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Some Remarks on the Pending Constitutional Change in the Grand Duchy of Luxembourg

Jörg GERKRATH*

In the history of constitutional changes in Europe, the making of a new constitution is often linked to violent incidents like a revolution, a coup d'état or a war. That is why the change of the constitution was mostly preceded by a change of the holder of the constituent power. The Grand Duchy of Luxembourg, however, is currently engaged in a process of constitution making in compliance with the revision procedure established by the existent document. The Constitution of the Grand Duchy, one of the oldest constitutional documents in Europe still in force, is undergoing a far-reaching revision aiming at a general overhaul.¹ According to the parliamentary committee in charge, this revision shall finally give birth to a 'new' constitution, meaning that a modified and updated edition of the constitution shall be published in the national official journal (Mémorial). The revised text will then be considered as the Constitution of 2013 or, more likely, of 2014. The Constitution of 1868 is to be repealed. After the previous charters from 1841, 1848 and 1856 and the present text from 1868, it would thus become the fifth constitution of the Grand Duchy. As constitutional history also shows, this would not be the first time that Luxembourg adopts a new constitution following the formal amendment procedure foreseen by the previous document.² Local politicians and lawyers seem to consider that the academic distinction between 'constitution making' by the will of an original pouvoir constituant and 'constitutional revision' through a parliamentary procedure prescribed by the constitution itself represents rather a gradual difference than a fundamental one.

A number of good reasons convinced the Committee on Institutions and Constitutional Affairs of the Chamber of Deputies to introduce on 21 April 2009 a revision proposal aiming to modify and re-arrange the out-dated Constitution of 1868. While several initiatives for a general revision of the Constitution have been undertaken since the 1970s, none has been successful. Only fractional revisions were adopted in a century and a half. Between 1919 and 2009, no less than thirty-four amendments are listed, the last dating from 12 March 2009. Having occurred at different times and on various aspects, they have certainly undermined the coherence of the initial text. Nonetheless, the Constitution still includes a majority of provisions dating back to its origins.

The main reasons put forward by the drafters of the revision proposal are: first, to modernize a terminology somewhat out-dated; second, to adapt the legal text to the political reality by re-writing the constitution and make it coincide with the 'living constitution' as reflected in the functioning of institutions, and third, to incorporate into the written constitution

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¹ See 'Proposition de révision portant modification et nouvel ordonnancement de la Constitution' of 21 April 2009, doc. parl. N° 6030, available at www.chd.lu.

² Cf. for more details Jörg Gerkrath, *Constitutional amendment in Luxembourg* ch. 12, in *Engineering Constitutional Change – A Comparative Perspective on Europe, Canada and the USA* 229–255 (X. Contiades ed., Routledge 2012).

provisions relating to succession to the throne currently contained in a legal document of uncertain value, namely the Family Compact of the House of Nassau (Nassauischer Erbfolgeverein) of 1783.

Almost four years after its launch, this amendment procedure, still far from being accomplished, is now, in February 2013, in a sufficiently advanced stage to allow some general commentaries. Given the limited format of this country report, the following remarks will focus on a brief presentation of the applicable revision procedure and a provisional scrutiny of some of the most substantial amendments under discussion.

1 THE ACTUAL REVISION PROCEDURE FORESEEN BY THE CONSTITUTION OF 1868

The Grand Duchy's Constitution does not differentiate between 'general' and 'special' revisions, as do for instance the constitutions of Switzerland and Austria. Until their modification in 2003, the severe formal requirements established by the initial text did, however, prevent any wide-ranging constitutional reform. Enabled by the revision of these revision rules, the current renewal process differs fundamentally from all the preceding – mostly minor – constitutional revisions. Therefore, the main steps of the present revision might be worth mentioning in order to show how the implied actors proceed in practice.

1.1 THE FORMAL REQUIREMENTS ACCORDING TO THE TEXT

Initially, the revision procedure was a very rigid one. It required dissolution of the Chamber, consent of the Grand Duke and the newly elected Chamber, as well as a qualified majority of votes within the Chamber. That procedure was modified in 2003, resulting in a new procedure relying almost completely on the political will of a qualified majority within the Chamber. This evolution culminated in 2009, when the Grand Duke lost his power to 'sanction' (enact) acts of Parliament, and in consequence his power to 'sanction' revision acts.

