

2003

Will a Constitution for the European Union Make a Difference?

Elizabeth Shaver Duquette

DePaul University College of Law, Northwestern University School of Law, University of Chicago Law School

Follow this and additional works at: <http://lawcommons.luc.edu/lucilr>



Part of the [International Law Commons](#)

Recommended Citation

Elizabeth Shaver Duquette *Will a Constitution for the European Union Make a Difference?*, 1 *Loy. U. Chi. Int'l L. Rev.* 71 (2003).
Available at: <http://lawcommons.luc.edu/lucilr/vol1/iss1/6>

This Feature Article is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Loyola University Chicago International Law Review by an authorized administrator of LAW eCommons. For more information, please contact law-library@luc.edu.

WILL A CONSTITUTION FOR THE EUROPEAN UNION MAKE A DIFFERENCE?

Speaking Notes of Elizabeth Shaver Duquette†
March 27, 2003
Loyola University Chicago School of Law

Introduction

A process is underway to create a constitution for the European Union (“EU”). How this document evolves, and what effect it may have on the EU, is as yet unsettled. A constitution for the EU could mean many things; indeed, the possible impacts can be viewed on a spectrum. At one end of the spectrum, a real constitution could form the basis for a future federal European state. The idea of a “United States of Europe,” a term coined by Winston Churchill after World War II, would mean a true political union. While the EU has achieved an economic union via the common market and a monetary union via the euro, it has yet to target political union as a goal. At the other end of the spectrum, with far less ambitious goals, is an EU constitution that merely provides a vehicle to give the EU more legitimacy in the eyes of its citizens and the world. This sort of constitution would not affect the sovereignty of the member states, but could make improvements to the existing structure of the EU.

The opposing ends of the spectrum largely center on a political debate—whether to have a federal Europe. Within the parameters of this debate, however, one must also address the equally important legal and institutional issues, such as how the EU can run more efficiently and democratically. No matter where one falls on the spectrum of debate, the common goal is some amount of increased integration for Europe. The degree of increased integration will become apparent only when the member states ratify the new constitution.

The Existing Treaties

The EU is a product of numerous treaties. The most important treaties for our discussions today are the Treaty Establishing the European Community,¹ most

† Elizabeth Shaver Duquette is an adjunct professor of European Union law at DePaul University College of Law, Northwestern University School of Law, and the University of Chicago Law School. She taught for three years at Pepperdine University School of Law in London and practiced private law in Chicago, Frankfurt, and London. Ms. Duquette holds an LL.M. from the London School of Economics and Political Science, a J.D. from the University of Southern California Law Center, and an A.B. from Stanford University.

¹ Consolidated Version of the Treaty Establishing the European Community, 2002 O.J. (C 325) 33, available at http://europa.eu.int/eur-lex/en/treaties/dat/EC_consol.pdf. [hereinafter E.C.]

recently amended by the Treaty of Nice,² and the Treaty on European Union.³ The European Court of Justice (“ECJ”) has said many times that the EU treaties are more than just mere international agreements. The treaties create institutions—like the Commission, the Council, the European Parliament, and the ECJ—that have definitive legislative and executive powers. These powers can dramatically affect member state sovereignty. Because the treaties have this constitution-like function, the ECJ has characterized the treaties as a “constitutional charter” and a “new legal order.”⁴ The full effect of this “new legal order” can be seen through the application of the doctrines of supremacy,⁵ direct effect,⁶ and the preliminary reference procedure.⁷

Although the treaties are exceptional in many ways, they fall short of forming a constitutional state. A “new legal order” suggests that the treaties have created something that is separate from the member states. In reality, however, this legal order is dependent on the cooperation and blessing of the member states’ governments. In effect, the EU derives its authority from the member states, not just from the treaties in the way that traditional states derive their authority from a constitution alone. Thus, the EU is clearly not an independent actor. Perhaps the major stumbling block is evidenced by the reality that the EU must rely on the member states to implement and enforce European Community (“EC”) law. The ECJ may declare that a member state has violated EC law, but it has no real enforcement mechanism independent from the cooperation of the member states.

Does Europe Need Further Integration?

It has been suggested that the primary reason for a European constitution is to achieve further integration of Europe. Why is further integration desirable? First, given the current crisis in Iraq, many Europeans and non-Europeans believe that the EU should have the ability to respond with one voice to global issues. The broader hope is for a coordinated, uniform foreign policy, which the EU has largely lacked in its response to the American and United Nations’ positions on Iraq.

