



*the european convention*

THE CHAIRMAN

ORAL REPORT  
PRESENTED TO THE EUROPEAN COUNCIL IN THESSALONIKI  
BY

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Θεσσαλονίκη, 20 June 2003

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Mr President,

Ladies and Gentlemen Members of the European Council,

In keeping with the provisions of the Laeken Declaration, at each European Council since the European Council in Seville, one year ago, I have provided you with an oral report on the progress of the work of the Convention on the future of Europe.

Today, I am reporting to you on the final outcome of our work.

I am pleased to be able to submit to you an unequivocal document, a single document setting out the draft Constitutional Treaty for Europe, in accordance with the wish expressed by the members of the Convention from the outset of their work.

At our last plenary session on 13 June, this document was adopted by a broad consensus.

Five members of the Convention would, however, have preferred a eurosceptical approach. The Convention did not adopt that proposal. I have submitted their report to you, Mr President.

By virtue of its content, the document produced by the Convention represents an important step forward in the construction of Europe and will enable the enlarged Europe of the XXIst century to operate on solid foundations.

Since our proceedings opened on 27 February 2002, we have been aware of the fact that our recommendations would only carry weight and authority if we managed to achieve broad consensus on a jointly presented draft.

The Convention has succeeded in doing this, and our proposals thus pave the way for a Constitution for Europe.

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To achieve this outcome, the Convention has worked hard. This is true for the Convention as a whole, but also for each member individually. I wish to thank them warmly for their commitment, without which we could not have made any progress.

The Convention held 48 days of plenary session. Eleven working groups each worked for several months and presented their results in plenary session. The Praesidium endeavoured to provide a solid and constructive basis for the plenary debates.

It was helped in its task by an exceptionally brilliant and competent Secretariat team, true to its European convictions.

Allow me to extend my special thanks in your presence to the two Vice-Chairmen, Giuliano Amato and Jean-Luc Dehaene. Their personal contribution to the quality and success of our proceedings has been decisive.

Finally, I should like to express my gratitude to the President of the European Parliament, Pat Cox, and his staff for the particularly hospitable and courteous manner in which they have provided the venue for our Convention's debates.

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The draft which you have in your hands replaces the Treaties accumulated over the last fifty years with a single, new Constitutional Treaty. I would simply point out that, at the beginning of our proceedings, the difficulties of achieving this merger of the European Treaties appeared to be insurmountable.

The draft contains four parts, introduced, as is appropriate, by a Preamble:

➤ Part One is the actual constitutional part. In sixty articles it defines the Union, its values, its objectives and the allocation of competences between Member States and the Union; it establishes the institutions, the

instruments for action, the financial framework and the provisions on Union membership.

➤ Part Two contains the Charter of Fundamental Rights, a vital element of any constitutional text, which thus acquires legal force. It can be stated that, of all the men and women in the world, it is the citizens of Europe who will have the most extensive rights.

➤ Part Three contains the provisions on the Union's policies. This part still requires some minor adjustments. The Convention will complete its work by 10 July.

➤ Part Four sets out the usual final provisions.

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The draft responds to two major requests made in the mandates issued to us in Nice and Laeken: the request for the European system to be clarified and simplified; and the creation of new tools for going in the direction of "more Europe", as the slogan of the Seville European Council has it, and for meeting the requirements of security and justice and of a common foreign and defence policy, as expressed hitherto in the three pillars of Maastricht and Amsterdam.

To meet the first request, we propose significantly improving the European system by:

- producing a clear and stable definition of the allocation of competences between the Union and the Member States. From now on it will be clear who does what in Europe. Competences are divided into the exclusive competences of the Union, competences which are shared between the Union and the Member States, and areas of supporting action, where there can be joint action or coordination measures, but not measures harmonising the laws of the Member States; furthermore, these competences can only be changed by means of a revision of the Constitution itself, so there is no risk of covert slippage,
- creating a control mechanism for the application of the subsidiarity principle with, for the first time, direct involvement of national parliaments. National parliaments will be in a position to publicly alert not only the European institutions but also their own governments to any proposal which they feel does not comply with the principle of subsidiarity. They will have the power, when all other procedures have been exhausted, to refer matters to the Court of Justice,