In its initial version, the amendment procedure, laid down in Article 114, called for a three-step procedure. First, 'the legislature', in other words the Chamber in accordance with the Grand Duke had to declare that one (or several) specified article(s) of the constitution needed to be changed. Such declarations of amendment were signed by the Grand Duke – acting as component of the legislative power – and published in the official journal.

Second, the Chamber was dissolved and a new Chamber elected within a time limit of three months. Third, the new Chamber, often improperly called

Constituante,³ decided with a double qualified majority on the necessary modifications that again needed to be accepted by the Grand Duke. Finally, they were ‘sanctioned’ (enacted) by the Grand Duke, promulgated and published as revision acts in the official journal. In theory, this procedure was rather rigid and time consuming. It was also criticized over the need to identify in advance the articles to be amended. Hence, it was considered to hinder the Chamber from realizing a general revision or adding new provisions.

The shift from constitutional monarchy to parliamentary democracy caused by the constitutional revision of 1919 did not alter the wording of Article 114 but affected its spirit. As noted by the Council of State, ‘since sovereignty is residing in the nation, represented by the Chamber of Deputies, the role of the Grand Duke as the legislative body has in fact disappeared to the benefit of the authority of Parliament’. Similarly, the interventions of the Grand Duke in the revision process, at the time of the adoption of the declaration by the ‘legislative power’ or at the time of its final approval ‘by agreement’, were considered from that date as mere formalities and not as expressions of a specific power. Without changing its terms, the revision of 1919 thus changed the understanding of Article 114 and is the starting point of an essentially parliamentary amendment procedure.

In practice, the initial procedure, though conceived as rigid, still allowed twenty-four amendments between 1919 and 2003. The main hurdle – the need to dissolve the Chamber after a declaration of constitutional revision – was in fact bypassed. The Chamber simply got used to adopting declarations of revision at the end of each legislative period. Moreover, at some occasions these declarations mentioned many articles at the same time. Thus, virtually any new elected Chamber was also entitled to proceed to constitutional amendments.

The previous procedure, however, made it impossible to amend the constitution during a single legislative period if necessary. It also appeared to be an obstacle in the path to a general revision of the constitution. A revision of the revision procedure became inevitable. First proposals to amend the amendment procedure suggested distinguishing two separate procedures: one, simplified, for the needs of international law and European integration, and another, more rigid, for internal use. The Council of State, however, convinced the Chamber to maintain one single procedure.

As this reform touches the heart of the Constitution to the effect that it sets the conditions of its modification, the question of principle was raised as to whether Article 114 allowed its own amendment. The answer to this question is

³ In fact, the Chamber elected after a dissolution according to Art. 114 had the same composition, attributions and mandate than the previous (or the following) Chamber, with the only difference that, in addition, it was entitled to decide on the amendment of those articles which the previous Chamber had identified in its declaration of revision.

difficult. Bearing in mind that the revision power can neither ignore the substance of the Constitution, nor repeal it, one should reckon that an excessive easing of the procedure, aligning it with the legislative process is not permitted. Such flexibility would deprive the Constitution of its superiority over ordinary law. The amendment of 19 December 2003 did clearly not go as far as that. The new Article 114 declares:

Any revision of the Constitution must be adopted in identical terms by the Chamber of Deputies in two successive votes, separated by an interval of at least three months.

No revision will be adopted, if it doesn't meet at least a two-thirds vote of the members of the Chamber; proxy votes not being admitted.

The text adopted on first reading by the Chamber of Deputies is put to a referendum, which replaces the second vote of the House, if within two months following the first vote request is made either by over a quarter of the members of the Chamber or by twenty-five thousand registered voters on the electoral lists for elections. The revision is adopted, if it receives a majority of valid votes. The law shall regulate the details of the referendum.

Thus, it appears that the Chamber of Deputies is the unique holder of the revision power. As, for obvious reasons linked to the size of the country, the Luxembourgish Parliament is a unicameral one, no second Chamber exists to counterbalance the legislative and constitutional revision power of the Chamber's qualified majority. In practice, however, as we will see below, the Council of State does partly fulfil such a tempering role through its advisory function and constitutional expertise. The possibility of submitting the text to a referendum is to be regarded as a mere safeguard. In the spirit of Article 114, direct consultation of the people is meant to remain exceptional. It can play in two ways. It could either allow the expression of a popular veto against an unacceptable constitutional amendment, or form an alternative to the second parliamentary vote to give greater solemnity to a major change agreed by consensus. In both cases the people has no power to influence the wording of the revision drawn up by the Chamber during first reading.