A second justification for further integration addresses issues that will arise

Treaty].

² Treaty of Nice, 2001 O.J. (C 80) 1, available at http://europa.eu.int/eurlex/en/treaties/dat/nice_treaty_en.pdf.

³ Consolidated Version of the Treaty on European Union, 2002 O. J. (C 325) 5, available at http://europa.eu.int/eur-lex/en/treaties/dat/EU_consol.pdf [hereinafter E.U. Treaty].

⁴ Case 26/62, *NV Algemene Transport- en Expeditie Onderneming van Gend en Loos v. Netherlands Inland Revenue Administration*, [1963] E.C.R. 1, See also Case 294/83, *Les Verts v. European Parliament*, [1986] E.C.R. 1339.

⁵ Case 6/64, *Costa v. E.N.E.L.*, [1964] E.C.R. 585 available at <http://www.europa.eu.int/eur-lex/en/>.

⁶ *Van Gend en Loos*, [1963] E.C.R. 1 available at <http://www.europa.eu.int/eur-lex/en/>.

⁷ E.C Treaty, art. 234.

from the EU's imminent enlargement. Accusations of institutional inefficiency are likely to multiply once the EU incorporates the applicant member states.

Finally, further integration could magnify the perceived and real lack of the EU's democratic accountability. The democratic deficit of the EU has been a constant criticism since its inception, and the problem is likely to worsen as the EU expands. An EU constitution could assign more power to the European Parliament, increase the involvement of national parliaments and institute Europe-wide elections to choose key EU officials.⁸ However, one must ask, from a practical perspective, whether it is realistic for the EU to be run democratically, especially after the number of member states grows to twenty-five or thirty.

Timing and Structure of the EU's Proposed Constitution

The European Convention on the Future of Europe ("Convention") is in the process of drafting the EU's constitution. The goal is to produce a working document as early as June 2003, with the hope that it may be adopted by December 2003.⁹ This deadline is extremely ambitious, if not totally unrealistic, given the absence of many provisions—even in draft form—and the timing of the ongoing enlargement process. Before a new member can join the EU, the applicant member state, as well as all the current member states, must ratify the existing treaties according to their national constitutional traditions. Even if the Convention produced a final constitution before year-end, it is unlikely that the existing treaties could be ratified to include the applicant member states before then.

In structure, the draft constitution has three parts. Part One addresses the constitutional structure of the Union.¹⁰ Part Two covers the EU's implementation of its substantive policies, including internal and external action, defense, and

⁸ See Stefanie Schmid-Lübbert & Hans-Bernd Schaefer, *The Constitution of the European Union*, 2002 German Working Papers in Law and Economics, Paper 3, available at <http://www.bepress.com/gwp/>.

⁹ Preliminary Draft Constitutional Treaty, presented at Plenary session, October 28, 2002, CONV 369/02, available at <http://www.eel.nl/treatie/00369en2.pdf>, [hereinafter Preliminary Draft]; See also Draft Treaty Establishing a Constitution for Europe, adopted by the European Convention, June 13 & July 10, 2003, 2003 (C 169) 1, [hereinafter Adopted Constitution Treaty].

Editor's Note: At the time of this speech, the draft treaty was going through constant change and development. A preliminary draft of the constitution was presented in October 2002, and its purpose was to illustrate the possible articulation of a treaty. From February to June 2003, the drafting process of the articles took place, including the preliminary drafts of articles 1-16, and 24-33. Finally, in July 2003, the Convention presented the most recent version of the draft treaty. The July 2003 draft contains some notable additions when compared to the outline of the October 2002 draft. However, there were no major changes to the structure or content of the constitution itself. In regards to this presentation, none of the points given were affected by the new draft treaty. Accordingly, where both are applicable, citations will include the corresponding articles in both the October 2002 and July 2003 drafts.

¹⁰ Preliminary Draft, *supra* note 9, pt. 1; Adopted Constitution Treaty, *supra* note 9, pt. 1. Both versions set forth the same objective of constitutional structure and implementation.

functioning of the EU.¹¹ Part Three contains general and final provisions. The constitution is being created through a debate process, much of which occurs online and is accessible to people through the EU's website.¹² This format is designed to increase democratic participation and transparency.

