



Université catholique de Louvain

**POSITIONS OF 10 CENTRAL AND EASTERN
EUROPEAN COUNTRIES ON EU INSTITUTIONAL REFORMS:**

**ANALYTICAL SURVEY
in the framework of the CEEC-DEBATE project**

The debate on the *finalité politique* of the European Union in the applicant countries from Central and Eastern Europe – measures accompanying other EU activities to prepare the IGC 2004

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The report can be downloaded from the following websites:

www.tepsa.be
www.euro.ucl.ac.be

Introduction

In its decision to convene a European Convention, the European Council in Laeken decided to invite representatives of 13 applicant countries to fully participate in the deliberations of this body aimed at “paving the way for the next IGC” by elaborating a draft proposal for a Constitution for an enlarged Europe. Already at the beginning of the Convention’s debates it has become obvious that the candidate countries, in particular those from Central Europe, wanted to make a substantial input into the Convention and would not be satisfied with a role of passive observers.

On this political background we present the first issue of the *CEEC debate* analytical survey focusing on the national debate on the future of Europe in the applicant countries from Central and Eastern Europe. The survey is a part of a broader project aiming at raising awareness about the importance of a substantial and deep debate on Europe’s future among Central European elites, politicians and civil society. Analyse of the debate as such, its perception in current Member States and comparison between attitudes of “new” and “old” EU members are key elements of the project.

The positions taken by representatives of governments and national parliaments at the European Convention show that divergences in the EU integration process do not occur between new and older member states (or between “new and old Europe” representation), but following sovereign interests of each particular country. Representatives of the applicant countries speak at the Convention with a clear voice, although they tend to follow mainstreams which dominate inside the Convention. All Central and Eastern European Countries (CEECs) argue for maintaining and reinforcing the community method, which would strengthen their political power and allow defending their interests in international fora. They are mostly concerned about the role and representation of small and medium sized countries in an enlarged EU.

It is not possible to consider the 10 Central European Countries as a homogenous group. Each country has its own political and strategic preferences and interests. At the same time, official positions of most Central European governments are similar on guiding principles such as the wish of preserving the institutional balance, maintaining the current number of institutions and ensuring more openness and transparency. On the institutions, national positions represent many similarities such as rejection of the idea of a permanent President of the European Council (with the exception of Poland) and a support for team presidency (e.g. Bulgaria, the Czech Republic, Hungary, Poland, Romania and Slovakia). Basically all of the applicant countries follow the same line of argumentation and their representatives have participated in common initiatives, such as the “group of 16”, a joint initiative of 16 smaller and medium Member States and candidates for accession on the reform of institutions.

In some cases, positions have been modelled according to or got inspired from national positions of some of the current member states. To illustrate, the Bulgarian and the Czech proposals are very close to the Belgian position. Like some current EU Member States, including Austria, Sweden and Finland, the countries that last joined the EU, smaller and medium acceding countries are in favour of maintaining the rotating system or introducing a team presidency in the Council, “double hatting”, extension of the co-decision procedure and a strengthening of the role

of the Commission. In the same way as the Benelux countries, some of the CEECs wish to split up the legislative and executive functions of the Council.

The present *CEEC-Debate* survey also shows the inhomogeneous and sometimes contradictory character of Central European standpoints, characterised by changes of positions in the course of the Convention's deliberations, inconsistent interventions of some *conventionnels*, influence of different experts and pressure groups on governmental positions or significant divergences between the official position and the positions of think-tanks.

Debate in political circles has not necessarily been followed by a public debate. The apparent weakness of an open debate on Europe's future in the CEECs has several reasons. First of all, debate on EU referendum and the outcome of accession negotiations has been prioritised in all applicant countries, which has also been mirrored in the media coverage. Debate on the quality of membership has at this stage been considered as secondary. The debate – if any - is limited to the elites and does not concern the societies. This is partly due to an inefficient information campaign and general lack of interest in politics. In some countries, fora on Europe's future have been set up. They were generally active in the first stage of their functioning, but lost the dynamics later on. The role of think tanks has not been not similar in all acceding countries: e.g. in Czech Republic and in Poland research institutes have an impact on the government's position and have proposed some guidelines, whereas in some other countries this influence is much more limited.

According to the timetable set up in Laeken, the next Intergovernmental Conference should start in 2004. The new members welcomed the European Council's decision in Copenhagen, providing for their full participation in the next IGC. All acceding countries pursue the aim of delaying the IGC in order to sign the new Constitutional Treaty only after an effective EU accession. As stipulated by CEECs' representatives at the Convention, the IGC should not be finished before the ratification process comes to an end in all current Member States, and the new states actually become full fledged members themselves. One can expect that only a full participation in the next IGC may bring a new dimension to the debate and increase public interest for EU institutional questions, based on the conviction of active participation in EU decision-making. Thus, it can be expected that the real debate will only start after the successful outcome of referenda or even later, after the 1st of May 2004, the date of accession, and gain an insiders' perspective.