Given the high number of signatures that must be collected and the relatively short interval intended for this, the success of a popular claim for a constitutional referendum seems quite unlikely. The future will show whether Parliament did not finally set conditions that were too severe. In January 2009, a claim for a referendum procedure has been launched for the first time by a citizens committee: 230,000 listed voters were asked to sign in their local town houses the petition calling for a referendum. As only around 500 signatures were given, the

necessary figure of 25,000 was not met by far and the referendum did not take place.⁴

With regard to the outcome of a hypothetical referendum, Article 114 states that ‘the revision is adopted if it receives a majority of valid votes cast’. This is clearly a decision-making referendum, and not just an advisory one. The choice of the citizens will replace the vote of the Chamber whether to approve the text adopted on first reading or to reject it. In a way, this referendum procedure seems thus more appropriate for specific revisions altering only single provisions, and less appropriate for a general overhaul of the Constitution, a decision which cannot easily be reduced to one question, answered by ‘yes’ or ‘no’.

The ultimate change in the revision procedure results indirectly from the reform of Article 34 by the revision act of 12 March 2009.⁵ By ending the power of the Grand Duke to ‘sanction’ acts of Parliament, this revision also removed the last prerogative of the Grand Duke in the field of constitutional revision. Now constitutional revision acts, like ordinary legislation, will simply be enacted ‘within three months of the vote in the Chamber’.

1.2 THE SUCCESSIVE STEPS OF THE CURRENT REVISION IN PRACTICE

At present, the revision procedure, initiated in April 2009, is still in progress. Like any revision, it takes the form of a revision act (*loi de revision constitutionnelle*). Hence, the proposal has to follow the general steps of the ordinary legislative procedure as well as the specific rules governing constitutional revision, that is to say, those rules deviating from the ordinary legislative procedure. Five stages can be distinguished: initiative, advisory opinions, parliamentary proceedings, an optional referendum and final enactment.

As mentioned before, the Committee on Institutions and Constitutional Affairs issued the initiative of the revision in April 2009. In July 2011, the government adopted its ‘position’, which deviates in a number of points from the parliamentary proposal but is not to be considered as a counter draft. It touches only 38 out of the 145 articles of the revision proposal. Most of the amendments put forward by the government concentrate on the function of the Grand Duke and the chapter on justice.

For the moment, the parliamentary proceedings are confined to the work of the leading parliamentary Committee on Institutions and Constitutional Affairs. This committee has twelve members and is composed following the principle of

⁴ The Council of State does suggest in its opinion on the revision proposal from June 2012 to lower the number of required signatures from 25,000 to 5,000 or 10,000.

⁵ Cf. Luc Frieden, *Luxembourg: Parliament Abolishes Royal Confirmation of Laws*, Int. J. Const. L. 539–543 (2009).

proportional representation of the political groups. Representatives of the government are frequently invited to the meetings, namely the minister of justice who participates on a regular basis. The minutes of its meetings are published on the website of the Chamber (www.chd.lu, 'dossier parlementaire No. 6030'). Since the launch of the revision procedure, its members have committed none less than thirty-seven meetings to the revision proposal between April 2010 and February 2013. Their discussions have essentially been influenced by three important advisory documents: an interim opinion prepared by the 'Venice Commission' on their request, the position paper of the government and, in the latest stage, the significant advisory opinion of the Council of State.

The European Commission for Democracy through Law, better known as the 'Venice Commission' issued an interim opinion on the draft constitutional amendments in December 2009.⁶ In a letter of 2 June 2009, Mr Paul-Henri Meyers, chairman of the committee on constitutional revision, acting on behalf of this committee and through the intermediary of Mr Lucien Weiler, President of the Chamber of Deputies, requested an opinion from the Venice Commission. The Venice Commission instructed a Working Group to examine the Luxembourgish revision proposal. On 14 October 2009, the Working Group held a joint meeting in Luxembourg with the Committee on Institutions and Constitutional Affairs and the Council of State. Based on the rapporteurs' individual comments and information compiled at the meeting on 14 October 2009, the Venice Commission adopted its report at its 81st plenary session (Venice, 11 and 12 December 2009). The Luxembourgish parliamentary committee then discussed this report in detail. Both, the position paper of the government from July 2011 as well as the Council of State's opinion, refer extensively to this document.

