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

Andreas Maurer

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 suggests 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

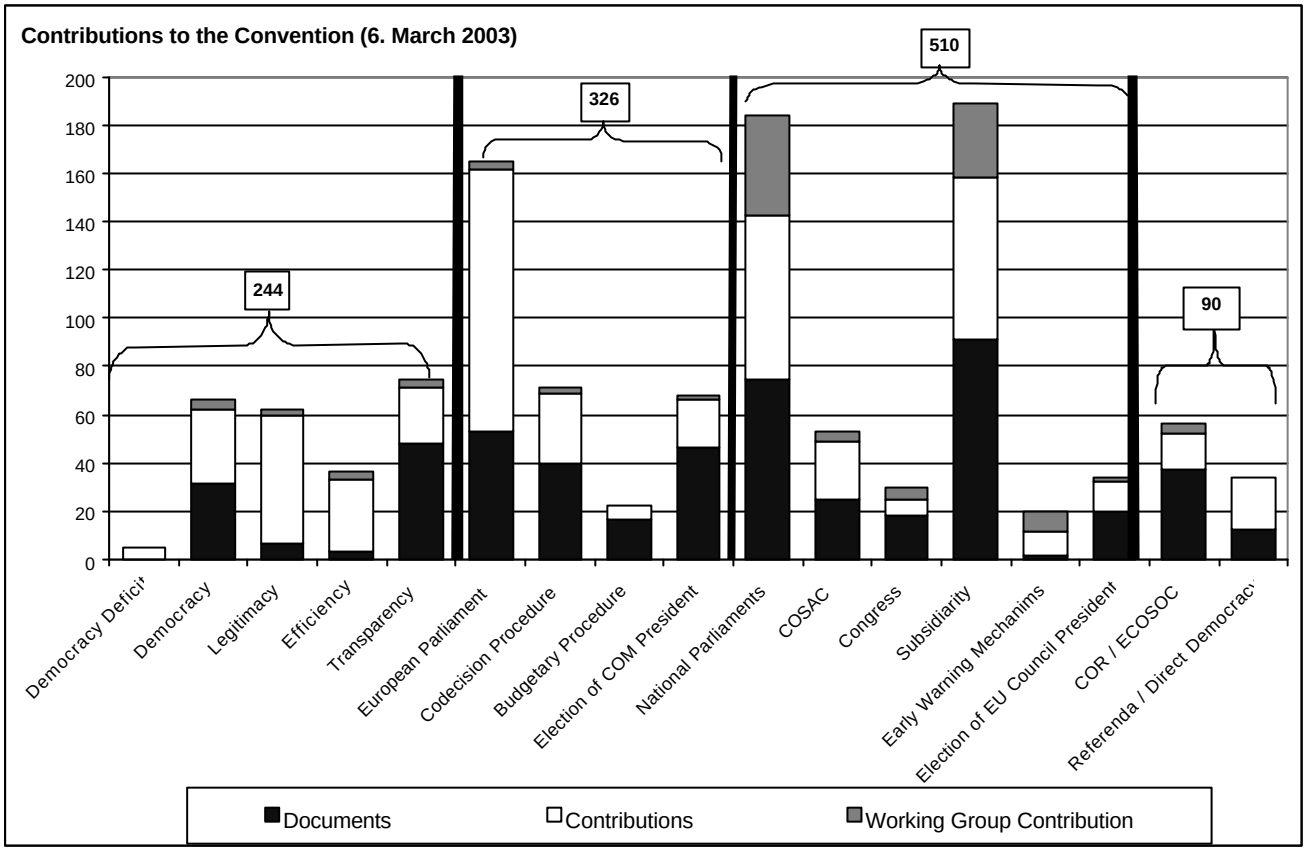
(a.) the introduction or the reinforcement of new or more visible fundamental rights within the EC/EU Treaty set-up,
(b.) the set-up of new information and deliberation rights for the citizenry,
(c.) the introduction of certain direct participation rights in the Treaties, and
(d.) the formalisation of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