- simplifying the Union's instruments for action by reducing their number from fifteen to six, and by introducing the general rule of adopting "European laws" and "European framework laws" by joint vote of the European Parliament and the Council of Ministers according to procedures comparable to those followed in the Member States,
- conferring a single legal personality on the Union,
- doing away with the three-pillar structure, which is a source of confusion and of overlapping competences. The Union's institutions will have a single structure, whatever the sphere of action. Only the procedures will be tailored to the specific nature of the subjects dealt with, as is normal,
- simplifying terminology, for example by renaming directives and regulations; in future they will be known as European laws and European framework laws. These measures are designed to make the European enterprise more comprehensible, and we propose new provisions

relating to transparency, participatory democracy and dialogue with civil society.

➤ As for the second request, we propose moving towards more Europe in important areas where there is strong demand from our fellow citizens and a position of principle is already included in the Treaties of Maastricht and Amsterdam:

– the measures in the draft Constitution relate first of all to the definition of resources and methods allowing the creation of a genuine area of freedom, justice and security in the European Union. This is a fundamental reform which citizens want to see. The precise definition of "serious cross-border crime" provides a legal basis for Community action and is accompanied by a cooperation mechanism based on mutual recognition of judicial decisions and development of the activities of Europol and Eurojust. Thus, from the citizen's point of view, Europe will have two of the features on which the communal life of people is based: a currency and justice,

- as regards external policy, we propose the creation of a post of Minister for Foreign Affairs of the European Union who will be appointed by and answerable to the European Council, and will be both President of the Council of Ministers for Foreign Affairs and a Vice-President of the Commission in order to ensure coordination between diplomatic action and development aid policy,
  
- as regards European defence, the Constitution provides for the creation of a European Armaments, Research and Military Capabilities Agency, and specific possibilities for cooperation between Member States wishing to go further in this area,
  
- as regards the important matter of economic governance, the Constitution provides for the improvement of coordination procedures between Member States and recognition of the specific role of the Commission in drawing attention to divergences between economic policies and deficits in relation to jointly set standards. It assigns a particular role to the Euro Group States in acknowledging that they may decide among themselves on additional measures for better coordination of their economic and budgetary policies.

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At the same time, we have reflected at length in order to find a method of organisation which is better suited to the needs of a Union enlarged from fifteen to twenty-five Member States.

In the course of the debates, extreme solutions were gradually set aside. The idea of creating a single European federal state which would ultimately swallow the identity of the Member States, which some people supported at the beginning of our work, was gradually abandoned as inappropriate to the structure of the new Europe. Similarly, the watering down of Europe in a Confederation comprising only unshared, individual interests, by depriving it of the means of action it needs, was rejected almost unanimously.

In the final analysis, we have recognised the dual nature of the European system. Our definition of the European Union in Article 1 of the Constitution is the expression of that dual nature:

*"Reflecting the will of the citizens and States of Europe to build a common future, this Constitution establishes the European Union, on which the Member States confer competences to attain objectives they have in common. The Union shall coordinate the policies by which the Member States aim to achieve these objectives, and shall exercise in the Community way the competences they confer on it."*

The specific manifestation of this dual nature is the institutional triangle created by the founding fathers in the fifties. Throughout our proceedings, our concern was to safeguard and maintain the fundamental balance between the triangle's three components, rejecting proposals which would have disturbed that balance, in one direction or another. Our proposal renews and strengthens each of the sides of the triangle, without destroying the balance between them.

Thus, the institutional system of the European Union will be of a novel character avoiding reductive simplifications, and expressing its dual nature: a Union of peoples and a Union of States.

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As I present the solutions which we are proposing, allow me to make some comments to explain the reasoning behind them.

As regards the European Parliament, which is the big winner under our Constitution, the new legislative procedure, with co-legislation by the European Parliament, becomes the general rule. Today, codecision with the European Parliament involves 37 areas. This number will be raised to around 80. In future, all the areas covering the most important Union policies will be governed by our legislative procedure, with qualified majority voting in the Council.

