

SHLOMO AVINERI:

**Truth Lies in the Details
Comment on Natan Sznaiider¹**

I read Natan Sznaiider's »Israel: Ethnischer Staat und Pluralistische Gesellschaft« with interest, and agree with most of his analysis. There are, however, two points on which I would like to comment.

At the outset of his article Sznaiider states: »Es gibt wenige Staaten, die ihre Existenz so sehr der internationalen Moralität verdanken wie Israel«. The reference is obviously to the 1947 decision of the General Assembly of the UN to propose the partition of the British mandate territory of Palestine into two states, a Jewish and an Arab one – a decision at least partly motivated by the universal moral shock and feeling of guilt in the wake of the Shoah.

But this is only part of the story, and to leave it like that is simplistic and not very helpful. True, the 1947 UN recommendation added an important element of international morality to the Zionist movement. Yet international morality (in plain terms: the United Nations) proved itself totally impotent and incapable of *implementing* what it considered to be the right decision. When the Arabs of Palestine, as well as neighboring Arab states, opposed this decision, they went to war against the Jewish community in Palestine in order to prevent the establishment of a Jewish state – and to undermine a decision of the UN representing »international morality«. The UN proved itself totally incapable, then as now (think of Bosnia, Rwanda, Kosovo), of carrying out its decision, or even helping that party which was trying to implement it against the violent and armed opposition of the other party (which included UN member states, such as Egypt, Syria, and Iraq).

1. Natan Sznaiider: »Israel: ethnischer Staat und pluralistische Gesellschaft«, in *Internationale Politik und Gesellschaft* 1/2003.

In the end Israel prevailed: not because of »international morality«, but because at a crucial moment, in spring 1948, when it appeared that the small and outgunned Jewish community in Palestine was about to be defeated, the Soviet Union under Stalin decided, for *raison d'état*, not »international morality«, to supply the nascent Jewish army with arms, including machine guns and its first airplanes. This made it possible for Israel to survive. This Soviet support for Israel was done via Czechoslovakia, in which the Communists had just come to power, and the airplanes supplied to Israel were Czech-produced Messerschmitt fighter airplanes, produced during the Second World War in the Skoda-Werke under Nazi occupation.

That it was Stalin who saved Israel because at that time all Arab countries were allies or protectorates of British and French imperialism is one of the cruel ironies of history. It suggests that history is complex and sometimes morally much more ambivalent than politically correct theories would like to imagine. It also recalls Machiavelli's unpleasant dictum that even prophets have to be armed – otherwise they will fail in their moral mission: see Moses and Mohammed versus Savanarola.

The second point has to do with the problem of how Zionism and Israel dealt with the Arab issue, as well as with non-European Jews in Israel. Again, Sznajder is right when he says (p. 131) »Nun ist Israel ja in Europa gegründet worden – stammt sozusagen aus Europa«. Yet he goes on to say, »Im neuen Land gab es plötzlich Araber und orientalische Juden – so uneuropäisch, so unpassend«. And in this he is totally wrong.

In 1903, Theodor Herzl, the founder of political Zionism, published his utopian novel »Altneuland«, modeled on Edward Bellamy's socialist utopia presented in his novel »Looking Backward, 2000–1887«. »Altneuland« describes how a Jewish state, once founded, would look in the year 1923: modern, technologically innovative, tolerant, based on what Herzl calls »Mutualism«, combining »the initiative of capitalism with the justice of socialism«. Far from being unaware of the existence of Arabs in the country, Herzl presents the Arabs as an integral part of the New Society (this is its official name) – equal citizens, participating in the economic and social development of the country, being grateful (naively one would say, but after all this is 1903!) for the economic prosperity brought by the Jews to what was then an underdeveloped province of the Ottoman Empire.

Moreover, one of the leaders of the New Society is an Arab engineer from Haifa, Reschid Bey (who had studied, of course, in Berlin and speaks perfect German, as does his cultured and emancipated wife). What

is even more interesting is that the political action of the novel in 1923 takes place in the context of an election campaign in the country. In this election there appears for the first time a political party led by a recent immigrant, a fanatical rabbi named Dr. Geyer, who advocates the disenfranchisement of the country's Arab citizens; the country, he argues, »belongs solely to the Jews«. »Altneuland« describes the election campaign in which the liberal political establishment of the country – Jews and Arabs alike – fight and defeat the Jewish racist Geyer, who is portrayed by Herzl as the mirror-image of the Viennese anti-Czech and anti-Jewish populist racist Dr. Karl Lueger. The only difference is that in Vienna the racists won (Lueger was elected Bürgermeister of Vienna), while in Zion they lose.

