

## PREFACE

The European Constitutional Convention has adopted the Draft Treaty establishing a Constitution for Europe in its last session on July 10, 2003. It is a voluminous work, consisting of four parts and more than four-hundred articles, but it is more than most experts expected the Convention would be able to produce within its short period of time and given the vast list of complicated questions put to it by the Laeken Declaration of December 2001. The Convention found a consensus, indeed, on

- drafting a Constitution for Europe instead of submitting to the European Council mere options for the revision of the European Treaties,
- referring to the will of the citizens and states as the basis of this Constitution by which competencies are conferred to the Union to attain objectives which they have in common
- merging the three pillars into one consolidated text which shall be the legal foundation of the European Union giving it legal capacity
- including into this Constitution the Charter of Fundamental Rights to which it gives legally binding effect
- re-organising the provisions on competencies of the Union in a systematic and more transparent order and providing for a procedural device for supervising subsidiarity
- simplifying the instruments for action of the Union with the distinction of legislative and non-legislative acts, delegated regulations and implementing acts
- strengthening democracy by giving the European Parliament the power to elect the President of the Commission and by establishing co-decision as a principle
- enhancing effectiveness by reorganising the European Council and the Council, extending qualified majority voting, combined with the principle of double majority
- giving the Union more visibility and continuity to the external world by an elected President of the European Council and a Union Minister for Foreign Affairs

The European Constitutional Law Network ([www.ecln.net](http://www.ecln.net)) met for its second international Conference in Rome, May 31 to June 1, 2002 to contribute to this process in discussing “The European Constitution in the Making”. It was organised at the University “La Sapienza” of Rome by the Department of Law and Economics, the European Centre of Excellence Jean Monnet – Luigi Einaudi, the Interdepartmental Research Centre for European and International Studies “EuroSapienza” and the Walter Hallstein-Institute for European Constitutional Law of the Humboldt-University of Berlin. The present volume reflects the proceedings of this Conference and the state of thinking at this relatively early time of the works of the Convention. It brings together academic thought of members of the ECLN and the practical experience of Members of the Convention, as well as Members of the European Parliament, of the Court of Justice and of the Italian Government. Though not all of the valuable contributions to the seminar could be reproduced in the present volume, most of the items discussed by the Convention and points mentioned above have been addressed and are dealt with one way or the other in the present publica-

tion. Inspired by the introductory words of Commissioner *Antonio Vitorino*, member of the Presidium of the Convention, the debate touched in particular the concept and process of a Constitution (*Lopez-Pina, Rossano, Zemanek*), its possible elements and structures (*Pernice*), the supremacy of European law in the light of the jurisprudence (*Craig*), constitutional homogeneity as a governing principle in an enlarged Union (*Atripaldi-Miccù, Vadapalas*), the consolidation and simplification of the European Treaties through a Constitution (*Cervati*), the role and status of the Charter of Fundamental Rights (*Tesaurò*), questions of the system and limitation of competencies including subsidiarity (*D'Atena, Maiani*), the re-organisation of the European Government (*Constantinesco*), the problems of representative democracy and legislative power (*Miccù*), and the role of the Convention and where it should go (*Basile, Buttiglione, Dastoli, Lamassoure, Napolitano, Tajani*). If not all contributions are published hereafter in English, but some, like the summary of the proceedings, in Italian or even in French, it reflects the nature of Europe, which shall be, as the Preamble of the proposed Constitution put it “united in its diversity”.

The editors wish to express their profound gratitude to all those who have contributed to the success of the Conference and, in particular, to the Department of Law and Economics of the University “la Sapienza”, to the Dean of the Faculty *Raimondo Cagiano de Azevedo*, as well as to *Daniel Thym* who took the responsibility for the publication of this book.

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