The Convention is composed of representatives from the parliament and government of each member state, sixteen members of the European Parliament, and two representatives of the European Commission. Representatives from the government and parliament of each applicant member state are also taking part in the proceedings, but they do not have veto power, as dictated by the Laeken Declaration.¹³

Highlights of the Constitutional Proposal as of January 2003

Creation of a Single Treaty

The first goal of the new constitution is to scrap the existing pillar structure of the EU, which is considered unnecessarily confusing, and replace it with a single treaty that is definitively constitutional in form. The single surviving entity will be the EU, which will have a newfound legal status and personality. Currently, the EU has no legal personality—meaning that it cannot enter into agreements—which negatively impacts its global image. Additionally, the doctrine of supremacy will become a constitutional dictate. Currently, EU law enjoys supremacy over national law only through judge-made law.¹⁴

Simplification of Legal Instruments

The new constitution also proposes to reduce the complexity and number of legal instruments in EU law. An established hierarchy will replace the interpretive hierarchy now attributed to various legal instruments. At the top of the hierarchy will be "European law," which will consist of all legislative acts with general application. European law will be directly applicable in member states. One notch down will be "European framework laws," which are legislative acts without direct applicability. Rather, they will function much like current EU directives. "European regulations" come next, which are non-legislative acts having direct applicability and general application. "European decisions" are the next to last hierarchically important legal instruments and are

¹¹ Preliminary Draft, *supra* note 9, pt 2; *Adopted Constitution Treaty*, *supra* note 9, pt. 3. The July 2003 draft moves discussion of policy implementation to Part 3, and adds the following to Part 2: "the charter of Fundamental rights of the union."

¹² See generally <http://www.europa.eu.int>.

¹³ See Laeken Declaration on the Future of the European Union at ¹³See Laeken Declaration on the Future of the European Union at http://europa.eu.int/futurum/documents/offtext/doc151201_en.htm

¹⁴ Costa, 1964 E.C.R. *supra* note 5, at 594.

non-legislative acts binding in their entirety only on those to whom they are addressed. Finally, at the bottom of the hierarchy are recommendations and opinions, which are not binding.

Individual Rights Established

The EU constitution also proposes to establish human rights as an area of law, which will be a step up from its current status as a general principle of law. The draft constitution states that the EU is founded on human dignity, liberty and democratic values¹⁵ and addresses and develops the concept of fundamental human rights.¹⁶ The EU's Charter of Fundamental Human Rights will become an integral part of the EU constitution, and the EU will finally be allowed to accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Until now, accession has been prohibited due to the EU's lack of competence to legislate in the area of human rights. Nationals of member states shall also acquire citizenship of the European Union, a status that will entitle them to rights provided under the constitution. EU citizenship will be in addition to national citizenship. Lastly, the new constitution will create an area of "freedom, security and justice" to govern asylum issues, border control, immigration, judicial cooperation in criminal and civil matters, police cooperation and the creation of a European public prosecutor's office.

Subsidiarity and Proportionality Doctrines Clarified

In an effort to better balance the play between national and EU competence, the draft constitution opens with a statement that the EU shall respect the national identities of its member states. It flags as fundamental principles the doctrines of subsidiarity,¹⁷ proportionality,¹⁸ and loyal cooperation.^{19, 20} While

¹⁵ Preliminary Draft, *supra* note 9, art. 2, *Adopted Constitution Treaty*, *supra* note 9, art. 2. (both versions the same: "The Union is founded on the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights.").

¹⁶ Preliminary Draft, *supra* note 9, art. 5; *Adopted Constitution Treaty*, *supra* note 9, art. 8.

¹⁷ "The doctrine of subsidiarity. . . holds that action should not be taken at a higher level unless it helps: unless individuals get more of what they want," *available at* <http://www.jeanmonnetprogram.org/papers/97/97-01-4.html>.

¹⁸ The proportionality doctrine "holds that 'measures adopted by public authorities should not exceed the limits of what is appropriate and necessary in order to attain legitimate objectives in the public interest; when there is a choice between several appropriate measures recourse should be made to the least onerous, and the disadvantages caused (to the individual) should not be disproportionate to the aims pursued.'" *Antitrust Remedies in the U.S. and E.U.: Advancing a Standard of Proportionality*, E. Thomas Sullivan, quoting Nicholas Emiliou, *The Principal of Proportionality in European Law* 2 (1996).

