Democracy and Accountability in the Enlarged European Union

The Convention, the IGC 2004 and European System development. A Challenge for Parliamentary Democracy

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Approaches to Democratise the European Union

Comparing the documents produced during the Future of Europe Debate and the ongoing Convention, the proposals made under the headings of “democratisation” can be classified as follows:

1. Democratisation by reforming the decision-making procedures through an extension of the areas covered by the co-decision procedure according to the following four strategies:

   (a) A **systematic conjunction** of the different **types of decision-making procedures** and the institutions to be involved in on the one hand and the **nature of the different legal acts** at the EC/EU’s disposal on the other. This approach would suggest some kind of a hierarchy of norms like it might be derived from the legal definition of the Council acting as legislator (OJ L304/7 of 10th December 1993). The main variable for identifying an area as subject to co-decision would be the legal nature of legislation, its scope and its implications.

   (b) A **systematic association** of decision-making mechanisms in the **Council of Ministers** and decision-making **procedures between the Council and the European Parliament**. Protagonists of this approach suggest the introduction of co-decision in all cases where the Council decides by qualified majority. Consequently, the success of this strategy largely depends on the reform of the Council’s own decision-making regime.

   (c) The **simple transfer of the existing co-operation** procedures into co-decision procedures.

   (d) A **policy oriented and single (national) interest** guided re-ordering of decision-making procedures. Protagonists of such an approach look at the European Parliament as a potential winning coalition partner in order to enforce or to block decision in specific policy areas.

   (e) Linked to the proposals on widening the scope of application of the co-decision procedure are proposals to reform the **EU’s budgetary procedures** in order to bring the EP at the same level with the Council of Ministers.

2. The second option focuses on the relationship between the EU’s executive bodies and their accountability to the European Parliament. Proposals vary between

   (a) the **election of the European Commission’s President** by the European Parliament,

   (b) the participation of the European Parliament with regard to the appointment of the EU’s foreign minister and his or her function as a Vice-President of the European Commission,

   (c) the involvement of the European Parliament with regard to the appointment the European Court of Justice,

   (d) the involvement of the European Parliament with regard to the EU’s executive agencies, i.e. Europol, Eurojust etc.

   (e) the introduction of a call-back procedure for the Union’s legislator with regard to the Commission’s executive functions.

3. The third option for democratisation concern the intergovernmental EU pillars (CFSP and CJHA). Proposals vary between

   (a) the full-scale or partial integration of one or both pillars into the Constitution and its procedural as well as institutional obligations, and
(b) the introduction of more legally binding – similar to the EC Treaty – procedures and more participatory as well as control powers for the European Parliament and/or the national parliaments within the remaining EU pillars.

4. A fourth option for democratisation of EC/EU decision-making procedures is discussed with regard to the roles of the national parliaments. Proposals vary – since the Amsterdam IGC - between those who opt for:

(a) the introduction of direct participatory or control powers for national parliaments within the legal framework of the EC/EU,
(b) the introduction of a provision within the Constitution’s framework guaranteeing national parliaments some unilateral control mechanisms vis-à-vis their respective governments,
(c) the legitimisation of a National Parliament’s Congress via the introduction of a new executive body, e.g. the President of the European Council, the upgrading of the European Council’s strategic programmes, etc. and
(d) the formal upgrading of existing multilateral scrutiny regimes bringing together members from both the European Parliament and the national parliaments.

5. The fifth option for democratisation of the EU concentrates on the structural prerequisites of the Union, and on how to provide opportunities for democratic and legitimate governance through

(a.) the introduction or the reinforcement of new or more visible fundamental rights within the EC/EU Treaty set-up,
(b.) the set-up of new information and deliberation rights for the citizenry,
(c.) the introduction of certain direct participation rights in the Treaties, and
(d.) the formalisation of the Convention method for reforming the Union.
Towards a common understanding of democracy

1. The ideal concepts

<table>
<thead>
<tr>
<th>Mode of Governance</th>
<th>Mode of democracy</th>
<th>Key Institutional Opportunity Structures</th>
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</thead>
<tbody>
<tr>
<td>Governance by the people</td>
<td>Citizen participation through input legitimacy</td>
<td>Open fora performing as communication devices such as the European Parliament, national parliaments, ECOSOC, COR,</td>
</tr>
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</tr>
<tr>
<td>Governance for the people</td>
<td>Effective government through output legitimacy</td>
<td>Council and EP in Codecision, Commission as executive, Member State administrations</td>
</tr>
<tr>
<td>Governance with the people</td>
<td>Interest intermediation through the Community Method</td>
<td>EP-Council-COM triangle performing as translation devices for interests, ideas etc.</td>
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</tbody>
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2. State of the Art: The Focus of the Convention

Contributions to the Convention (6. March 2003)

Presidium Input and Contributions

Documents
Contributions
Working Group Contribution

Referenda / Direct Democracy
COR / ECOSOC
Election of EU Council President
Early Warning Mechanisms
Subsidiarity
Congress
COSAC
National Parliaments
Election of COM President
Budgetary Procedure
Codecision Procedure
European Parliament
Transparency
Efficiency
Legitimacy
Democracy
Democracy Deficit
### 3. The Convention’s focus under review