This opinion of the Council of State is another important step in and certainly decisive for the current revision process. It had initially been announced for autumn 2011 but was finally delivered only on 6 June 2012. The delay has to be considered as a sign of a serious debate and an in-depth analysis of the revision proposal within the Council. Throughout the 216 pages of the printed text, the Council expresses in general a large agreement with the proposal. However, it also issued quite a number of points of disagreement with the wording of the proposal or suggests further amendments of the present constitution. In two annexes, the Council joined its proper version of the revision proposal as well as a comparative table juxtaposing the present text of the constitution, the revision proposal of 2009, its proper revision proposals as well as the position of the government.

⁶ Opinion No. 544 / 2009 (CDL-AD(2009)057) EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION), Interim Opinion On the Draft Constitutional Amendments of Luxembourg, Adopted by the Venice Commission at its 81st Plenary Session (Venice, 11–12 December 2009).

Altogether, the Council seems to encourage the committee to realize a true and complete overhaul rather than limiting itself to a mere facelift of the constitution.

Since June 2012, the parliamentary committee dedicated some twenty-five meetings to the discussion of the Council's opinion. In January 2013, it drafted a new consolidated working document complying with the structure and the numbering as well as in many points with the wording of the opinion of the Council of State. The committee's desk is charged to update this working document week by week after the meetings of the committee. Reflecting the mutual positions of both the committee and the Council of State, the text of the present draft is understandably quite different from the initial proposal. Practice shows indeed that in Luxembourg's unicameral system the Council of State to some extent exerts the moderating influence of a second legislative assembly. Its expertise on constitutional law issues and questions of legal writing and terminology enables him to have a stronger influence on the outcome of the revision procedure than its simply advisory opinion might suggest. From time to time, the committee members and members of the Council of State do even participate in informal meetings allowing a direct dialogue between both actors on open questions regarding the exact wording of the revision draft.

No precise timetable has been made public until now, but the committee still intends to bring the proposal into the plenary session of the Chamber during the present legislature ending in summer 2014. Since the debates within the committee show a large consensus between the political parties on various constitutional modifications agreed upon until now, the required majority of two-thirds within the Chamber does not appear to be out of reach. The Council of State will be asked to issue at least one complementary advisory opinion on the altered revision proposal. At the end, after a first reading by the Chamber, the text will most likely be submitted to a referendum. A sufficiently large number of MPs (sixteen) belonging to the political groups of the Greens and the Democratic Party declared indeed already their desire to request a direct consultation of the people.

2 SELECTED SUBSTANTIAL AMENDMENTS UNDER DISCUSSION

It is still difficult to predict the final impact of the ongoing revision procedure in detail and one has to be careful of course in drawing any premature conclusion. There will certainly be numerous technical modifications designed to modernize out-dated terminology, to tailor the text to the way powers are actually exercised, and to include in the Constitution provisions on customary practice or rules that are incorporated in texts falling outside the ambit of the legislature. However, there will also be modifications of a more substantial nature. These will mainly concern the powers of the Grand Duke, the relations between government and

Parliament, the catalogue of fundamental rights, and the organization of the judiciary. Under these headings, the revision draft currently under discussion still contains too many point-by-point modifications in order to reveal them all.⁷ However, one can already distinguish several basic tendencies worth mentioning. Some may be qualified as overdue constitutional renovations that are agreed upon in principle by the main actors mentioned above. Others are truly innovative elements of the reform touching notably the (re-)organization of the judicial and the option to constitutionalize Luxembourg's membership in the European Union.

2.1 ELEMENTS OF CONSIDERED NECESSARY RENOVATION

Completing the constitutional catalogue of fundamental rights is one of the major objectives of the revision proposal. Compared to other constitutions and international instruments on the protection of human rights, the present guarantee of fundamental rights by the Constitution appears indeed unstructured, incomplete and out-of-date.