¹⁹ "The principle of loyal cooperation requires that the Member States support the actions and policies of the Union actively and unreservedly in a spirit of loyalty and mutual solidarity, to ensure fulfillment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Union," *Draft Constitutional Treaty of the European Union*, *available at* <http://www.euobserver.com/index.phtml?aid=7996>.

these doctrines are not new to EU law, they are relatively untested by the member states or the ECJ. The constitution includes a draft protocol on the application of the subsidiarity and proportionality principles, as well as one on the role of national parliaments in the EU.²¹ The effect of this protocol should be to (1) better define and reinforce ways that the EU institutions should apply subsidiarity in their daily functions, (2) provide a vehicle for the national parliaments' political control of subsidiarity activity in the EU and (3) increase the frequency of referrals to the ECJ on the failure of EU institutions to respect and apply subsidiarity as a method to curb EU involvement where member state activity is more appropriate.

Delineation of Competences

As a related issue, the draft constitution catalogues the competences of the EU and the member states.²² Some of these competences are not new and others are determined by the application of the subsidiarity doctrine. However, a definitive catalogue of exclusive and shared competence will be helpful in future legislation. It is important to note that the doctrine of conferred powers is still a fundamental principle.²³ As under the current European Community and EU treaties, the EU may act only within the limits of the competence conferred on it by the constitution to attain the objectives of the constitution. And, as before, competences not conferred on the EU remain with the member states. For example, the draft constitution assigns the EU exclusive competence in the areas of free movement (of persons, goods, services, and capital), competition, internal market issues, customs union, common commercial policy, monetary policy (e.g., the euro) and common fisheries policy.²⁴ Additionally, the EU would have exclusive competence over international agreements with third-party countries where its conclusion is mandated by an EU legislative act, where it is necessary for the EU to exercise an internal competence or where the international agreement affects an internal EU act.²⁵ Areas of shared competence include internal market issues; freedom; security and justice; agriculture and fisheries; transport; trans-European networks; energy; social policy; economic and social cohesion; the environment; public health; consumer protection; cooperation and

²⁰ Adopted Constitution Treaty, *supra* note 9.

²¹ Draft Protocols on the Application of the Principles of Subsidiarity and Proportionality and the Role of National Parliaments in the European Union, Presented at the European Convention, Brussels, Feb. 27, 2003, CONV 579/03, Annexes I & III (2003), *available at* <http://www.jeanmonnetprogram.org/conference/convention.html> [hereinafter Draft Protocols]; Adopted Constitution Treaty, Protocols Annexed (the protocols as adopted in July 2003 include information for implementation as well as goals of interparliamentary cooperation and subsidiarity and proportionality application success).

²² Preliminary Draft, *supra* note 9, art. 1-16, art. 10-12; Adopted Constitution Treaty, *supra* note 9, art. 11-13.

²³ Preliminary Draft, *supra* note 9, art. 8; Adopted Constitution Treaty, *supra* note 9, art. 9.

²⁴ Preliminary Draft, *supra* note 9, art. 11; Adopted Constitution Treaty, *supra* note 9, art. 12.

²⁵ Draft Protocols, *supra* note 21, art. 13; Adopted Constitution Treaty, *supra* note 9, art. 12.

humanitarian aid; and research and technological development.²⁶

Foreign Policy

Many of the proposals above are simply clarifications or codifications of current EU practice. The real controversy injected by the draft constitution is in the area of foreign policy. While all seem agreed that the EU needs to have a greater international presence, there are considerable, if not debilitating, differences of opinion as to how this can best be achieved.²⁷ The draft constitution will likely serve as a springboard for further debate.²⁸

The draft constitution creates a Foreign Secretary for Europe who answers to the member states' governments.²⁹ This position is like the current office of the EU High Representative, but seems to have more power.³⁰ The EU is charged with defending Europe's interests and independence by advancing its values in the broader world. The Common Foreign and Security Policy demands that the member states "actively and unreservedly" support the Union's common foreign and security policy in a "spirit of loyalty and mutual solidarity."³¹ In addition to these broad proclamations, the Convention has established working groups in many areas, including the specific areas of external policy and defense.³²

The Working Group on External Policy focuses on the importance of collective action to exercise increased influence over international developments.³³ It calls on the constitution to define the EU's objectives and general principles in external affairs and to give the EU competence to conclude agreements externally on those issues that run parallel to its internal

²⁶ Draft Protocols, *supra* note 21, art. 12; Adopted Constitution Treaty, *supra* note 9, art. 13 (adopted with only slight changes from the draft).