<table>
<thead>
<tr>
<th>Mode of Governance</th>
<th>Key proposals</th>
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| Governance by the people - Citizen participation through input legitimacy          | - Referenda, Application of Arts. 192 and 208 to a qualitative minority of citizens  
- Institutionalising the Convention method                                           | - None, but potential for reformed ECOSOC and the EP                                               |
|                                                                                   |                                                                                                                                             | - NP’s, EP, COR, ECOSOC, Member States, Civil Society                                           |
| Governance of the people - Representation through parliamentary participation      | - Election of the Commission’s President by the European Parliament → generating “real” political EP election campaigns  
- Participation of NP’s through early warning mechanism  
- Election/Nomination of the EU’s President by the Congress                           | - European Parliament                                                                             |
|                                                                                   |                                                                                                                                             | - National Parliaments acting unilaterally                                                        |
|                                                                                   |                                                                                                                                             | - National Parliaments and EP acting multilaterally                                              |
| Governance for the people - Effective government through output legitimacy        | - Creation of a permanent – selected – European Council President  
- Creation of a European Foreign Minister  
- Stabilisation and Institutionalisation of Council Presidencies  
- Reform of the Council towards separation of legislative and executive Council formats  
- Extension of QMV  
- Extension of Codecision  
- More competencies for the COM President vis-a-vis the Commission and for the Commissioners vis-a-vis the GD’s  
- Abolishment of Comitology and Call-back procedure for EP and Council                | - Council                                                                                         |
|                                                                                   |                                                                                                                                             | - Council and COM                                                                                 |
|                                                                                   |                                                                                                                                             | - Council                                                                                         |
|                                                                                   |                                                                                                                                             | - Council                                                                                         |
|                                                                                   |                                                                                                                                             | - Council and EP                                                                                   |
|                                                                                   |                                                                                                                                             | - Commission                                                                                       |
|                                                                                   |                                                                                                                                             | - Council and EP                                                                                   |
| Governance with the people - Interest intermediation through the Community Method | - Reform of the hierarchy of norms  
- Compatibilisation of norms, actors and procedures  
- Extension and Reform of Codecision and budgetary procedure  
- Soft Inclusion of NP’s in Codecision                                                | - EP, Council, COM, NP’s                                                                          |
|                                                                                   |                                                                                                                                             | - EP, Council, COM, NP’s                                                                          |
|                                                                                   |                                                                                                                                             | - EP and Council                                                                                    |
|                                                                                   |                                                                                                                                             | - NP’s, EP, Council                                                                                 |
4. The focus on national parliaments

Fischer’s ‘new European Parliament’

A Permanent Conference of Parliaments – Congress
The co-decision procedure and the early warning mechanism

**Commission transmits legislative proposals to the EP and the Council**

**European Parliament / First reading with the majority of the votes**
- Resolution without amendments
- Resolution with amendments

**Council / First reading with qualified majority (unanimity as exception)**
- Council agrees on the European Parliament’s resolution
- Council disapproves Parliament’s amendments

- Act is adopted *

**European Parliament / Second reading (time limit: three months after receipt of the Council’s common position)**
- Rejection with absolute majority of MEP
- Adopts amendments with absolute majority of MEP
- Transmission to Council and Commission

- Act fails
- Act is adopted *

**Council / Second reading (time limit: three months after receipt of EP resolution)**
- Rejection (by qualified majority) of one or more EP amendments
- Adoption of all EP amendments; by QMV if COM favours amendments; otherwise by unanimity

- 6 weeks standard?

- EP and Council convene the Conciliation committee

**Conciliation Committee for six weeks tries to agree on a joint compromise text**
- Committee fails to approve a joint text
- Committee approves a joint text

- Act fails
- EP votes on the text with absolute majority of votes
- Council votes on the text with QMV

- Act is adopted if both EP and Council approve the joint text
- Act fails, if one of the institutions votes against the joint text

**National Parliaments and Subsidiarity**

**Analysis of Proposal**
- 6 weeks minimum

**No Analysis of EP’s First Reading, Contribution via JCM’s BM’s and Rapporteur Meetings**

**Contribution to Council’s Common Position via Member States**

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Intergovernmental Europe

President of the European Council

European Council

Foreign Affairs Minister as Chair of the Council “External Affairs”

General Secretary as Chair of the Council “General Affairs”

“Executive Council Formats”

Legislative Councils

Codecision

Commission

European Parliament

Reorganised WEU/CFSP/ESDP-Assembly

Institutionalised Body/ies for Early Warning Mechanism

National Parliaments

Citizens
Direct Democracy Europe

**Legislative Council**
- with specialised Council formats acting as Networks for Intermediary Organisations

**European Parliament**
- with Petitions Committee acting as main Forum and Network for Intermediary Organisations and Minority Proposals for Legislative Action

**ECOSOC → Committee for Sustainable Development**

**European Council**

**Committees to steer Commission proposals and to implement Legislation**

**Commission**
- Recipient of Citizens’s demands for and against proposed Legislation
- Transmitter of Citizens’s demands for political programming and strategic action

**Citizens**
- Referenda on key legal acts
- Veto-Referenda against legal acts
- Minority Right to propose legislative Action

**National Parliaments**