We hope that this publication, issued in the framework of network activities of the *Trans European Policy Studies Association* (the *CEEC-Debate* project) and complementary to the Agenda 2000 - Enlargement Watch (<http://www.iep-berlin.de/publik/enlargement-watch/index.htm>), will give a substantial overview of national positions of Central European countries on EU reforms and that it will contribute to a better understanding of interests and concerns of new EU members, in particular in view of the next IGC.

Christian Franck
Dorota Pyszna-Nigge

Questionnaire

This questionnaire offers a range of aspects and options which should serve as guidance for your answers.

In answering the questionnaire, please refer to positions of government, political parties, pressure groups, wider public or academia/think tanks in your country. Please name sources and materials whenever possible.

1. Results of work of the European Convention

- What should be the **result of the work** of the European Convention (Option paper presenting different solutions or single document adopted by large consensus or even unanimity? Should a completely new treaty be drafted or should existing treaties be rearranged and streamlined?)?
- What will be the **structure of** the probable new or rearranged **treaty**? Should the Charter on Fundamental Rights be fully incorporated, or partly (what should be changed?)? Should the treaty represent a single document without differentiation as to the constitutional quality of its parts, or should it be subdivided into part A (of constitutional quality) and part B as secondary (e.g. policies) with lower barriers for revision and change?
- Is the **proposal of Giscard and the *Presidium*** (the skeleton) a good starting point?

2. Institutions : Please comment on preferred reforms of the following institutions:

- **European Council/Council:** Should a full-time “president” chair and prepare meetings of the European Council? Should this president hold at the same time the position as president of the European Commission? Should the rotation principle of the Presidency be continued? If not, which alternatives and modifications of the present system of Presidency are preferred?
- **European Foreign Minister:** What is the position of your country in this regard? Should he/she be member of the Commission (Vice-president) and be accountable to both the Commission (and also the European Parliament) and the Council? What would be the relationship between a probable president of the Council and the European Foreign Minister?
- **Commission:** How should the president of the Commission be nominated and elected? Should he/she be strengthened in his competencies? If yes, how? Which size do you foresee for the Commission in the EU of 25 or more members?
- **European Parliament:** Which reform steps seem urgent (e.g. strengthening the European Parliament through the extension of majority voting; full budgetary competencies; abolition of differentiation between obligatory and non-obligatory expenditure)?

- **Institutional balance:** Should the present power equilibrium in the institutional triangle (EP-Council-Commission) be reformed in favour of one or the other institution, or should the present relationship more or less be maintained? What is the most important institutional reform and why? Do you envisage an overall trend towards a more presidential or parliamentary political system for the European Union or do these categories not fit with the EU system?

3. Decision-making

- **Unanimity:** In which areas does your country want to preserve unanimity? In which areas does it prefer an extension of qualified majority voting and co-decision procedure on behalf of the European Parliament?
- Which **procedures for ratification** of treaty changes are preferred?
- **Differentiation:** What is the position of your country on giving room for more differentiation (“enhanced cooperation”; avant-garde; concepts for a “core Europe”) between member states with regard to the present *acquis* and its further development?

4. Which **other important issues** are discussed in your country in the context of the European Convention (e.g. strengthening of the Common Foreign and Security Policy/European Security and Defence Policy, relationship between smaller and bigger countries, etc.)?

5. Awareness of the European Convention

- Does your **government** actively follow and contribute to the European Convention? Is it a priority of European policy?
- Does the **public** (media, interest groups, parties, etc.) take notice of the work of the Convention? What are their expectations and concerns?
- Is there a connection between the preparations for a **referendum on EU membership** and the Convention?

National Report Bulgaria

by Krassimir Nikolov, University of Sofia

1. Results of work of the European Convention

A special section of the Bulgarian government's Initial Position on the debate about the future of the EU is entitled "Towards a Constitution of European Citizens". Under such an ambitious heading - the wording is more prudent - it calls for the adoption of a "single text of a constitutional character", which would contribute to the consolidation of the *acquis communautaire*. Moreover, constitutionalisation is directly related to the question of overcoming the deficit of democracy at EU level and to identity-building. Two arguments justifying such an approach are made explicit in the document: "making the Union more understandable and more attractive for European citizens", as well as "strengthening a common European identity". A specific reference to a "constitutional treaty" is made twice further in the text of the Initial Position, thus discarding any doubts about the government's vision of the desired final result of the Convention's work. The possibility that the Convention adopts an "Option paper" presenting different solutions has never been considered by the Bulgarian government as a viable outcome of the forum's proceedings.

