

Working Group X

Working document 25

Working group X "Freedom, Security and Justice"

Subject : **Comments on the Final draft Report of Working Group X Freedom, Security and Justice from Rt. Hon. David Heathcoat-Amory MP (UK Parliamentary member of the Convention)**

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Working Group X Freedom, Security and Justice
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The final report on *Freedom, Security and Justice* pursues an unquestioned centralising agenda. It elevates efficiency and the convenience of the legislator above the imperatives of justice and democracy. The report does not examine the reasons for defects in present arrangements, or explore the possibilities for improvement, or the case for alternatives.

The paper makes the simplistic argument that because crime is international, so criminal justice systems must become international or 'communal'. Of course much serious crime is international. Criminals can operate anywhere – even from behind bars – and they may hide behind frontiers to try and evade justice.

But this is not new, and it is a global phenomenon not a European one. Like other countries, the UK has extensive cooperation with the USA over narco-trafficking, and the war against international terror. This includes the sharing of extremely sensitive intelligence information. Other operations include those mounted with South American countries over drugs, with South East Asian countries over child abuse, and a multinational investigation concerning Chinese illegal immigrants.

Many of our witnesses have described practical failings, lack of mutual trust, indecision over working languages, poor interoperability of computers and lack of resources. The draft final report does not mention these at all and instead advocates a single institutional framework, general acceptance of qualified majority voting, extensive 'approximation' of criminal laws and procedure, universal jurisdiction by the European Court of Justice, and the formation of new executive bodies at the centre.

Such developments should be approached with great caution and certainly accompanied by supporting arguments. It would be wise, for instance, to examine the extent to which existing centralised EU policies such as the Common Agricultural Policy or the EU budget have been successful in terms of administration or outcome.

There is also the question of accountability, legitimacy and democratic choice. Matters of immigration, police powers and criminal justice policy go to the heart of what a nation state is. These issues feature prominently in national elections. If such decisions are removed from national jurisdiction, made subject to QMV or cannot be altered, then a sense of alienation and frustration with the political system will build up. It was this danger that was highlighted by the Laeken Declaration from which the Convention received its mandate

The draft final report contains a section on the involvement of national parliaments. It contains a useful suggestion that national parliaments should consider whether proposals are compatible with basic national criminal law policy. But this does not offset the very marked centralising drive which characterises the rest of the paper.

The draft report's separation of 'legislative' and 'operational' tasks could be the basis for a more considered set of recommendations for better operational cooperation in the fields of immigration, asylum and policing. There is undoubtedly scope for improvements in joint working, shared intelligence and immigration control. Where there are inadequate treaty bases for such action, we should recommend changes.

Legislative changes are another matter here it has not been shown that the existing treaty provisions are inadequate for the required degree of mutual recognition of rules and procedures, and minimum standards for asylum seekers and migrants.