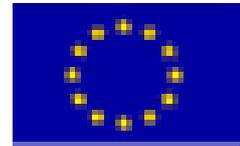


**From the Convention to the IGC:
Mapping Cross-National Views
towards an EU-30**



Sponsored by the EUROPEAN COMMISSION

"Reforming the EU Institutions - Challenges for the Council"

Minutes of the Workshop, 6. June 2003

Introduction

One of the central and most sensitive issues on the agenda of the Convention on the future of Europe is the topic of institutional reform. Currently, the Council is still (one of) the central decision-maker(s) within the institutional conglomerate of the EU, thus it is important to examine its future role in the institutional system of the EU. In this context the workshop "Reforming the EU institutions – Challenges for the Council", which took place on the 6th June 2003 at the University of Maastricht, devoted special attention to the reform of the Council.

For the future development of the Council different scenarios can be envisioned both in the field of internal reform of the Council and in the process of interaction with other institutions. The seminar aimed at providing an insight into the different proposals on Council reform coming from the Convention as regards to issues such as efficiency and effectiveness, transparency, democratic legitimacy.

Minutes

Official opening - Christine Neuhold, European Studies, Universiteit Maastricht, Chair for the morning session

The workshop was opened by Dr. Christine Neuhold, who outlined the main objective of the workshop, namely the identification of the critical steps between the third phase of the Convention on the Future of the European Union and the launch of the IGC 2003/2004. The workshop's main goal is to analyse potential areas of conflict and consensus in those fields of the Convention and the IGC's agenda where the Member States (governments and

parliaments) and the EU institutions are likely to freeze their ‘original’ interests until the final stages of the IGC. Furthermore, Dr. Neuhold presented the principle issue of analysis, namely the possible scenarios for reform of the Council.

EU institutional reform: Setting the scene “The fallacy of the particular”
Tannelie Blom, European Studies, Universiteit Maastricht

The general scene was set by Dr. Tannelie Blom, who argued that the analysis of the institutional reform in the EU may be structured along three dimensions, each of which suggests a dilemma between two alternative designs.

Dr. Blom began his expose by adopting the perspective of the “ordinary citizen”, whose needs for greater transparency and simplicity the Convention was supposed to address. But, he argued, how could the citizen possibly understand the thousands of proposals, coming like a waterfall from the Convention, when they adopt such a specific language and talk about such complex political relationships. In an attempt to provide a better reading of the different proposals he presented three dimensions, in which the different reform proposals could be classified.

Each dimension proposes two different options or alternative ways in which the reform could be realised. Hence each dimension contains a dilemma of choice.

1. Institutional dimension – is linked to the question: How to allocate the competences within the EU as a multilevel system of governance¹?

Here the dilemma would be, whether to allocate the competences between the national and the European level of governance via the pattern of:

- a. Sharing – when both levels would be sharing legislative competences (a model which would resemble the German federal system); or
- b. Splitting – when clear-cut division of legislative competences exists between the two levels (a model applied by the American federal system).

These would be the two extremes of the institutional dilemma. Currently the EU is far from these “pure” forms of allocation of legislative competences.

Features of the EU system:

- the general pattern of competence allocation is “sharing” although examples of splitting do exist (monetary policy, external customs tariff);
- intertwining of legislative and executive functions (one example being the role of the Commission in the system of Comitology);
- central position of the executive bodies (stronger than in the German system);
- strong inclination to decide by consent, despite the application of QMV in many cases (given the previous characteristics this feature seems to be quite a natural follow-up process).

All of the above features have the tendency to lead the system into the “joint decision trap” described by Fritz Scharpf (1988). The possible remedy is the reinforcement of the principle

1 Dr. Blom departs from the assumption that the EU as a political system is a multilevel system of governance.

of subsidiarity i.e. adoption of the second alternative of “splitting”. This system of clear-cut sovereignty repartition will render both, the national and the supranational level of governance more efficient, but was proven to be unacceptable (from the European subsidiarity debate) for various reasons. The arguments against the option of “splitting”:

- clear-cut redistribution of competences will introduce greater rigidity into the system, as opposed to the flexibility needed in order to address the problems efficiently in a polity of such immense scope and territory as the EU (the powerful “globalisation waves” brought about de-territorialisation and denationalisation);
- strengthening the supranational competences may trigger the phenomenon of particularism i.e. a process of re-sovereignisation by the nation-states.

