden and France speak about equal taxation on incomes which could mean higher taxes for Slovakia.

The European constitution draft represents the next step towards economic integration, from free trade zone and today's economic and monetary union to a budgetary and political union with only one government.

3. Why is the European constitution against the economic rise of Europe?

An acceptance of the European constitution will ‚cement‘ causes of economic retardation of the EU countries, and make it a legal force of the highest priority, and binding on all citizens of the EU member states. Therefore it represents a significant restrictions to competition and thereby also a restriction of any potential economic ‚resurrection‘ in Europe.

The reasons are the following:

1. it means an important step towards political centralisation of (also) economic decision making in the EU countries thus strengthening the central authority, and it opens the way to harmonization of other economic conditions
2. it transfers systemic deformations – broadly defined and (by the centre) guaranteed social (excessive) rights (not balanced by sources and duties) and regulations in the goods and services market, labour market, etc. – from a national legislation to the European legislation.

A kind of a goal (motto) for this centre is to create conditions allowing only as few differences as possible in the EU region. Averaging out will be the consequence.

Ad 1: Political centralisation and harmonization in the EU

The Treaty draft establishing a European constitution broadens the Union's authorities (including so called „shared authorities“) above the level set by the Nice Treaty (the treaty itself meant a considerable transfer from national onto central level).

The Union, for instance, uses the constitution to usurp exclusive rights in certain areas where only the Union may develop legislative activities and accept legal norms while member states may do so only after being authorized by the Union. It applies to customs union, common trade and monetary policy as well as on economic competition rules that are necessary for domestic market functioning. This might (along with the flexibility clause: article I-18)⁹ become an excuse for the harmonization of anything.

I consider the government's economic policy and in the main its policy of employment to be little effective (very often unproductive and even harmful) and believe that these policies should be reduced to a minimum. The European Constitution presumes the subordination of these policies to the Union (clause I-15“

⁸ Salin, P.: Private ownership, competition and the European Union, Prague, 2003.

⁹ It is true that this clause does not go above the line drawn by the Nice Treaty.

Co-ordination of economic and employment policies“¹⁰ - where there is „definition of guidelines for the policies“) and this means (but not only) lower productivity of decisions in these areas. Moreover, The European Council monitors correspondence of governments’ economic policies with the guidelines, assesses the situation and based on the assessments the Commission may admonish respective member states. The European Council will even establish a Committee for employment (and Committee for social protection) for monitoring purposes.

For Slovakia (mainly after entering the Euro zone – a loss of currency exchange rates and monetary policy) it poses a risk of the inability to react flexibly and in time to outside influences on the economy. The risk is too high to assume particularly if Slovakia joins the Economic and Monetary Union (EMU) too early. And the National Bank of Slovakia relies too heavily on fiscal and labour market policies.¹¹

Anyway, a loss of unequivocal competency of government economic policy along with loss of monetary policy implemented through a national bank are a confirmation of the transfer of key economic tools of „state“ onto a supranational level. I would like to emphasize again that I am a supporter of requisite limitation of the government’s and the NBS’ influence on the market. But centralisation of these policies arouses concerns, means lower effectiveness and lower level of decision monitoring and risk of higher costs that may occur in relation to sudden changes in the economy, especially when we are part of the EMU.

The direction towards political centralisation in the economic sphere is well confirmed also by so called shared competencies covering for instance the domestic market, social policy and so called economic and territorial cohesiveness, or agriculture, environmental issues, consumers protection, energy industry and others defined in clause I-14. Such competencies „sharing“ incorporated in the European constitution bring de facto their transfer to the EU. The draft of Treaty establishing a constitution for Europe quotes (in clause I-12):

„If the constitution delegates an authority, that is being shared in certain areas by both member states and the Union, to the European Union, both member states and the European Union may carry on legislative activities and accept legally binding acts. Member states exercise their authority to the extent to which the European Union does not exercise its authority or decided to cease doing it.“

But the Union is not satisfied with this and assumes another authority allowing her broad interventions:

„In certain areas and on the conditions stipulated by the constitution the Union is authorized to perform activities by the doing of which the union supports, co-ordinates or complements activities of member states without having substituted their authority in these areas.“ (Clause I-12)

¹⁰ Both are defined as issues of common interest in the EU.

¹¹ The NBS for instance claims that: „After Slovakia’s entering the European zone the tasks of fiscal policy will become more important due to the fact that in case of asymmetric shocks it will have to (in co-action with other policies) stand in for stabilisation functions of national monetary policy functions which have been assigned to the ECB.“ (Specification of acceptance of the euro in Slovakia, August 2003) and „In case of asymmetric shocks it is necessary to assign the role of a stabilisation agent to other policies and markets – fiscal policy, labour market and wage policy, capital market....“ (Strategy of Slovakia’s Accession to the EMU, May 2003)

Clause I-54 that allows funding of the EU objectives and activities by the introduction of a new European tax represents another risk for tax payers:

„The Union will provide means necessary to reach her objectives and implement her policies ... and the Union’s budget is covered from her own resources...“ The European Council will amend the provisions related to internal resource systems in the Union. Within this framework it is possible to introduce new categories of own resource.....“ (!)

Continuation of indirect taxes harmonization is openly envisaged:

European law of general law of the Council will set measures related to the harmonisation of legal regulations covering return tax, consumption tax and other indirect taxes provided that such harmonisation is inevitable in order to create or for the functioning of the domestic market and in order to prevent the violation of economic competition rules“ (Clause III-171).