Naive as such a typical nineteenth-century liberal vision may now seem, it certainly does not agree with the simplistic statement that »plötzlich gab es Araber«. Many more examples could be supplied.

The same applies to the issue of the non-European Jews. It is of course true that Zionism started in Europe – first because before 1939, ninety percent of the world's Jews either lived in Europe or were descendants of European Jews: only ten percent were »Orientals«; second, it was in Europe that the emergence of modern nationalism first made the position of Jews precarious (when nationalism reached the Arab world in the mid-twentieth century, the same processes developed in countries such as Iraq, Egypt, and Morocco). It is equally true that after 1948 the Israeli establishment, hailing from Europe, erred dramatically in its attempt to assimilate Near Eastern Jews into a »Schmelztiegel« based on Western customs and norms: only later did a multicultural and more tolerant approach develop.

But, again, to maintain that »plötzlich gab es orientalische Juden« is totally wrong. To give another example from Herzl: very early on in his Zionist »awakening« he describes almost breathlessly a meeting with a Jerusalem doctor, Dr. Isaak d'Arbella, who reported to him on the variety of Jews among the small Jewish community in Jerusalem. It is worth quoting this entry from his diary for 20 February 1897 just to observe Herzl's fascination – very fin-de-siècle romantic – precisely with the non-European Jews: »[Dr d'Arbella] erzählte mir wunderbare Dinge aus Palästina ... und von unseren Juden aus Asien. Kurdische, persische, indische Juden kommen zu seiner Consultation. Merkwürdig: es gibt jüdische Neger, die aus Indien kommen. Sie sind die Nachkömmlinge der Sklaven, die bei den vertriebenen Juden dienten und den Glauben ihrer

Herren annahmen. In Palästina sieht man ... auch kriegerisch gefärbte Berg- und Steppenjuden.«

It was this awareness of the heterogeneous nature of Jewish communities the world over which also led Herzl to deny any racist or biological characterization of the Jews. »We are«, he always maintained, »a people of varied anthropological components« – and later, when meeting with the King of Italy, he was glad to hear from him about Ethiopian Jews living in the recently acquired Italian colony of Eritrea.

Again, a complex picture. Precisely because the challenges facing the self-identity of Israel are so complex and sometimes contradictory (as so justly discussed by Sznajder) this complexity is not helped by a stereotypical presentation of the historical and intellectual background that brought Israel into existence – neither in the international context, nor in the internal discourse of the Zionist movement. Like much else, truth lies in the details, not in comfortable generalization.

NATAN SZNAIDER:

Die Kluft zwischen Wahrnehmung und Realität Antwort auf Shlomo Avineri

Ich möchte mich für Shlomo Avineris freundliche und aufmerksame Kommentare bedanken. Er betont ja auch, dass er im Großen und Ganzen mit meinen Gedanken einverstanden ist. Natürlich ist auch mir bewusst, dass Israel nicht wegen der internationalen Moralität bestehen bleibt und aus dem Unabhängigkeitskrieg von 1948 nicht wegen dieser Moralität siegreich hervorging. Darum geht es ja gerade, dass Außen- und Innenperspektive so weit auseinander klaffen, und die einen internationale Moralität und die anderen politische Stärke sehen. Diese Kluft ist es ja gerade, die die Einstellung zu Israel bestimmt. Shlomo Avineri hat das in seinem Kommentar nur bestätigt. Dass gerade auch der Antisemitismus heute – anders als vor der Nazizeit – immer noch als Bruch der globalen Moralität gilt, ist der beste Beweis für das Bestehen einer globalen Moral, die sich wandeln kann und politische Folgen hat. Doch wenn man, wie Israel derzeit, mitten in einem Existenzkampf steht, vergisst man das leicht und legitimiert sich – verständlicherweise – nur durch die eigene Macht. Dass Israel mit höheren moralischen Maßstäben gemessen wird als viele andere Staaten, hängt also mit dem Antisemitismus zusam-

men. Aber eben nicht nur im Sinne einer Feindschaft gegen Israel, eines Fortbestehens des Antisemitismus, sondern umgekehrt auch als Folge einer Delegitimation des Antisemitismus. Durch den Holocaust wurde Antisemitismus zum Gesinnungsverbrechen par Excellence und damit auch zu einem Verbrechen, das ebenso Verpflichtungen an die ehemaligen Opfer stellt. Mir ging es in erster Linie um die Kluft zwischen Legitimation und Realpolitik und gut, dass Shlomo Avineri nochmals den Punkt der Realpolitik betonte.

