

THE TREATY AMENDMENT PROCEDURE AND THE ENTRY IN FORCE OF THE CONSTITUTIONAL TREATY

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The Treaty establishing a Constitution for Europe can be considered as the first attempt for modifying the Treaty amendment procedure in the European Union. It has not been a radical reformation, nor about the Treaty amendment procedure itself, neither about the conventional essence that define the juridical nature of the legal framework of the European Union. It can be seen as an amendment framed by the continuity, and guided basically in two directions. In one side, it has intended to maintain, with little modifications, the current ordinary amendment procedure. Nevertheless, this is not an obstacle to make a positive valoration of some of the contributions of article IV-443, in particular and with special consideration, the juridical formalization of the conventional method, used before and with success, in the same procedure of elaboration of the Constitutional Treaty. In the other side, the amendment has intended to guarantee a certain flexibilitation in the future revision procedure, inserting an apparent multiplication of the simplified revision systems, as in those regulated by articles IV-444 and IV-445.

However, the reformation of the revision procedure carried out by the Constitutional Treaty will only be able to replace the system established in article 48 of the TEU if that Treaty entry in force in the same words the text was signed on October 24th. 2004 by the Heads of State and Government, which will be difficult to get after the negative results in the referendum that took place in France and in the Netherlands. Since then till the recent Declaration adopted in Berlin, the States will try to search a formula to get a solution in order to rescue some part of the Constitutional Treaty so it can entry in force before the next elections for the European Parliament on 2009.

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