When seen from the economic point of view– with respect to competition and variety – such a requirement should not have occurred. Based on the measures that have been taken in today’s European Union, directions towards full harmonisation of indirect (and maybe other too) taxes is more likely, and that is also confirmed in the Treaty draft establishing a Constitution for Europe in the section „common clauses“ where harmonising measures are substantiated by objectives related to the common market.

Apart from citing renowned economist Pascal Salin we also may say that in the USA respective states feature various tax systems, including indirect taxes. For example, in Colorado the VAT is 7% (while some commodities such as for example food and electricity are not taxed at all) and in Montana there is no VAT at all.

Daniel Mitchell, a chief economic expert of the Heritage Foundation, uses the same arguments when he says:

„The USA is a common market and in spite of that the indirect taxes are not harmonised. For instance Texas and California still have very different tax systems. And this is the problem of tax harmonisation in Europe. Nobody has explained why there should be a common free trade zone with different tax systems.“

As regards the sphere of employment policy, the Union „opens the harmonization door“ by the creation of European laws supporting co-operation between member states and by the introduction of minimum requirements (e.g. as regards protection of workers after work contract expiration, or equality of opportunities for men and women on the labour market) in Clause II-207. On the other hand, it declares that any harmonisation of laws and regulations of member states in this sphere is excluded.

Clause III-221 confirms utopian efforts to equalize economic levels in respective regions:

„European laws or general laws may introduce any specific measures, except for funds, without having impact on measures within policies of respective states in this sphere.“

The Treaty draft establishing a Constitution for Europe continues the absurd common agricultural policy, for instance:

„The Council, based on the Commission’s proposal, adopts European regulations or decisions covering price policy, contributions, help, volume limits and granting of fishing licence and definition of its range.

Ad. 2: Regulations, restrictions and social (super) rights.

Besides the above mentioned harmonisation and centralistic tendencies we may mention (at least generally) several fundamental regulatory measures and excessive social rights that have been taken from national legislations and incorporated into the constitution.

Specified regulations and social rights follow vaguely defined „Union values“ and Union targets, e.g. „no discrimination“, „equality of men and women“, „social market economy with high ability to compete, targeted at full employment and social progress, or „support for solidarity among generations“. The last mentioned target evokes efforts to preserve concurrent pension system pillars, which are absolutely dominant in most EU countries and cause serious problems to pension funding there.

The constitution guarantees too many rights without making the people, who enjoy these rights, undertake any obligations. This legally binding norm of the highest priority thus preserves a high level of people’s reliance on others (employer, „state“ or „super state – the Union“) and keeps personal responsibility for ones own life on a low level.

Automatically provided social benefits (maternity leave, sickness, injuries, invalidity, old age, loss of a job), and a right to a „free of charge“ access to services or right to strike may serve as examples. Broadly defined rights are incorporated in the constitution without specification of duties of the persons concerned, and they very often go above the scope of basic rights. Let’s exactly point out that the so broadly defined rights in Europe (e.g. in Sweden or France) are a fundamental reason for lasting deformed values and economic retardation in Europe

Apart from the fact that these rights create a „soft environment that does not put any pressure on personal responsibility“, their funding is also very costly :

- from public sources (taxes), redistribution of finance through public programs (which hinders private and voluntary activities)
- from sources provided by, in many ways limited, employers.

Absurd limitations for employers are troublesome and may bring higher costs. In the end, all these limitation turn against those, who the bureaucratic centre wants to protect. For instance, the duty „to reward equally men and women for the same work or work with the same value“ (Clause III-214)¹² may result in higher unemployment rates among women, especially when it comes to women of a certain age and those who have a family. This is caused by the fact that employers will not be that keen on employing them while having to put up with fixed labour costs.

The situation is about the same as regards the limit¹³ on working hours or various forms of discrimination on the labour market. Excessive rights of employees (and the unions) to the disadvantage of employers are incorporated in Clause II-87 („workers and their representatives must have access to.....information and consultation in the

¹²The constitution went even further when defining „a reward“ as usual basic or minimum wage including all other benefits that employer pays directly or indirectly (cash or subsistence) to an employee (Clause III-214)

¹³ At present valid regulation limits working hours to 48 per week.

company) and Clause II-88 („workersin case of conflict of interest may turn to collective actions to protect their interests, including a strike“). In this way the defined rights might hinder effective decision making and thereby also economic performance and living standards.

While the Constitution for Europe defines social rights related claims very broadly and sometimes even in a vague manner, the second most important right (following the right to life) – the right to ownership – is defined in a way that poses limitations. This is word for word written as:

„Nobody can be deprived of his property, except in the case of the public interest and on conditions stipulated by law, provided that the person will receive adequate compensation in due time.“

Holding in mind recent pressure on land owners involved in the KIA Motors case and taking into account vaguely defined „public interest“ and „adequate compensation“, this represents a risk of restricting (as regards respect and protection) ownership rights for individuals and families.

4. Conclusion

If Europe wants to preserve its chance to experience a real economic rise and keep its direction towards the USA and other dynamically developing regions, it should come back to the roots of Western Europe’s wealth from the past – unlimited competition allowing variety and personal freedom to go hand in hand with personal responsibility. Therefore it is well justified to advocate none acceptance of any type of European constitution especially when it is „spiced up“ with both market regulations and social rights.

Non-acceptance of the Constitution for Europe will not provide any guarantee to change current tendencies, but going in the opposite direction will be much easier without than with the European Constitution.

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