Zum zweiten Punkt habe ich ebenfalls über Wahrnehmungen gesprochen. Die letzten Wahlen in Israel im Januar 2003 zeigten ja auch, wie sich Wahrnehmungen ethnischer Diskriminierungen politisch niederschlagen können. Da sind die Studien von Herzls Schriften hilfreich. Sie zeigen, wie Herzl sich dem Problem stellen möchte. Dass es da aber auch zu einer Kluft zwischen dem Herzl'schen Ethos und der sich entwickelnden sozialen Wahrnehmung kam, wird Shlomo Avineri nicht bestreiten können. Ich betonte ja gerade in meinem Artikel die Problematik der multi-ethnischen Gesellschaft in Israel, die in der Tat – wie auch Avineri betont – sehr heterogen ist. Alles in allem gebe ich Shlomo Avineri Recht: Die Wahrheit liegt im Detail.

MARCUS HÖRETH:

From Arguing to Bargaining Again Comment on Andreas Maurer²

In his recent article in *INTERNATIONAL POLITICS AND SOCIETY* Andreas Maurer expressed his hope that the Convention method for enhancing EU democracy would be characterised less by »bargaining« and more by »deliberation«. Of course, Maurer himself noticed that the criteria of deliberative democracy in the Convention have not been fully met. Nevertheless, the reader still has the impression that the Convention could be regarded as a basis for deliberative democracy. In Maurer's own words: »My argument is that the Convention method can be seen as an alternative way of steering system change and fundamental reform of the European Union, because it features participative and inclusive forms of open

2. Andreas Maurer: Less Bargaining – More Deliberation. The Convention Method for Enhancing EU-Democracy, *Internationale Politik und Gesellschaft* 1/2003.

deliberation; it respects and integrates the relative importance of minority positions; it offers open fora for parliamentary discourse and helps to include national parliaments at an early stage of system building; and it is conditioned by the method of consensus-building. Overall, the Convention method might therefore become a future model for a more democratic establishment of the EU.³

In his reflections on the »Convention method« Maurer makes some notable observations and presents some useful explanations, but he comes to conclusions which are far too optimistic. I doubt that the Convention method is really able to transform conflicts of interest in a »deliberative« way, so that less bargaining and more deliberation will be the main characteristics of the Convention's debates. In order to demonstrate my counter-argument, I will first recapitulate the preconditions of deliberation. Could the Convention be seen as such a model, theoretically? Second, I will show the limits of deliberation within the Convention by examining the question of how the Convention is (not) tackling the democratic-deficit problem.

The Convention as a Model for Deliberative Democracy?

What is the secret of the Convention method? Why do so many observers already claim it is a success, even a basis for a true deliberative democracy? What are the premises of the underlying deliberative concept; what are its principles? Briefly, the basic principles of deliberative democracy are discussion, persuasion, and compromise; ideally, no one unilaterally pushes his own preferences at the expense of others. Debates are fair: every participant is free, has an equal voice and standing, and at the same time is prepared to hear all the arguments of the other participants. Arguing is the dominant *modus operandi* rather than interest-driven bargaining. Consequently, the procedure of deliberation is reasoned, and no force is exercised other than that of the better argument.

With the help of a number of writers on deliberative democracy,⁴ Maurer argues that one result of deliberative procedures is a reduction of tensions between interests. Under such circumstances, a rational, motivated consensus can be found as a result of a free and reasoned assessment

3. Maurer, p. 168.

4. Maurer, pp. 171–74.

of alternatives by equals. Conflicts of interest can ultimately be transformed into a deliberative search for the best solution, which is the guaranteed outcome if all procedural requirements described above are fulfilled. In a deliberative setting, participants are more likely to reach optimal solutions because they not only share information freely but also a common frame of reference, while lowest-common-denominator outcomes are more likely in negotiations in which strategic rationality and bargaining dominate. The unsatisfactory results of the Nice Inter-Governmental Conference (IGC) serve as an example of the latter.

