

## **Securing a Democratic and Effective EU: Recommendations to the Convention**

The Laeken Declaration on the future of the EU has opened up a new chapter in the reform of the EU treaties.

The Convention is to concentrate on two priorities in the forthcoming reform: Firstly, Europe's ability both to continue taking effective action and functioning properly both internally and in its dealings with the outside world and to improve its performance in these respects; and secondly, to boost the legitimacy of the European institutions.

The Convention should channel its main efforts into five reforms:

1. Decisions taken by the Council of Ministers should be taken by majority vote, except for decisions on treaty amendments or measures of relevance to security and defence policy.
2. The European Parliament (EP) should be given general co-decision powers where legislation is concerned.
3. The members of the European Parliament should be elected according to a simple, uniform election procedure.
4. The Commission President should be appointed by the European Parliament, and appointments to the Commission should be confirmed by the Council and the EP.
5. The texts of the European treaties should be reworked with a view to establishing a European Constitution.

The Convention's proposals should concentrate on priority reforms that are indispensable for the democratic functioning of the enlarged EU and have the support of a broad majority in the Convention. Only then will there be any prospect of the European Council in 2004 taking up those proposals.

## **Securing a Democratic and Effective EU: Recommendations to the Convention**

The Laeken Declaration on the future of the EU has opened up a new chapter in the reform of the EU treaties. For the first time, a Convention comprising 107 politicians from the parliaments and governments of the 15 Member States, the 13 prospective Member States, the European Parliament and the European Commission will be called upon to submit proposals for reforms.

In a comprehensive debate about the future the Convention will have a major opportunity to influence the decisions taken by the European Council. The more successful the Convention is in its efforts to tackle specific problems, the clearer the extent of this influence will become.

The ideas presented below are intended as a contribution to this crucial debate. They take up those issues (out of the 64 set out in the Laeken Declaration for the Convention) the resolution of which is not only vital to the ongoing process of reform, but also crucial if the enlarged Union is to be capable of working effectively.

### **I.**

#### **Keeping an open mind about Europe's future**

The development of the European Economic Community into the European Union is a success story. After all, not for nothing are more and more European countries lining up to join the Union. Moreover, the smooth introduction of the euro has shown that the citizens of Europe sometimes achieve European integration faster and with less difficulty than their governments.

The EU is set to comprise 25 or more members, which raises the question of what form our political community should assume in the future.

Nobody today can say what the EU will look like in terms of its political and institutional structures in 2025. However, the Union's development so far gives some indication of what will probably be important for the future construction of the European Union. Thus, in the foreseeable future rather than a European federal state, there will probably be a political entity organised on several levels, in which the identity and traditions of the Member States will be respected and Europe's diversity will remain intact.

Irrespective of the issue of the future institutional configuration of the Union, it is vitally important that it remain committed to its core values, i.e. that it continue to respect human dignity, freedom, social justice, democracy and the rule of law.

## II.

### **The 2004 reform is an important step along the road to a European state-like entity**

With respect to the reform, there are two priorities on which the Convention should concentrate. **Firstly**, maintaining and improving Europe's **ability to take effective action and function properly**, both internally and when interacting with the outside world. **Secondly**, to boost the **legitimacy** of the European institutions.

The forthcoming enlargement of the European Union from 15 to 25 and more Member States represents a major challenge for the Union's **ability to take effective action and function properly**. The clashing interests in an enlarged Union - where the tensions between the rich and the poor or the big and the small will continue to increase - are so potentially explosive that they could jeopardise the Union's decision-making capability.

Consequently, the decision-making mechanisms used in the past have to be closely reviewed, and this is a subject on which the Convention should focus a major share of its deliberations. The Convention will also be judged on the basis of whether it succeeds in presenting clear, bold proposals to the European Council on how to improve the enlarged Union's ability to act effectively.

The debate about the **legitimacy of the European institutions** can partly be attributed to the fact that the EU remains a 'book with seven seals' for the people immediately affected by it. The Convention should examine this lack of comprehensibility, democracy and transparency and come up with proposals on how to close the gap between the EU's citizens and the respective decision-makers.