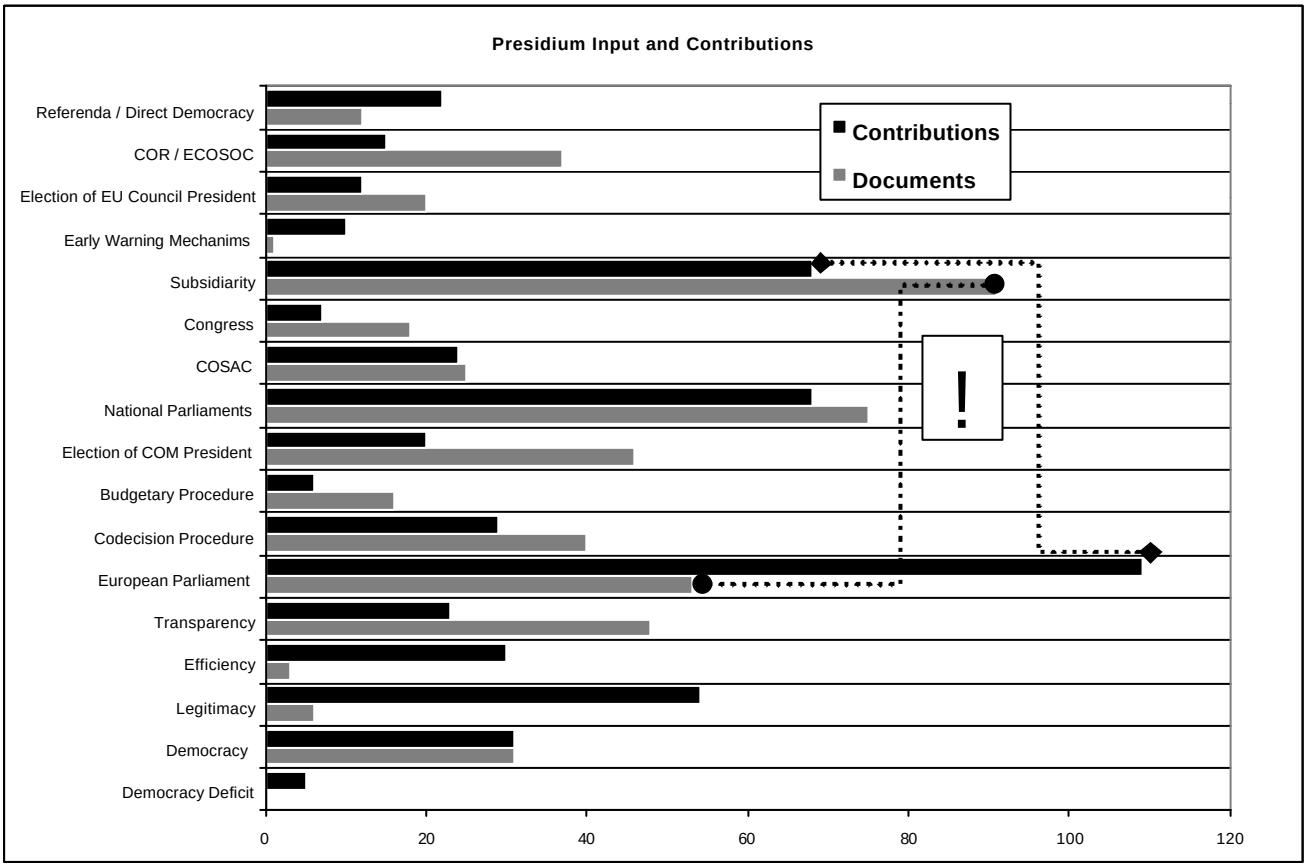
Towards a common understanding of democracy

1. The ideal concepts

Mode of Governance	**Mode of democracy**	**Key Institutional Opportunity Structures**
Governance by the people	Citizen participation through **input legitimacy**	Open fora performing as **communication devices** such as the European Parliament, national parliaments, ECOSOC, COR,
Governance of the people	Representation through **parliamentary participation**	European Parliament, National Parliaments
Governance for the people	Effective government through **output legitimacy**	Council and EP in Codecision, Commission as executive, Member State administrations
Governance with the people	Interest intermediation through **the Community Method**	EP-Council-COM triangle performing as **translation devices** for interests, ideas etc.