Theorists of deliberative democracy believe that the Convention strengthens the legitimacy of the European political system because it simply is very different from IGCs. As a consequence, it comes closer to the ideal of deliberation, featuring a much wider range of actors who are all, in principle, free and have an equal voice during deliberations. The openness of the Convention supports the need for Convention members to persuade by the quality of their arguments. In contrast, typical characteristics of interest-driven bargaining processes such as pork-barrelling and log-rolling will be banished because they will not go down well with the European public. Last but not least, no one is able to unilaterally push his own preferences at the expense of the others without threatening the success of the whole Convention. As no one wants to be responsible for a total failure, no one tries to play a power game by flexing his political muscles.

Limits to Deliberation in the Convention

That is the theory. However, the limits of deliberation within the Convention can be demonstrated by examining how the Convention is tackling the democratic-deficit problem. Obviously, the Convention has ignored – until recently – the democratic deficit, although this issue is one of the most urgent concerns of the general public. Instead, the Convention's agenda has focused on subsidiarity, simplification of the treaties, the legal personality of the Union, economic governance, and other issues. The only exception is the proposal of the so-called »early warning system« through which national parliaments would be able to control the EU decision-making process more effectively. But as Maurer himself admits, no one in the Convention has seriously considered whether these improvements for national parliaments will provide a new basis for en-

hancing the legitimacy of European governance among EU citizens.⁵ Besides the relatively uncontroversial objective of strengthening national parliaments in the multilevel game of European policymaking, the Convention has not addressed the real problem of how the European governance system can be democratised.

The interesting question remains of *why* this is the case. *Why* does this apparent blind-spot remain? My intuitive answer is that it has something to do with the new Convention method – its functioning as a deliberative consensus-seeking forum. This method has its limits exactly where the power struggle begins. And the power struggle has begun. The crucial point is that the Convention is unwilling to tackle the democratic-deficit problem, which is the key problem of European governance. If it did, it would be tantamount to stepping into a minefield – and the success story of the beautiful Convention method would thereby come to an abrupt end. This is so for three reasons.

First, if you want to address the democratic-deficit problem effectively, you need comprehensive institutional reform to change the nature of European governance. But the nature of the Euro-polity is highly contested, as is the question of what institutional reforms are required. I am sure that more constitutional blueprints which offer more or less convincing solutions to the democratic-deficit problem exist than there are members of the Convention. There is no obvious best solution on offer: there is no Pareto-optimal solution such as, say, the Single Market Programme, which was such a success story for everyone who participated. Debates on the constitutional architecture are to a large degree zero-sum games – powers given to one institution have to be taken from others. You cannot maximize the powers of every institution if you want to prevent the institutionalisation of permanent stalemates in the decision-making process or a lack of coherence in the political system as a whole. To offer some examples: a really strong European Council with a strong permanent Council President would marginalize a Commission President, even when he is elected by the European Parliament. Alongside such a powerful European President, the Commission would once and for all be degraded to the status of a mere secretariat of the Council, with its right of initiative seriously undermined. Furthermore, a really strong European Parliament could reduce the powers of the Commission, too. If co-decisionmaking was adopted, the Commission would be more or less out of

5. Maurer, p. 186.

the game, and the key players would be the Council and the Parliament. This issue has been examined by legions of political scientists. A strong European Parliament – in the legislative field – would also be a very doubtful constitutional choice for national parliaments, the traditional losers in the integration process. Governments would have every reason to take more notice of the preferences of the European Parliament rather than of their domestic parliaments. The latter would not really be part of the process, but mere spectators, whatever »early warning systems« might be introduced.

To be sure, truly empowered national parliaments would not only carry out ex post control of faits accomplis at European level but also ex ante participation before European rules are adopted. However, under these conditions national parliaments would render decision-making processes at European level even more cumbersome, which would not be very comfortable – either for the European Parliament, the Commission, or the Council. To put it simply: every comprehensive institutional reform would produce losers and winners, but no one wants to be a loser. Theoretically, comprehensive reform by means of which everyone is ultimately a winner is wishful thinking. This principal difficulty hinders progress in the deliberative search for a solution which pleases everyone.

Second, different solutions to the democratic deficit problem have different, massive, and very complex implications for the whole institutional set-up and for individual institutions. It is not only the case that the inherent tensions of the institutional framework of the Union prevent a clear positive-sum solution of the democratic-deficit problem, but also the sad truth that constitutional engineers never know exactly what implications some institutional reforms will have. Therefore, whenever such big issues are to be discussed, the behaviour of the Convention members is as risk-averse as the behaviour of member-state governments at IGCs.