The list of exceptions to this rule is limited to a dozen or so areas, some of which have a bearing on the constitutional order of the Member States (such as European citizenship) while others are very sensitive issues for several Member States which regard them as part of their "national compact" on burden-sharing or solidarity (such as taxation, certain aspects of social policy or the environment). The rights of the European Parliament have also been extended significantly in the budgetary procedure.

As regards the composition of the European Parliament, for the next elections in 2004 this will be in line with the distribution established by the Treaty of Nice, slightly amended to allow, if need be, for the consequences of Bulgarian and Romanian accession to the Union. In practice it will hardly be the case that the Constitutional Treaty will come into force before the date of the European elections.

The Constitution then provides that the composition of the Parliament should be established according to a degressively proportional rule, with a minimum threshold of 4 seats per Member State. This figure agrees with that already twice adopted by the European Parliament, and proposed by the Commission. It is for the European Council, acting unanimously on a proposal by the Parliament, to determine the arrangements for the application of these rules, and the definitive number of the Parliament's members, before the 2009 elections. Some members of the Convention wished this number to be reduced to bring it into line with existing norms

in this area and to facilitate the exercise of the legislative function. This question has been left to the future discretion of the European Council.

As regards national parliaments, I would like to highlight the eminent contribution which their representatives have made to the drawing up of the European Constitution. Two protocols provide for more active involvement by them in the life of the Union, and I remain convinced that this cooperation between national and European parliamentarians will have to be organised on a regular basis, if we want a "*European political constituency*" to emerge one day as the first step towards a genuine European "Demos".

As regards the European Council, its composition and its role are defined in line with the Treaty on European Union. And for myself, who will have had the privilege of participating in your proceedings on four occasions, it would be unrealistic to deny its existence and role. Let us be clear: without a European Council that functions in a satisfactory manner the enlarged European machine will cease to make progress.

To ensure the continuity and effectiveness of the Council's proceedings, the Constitution proposes that it should elect its President for a term of two and a half years, renewable once. The President's functions will not differ from the current ones, except that they will be exercised over a longer period and will be defined by the Constitution. He will chair and drive forward the

proceedings of the European Council, as Mr Aznar, Mr Rasmussen and Mr Simitis have done so excellently in their time as Presidents, and as Mr Berlusconi is preparing to do, but he will also be responsible for ensuring the preparation and continuity of future meetings, in cooperation with the Commission and the General Affairs Council. Finally, he will endeavour to facilitate cohesion and consensus within your Council, which will have twenty-five Member States.

Regarding the Council of Ministers, the Constitution proposes that it should be refocused around two major configurations: the Council of Ministers for Foreign Affairs and the General and Legislative Affairs Council.

The latter would again become the pivot of the Council of Ministers machinery, ensuring the consistency and unity of its operation, which is currently dispersed amongst too many specialised Councils, of which you yourselves have attempted to reduce the number.

The Foreign Affairs Council, which would draw up the Union's external policies according to strategic guidelines defined by the European Council, would be chaired by the Minister for Foreign Affairs of the Union.

As regards the specialised Councils of Ministers, it would be for the European Council to decide on their existence, with the exception of the Eurogroup Council which is the subject of a special Protocol in the Constitution. The Presidency of these specialised configurations would be provided for periods of at least one year, according to a system of equal rotation for which the rules will be established by the European Council. I will return shortly to this question of equal rotation.

The definition of a qualified majority in voting by the European Council or the Council of Ministers was discussed at length by the Convention. The Convention wanted the Constitution to contain a simple, democratic rule, easily comprehensible to public opinion: a majority would be defined as a majority of the Member States representing three fifths of the population of the Union.

This majority is different from the one resulting from the scale in the Treaty of Nice. However, the Convention felt that a scale which was itself subject to revision at each enlargement could not serve as a basis for a permanent constitutional provision. Hence the adoption of the dual majority, that of States and that of citizens.

This provision would apply with effect from 1 November 2009, that is to say after the European elections in the spring of 2009 and the installation of the new Commission, to ensure that the three events occur simultaneously.

And now I come to the European Commission.

The Convention wished to return to the original concept of the European Commission: that of a high-level college with limited membership, responsible for defining and proposing the common European good. Its duties have been extended in the field of justice and home affairs, and increased in the area of economic coordination. Its monopoly of legislative initiative is asserted. Its role as initiator of annual and multiannual programmes is recognised.