2. The Normative dimension – encompasses the question: Which criteria does the European democratic system have to fulfil in order to make its policy outcomes justifiably binding decisions which can and ought to be enforced (i.e. how to address the problem of the “democratic deficit”)?

One of the most striking manifestations of the democratic deficit within the European Union is that the elections do not perform the same role as those acting within the framework of the nation-state. A further example could be that decisions in the Council (the main legislative body in the EU) are taken by the indirectly elected governments of the member states.

There are two main remedies for solving the problem of the democratic deficit: the majoritarian versus functional option (which would be the second dilemma in the institutional reform of the EU).

- a. Majoritarian option: to strengthen the only directly elected institution of the EU i.e. accept the European Parliament based on territorial representation and operating by majority voting as the most important source of legitimacy in the EU. This first option will increase the source of input legitimacy.
- b. Functional option: to assure that representatives from various kinds of civil society organisations take part in the decision-making process in the respective policy fields that are of immediate interest for them. This option could be distilled from the White Book on Governance, presented by the Commission in 2001. The functional approach will increase the phenomenon of output legitimacy.

Advantages of the system of functional representation:

- this alternative provides more adequate solutions than the system of territorial representation because only the interested parties with specialised knowledge of the problem would act within the decision-making and consensus would be achieved more easily;
- the functional option overcomes the criticisms against the majoritarian approach (ex. the “no-demos” thesis).

The functional approach in its turn is also greatly criticised, in particular for its ambiguous practical implementation (see the neo-corporatism debate).

3. Methodological dimension – poses the question: How should the reform be brought about? Where should be the starting point?

Again the options are two: policy- driven reform versus constitutional reform.

- a. Policy driven reform – takes as a point of departure the interests of the citizen i.e. this is a bottom-up approach which searches to address the real-life, current problems and by providing valuable, concrete answers to these problems inevitably re-considers and reforms the institutional structure of the polity. This approach is advocated by Joshua van Aartsen for example.
- b. Constitutional reform - “the attempt to develop a coherent order according to general principles of political organisation and governance” (Olsen, 2001, p.7). This approach would be advocated by Joschka Fischer to give one example.

The second option of a “grand design” has the inherent risk of rigidity i.e. the fallacy of technocratic decisions to provide a perfect simulation of reality, and to foresee future demands/pressures on the political design.

One may argue that the EU already solved this last dilemma, when in Laeken (2001) the Heads of state and government, opted for a Convention, which has to prepare a Constitution of the Union.

Nevertheless, a question remains whether the Convention will produce a “proper” Constitution or, as it seems now, a lengthy constitutional treaty, which will be “sold” as a Constitution? Even Joschka Fischer in his famous speech in the Humboldt University in 2000 discussed the finalite of European integration but nevertheless spoke of a *Constitutional treaty*, as opposed to a *Constitution*.

Furthermore in this context it is important to note that, whatever comes from the Convention, will still have to be negotiated by the governments of the member states in the IGC that will follow the Convention’s work.

And is not the very fact that the member states have the competence to allocate competences the greatest manifestation of the confederal nature of the EU?

Thus in conclusion, Dr. Blom argued that there is a certain trans-dimensional coherence that has to be observed i.e. the choice in one of the dimensions will predetermine to a great extent the choice in the other dimensions. The institutional designers in the EU have to assure this coherence in order to exercise their functions .

Questions and discussion of Dr. Blom’s expose

Dr. Vanhoonacker: Where should the Council be placed in the new institutional framework?

Dr. Blom: Currently, the Council is the least representative, yet the most influential body in the EU. Since the Dutch electorate, for example, never voted the Ministers of Netherlands as their representatives in the Council, this institution is not fully legitimate. The system QMV makes things even worse. Because the Dutch minister may be outvoted in the Council, and the

other European ministers are even less legitimate in the eyes of the population of the Netherlands for example.

Thus, looking at the current role and functions of the Council, and given its nature built up on sectoral formations, the would see the functional approach to the reform of the Council could be seen as the most natural remedy and path on the way to reform.

Esther Versluis: What is functional representation in your view? Which organisations take part in it? The national or the European civil society groups?