Third, and most important – and following from the points I made earlier – everyone in the Convention has particular institutional and institutionalised interests. Behind the facade of deliberative discourse lies the true struggle between conflicting interests. The Convention members are not independent wise men with no political interests. As representatives of particular institutions and institutional interests – and, let's not forget, states – they are biased and prejudiced. In the minefield of institutional reform, the different delegations of the Convention do not have much in common as they represent different institutional interests. In rational-choice terms, the only thing they do have in common is that they

are rent-seeking in so far as they are planning to continue their careers – as Commissioners, Parliamentarians, Ministers, and so on. Therefore, given the incentive structures which dominate in these debates on the institutional architecture, they are not and cannot be characterised by a deliberative mode. Debates are rather characterised by interest-driven bargaining on the part of everyone who takes part (and has something to win or lose).

Conclusions

As already demonstrated, Maurer's optimism regarding the Convention method is not justified. It is hard to believe that the Convention operates as »a method for enhancing EU democracy«, as Maurer claims, since it has avoided the vital question of how European governance can be democratised altogether. This disregard becomes understandable when one realises that the Convention is not well suited for the task, whenever real constitutional choices have to be made. The Convention method prevents the inclusion of highly controversial issues and, moreover, no member of the Convention has an interest in changing this non-controversial approach. Previously, there were no endogenous reasons to change this style of deliberation. Under such circumstances it was much better to give the public the impression that fair deliberation was the main rule of the game. Whoever openly claimed to be playing by different rules could be blamed for destroying the deliberative paradise. But the factors which change the rules of the game could also be of exogenous origin, for example when the French and German governments proposed a Dual Presidency. I fear that, given the fact that controversial issues now *have* to be discussed because they were put on the table and hard constitutional choices *have* to be made, deliberations in the Convention will soon be replaced by a different form of negotiation: the consensus-seeking »deliberative« Convention method will dramatically change from arguing to bargaining once again. Also, given the fact that deliberations have their limits exactly where the power struggle begins, the Convention's debates will differ only slightly, if at all, from debates at Inter-Governmental Conferences. This may be sad, but it is better to accept it than to ignore it. Both Convention members and academics should never forget: even worse than ignoring the public is ignoring the facts.

ANDREAS MAURER:

The Convention Is More Than Bargaining Over Competencies Reply to Marcus Höreth

In his comment »From Arguing to Bargaining Again«, Marcus Höreth doubts that »the Convention method is really able to transform interest conflicts in a deliberative way.« To support his reasoning, he argues that the Convention is failing to discuss core issues of the EU's future architecture, that it has largely ignored the democratic-deficit problem, and that this ignorance is due to the Convention method and its inability to deal with power-struggles between member states. According to Höreth, there are three reasons for the Convention's handicap:

- a) Debates on the constitutional architecture of the EU are to a large degree zero-sum games – powers given to one institution have to be taken from others. This hinders progress in the deliberative search for a solution which would involve all participants of the Convention.
- b) Unsure about the implications of institutional reforms, the Convention members are as risk-averse as the Member States' representatives at Inter-Governmental Conferences.
- c) Behind the facade of deliberative discourse lies the struggle of conflicting interests. Due to their affiliation to institutions and institutional interests, the »Conventionals« are biased. They do not act as independent arguers but as rent-seeking representatives of their constituent units.

The Convention and the Issue of the EU's Democratic Deficit

Höreth thus criticizes the deliberative approach of the Convention through his own lens of normative expectations. According to him, the Convention does not address the issue which he considers most important. To turn the argument around, the Convention method would be a success if it dealt with and resolved the democratic-deficit problem.

However, the Convention *is* dealing with the EU's democratic deficit. While neither the Nice treaty's declaration on the future of the European Union nor the Laeken European Council's Convention mandate expressly employ the notion of the democratic deficit the post-Nice process directly addresses the issue of democracy, democratic values and the democratization of the EU's institutions and procedures. Declaration

No. 23 on the future of the Union annexed to the Nice Treaty, stated four topics to be made the center of attention at the Convention: (a.) the establishment and monitoring of a more precise delimitation of powers between the European Union and member states, (b.) the status of the Charter of Fundamental Rights of the European Union, (c.) the simplification of the Treaties with a view to making them clearer and better understood, and (d.) the role of national parliaments in the European architecture.

During the »printemps constitutionnel«⁶ of 2000 Joschka Fischer, Jacques Chirac and Tony Blair⁷ refreshed a debate⁸ which started as early as the Maastricht Inter-Governmental Conference, on how to link the European Parliament *and* the national legislatures into a continuous process of compounded problem-solving beyond the nation-state. The Nice declaration's topics mirror this rather disordered set of views on the general theme of »democratization«. But the post-Nice process – including the ongoing Convention – has raised the question what could be understood by democracy in a political system like the European Union and whether the European Union could be democratized by modified institutional and constitutional rules.