## III.

### **Focus on five main reforms**

The Convention should channel its main efforts into five reforms, each of which is vitally important to the democratic workings of the enlarged Union:

- Decisions taken by the Council of Ministers should be taken by majority vote, except for decisions on treaty amendments or measures of relevance to security and defence policy.
- The European Parliament (EP) should be given general co-decision powers where legislation is concerned.
- The members of the European Parliament should be elected according to a simple, uniform election procedure.
- The Commission President should be appointed by the European Parliament, and appointments to the Commission should be confirmed by the Council and the EP.
- The texts of the European treaties should be reworked with a view to establishing a European Constitution.

## Firstly, majority decision-making in the Council of Ministers

In future the Council of Ministers should be able to take decisions with a qualified majority, with the exception of decisions on treaty amendments or security and defence policy issues.

One step that has to be taken if the EU of 25 or more members is to be capable of taking effective action is the **abolition of the right of veto**. As long as individual Member States retain the right to block decisions for as long as they want by playing on the need for unanimity (which still applies to more than 60 treaty provisions), decisions that really ought to be taken will remain in abeyance, in many cases for years.

Consequently, the Convention should make a clear recommendation in favour of making majority decision-making the rule. This should also apply to so-called 'sensitive' areas, such as foreign policy, immigration policy and justice policy. Initially, for a transitional period, a 'super-qualified' majority arrangement could apply to these areas.

The **voting procedure should be simplified**, by enabling future decisions to be reached by a double majority - meaning at least half the Member States representing at least half of the EU's population for all legislative decisions - and a two-thirds majority for decisions in all the sensitive areas.

A procedure along these lines would have four advantages over the present arrangement:

- It is simple and requires no complicated calculations to work out what constitutes a majority;
- it is transparent; anyone can easily ascertain how the majority was formed;
- it is efficient, for it facilitates the formation of majorities;
- it is democratic, in that decision-makers would know they had the backing of at least half or two-thirds of the EU's population.

## Secondly, full co-decision powers for the European Parliament where legislation is concerned

Even today, 23 years after the first direct elections, the European Parliament's co-decision powers are still limited. This not only applies to key areas of legislation, such as agricultural policy, domestic policy and justice policy, but also to the drafting of the EU budget.

In future the EP should have **co-decision powers** with respect to all **legal acts, placing it on an equal footing** with the Council. Moreover, Parliament should be given full budgetary authority over all EU expenditure. It must be able to boost or scale back funds allocated to certain budget items, provided that the respective legal bases and the principle of a balanced budget are respected and that the Council indicates its approval by a simple majority decision.

The national governments have proven well capable of representing the interests of the EU Member States in the various Brussels-based institutions. There is no need for any additional legislative chamber comprising representatives of the national parliaments. It is up to the national parliaments to monitor the conduct of their governments at European level and call them to account for their performance in that domain.

### **Thirdly, election to the European Parliament via a uniform election procedure**

Members of the European Parliament (MEPs) are still elected via 15 different procedures. In most Member States the election is based on national lists. This results in anonymous relations between voters and MEPs. Hardly any voters know the identity of 'their' MEP, the person who represents their interests at the European level. This lack of 'democratic transparency' should be eliminated as quickly as possible through a combination of majority and proportional voting rights.

### **Fourthly, stronger democratic legitimacy of the Commission**

The treaty provisions governing the **composition of the Commission** should be changed as follows:

- For the European elections, the European parties should nominate candidates for the post of Commission President.
- A majority of MEPs should elect the Commission President. This election must be confirmed by the Council.
- The Member States should submit nominations for commissioner posts to the newly elected President of the Commission.
- The President of the Commission would then select the members of his or her Commission.
- The President will then allocate specific areas of responsibility to the individual commissioners.
- The Commission requires a vote of confidence from both the EP and the Council.

If the treaty was amended in this way, this would have four major **advantages** with respect to the **democratic functioning** of the future EU:

- The European Parliament would gain greater influence over the composition of the Commission. This would make it clearer to voters just what is at stake when members are elected to the European Parliament.
- The European elections would become more important, because the European Parliament would play a decisive role in determining who occupies one of the most important political posts in Europe.
- The President of the Commission would enjoy greater democratic legitimacy.
- The President would have greater influence over the shaping of the Commission.

This procedure would in no way change the party political balance of the Commission. Under the treaty, the Commission would remain obliged to act in the common European interest, and it would be up to the Commission to define what that 'European interest' was and defend it, irrespective of its party political leanings.