2. State of the Art: The Focus of the Convention



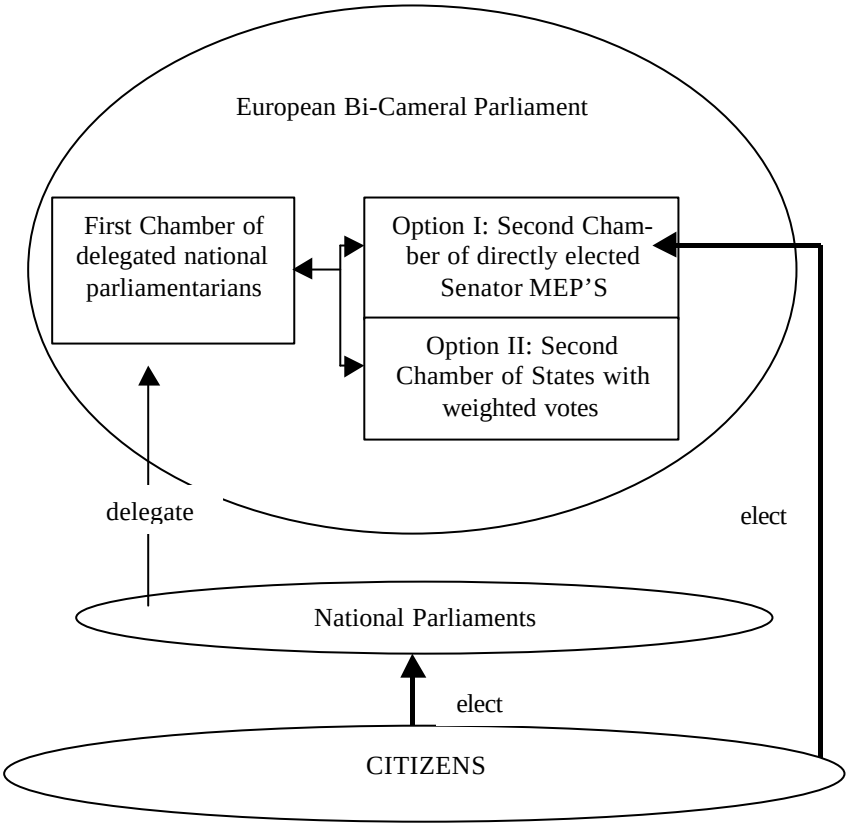


3. The Convention's focus under review

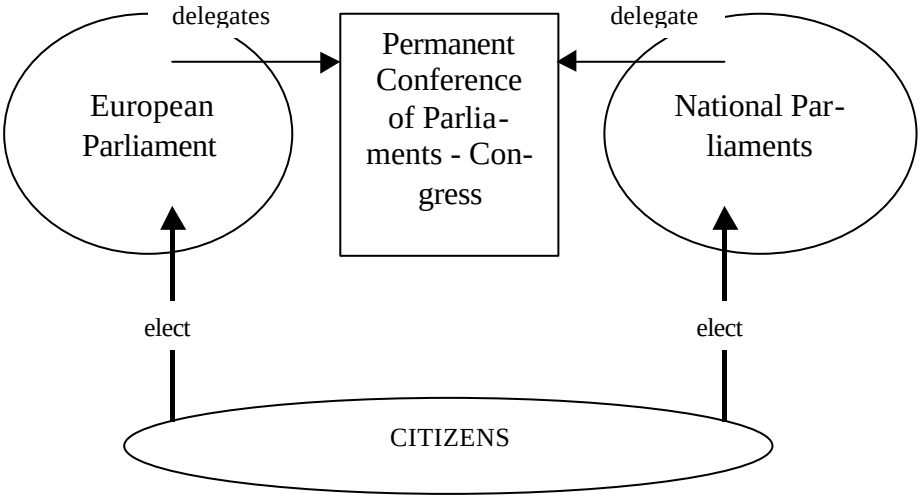
Mode of Governance	Key proposals	Key Institutional Opportunity Structures
Governance by the people - Citizen participation through input legitimacy	- Referenda, Application of Arts. 192 and 208 to a qualitative minority of citizens - Institutionalising the Convention method	- None, but potential for 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 seperation 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 - 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