Dr. Blom: Both. At least the Commission tries to involve them both and to work with both.

Esther Verluis: Given that the civil society in the new member states is still underdeveloped and there is a lack of strong traditions, how do you view the functional option applied in the EU of 25?

Rene Gabriels: And don't you think that the functional representation even exacerbates the problem of legitimacy, which it claims to be solving? What is the method to determine the representativeness of civil organisations?

Dr. Blom: These are, of course, classic criticisms to the functional approach. I do not have the magic solution. Nevertheless, I believe that attempts should be done.

Undoubtedly, the functional approach has the inherent risk or the "fear of capture" i.e. that it will become the scene of expression of powerful lobbies only.

But let's examine the alternative – Europarlamentarisation is also not a solution. Mainly because of the lack of a European demos, and the presence of too many structural minorities (these which have no chances ever to come to power). These structural minorities will create permanent tensions in the system. Actually, the majoritarian approach would strengthen the national (for example German) interest representation, whereas the other option allows for much more even interest representation, much more European than national.

Ettore Greco: There are definitely many gaps and lack of political traditions in the EU. But the formation of the nation-states applied the same top-down approach and it took 100 years, whereas the EU had only 50 so far.

Reforming the Presidency of the Council²

Dr. Sophie Vanhoonacker, European Studies, Universiteit Maastricht

The discussion on the reform of the Presidency very much debates the possibility of establishing a longer term Presidency (than the current 6 months). Currently, the deliberations are centred along sensitive issues like, for example, whether the new member states will have a Presidency. Alongside with the option to keep the current system are examined alternatives as: "team Presidency", "institutional Presidency", etc. Generally, the debate focuses on the institutional dimension (described earlier by Dr. Blom) i.e. the balance of power between the institutions.

2 The conclusions and assumptions in the expose of Dr. Vanhoonacker are based on a longitudinal empirical study of several Presidencies, conducted by Sophie Vanhoonacker and Adrian Schout, EIPA.

Much less regarded (and studied) is the daily work and the actual functions performed by the Presidency. Nevertheless, before drafting proposals for reform, and weighting the pros and cons of each alternative, it is important to examine the actual tasks performed by the Presidency³.

Table 1 – Functions (roles) of the Presidency of the EU

	Organizer (task oriented)	Broker (group oriented)	Political leadership (transformational)	National Dimension
Tasks	Meetings planning, preparing rooms and docs, drafting agendas, chairing	Serving the group process, creating a good atmosphere, identifying bargains, formulating compromises	Put discussion in long term perspective on EU challenges, convince delegations to give up short terms interests; steer debate in direction good for Europe	Include national preferences/position in the negotiations

In its role of a organiser the Presidency is assisted by the General Secretariat of the Council.

Other actors that perform the role of a broker are some delegations of the Member States, the Commission (since the Commission is the initiator and the defender of the legislative proposal, the idea of brokering, and, as some voices propose, even chairing the Council meetings is probably not the most effective option).

The Presidency is to push the European approach, rather than foster the national interests (in the Council it is represented by the national delegation). Nevertheless, the practice has shown that the Presidency is the channel to include the national preferences within the arena of intergovernmental negotiations (if by nothing else, at least by setting the agenda). Thus, there is a definite national dimension in the role of the Presidency. But, it is arguable, that namely this possibility to chair (and thus steer) the EU for six months enhances the legitimacy of the national government back home in the field of the European public affairs, which otherwise receive a quite limited echo within the national arena.

3 Dr. Vanhoonaeker concentrated on the role of the Presidency in the first pillar of the EU.

The strengths and the weaknesses of the current system are listed below:

	Strengths	Weaknesses
Organizer	Pedagogic dimension	Increasing workload
Broker	<ul style="list-style-type: none"> - Every 6 months new impulses - Pedagogic dimension - Networking dimension - Makes a country more understanding for role chair 	<ul style="list-style-type: none"> - Lack of continuity - Pushing through of immature dossiers
Political Leader	- Countries give Europe shape in different ways	<ul style="list-style-type: none"> - Idem broker - National hobbyhorses
National dimension	<ul style="list-style-type: none"> - Brings Europe closer to citizens; - Stimulates the domestic debate on the EU - Gives a national color to the EU - Stimulus to get one's house in order - Symbol of equality 	- Exploitation of position in chair to push national interest or hobby horses (ex. Ex-colonies, etc.)