### **Fifthly, simplification and consolidation of the treaties with a view to establishing a European Constitution**

Reviewing the treaties is a priority task, entailing four prime objectives:

- **Simplification** of the existing treaty texts;
- **consolidation** of all the provisions in the text of a single treaty;
- integration of the **Charter of Fundamental Rights**;
- transparency when **establishing the respective areas of competency** of the European Union and the Member States.

European treaty law contains a large number of outdated provisions, such as detailed – and often incoherent – procedural rules and guidelines for taking political action. These would be more suitably accommodated in secondary legislation. For this reason, a Convention working group should concentrate on **simplifying the treaties** and submit specific proposals to this end.

The EU Treaty should be blended together with the EC Treaty into a **single coherent text**. The distinction between the "Union" and the "Community" is confusing and unnecessary and should be abolished, as should the "three pillars". The only thing needed to considerably simplify the respective treaty texts is the drafting of a new preamble and the incorporation into the new, all-inclusive EU Treaty of the titles concerning legislative, domestic, foreign and security policy.

The **Charter of Fundamental Rights** adopted as a declaration by the European Council in Nice should be part of the consolidated EU Treaty, so that the European Court of Justice (CJEC) can be called in to settle any disputes.

The consolidated treaty should specify the respective **competencies** of the Union and the Member States in greater detail, paying special attention to the following four points:

Firstly, the fact that the **concern** about the Member States 'losing authority' to the EU is **groundless**. Competency standards are set out precisely in the EU Treaty. Where competency has already shifted to the EU level, this was decided by the Member States, because they were finding it increasingly difficult to exercise their authority in the respective areas (e.g. currency, competition, external relations). Any shift of competency is subject to the principle of subsidiarity (see Article 5 of the EC Treaty) which only authorises the effective exercising of competencies shifted from the Member States to EU level in areas of non-exclusive authority if the objectives pursued cannot be satisfactorily attained by the Member States and can be more readily achieved at European level.

Secondly, the **CJEC monitors compliance** with this provision of the treaty. This can also be done via an injunction. Since the respective governments and parliaments are directly responsible for or control the exercising, application and further development of EU competencies in the Council of Ministers, there is no need to set up a special committee to monitor compliance with the principle of subsidiarity.

Thirdly, in the **legislative domain** the Union only has very **limited areas of exclusive competency** (monetary policy, customs union and foreign trade, internal market). In all other areas of policy the Union and the Member States are jointly competent. In some areas, such as competition and subsidies, agriculture or fisheries, the Union plays the more dominant role; in others, such as external relations and macroeconomic management this should be the case in the future, because Europe-wide solutions are more efficient in these areas. In all other areas – especially social security, education, culture, internal security – the main responsibility lies with the Member States. For the time being there is no apparent need to make any significant changes to this basic configuration, nor would such a change be viable at present.

Fourthly, the **application of legal provisions** is in principle a matter for the **Member States**. Only in competition law and in connection with some areas of foreign trade is the EU (EC) directly responsible for implementing such provisions.

### **Furthermore, a workable common foreign policy**

The European Union must enhance its capability to take effective action vis-à-vis the outside world. In recent years the EU has made considerable progress on the way to better coordination of its Member States' foreign policy. However, it is still a long way away from a genuinely '**common foreign policy**'.

The Convention should primarily aim to make some practical improvements, essentially by ensuring that:

- Foreign policy measures should in principle be approved by the Council at the Commission's suggestion, provided that the European Parliament's Committee on Foreign Policy or the EP itself has given its approval.
- International treaties negotiated by the Commission on behalf of the EU should have to be ratified by the Council and the EP. The often extremely ponderous process of ratification by the Member States should be eliminated.
- The post of High Representative for the CFSP should be filled by the same member of the Commission who is responsible for external relations. This arrangement would eliminate the source of increasing friction between two foreign policy systems.

### **III.**

#### **Expectations regarding the Convention**

Two main things are expected of the Convention.

Firstly, the submission of clearly worded proposals to the European Council.

These proposals should focus on key reforms that are indispensable if the enlarged EU is to function democratically and enjoy the support of a broad majority within the Convention. Only then will there be any prospect of the European Council taking up those proposals. A vital prerequisite for the success of the Convention is that it should concentrate on truly essential matters and establish broad majorities for those reforms that are of really decisive importance.

Secondly, the incorporation of these proposals into a text that can serve as the basis for a European Constitution. This text should be worded in such a way that it can be adopted by the Intergovernmental Conference with the fewest possible amendments being made to its substance.