²⁷ See Deutsche Welle, *The Labor Pains of an EU Constitution*, May 18, 2003, at http://www.dw-world.de/english/0,3367,1430_A_869577_1_A,00.html.

²⁸ See generally *id.*

²⁹ See Preliminary Draft, *supra* note 9, art. 41 (this draft describes plans to incorporate a "High Representative for Common Foreign and Security Policy"); Adopted Constitution Treaty, *supra* note 9, art. 27 (Union Minister of Foreign Affairs is detailed in the Adopted version as being answerable not to Member-State governments, but to the European Council and Council of Ministers).

³⁰ See Deutsche Welle, *The Labor Pains of an EU Constitution*, *supra* note 27.

³¹ Preliminary Draft, *supra* note 9, art. 14; Adopted Constitution Treaty, *supra* note 9, art. 15 (a separate sub-point has been incorporated into the adopted version that concentrates on progressive action toward a common defense policy).

³² See Final Report of Working Group VII on External Action, Presented at the European Convention, Brussels, Dec. 16, 2002, CONV 459/02, WG VII 17 (2002), available at <http://register.consilium.eu.int/pdf/en/02/cv00/00459en2.pdf> [hereinafter External Action Report]; and Final Report of Working Group VIII - Defense, Presented at the European Convention, Brussels, Dec. 16, 2002, CONV 461/02, WG VIII 22 (2002), available at <http://register.consilium.eu.int/pdf/en/02/cv00/00461en2.pdf> [hereinafter Defense Report].

³³ See External Action Report, *supra* note 32, Part A.

competences. This Working Group strives for increased efficiency by advocating qualified majority voting on foreign policy issues; however, it would allow constructive abstention by a member state that did not support the EU action.

The Working Group on Defense targets three highly controversial areas: crisis management, responses to terrorist threats, and armaments.³⁴ Under crisis management, the EU would expand the context of the Petersburg Tasks, which govern crisis management in situations involving the use of military resources. Such expansion could include conflict prevention, joint disarmament operations, and military advice and assistance. Additionally, this Working Group could improve efficiency when access to financing is required to carry out joint operations that do not affect political control. Like the Working Group on External Policy, the Working Group on Defense supports the practice of member state constructive abstention as a way to allow supporting member states to foster even closer ties of cooperation. Concerning terrorist threats, the working group advocates a new solidarity clause that would allow any member state to employ full EU resources to protect its citizens and institutions. All this should enable willing member states to achieve closer defense cooperation. Lastly, in the area of armaments, the Working Group on Defense supports research on defense technology, including the development of military space systems.

In those areas gunning for increased European cooperation in foreign policy, member states are allowed to exercise constructive abstention or opt-out provisions. Essentially, no active cooperation is required of a member state. While abstention and opt-out provisions can be politically expedient, and can even increase decision-making efficiency, they also could weaken the perception of European-wide action in foreign policy. One could argue that constructive abstention or exercise of an opt-out provision would violate a member state's duty of loyalty and mutual solidarity. The success of the EU's foreign policy might hinge on this issue. Some member states might not agree to participate in a true common foreign security policy without the ability to promote and protect national interests.³⁵ However, it is unlikely that third-party countries will take seriously any position by the EU that does not reflect the positions of its member states.³⁶

Conclusion

Because the draft constitution is still in nascent form, it is appropriate to ask what effect it can and should have on the European Union. As the debate

³⁴ See generally Defense Report, *supra* note 32.

³⁵ See Summary of the meeting held on 15 October 2002 for Working Group VII on External Action, Presented at the European Convention, Brussels, Oct. 21, 2002, CONV 356/02, WG VII 8 (2002), available at <http://register.consilium.eu.int/pdf/en/02/cv00/00356en2.pdf>.