In the pending revision proposal, the proposed changes aimed initially to structure the existing Chapter 2 of the Constitution akin to the EU Charter of Fundamental Rights, including the use of the keywords Dignity, Equality, Freedoms, Solidarity and Citizens' Rights. Following the opinion of the Council of State from June 2012, the parliamentary committee decided finally to abandon this idea and to carry over a subdivision between fundamental rights, public freedoms and (state) objectives of constitutional value. Undeniably, the Council criticizes with good reason the lack of a clear distinction between directly effective fundamental rights and freedoms and mere constitutional objectives that do not immediately create rights of the individual.

Furthermore, four substantial innovations were proposed from the beginning: First, Chapter 2 is to be supplemented by two new provisions on the inviolability of human dignity and on the prohibition of torture and cruel, inhuman and degrading treatment.⁸ Second, the secrecy of correspondence is extended to all forms of personal communications. Third, the State is required to ensure that each person is allowed to live in appropriate housing. Finally, the proposed amendment would mention the Luxembourgish language in the Constitution.

⁷ For a more detailed analysis of the substance of the initial revision proposal, cf. Jörg Gerkrath (ed.), *La refonte de la constitution luxembourgeoise en débat*, Larcier, Brussels 2010, 334p.

⁸ See Rusen Ergec, *Deux concepts constitutionnels nouveaux: l'État de droit et la dignité humaine*, *Journal des tribunaux Luxembourg* 180–184 (2009) and Dean Spielmann, *Quels droits fondamentaux pour la Constitution luxembourgeoise? Au sujet d'une réforme rassurante mais peu ambitieuse*, in J. Gerkrath (ed.), *La refonte de la constitution luxembourgeoise en débat*, Larcier 2010, 27–43.

The Venice Commission raised the question whether the pending revision of the Constitution should not make more radical changes so that the text will meet all the requirements of an up-to-date catalogue. A comparison of the proposed text of Chapter 2 with the provisions of the European Convention on Human Rights (ECHR) shows two remaining deficits. First, the conditions set out by the ECHR for any restriction of a fundamental go beyond the conditions set out in the Constitution. Second, some classic human rights, such as the right to life and general guarantees concerning a fair trial, are not mentioned in the Constitution of Luxembourg. Evidently, there is no obligation for any state to incorporate the provisions of international human rights conventions into the text of its Constitution. Besides, the very number of such conventions and the variety of rights and freedoms they contain would make such a requirement unrealistic. Furthermore, case law has already recognized the direct applicability of the substantive provisions of the ECHR in the Grand Duchy. Yet, it still seems appropriate to update more radically the wording of Chapter 2.⁹

This is also the explicit wish of the Council of State. Regarding the human rights chapter, its opinion from June 2012 contains a considerable number of amendments that have meanwhile been carried over by the parliamentary committee. In effect, the latest consolidated version of the proposal that the committee is working on since the end of January 2013 integrates new provisions on human rights, as for instance the right of asylum, the protection of personal data as well as a general provision on the possible limitations of rights and freedoms.

Clarifying the constitutional place and function of the Grand Duke appears to be the second consensual intention of the revision process. To this respect, the propositions of the parliamentary committee even go a step further than the positions of the government and the Council of State, both seeming to remain attached to the present situation. The proposal aims to clarify the position of the Grand Duke as head of state, ‘symbol of its unity and guarantor of national independence’, and to adapt the provisions of the Constitution that might create confusion concerning his responsibility for political decisions, which in fact has to be assumed by other constitutional bodies. He might therefore lose some of his remaining formal competences in the fields of legislative and executive powers.

By virtue of Article 3, the crown of the Grand Duchy is hereditary in the house of Nassau in accordance with the Nassau Succession Pact of 30 June 1783, Article 71 of the Treaty of Vienna of 9 June 1815 and Article 1 of the Treaty of

⁹ Cp. Dean Spielmann, *supra* and Jörg Gerkrath, *La proposition de révision dans le contexte international: la garantie des droits fondamentaux serait-elle devenue superflue?*, in: *Réforme de la constitution: où en sommes-nous?*, Luxembourg 2011, pp. 197–219 (Actes de la section des sciences morales politiques de l’Institut grand-ducal).

London of 11 May 1867. In its written answer to a question asked by a member of the Chamber, Prime Minister Jean-Claude Juncker recently explicitly confirmed that, in the opinion of the government, the Nassau Family Pact is to be regarded as being constitutional in nature and value. Its content is determined *proprio motu* by the Grand Duke, and modifications fall under the rules of the family pact itself.¹⁰ According to the revision proposal, all existing rules on succession in the family pact will be integrated in the Constitution.