Part of the criticism voiced as regards to the current system of the rotating Presidency is that particular Member States did not “perform” well enough, and not to the fallacy of the system itself. For example, a Presidency of 6 months should (if it aims to perform well) begin preparations at least 2 years in advance. Failing to adequately fulfil the stage of preparation, most often leads to failing to perform well as a Presidency. Furthermore, there is a need of close coordination internally within the national administration. This often fails to be done, and the most common manifestation is a failure to perform the role of political leadership, due to lack of instruction from the home country.

Two remarks as regards the criticism of the lack of continuity under the current system can be made:

- The legislative initiative comes from the Commission, which is in office for five years, hence there is a proper multi-annual legislative cycle.
- The element of continuity is reinforced by the Secretariat of the Council, which is also permanent.
- Given that Presidencies have to begin preparations 2 years in advance, the Presidency actually takes much more than just 6 months.

Hence, the current system alongside with some disadvantages has definite advantages and these should be taken into account and if possibly preserved by the new reform model that is to be implemented.

Thus, the debate on the reform poses two important questions:

1. Is the current system efficient?

It may not be the most efficient one, but it possesses certain advantages, amongst which the most important are the legitimacy enhancement and the pedagogic dimension.

2. Would an alternative improve the situation?

There is a great risk that an alternative model could be applied, which overcomes the problems connected to the current system, but brings about new problems that did not exist before.

Which are the alternative models?

1) “Seville plus”

This proposal and the debate surrounding it are relatively old (the Helsinki summit of 1999). The latest report stems from the Seville summit. The proposal is about more cooperation between the Presidencies i.e. those who are about to take over the Presidency (i.e. the future states to chair) to work closely on a common agenda. This proposal would preserve the benefits of the current system and in the same time would address the problem of continuity.

2) Team Presidency

The idea is different in so far that member states would be chairing different functional formations in the Council for a period of 2,5 years (ex. France would chair agriculture, Finland – environment, etc). Thus, for a longer period the Union would have a permanent chair in certain functional areas, but in the same time several states would be chairing (hence the idea of a “team”). This seems to be a proposal that finds broad support as a “beautiful compromise”, but no one regards the enormous problems that it may bring about. Specifically, the coordination between the functional areas would be quite difficult given that each MS has a specific administrative legacy, language, system of national coordination, etc.

The big advantage of this system is that it reconciles the dilemma between more continuity, and yet equal participation at the lead of the Union. Thus, the new Member States would be able to fulfil the role of Presidency.

	Pro's	Con's
Seville +	<ul style="list-style-type: none"> - Shared workload (incl. new MSs) - More continuity - Preserves advantages current system 	<ul style="list-style-type: none"> - who takes lead - need for more coordination
Team Presidency	<ul style="list-style-type: none"> - More continuity - Reduced workload (?) - Adv. For new MSs. - Legitimacy 	<ul style="list-style-type: none"> - How to divide tasks - Co-ordination nightmare - Stuck with bad chair for 2,5 years - Overall leadership?

3) Institutional Presidency

This proposal accommodates the idea of a merger between the coordinating bodies, such as COREPER and the Council's Secretariat. This idea is combined with elected chairs of the functional formations (Council and Council's working groups).

Institutional Presidency for coordinating bodies, possibly combined with elected chairs in sect. Council/WGs	<ul style="list-style-type: none"> - Reduced workload - Strengthened coordination 	<ul style="list-style-type: none"> - Can chair make a difference for GAC? - Legitimacy
Elected and long-term Chair of European Council	<ul style="list-style-type: none"> - Increased continuity - Leadership - External visibility 	<ul style="list-style-type: none"> - Legitimacy? - Increased intergovernmentalism - A bi-cephalous presidency

4) Permanent Chair of the European Council

All of the alternatives listed above can be combined with the idea of a permanent chair (President) of the European Council. This institutional innovation also seems to be finding broad support in the Convention and as it seems now among the governmental leaders of the large Member States (the "ABC" proposal: Aznar, Blair, Chirac) for a permanent chair (President) is not a step in direction of enhancing the democratic legitimacy of the European construction, especially given the fact that as the proposal stands currently this chair is not going to be responsible to the EP. Hence, this is going to be a step in the direction of strengthening the intergovernmental character of the EU.