³⁶ Statements by European Commission President Romano Prodi, *Growing and Thriving in a Knowledge Society*, SPEECH/03/70, Feb. 12, 2003, ¶ 10-12 (2003), available at <http://www.europa.eu.int> [hereinafter Prodi].

illustrates, the effect of the constitution will depend largely on whether the goal of the constitution is to establish a federal Europe, to simply create a vehicle for legitimacy, or to form something in between those two ends of the spectrum.

If one desires a federal-style Europe, the draft constitution will have to create a Europe that is more than an organized trading market.³⁷ Europe will need to speak with one voice on global issues and have one defined set of politics that allows it to defend itself on a global stage.³⁸ This goal, while somewhat attractive on paper, is unrealistic at this point in the EU's evolution, as illustrated by Europe's disjointed response to the United States and Iraqi war.³⁹ While some member states openly supported the United States' actions, others blatantly opposed it.⁴⁰ The EU was largely non-committal and regretted its inability to have a common position on Iraq.⁴¹

For a less ambitious goal, the draft constitution could strive to make improvements to the EU's existing structure. European integration clearly has not advanced to the point where Europeans want to be one super-state, so perhaps Europe does not require a traditional constitution.⁴² Rather, it may be more important to have a constitution that curbs the growth of the EU's power, especially in areas where the EU's authority affects member states and their citizens.⁴³ Primarily, this middle ground on the spectrum would require EU institutions to be more transparent, efficient and democratically accountable.⁴⁴

At a minimum, and at the opposite end of the spectrum, one could desire only that the new EU constitution have a symbolic effect.⁴⁵ Under this analysis, total European integration is both undesirable and unachievable.⁴⁶ Even if the new constitution fails to check the EU's assertion of power over its member states and citizens, an EU constitution could still be significant symbolically.⁴⁷ For

³⁷ See generally Prodi, *supra* note 36.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² See Schmid-Lübbert & Schaefer, *supra* note 8.

⁴³ See *id.*

⁴⁴ The Scottish Parliament, Minutes of Proceedings from the Meeting of the Parliament on June 12, 2003, vol. 1 no. 10 session 2 (2003), available at <http://www.scottish.parliament.uk/plenary/mop-03/mop-06-12.htm> (expression that Scotland believes that "the EU should seek to become more effective, efficient, democratic, transparent, accountable, and easier to understand" in amendment S2M-124.4 to motion S2M-124, supporting the EU as a confederation).

⁴⁵ Teameurope.Info, *The Convention on the Future of Europe*, July 11, 2002, at <http://www.teameurope.info/guide/convention.htm> (notes the constitution as a symbolic objective).

⁴⁶ See Schmid-Lübbert & Schaefer, *supra* note 8.

⁴⁷ See generally Teameurope.Info, *The EU State Constitution: a Further Erosion of Democracy*, Dec. 17, 2001, at <http://www.teameurope.info/board/statement-constitution.htm> (notes the constitution as a symbol and basis for further EU federalism).

example, symbolism has helped in the areas of human rights and foreign policy. Recent human rights clauses in the treaties and the Charter of Fundamental Human Rights are largely unenforceable against member states, but they have established criteria that applicant member states must adopt before joining the EU. In the foreign policy arena, Europe can be perceived as one body, even where differences surface. For example, France, Germany and Belgium defied NATO on the Iraqi war where their bond was defined by treaty, yet they stuck together as Europeans.⁴⁸

In conclusion, the Union's exercise of drafting a constitution is healthy. No matter what legal effect the document has, or where on the spectrum it falls, it will positively affect the EU. At a maximum, it will more closely integrate the EU, making it more like a true federation.⁴⁹ Or it could provide the foundation for constitutional and institutional improvements that would increase efficiency and democracy in the EU, especially at this critical juncture of enlargement.⁵⁰ At a minimum, the constitution could provide yet another symbolic gesture on the part of the member states, which could later evolve into more permanent legal acts.⁵¹ In a matter of months, Europe will choose its future.

⁴⁸ Times Online, *European Allies Unite Against US-Led War*, ¶ 5, Feb. 10, 2003, at <http://www.timesonline.co.uk/article/0,1-572838,00.html>.

⁴⁹ See Teameurope.Info, *The EU State Constitution: a Further Erosion of Democracy*, *supra* note 47.

⁵⁰ See Schmid-Lübbert & Schaefer, *supra* note 8.

⁵¹ See Teameurope.Info, *The EU State Constitution: a Further Erosion of Democracy*, *supra* note 47.