Strengthening the parliamentary principle is the third heading under which a number of detailed amendments may be summarized. Most of them aim to determine in a more precise manner than the present constitution that it is the Chamber who exercises the legislative power by adopting the law. The present text merely states that ‘acquiescence’ of the Chamber is required for each law. Furthermore, the revision draft aspires to introduce into the written constitution the typical rules that determine the relations between parliament and government in a parliamentary system, as there are for instance the different techniques ensuring the political responsibility of the government.

2.2 FURTHER INNOVATIONS UNDER DISCUSSION

Re-organizing the judicial system is an additional goal introduced into the current revision process by the government under the responsibility of its ministry of justice. In the course of the debates that took place during the meetings of the parliamentary committee, the government and the committee members discussed already the possibility of transforming the present highest court, the Superior Court of Justice, into a Supreme Court for both the ordinary and the administrative courts. This implies a closing down of the Constitutional Court and a transfer of power to the ordinary judges who will from then on review the conformity of laws with the Constitution. At present, questions on the constitutionality of a law have to be submitted to the Constitutional Court through a preliminary ruling procedure. Hence, ordinary judges will be able in the future to combine the review of conventionality of acts of parliament with the review of their constitutionality, which appears to be an appropriate solution for Luxembourg. In addition, it is also intended to institute a National Justice Council (*Conseil National de la Justice*) who would carry the responsibility to warrant the independence of judges and to ensure good judicial conduct. However, these discussions have been interrupted awaiting the submission of the detailed legal drafts necessary to implement both reforms. On 25 February, the ministry of

¹⁰ See the government’s answer from Jun. 2011 to a question raised by an MP. Réponse à la question parlementaire n° 1538 du 21 juin 2011 de Monsieur le député Alex Bodry en date du 25 juillet 2011.

justice presented the first drafts of in view of creating the Supreme Court and the National Justice Council allowing thus the discussions to continue. For now, it is too early to conjecture on the outcome of these exchanges.

Constitutionalizing Luxembourg's membership in the European Union is an objective that has been put on the agenda by the Council of State's opinion from June 2012. Though the Grand Duchy is one of the founding states of the European Union, its present constitution does not contain any explicit reference to this membership, its constitutional foundations and implications. The ratification of the EC founding treaties raised the pivotal question whether the Luxembourgish legislature, executive and judiciary may transfer powers to international institutions. In 1956, an Article 49*bis* was introduced into the Constitution: 'The exercise of the powers reserved by the Constitution to the legislature, executive and judiciary may be temporarily vested by treaty in institutions governed by international law.' According to the simultaneous modification of Article 37, such treaties have to be approved by a law adopted under the same majority requirements as those valid for a constitutional revision. The regrettable wording of Article 49*bis*, allowing only temporary transfer of competences, is urgently to be addressed in the course of the current revision procedure. A previous proposal made in 2009 to introduce a complete new chapter on the European Union was finally not adopted. The Council of State recommends now constitutionalizing Luxembourg's participation in the process of European integration via a new Article 5. Furthermore, the Council suggests three insertions: a reference to the voting rights of European citizens, a borrowing of the ECJ's formula with respect to their access to public employment, and a codification of the Grand Duke's power to adopt regulations in order to assure compliance with the legal instruments adopted by the European Union.

As hopefully shown in the preceding remarks, the pending constitutional revision in Luxembourg does not amount to a legal revolution. In the continuity of the original document's spirit – emphasized by several earlier revisions – the Grand Duchy will remain a constitutional monarchy with a parliamentary system. Yet its 'frame of government' will appear less ambiguous than it does today due to the gap between the written and the 'real' constitution. Its 'bill of rights' will be strengthened and the authority of the constitution will be reinforced. All things considered, this revision allows an important general overhaul of the ancient constitution. Symbolically it is more than coherent to underline the importance of this reform by publishing a 'new' constitution and repealing the old one. It would even be more consistent to realize it through a binding referendum, as the possibility is given by Article 114 of the present constitution. Thus, the paradox of adopting a new constitution in application of the revision procedure of the previous one could be overcome by a decision of the true sovereign.