Its President gains authority and legitimacy, as he will be elected by the Parliament and will himself choose the European Commissioners from among the 75 male and female candidates proposed by the Member States.

With regard to the College of European Commissioners, the Convention has adopted the maximum figure recommended by the former Presidents of the Commission, in order to respect its collegiate nature and to perform the 12 functions identified for the Commission, i.e. a total of 15 members, including the President of the Commission and the Minister for Foreign Affairs/Vice-President of the Commission.

The Convention has had to satisfy two demands: one being that all the Member States should be represented on the Commission and the other being the principle of equal rotation of European Commissioners.

On the first point, the Convention has taken into account the new Member States' legitimate concern that the arrangements in the Accession Treaty should not be amended at the very outset. The new arrangements relating to the Commission operating as a college would therefore apply only as from its renewal in 2009.

The European Commission would subsequently be supplemented by the appointment of non-voting Commissioners, chosen according to the same criteria as the Members of the College and coming from all the Member States not included in the College.

This is where the problem of the rotation of European Commissioners who are Members of the College arises. The task of the College since the Treaty of Rome has been to defend the common European interest, and not the interests of the Member States. The real selection criterion should be based on competence and European commitment, in the absence of any ethnic consideration. However, the culture that has developed recently argues in favour of equal access to the Commission for all Member States. It is in order to meet that demand that we have included in the Constitution the principle of "equal rotation" of European Commissioners, especially as

the Treaty of Nice expressly states that this should be the rule in future.

Opting for equal rotation gives rise to a problem, since it does not take into account the disparities in Member States' resources and population, and would risk leading to a College of European Commissioners composed in such a way that its legitimacy would be challenged, which would weaken the Commission's moral authority accordingly.

That is why we have made provision in the Constitution, as stipulated in the Treaty of Nice, for the European Council to adopt the decisions enabling each successive College to reflect satisfactorily the demographic and geographic range of all the Member States of the Union.

This will therefore be one of the future responsibilities of the European Council for the decade starting in 2010. The task will be made easier by virtue of the fact that all the Member States will by then have been able to experience the problems of ensuring that a Commission of 25 members functions efficiently.

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Mr President,

Ladies and gentlemen,

The text I am going to present to you today is the fruit of our collective work over a period of sixteen months.

It is a single text, constituting a coherent and unequivocal whole.

There are many who considered this result impossible to attain. If we have succeeded in doing so, it is because each of us has agreed to acknowledge that our own preferred solution was not necessarily acceptable to others.

Our proposal is an ambitious one, in the sense that it goes further than any of us thought possible.

This draft constitutional treaty is both an edifice and a balance.

It is an edifice because it constitutes a coherent whole, the sections of which have been assembled since our architectural project was submitted on 28 October 2002.

It is a balance because we have carefully tried to strike the best balance between the role of the Union and that of the Member States, while preserving the possibility of future development based on successive balances, without any discontinuity or risky ventures.

It is you who will from now on take responsibility for the future of our project. Permit me to emphasise that the project is now in your hands, it has reached your level, the level of Heads of State or Government of Europe; it is no longer a question of technical discussion but of the fate of a Constitution.

I would also appeal to you to ensure that no disturbance of the balance, by calling its provisions into question, is allowed to jeopardise the solidity of the edifice!

Finally, may I ask you to prolong with your forthcoming work the moment of intense emotion that we, the members of the Convention, felt last Friday 13 June when we thought we had glimpsed the possibility that the Union of Europe was perhaps – perhaps! – within reach.

I don't think I could conclude in any better way than by saying the words with which I should have started:

*Χρώμεθα γάρ πολιτεία ... καί ὄνομα μὲν διά τό μή ἐς ολίγους ἀλλ' ἐς πλείονας οἰκεῖν δημοκρατία κέκληται ...*

(Our Constitution is called a democracy because power is in the hands not of a minority but of the greatest number. Thucydides II, 37)

The moment has come, Mr President, to present to you, on behalf of the members of the European Convention, the result of our reflections and our work.

We hope that this text will form the foundation of the future Treaty establishing a Constitution for Europe.

Thank you.

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