

EUROPEAN CONVENTION
Intervention of Mr. Adrian Severin MP (Romania)
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Exerting competencies

Dear Colleagues,

In order to solve the issues of delimiting and exerting competencies within the future united Europe, **a process of deliberation on the nature and purpose of the European integration process and on the political and institutional model** the EU is heading for, is needed.

The starting hypothesis is that of **a future evolution of the Union's integration process towards a state-like entity containing significant federal elements**. However, at least at the beginning this entity will be different from a classical federal state, *inter alia*, in that **the “state Europe” will not have "the competence of competencies", that of allocation of powers. This will remain the prerogative of member states**. Nation states will thus preserve a position that will be more significant than the usual status given to the component entities of a federal state.

The future European structure shall be based on the fundamental principles of national democratic traditions - the separation of powers and legitimization through parliamentary vote on laws and taxes.

The success of the future European political entity will depend on the delimitations of the competences between local, national, regional and continental level as well as on the finding of a proper "checks and balances" system at the all community level.

Within a multi-level governance the allocation of competencies represents only a part of the solution. Thus the institutions and instruments (mechanisms) designed to practically exert the competencies need to be also defined. At the same time the experience of a multi-level governance shows that, in their vast majority, the competencies in a certain area are mixed and their exercise is carried out on more than one level.

That is way the problem of **identifying the degree of intensity of public authority's intervention at each level** must be raised. It will be in relation to this degree of intensity that the principle of subsidiarity will be applied in each specific case.

A proper response to the dynamic of integration presupposes solving the problem of **managing the transfer of competencies** from one category/level to another. In this respect an “**evolutive/evolution clause**” should be included in the Constitutional Treaty in such a way as to allow a gradual transfer of competencies from one level to another, following the experiences and the confidence gathered within the European practice.

This concept of competencies' distribution and exercise must take into account the following coupled key-concepts: **flexibility-predictability; efficiency-legitimacy; individual nation aspirations-solidarity.**

The flexibility is necessary for a fast adaptation to the external environment and in order to preserve the option for further integration. Flexibility is achieved through **the principle of subsidiarity**, on the condition that the latter becomes an operational mechanism and not only a mere principle.

The predictability is necessary in order to allow the European citizen to follow the process, therefore increasing the level of trust in European integration. Predictability is also a **guarantee against possible abuse** in exerting competencies.

In order to protect the main interests of the citizens - **security, dignity, prosperity** - a necessary condition is that of the **efficiency**. In order to be a sufficient condition, as well, the efficiency needs to be coupled with the **legitimacy**. A political union will be certainly more efficient. The legitimacy means the validation by the citizens of the UE acts and the citizens' capacity to oversight the UE's institutions' functioning. Achieving this objective requires the designing of **more transparent, thus more accountable institutions.**

Finally, when imagining the way of exerting the competencies, we need to take into account the couple **national aspirations-solidarity**. The existing nations will have specific interests at state, regional and local level. Such interests could become competing factors. That is why the **principle of solidarity** must be reinforced; in its absence, frustration and alienation will

appear in certain areas of the continent, stemming from the perception of the overcharging the donors and neglecting of the recipients.

A more efficient implementation of these three binoms/coupled key concepts can be achieved only within a more politically integrated Europe.

The delimitation of competencies represents only a part of **a wider reform of EU institutions and operating procedures.**

The implementation of the three abovementioned *binoms* requires, *inter alia*, **(1) The creation of a second chamber of the European Parliament - the Senate - as a guarantee for the safeguard of the nation states interests; (2) the institutionalization of the principle of subsidiarity, (3) the setting up of an European economic and social government that will ensure the economic harmonization and the social cohesion.**

1. The second chamber of the European Parliament

Within a bi-cameral parliament that will exert most of the legislative activity at European level, the European Senate will make decisions on the issues that are vital and highly sensitive for the member states of the European entity to be created.

This "**Chamber of Nations**", which will imply the transformation of the current European Council into the future Senate, will have not only **the role of a law-making institution** but it will also act as **a body exercising oversight and direct authority on the European Commission**, which will be thus transformed into a politically legitimized executive body. The Senate might be also entrusted with the right to dismantle/dissolve the first Chamber which in its turn might have the right to dismiss the European Commission (the executive).

The European Senate will be composed of:

- a) Personal representatives of the Heads of the member states;**
- b) Representatives of the regions;**
- c) Representatives of non-governmental organizations.**

The Senate will be constituted through **indirect elections.**

The Senate will function with a **variable geometry**. This implies that the composition/structure/format of each of its sessions will vary, depending on the type of problem debated. For instance, as far as the issues related to national development are concerned, only the personal representatives of the Heads of states should take part in the voting process.

The Senate will also function as a “**Chamber of subsidiarity**”. Thus, it will have the role of an **arbitrator** when efforts fail in cases of attempted conciliation related to different interpretations of the principle of subsidiarity. In these cases, qualified majority vote will be used.

The Senate will be given the prerogatives regarding **the transfer of competencies from one level to another**, as indirectly this must remain a prerogative of states. In this case a unanimous vote of the Heads of states’ representatives will be required.

The Senate should take over significant prerogatives regarding **justice and internal affairs**, as well as **external and defence policy**, that is to say the fields which concern **the collective and individual security** (fields related to the criteria of the European cohesion).

Specific voting procedures will be decided upon case, relatively to the issue in question. **The decisions that have an impact on national identity should be adopted by consensus**. In the same time, the transition from the qualified majority vote and the absolute majority vote should be envisaged. The decisions on this matter should be given to the competence of the Senate.