In conclusion, our vision is that there is too little attention paid to the strengths of the current system, specifically in its daily operations and the functions of the Presidency.

What seems to be a reasonable, practical solution addressing all the issues (advantages and disadvantages of the rotating system) is the proposal Seville +. A reform of the Presidency in the lines of this proposal would assure greater continuity (two countries would be involved), better preparation from the chairing Member States is expected, and the advantages of legitimate participation and the positive learning effects would be preserved.

Questions and discussion of Dr. Vanhoonacker's expose

Dr. Blom: You argued that a permanent chair (President) of the European Council would strengthen the intergovernmentalism. But would it really be the case?

Dr. Vanhoonacker: Yes, because such a person would be a very strong governmental leader, and furthermore dressed in the power of President of the European Council, would be a very influential figure. This would inevitably decrease the powers of the Commission.

Mr. Bandilla and Dr. Greco: both in favour of a permanent chair and supporting Dr. Blom's view.

Mr. Bandilla: The President of the European Council will not be a state anymore, but a PERSON. After 6 months in office he will be part of the process of “europeanisation” as most of the European functionaries sent by the Member States did (for example: COREPER). Hence, it is not at all a given that he will strengthen the intergovernmentalism in the EU. He will create a unique face for the Union and will increase its legitimacy.

Dr. Greco: Would not the creation of a long –term Presidency increase the bureaucracy in the Union?

Dr. Vanhoonacker: Yes, this is an inevitable scenario. On the one hand, there would be the Commission’s apparatus of functionaries; on the other hand the Council’s Secretariat has to be reinforced. Currently the Secretariat has about 300 people, who are overloaded. More staff needs to be introduced, especially with view to the enlargement. But this is a needed step, given that the Secretariat performs such an important role of coordinator and furthermore assistant of the Council.

Mr. Bandilla remarked that with the idea of a longer term Presidency of the Council the terminology has to change i.e. instead of “Presidencies”, one has to speak of “President”. Furthermore, Mr. Bandilla argued that especially in the future Union of 25 MSs the need for efficiency is stronger than ever. This could be assured only by a strong leadership, hence the Union needs a more permanent and powerful President to perform the roles of a leader and broker. This could be the Commission, or a person – the Chair of the European Council.

Mr. Bandilla spoke very much in favour of the second option - a strong elected Chair of the European Council who would be above and thus able to reconcile sectoral conflicts (e.g. external trade and external action/ aid).

Moreover, a long term elected Presidency, both in European Council and Council of Ministers, would assure a true multi-annual legislative cycle for the Union. This, in its turn will make a real difference in terms of a single face, legitimacy and efficiency in the Union.

A further point raised by was the differentiation between the legislative and executive functions of the Council. According to the function performed, the role of the Presidency alters entirely. And this difference has also to be taken into account. In the first pillar the role is as described. In the second pillar, where the Council performs executive functions, the role changes completely however.

The Council as Actor on the International Scene
Ettore Greco, Istituto Affari Internazionali, Rome

Chair of the afternoon session: Dr. Sophie Vanhoonacker

The objective of Dr. Greco’s expose was twofold:

- to illustrate the major reform proposals coming from the Presidium of Convention (the latest version from 2nd June 2003⁴);
- to provide comments on these proposals.

4 CONV 724/03, Draft Constitution, Volume I – Revised Text of Part One, The Secretariat of the European Convention, Brussels, 26 May 2003 and CONV 770/03, Draft Constitution, Part One, Title IV (Institutions) – revised text, The Secretariat of the European Convention, Brussels, 2 June 2003

The core of the reforms searches to address two questions:

- How to assure greater consistency in the external action of the EU?
- What should be the institutional balance that provides for this consistency?

Especially the case of Iraq intensified the debate and has steered it towards the issue of building an efficient institutional framework that would assure more of a common response in future similar situations.

First of all, let's examine the general provision for common foreign policy as laid down in the treaty (TEU). CFSP is neither an area of shared competence, nor an area of support action. Under these provisions each Member State has the double obligation:

- to apply the common decisions;
- to provide information to the Union about the actions planned on the national level.