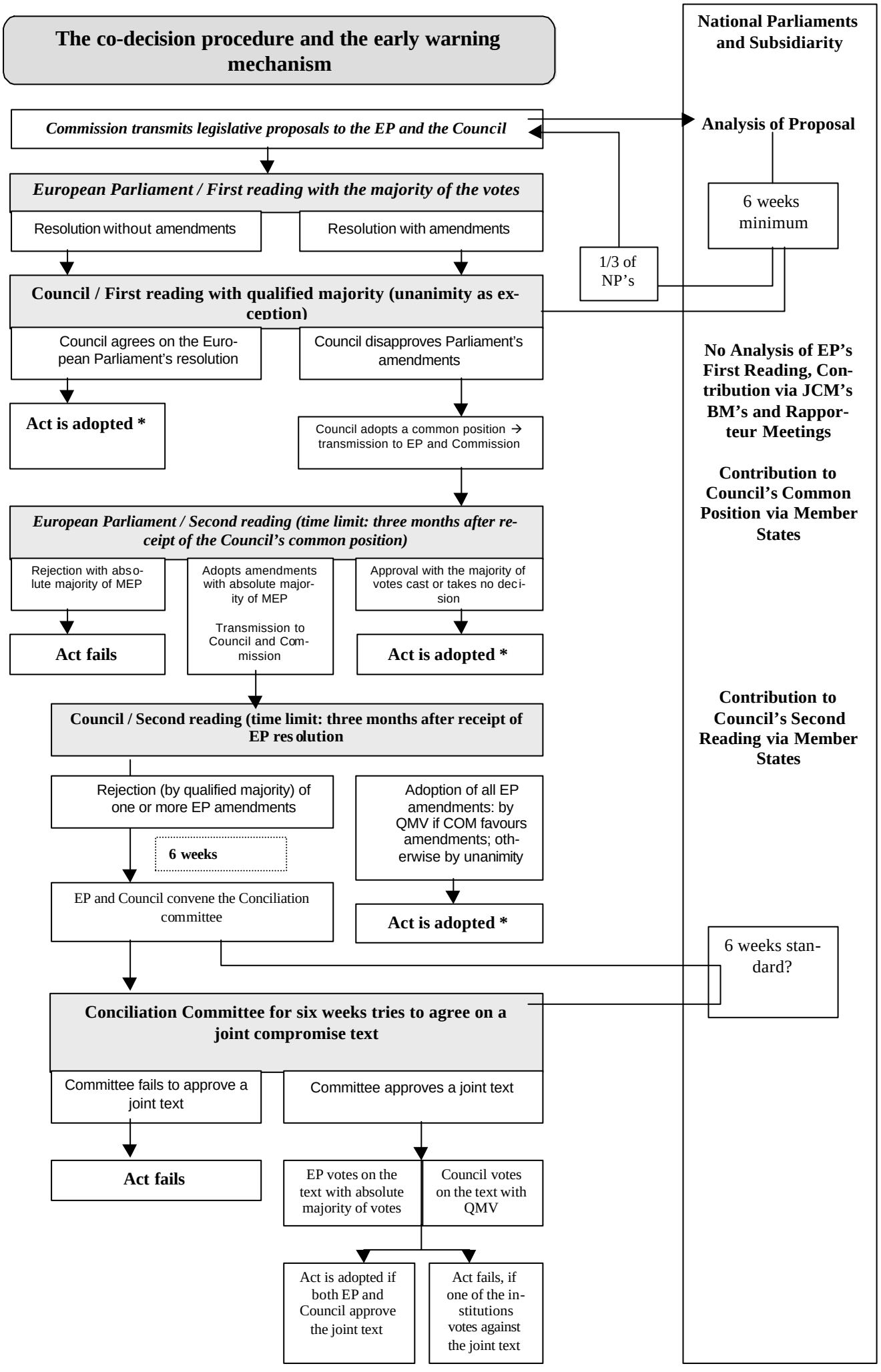
4. The focus on national parliaments

Fischer's 'new European Parliament'