2. The principle of subsidiarity

As far as subsidiarity is concerned, the current Treaty clearly indicates that the intervention of the Community takes place only if the pursued objective can be better achieved at community level rather than at national level. It is a **rule of efficiency**, but it does not lead to a predictable and automatic allocation of the competencies between the European Union and the member states. **A pragmatic and predictable definition/interpretation** of the principle of subsidiarity is necessary, in order to determine, on every occasion, the best distribution of tasks between the European and the national level, between the regional and the local one. **The principle must therefore become operational.**

The most important problem raised by the concept of subsidiarity is **the efficiency of the decision-making process** within the framework of a multi-level governance: **local, regional, national, trans-national or community level.**

It must be also added that the principle of subsidiarity is applied solely in the cases of shared competencies. Consequently, a clearer separation of competencies, favorizing the exclusive ones, would facilitate the implementation of subsidiarity. However, the previous experience proves that, in their overwhelming majority, competencies are shared.

Identifying a pragmatic solution is an even more difficult exercise if we bear in mind the simultaneous need of guarantees for flexibility and predictability.

An ultimate solution could be achieved by establishing the hierarchy of the intervention's intensity at every level. For this purpose, it would be useful to adopt a **list of areas of activity and to define the degree of the intervention's intensity at each level of governance within the Union.** In this way **the main level of competence and the subsidiary level/levels** will be defined for each area. The present division into two levels of competence – the communitarian one and the state one - must be also extended to such a point as to cover the **regional and local levels** and eventually the **euro-regional level** as well, since there are areas - such as the preservation of cultural identity - which could ask for complex relations of subsidiarity. Also, besides vertical subsidiarity, it is useful to define the horizontal subsidiarity that implies the transfer of competences towards the **civil society.** **All these together will form the system of global subsidiarity.**

In order to assure **the operational character of the principles of subsidiarity and proportionality** one should define, as well, **the basic principles based on which one could determine** who can act, in what circumstances, in what manner and within what limits.

In this context a **regulating procedure** is needed. This procedure will allow the monitoring and the valuation of the implementation of the above-mentioned principles as well as the conciliation and arbitration between those concerned. A mechanism of a **political nature** will produce recommendations, on specific case basis, on who does what in accordance to

the principles of subsidiarity and proportionality. A "**Committee on subsidiarity**" formed in accordance with the proposals put forward by the states having a legitimate interest in the case, will play the role of a **conciliation** body. Another mechanism of a combined **legal and political nature**, functioning at the level of the Senate, might be afterwards put in motion in order to assure the correct implementation of the pertinent principles and to solve possible disputes in relation with it (the **arbitration** body). Finally, a legal mechanism consisting of a European Constitutional Court could be also set up or the Court of Justice could be empowered to **check the legality** of the implementation of the subsidiarity and proportionality principles.

Revising the competencies and the system of the intervention's intensity at a certain level of governance is a problem to be solved in two ways: a **fast one (fast track)** based on a **revised Art. 308 which will add to the existing procedures the agreement of the Senate** and a **slow one (slow track)** which will follow the procedure of the constitutional revision.

3. The economic and social government

The viability of the future united Europe is dependent of a **criterion of cohesion** similar to that which has allowed the birth and the development of the nation states. Such a criterion must twin **the principle of the equal opportunities for all European citizens and the principle of the federal solidarity**. Derived from here **the global security** will become the foundation of a coherent and cohesive European civic and multicultural society.

Consequently, in order to build a powerful Europe, one needs a **strong European government** able of promoting an **economic and social development project at continental level**. Thus Europe will be also able to act as a first class global player.

To this end **new competencies, complementary to the existent ones, must be given to the present European Commission letting it better act as a genuine European economic and social government**. This European government must develop a **community-oriented behavior**.

The administration acts of this government related to the territorial development, which presupposes the guaranteeing of a balanced distribution

of the economic activities and resources among the member states, must be validated by the Senate. Eventually, the policies elaborated by the government could be subject to parliamentary debates and oversight by the both Chambers.

The government will be validated by the Parliament with a qualified majority during the first 10 years and absolute majority after 10 years.

The main economic goal of the European government should be related to the achievement of the European economic integration. This implies not only a political, legal and institutional unification and harmonization of the East with the West, but also the reduction of the development gap between the two.

The enlargement of the EU will increase the heterogeneity of the member states' group. If this will last indefinitely, it would undermine the integration process and it would represent a menace to the political stability of the European Union. **That is why the achievement of an authentic European integration requires a transfer of prosperity or better, a transfer of the means needed in order to produce prosperity.**

The question is whether the Lisbon-Barcelona process is visionary and wise enough in order to let Europe cope with the globalization defies, while guaranteeing the real achievement of the solidarity principle. The accent there is placed on free competition as a prerequisite of the efficiency. But if the practice of "the absolute competition" leads to selective prosperity, thus leaving the sick part of Europe uncured, it is advisable, on behalf of the necessary recovery treatment, to find another **relation between competition and solidarity**. The integration pursues the creation of a whole. That is why, the East, which was left behind, must be brought to normality and thus integrated and recuperated. Otherwise, "Europe" will be only part of a whole. We should not allow this happen. That is why we need a future social Europe together with a future Europe of a sustainable economic growth. **Such goals could not be reached without a politically run process at the European level. The European Constitutional Treaty must pave the way in that direction by establishing the European Economic and Social Government.**

Thank you.