Clearly, the deliberations of the Convention wish to provide for better enforcement of these obligations of co-ordination and information provision. Since the ECJ is not active in the second pillar, there is a need for alternative mechanism, which will assure the desired outcomes.

Currently, the solution is found in the figure of a Foreign Minister of the EU (a "merger figure" between the Commissioner for External Relations and the High Representative of CFSP). His role is expected to be that of a co-ordinator and broker, hence the efficiency and the consistency of the Union's external action is expected to rise.

The second new provision is in the field of the decision-making procedures. Unanimity remains the main mode of decision-making, nevertheless, there is an extension of QMV. Combined with the possibility of constructive abstention, which already exists, this provides for greater flexibility when taking decisions within CFSP.

Thirdly, the right of initiative has been significantly reformed. The most important novelty is the right of initiative for foreign ministers.

Fourthly, the provision for enhanced co-operation (which already exists in the second pillar) in the areas of CFSP is proposed to be subjected to the same conditions as in the first pillar. Dr. Greco expressed doubts that the the legal possibilities would be applied to their full extend.

The attitude of the Convention was that of disapproval against the general application of the flexibility clause because of the inherent risk of variable geometry.

Nevertheless, the Convention proposed provisions for enhanced co-operation in the area of defence as well: the Member States may bring together common armed forces (a first step in that direction being laid in Amsterdam) until one is organised on the European level.

A major improvement stated by Greco is the division between the Council formations of Foreign Affairs and the General Affairs Council. The tendency for separation between the Councils with co-ordination and foreign affairs competences, which was hanging in the air after Seville, finally was laid down and clearly spelled as a proposal.

Furthermore, the right of the Foreign Minister to chair the Foreign Affairs Council is seen as a step in the right direction, yet there is certain risk of work overload for the figure for the Foreign Minister. As the proposal stands currently he/she will have to:

- act as a representative of the Union in the world;
- assure the co-ordination and the consistency between the different elements of the Union's external actions;
- chair the Foreign Affairs Council;
- inform the EP about the decisions met in the CFSP;
- co-ordinate the enhanced co-operation (if any);
- inform the EP and the Council of the developments in the enhanced co-operation;
- formulate policy actions in crisis situations.

A question arises as regards to how a single person could perform all these functions efficiently. A further issue is that of institutional balance – apart from the significant powers in the field of CFSP, the Foreign Minister will be a Vice-President of the Commission, and responsible. Clearly, he will be a very influential figure, and yet (at least on paper) be subordinate to the President of the Commission in some of its areas of competence. The co-operation between the two will be crucial for the successful execution of the tasks. But the potential tensions are inherent in the current design of the division and allocation of powers.

Despite the questions that arise as regards to the practical implementation of the provisions, the figure of the Foreign Minister is considered as a very positive proposal and enjoys broad support in the Convention (the same is expected in the IGC).

The proposal is a clear attempt to streamline the decision-making procedures within the Council and is thus expected to bring about substantial changes.

Questions and discussion of Dr. Greco's expose

Dr. Vanhoonacker: Do you think that the Union would be more efficient in future case like to one in Iraq, once these new provisions, which you outlined, are adopted?

Dr. Greco: Yes, it is much more likely. Especially with the introduction of the powerful figure of the Foreign Minister: he may push for vote, the co-ordination will be better, under his initiative the consultations prior to the decisions may be very fruitful, this will also assure better enforcement (compliance) later. The crucial novelty in this respect is that the Foreign Minister is responsible in front of the Council for the implementation of the decision.

Mr. Bandilla: Since the executive branch in the Council's work has always been a problem, the current proposals address the deficiencies and provide for better solutions.

Dr. Neuhold: Which are the factors for success or failure for the figure of Foreign Minister?

Dr. Greco: The choice of a person would be a very important factor of success, but furthermore the efficient right of initiative, the ability to co-ordinate and to fulfil the role of broker between the different parties, the skill to find a common ground between diverging views would also be crucial

Mr. Bandilla: Two more key characteristics for the success of the Foreign Minister can be identified:

1. Contacts and networking capabilities;
2. A factor for success is that the Foreign Minister will be the chair of the Foreign Affairs Council. Previously the Chair/Presidency and Solana were undertaking the same missions (e.g. within the Balkans) hence lack of consistency and overlap. Now the Foreign Minister is designed to incorporate both, hence there should be no potential for conflict.