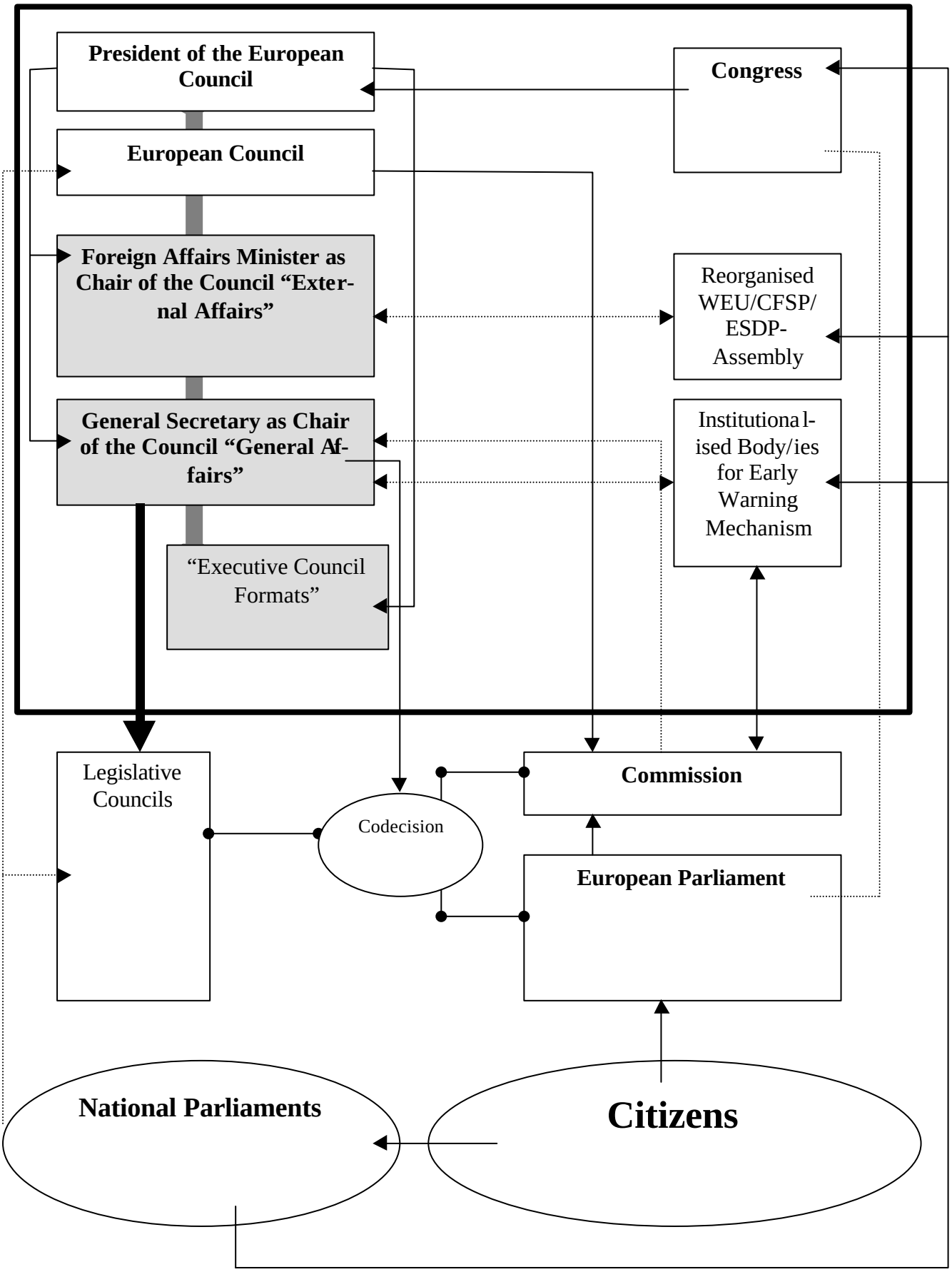


A Permanent Conference of Parliaments – Congress

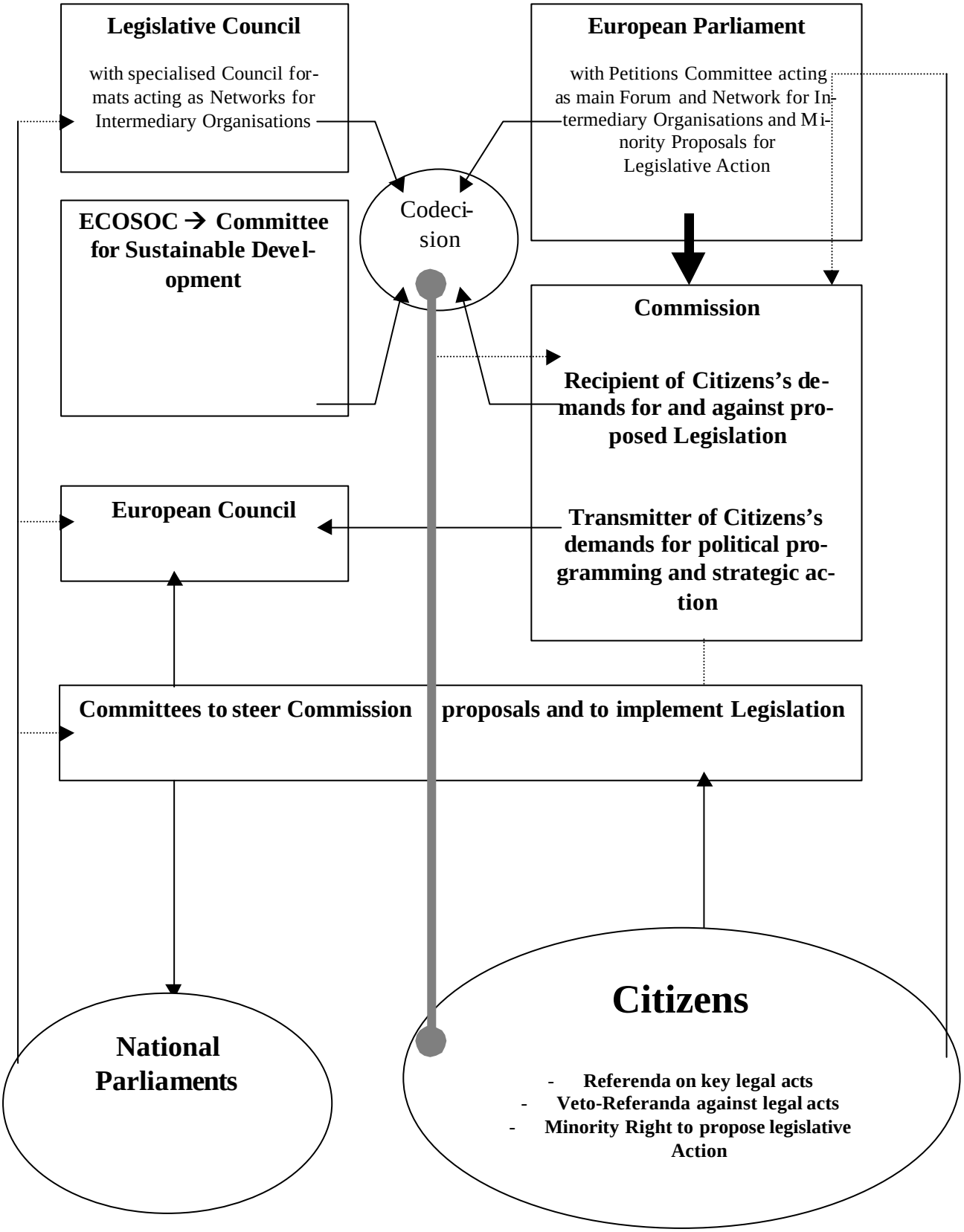
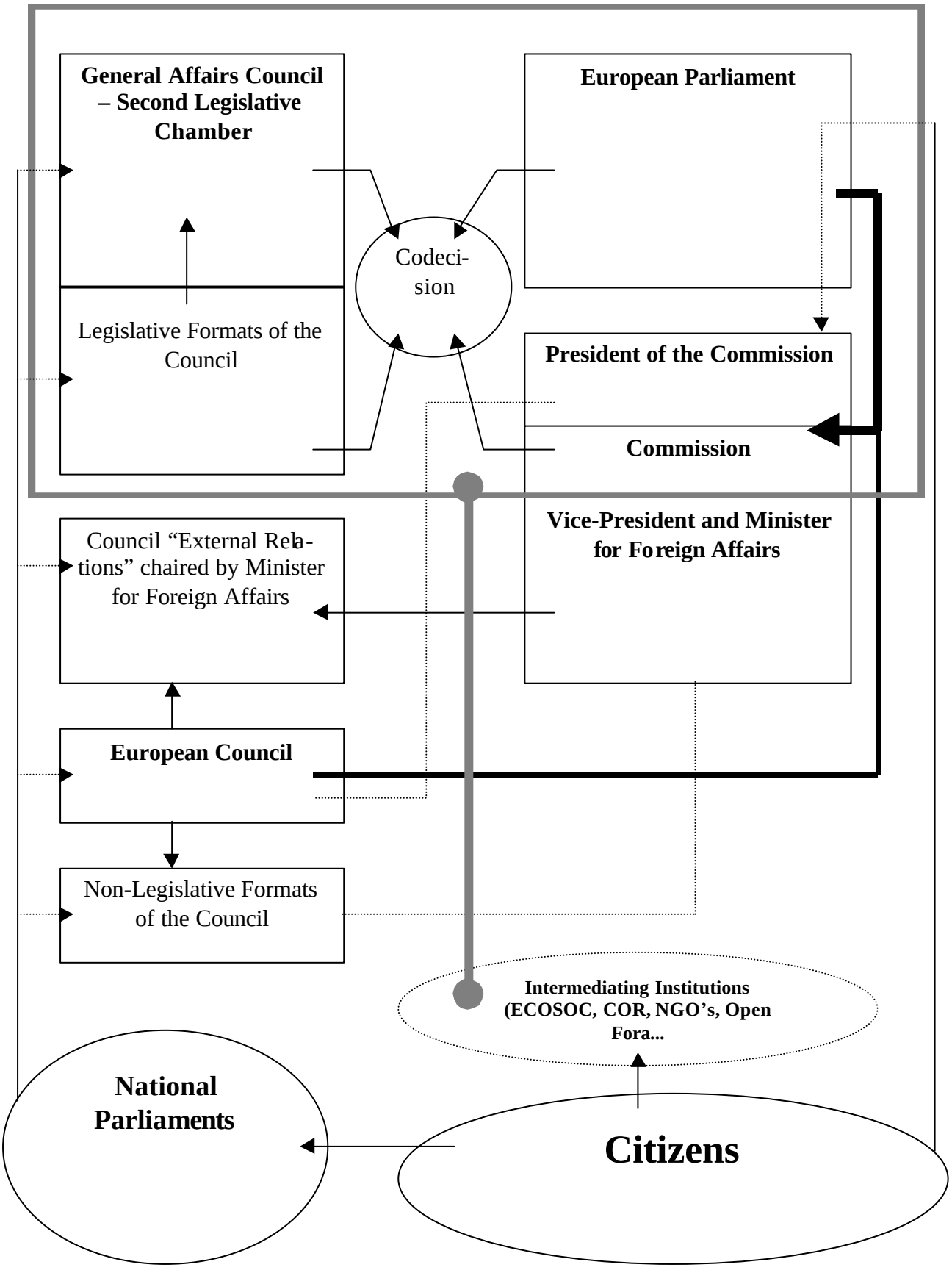



The co-decision procedure and the early warning mechanism
National Parliaments and Subsidiarity
Commission transmits legislative proposals to the EP and the Council
Analysis of Proposal
European Parliament / First reading with the majority of the votes
Resolution without amendments
Resolution with amendments
6 weeks minimum
1/3 of NP's
Council / First reading with qualified majority (unanimity as exception)
Council agrees on the European Parliament's resolution
Council disapproves Parliament's amendments
No Analysis of EP's First Reading, Contribution via JCM's BM's and Rapporteur Meetings
Act is adopted *
Council adopts a common position → transmission to EP and Commission
Contribution to Council's Common Position via Member States
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
Approval with the majority of votes cast or takes no decision
Act fails
Act is adopted *
Council / Second reading (time limit: three months after receipt of EP resolution
Contribution to Council's Second Reading via Member States
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
EP and Council convene the Conciliation committee
Act is adopted *
6 weeks standard?
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

Intergovernmental Europe



Direct Democracy Europe



Community Method Europe