Based on the shared understanding that different views and interpretation of »democracy« cannot simply be resolved by another IGC deal, the Convention was established to promote greater empathy between its members with regard to deep-seated differences between national, supranational, parliamentary and governmental approaches to resolving the democratic deficit. In this regard – and even if the Convention did not explicitly create working groups on »democracy« or on »democratizing

6. See: Maurer Andreas/Franck, Christian: »Reforming the institutional set-up of the Union«, in: Maurer, Andreas (ed.): Europe's political priorities report, Brussels 2000, pp. 39–49.

7. See Fischer, Joschka: »Vom Staatenbund zur Föderation – Gedanken über die Finalität der europäischen Integration«, in: Integration, No. 3/2000, pp. 149–156; Chirac, Jacques: »Notre Europe«, Speech before the German Bundestag, 27 June 2000, <http://www.elysee.fr>; Blair, Tony, Speech at the House of Commons, 11 December 2000, <http://www.fc.gov.uk/news/newstext.asp?4489>.

8. See Joerges, Christian/Mény, Yves/Weiler, Joseph (eds.): What Kind of Constitution for What Kind of polity? Responses to Joschka Fischer, Florence 2000; Marhold, Hartmut (ed.): Die neue Europadebatte. Leitbilder für das Europa der Zukunft, Bonn 2001; Schwarze, Jürgen (ed.): The Birth of a European Constitutional Order, Baden-Baden 2001.

the EU's institutional structure« – each of the existing working groups addresses central issues with regard to the democratic nature of the EU's system. Furthermore, instead of directly – and naively – concentrating on the parliamentary side of the democratic deficit, the Convention decided to debate a more open-minded reform with regard to the reconciliation of the obvious need to enhance the EU's problem-solving capacity on the one hand and the requirement to democratize the resulting opportunity structures for its institutions on the other.

Citizens do not vote on the ground of highly aggregated institutional settings. They are interested in outcomes and in arguments, legal powers, and policy programs which reflect their wishes, interests, worries and concerns. In this regard, the Convention's working groups on the Charter, Complementary Competencies, Economic Governance, the EU's External Action and Defense, Freedom, Security and Justice, and on Social Europe have largely focused on the EU's output legitimacy and thus reflect the continuous search for problem-solving capacities in specific policy areas without explicitly considering appropriate governance structures. Furthermore, in contrast to negotiations on similar subjects at the IGC level, the recommendations of the working groups have been drafted on the basis of a large consensus of its members.

The Convention as a Deliberative Process

However, the development of the European Union is characterized not only by an increasing and dynamic quest for effective policy production, but also by an ongoing search for efficient, transparent and democratic »frames« which make sure that policy outcomes are perceived and accepted as legitimate. To successfully reconcile the management of growing responsibilities with the demands for participation, the existing institutional framework of the Union will be altered. This is precisely the task of institutional reform. Unlike Höreth, I would claim that the Convention has extensively considered these issues. Already prior to the Franco-German initiative on institutional reform, the Convention's plenary and working groups have dealt with the role of national parliaments, the future powers and functions of the European Parliament, the extension of the scope of the co-decision procedure, the extension of the scope of qualified majority voting, and future means to hold the EU's executive branches more accountable.

As regards the applicability of the theory on deliberative democracy and the method used in the Convention, I thus come to the following observations:

1. The theory assumes that the participants in the Convention are free, they are only bound by the results of the deliberation. One can identify three groups of actors: (1) a minority who still try to act as representatives of the »national interest«, i.e. some (not all) of the representatives of the heads of states and governments; (2) a minority of national parliamentarians who act on their own behalf without considering the positions of their home bases; and (3) a large majority of members who try to cope with different layers of their identity as MPS/MEPs, government officials, and so on, and who change their positions several times according to an ongoing and open debate on the EU's future design.
2. The theory assumes that deliberation is reasoned – no force is exercised, except that of the better argument. And in fact, the Convention does not feature any means of coercion or majority decisions. Instead, the debate within both the working groups and the Convention plenary remains open-minded and egalitarian. Representatives of larger member states or government officials do not tend to argue on the basis of their potential bargaining power.

The style of the Convention's debate still remains *arguing* between individuals – not representatives of legal bodies and interest groups – who try to develop empathy for each other's arguments and problems.