Dr. Greco finds that there is a broad support for the draft proposals as they currently stand i.e. expects the Convention to endorse them and later to be adopted by the IGC.

He identifies two major potential conflicts within the IGC:

- The institutional design and balance of power between the institutions (hence the Nice decisions will be definitely revised);
- the figure of the Foreign Minister will be most probably adopted, unless there is a spill-over from other areas (attempts for package deals).

Where do we go from here? Panel discussion

Christine Neuhold, European Studies, Universiteit Maastricht (Chair)
Ruediger Bandilla, former Official, General Secretariat of the Council

The discussion so far was brought down to the following key aspects:

1. A the different reform proposals were introduced initially by Dr. Blom;
2. The alternatives for reform of the Presidency were presented and commented by Dr. Vanhoonaeker
3. The reform proposals in the provisions for external action of the Union were presented and commented by Dr. Greco
4. Most of the proposals were debated in terms of increased legitimacy, efficiency, democracy, etc.
5. The areas of broad consensus in the Convention were outlined.
6. The questions and variables that the Eastern Enlargement introduces to the system were stated.

Dr. Ruediger Bandilla, Former Official of General Secretariat of the Council

Mr. Bandilla: The two main tasks of the Convention were:

- a. To assure greater simplification to the political system that the Union represents, especially with regard to indicators such as transparency, accountability, legitimacy, etc.
- b. To propose an institutional architecture of the Union, which addresses the needs stated above, and furthermore provides for efficient decision-making in a Union of 25 +.

Let us first examine the reasons for the inefficiency of the Council under the current institutional configuration.

1. QMV versus unanimity

The problem lies in the general philosophy applied in the Community of consensus formation. Given that the EU does not have a government and a opposition the tendency to decide by consensus is very understandable.

QMV is not necessarily the “big fear” of the Member States , quite on the contrary, sometimes this is the useful “back door”, which would allow the government to “sell” the European decision back home.

2. The question of the Presidency touches upon two main issues: a long-term elected Chair of the European Council, and the figure of the Foreign Minister.

Both proposals seem good and could lead to enhancing the European democratic system.

3. The “supranationalisation” of the Union would not be the solution. National flags on the table are still needed for identification purposes and as channels of legitimacy.

4. The Commission

There has been the debate about small and efficient Commission versus large Commission that at the same time ensures equal participation.

Bandilla defends the first proposal, which combined with a reasonable system of rotation would assure the efficient functioning of this institution.

General Debate

Dr. Greco: Finds the idea of creation of a single Legislative formation of the Council quite reasonable.

As regards the composition of the Commission: a small Commission is not visible right now, it won't find enough support. But if (as it seems more likely) the current model is preserved, the role of the President of the Commission has to be strengthened.

Dr. Blom: So far, so good. We have addressed many reform proposals, outlined the possible solutions, but somehow aside from the debate stands the need for multi-dimensional coherence. For example, is not it incoherent that the President of the Commission is voted by the EP, but then the Commissioners are proposed by the Member States?

Mr. Bandilla: it is good to design the system in a way where the Commission is closely linked and responsible to the EP.

Dr. Blom: But then again is the process of parliamentarisation of the EU the best option given the “no demos thesis”.

Dr. Neuhold: touches on precisely the question of role of the people in this constitutional debate. Do you find as well that the approach was again the well-known top-down model and the citizens sat outside again?

Dr. Blom: Well, yes, but it can't be otherwise, since instead of simplification and clarifications, the citizens receive complex proposals, which render the total system even more intransparent.

Dr. Vanhoonacker: Precisely this configurational thinking seems to be lacking from the debate i.e. how does a choice/decision in one institutional aspect predetermine the choices in the others. So far solutions were found in a particular context, and nobody seems to think of how the whole system will stand the test of internal and external consistency.

Dr. Greco also found the general blueprint a bit unreflected the context of multidimensional consistency. Final systematic deliberation is needed.

Mr. Bandilla: the problem lies in the fact that no pure forms may be applied. The final outcome would be a compromise, hence a hybrid, which would inevitably suffer from internal inconsistency. But the Member States remain the single basis for legitimacy in the EU, and thus predetermine the hybrid nature of their creation.