On the eve of the official opening of the Convention, the Bulgarian parliament gave its support¹ for the idea of achieving a "single text of a constitutional character" as a final result of this forum.

During the first stage of the Convention's proceedings, the debate in plenary regarding the final outcome concerned not only the dilemma between a single document and an option paper, but also that between a "constitutional treaty" and a "constitution". While a reasonable number of Convention members argued in favour of adopting a European constitution, the Bulgarian delegates stood firmly behind their initial choice of aiming towards a "constitutional treaty", in order not to deprive the EU from either of its sources of legitimacy - states or peoples. Although the Bulgarian representatives did not make special contributions or oral interventions on this specific question, they always referred to the future "constitutional treaty" in other contexts², until this formula was definitively adopted in the Draft submitted by the Presidium on 28 October 2002.

- **The structure of the Constitutional Treaty**

The Initial Position of the government stipulates for the division of the future constitutional treaty in two parts: basic provisions, which should be amendable after the ratification by all member states, and a second part, consisting of "functional or technical provisions, touching mainly upon common policies", where a "lighter procedure" should be considered for their modification.

The same document calls for the integration of the Charter of Fundamental Rights in the future constitutional treaty "in order to strengthen the human values and democratic principles of the Union and make it thus more attractive", and implicitly recognizes the need to make the Charter

¹ National Assembly Resolution

² See N. Kutzkova on 6 June 2002 & M. Kuneva on 12-13 September 2003

legally binding. However, it leaves open the question of the specific modalities of the Charter's incorporation – either as part of the constitutional provisions or as an annex to the future treaty.

The debate on the Charter's incorporation in the future treaty has produced a consensual final report of Working Group II³ as to one of the main questions – the need “to make the Charter a legally binding text of constitutional status”⁴. As to the techniques of doing this (option “A” – insertion at the beginning of the treaty, or option “B” – special annex or protocol), the representatives of the Bulgarian government explicitly supported the second option⁵ with the aim “to provide for a more balanced and concise constitutional text”. The substantive argument given to support the drafting adjustments to the Charter's general provisions – namely to improve “legal certainty in the area of human rights” – is a direct echo of the UK position as the main proponent of this option.

Such a standpoint on this issue is reportedly explained by effective lobbying efforts of the UK in July and in September-October 2002 – locally via the Royal British Embassy in Sofia or directly via personal contacts between both countries' representatives in the Convention. These efforts coincided in time with decisions on another issue, which is not related to the “Future of Europe” debate – the final stages of approval of the 2002 Regular Report of the European Commission on the progress of the candidates towards enlargement. It is reported that Bulgarian support for the UK position on the Charter issue was made conditional on UK lobbying with the Commission in favour of the inclusion in its Regular Report of a conclusion about the “existence of a functioning market economy” in Bulgaria and about the capability of the Bulgarian economy “to cope with competitive pressure in the European internal market in the medium term”. The substantive argumentation of the Bulgarian position (mentioned here above), the preparation of the text of the position's presentation in plenary⁶ and mainly the coincidence of timing are all leading towards the conclusion about the importance of external linkages (the successes and failures of pre-accession efforts) in the process of elaboration of Bulgarian positions in the Convention. The pre-accession process and accession negotiations have proven a significant factor in determining behaviour in the Convention. This conclusion is all the more relevant in view of the considerably more pro-integrationist positions taken by Bulgarian representatives on other issues on the Convention's agenda – such as institutions (see below).

On the modalities of the Charter's integration in the Constitutional Treaty, the Revised Position establishes that the preferred option would be to do this in the form of a protocol annexed to the treaty, in order to achieve “a more balanced and short constitutional text”. The second-best option would be to reproduce the text of the Charter as part II of the constitution, after the other constitutional provisions.⁷ This concluding position confirms the analysis made above.

³ See CONV 354/02

⁴ CONV 354/02, p. 3

⁵ See N. Kutzkova on 29 October 2002. N. Kutzkova's reference to the Initial Position and the “we” language she used give evidence to the commitment of M. Kuneva, the government's representative, to this position, as well.

⁶ The intervention N. Kutzkova on 29 October 2002 has reportedly been prepared by experts in the European Integration Directorate in the Foreign Ministry, rather than by experts in EU law and/or human rights.

⁷ Revised Position

2. Institutions

- **Council**

The Bulgarian government's Initial Position on the Future of Europe debate touches on several **Council** related issues that became relevant for the institutional debate in the Convention later:

The first question is the specific “anti-Montesquian” character of this institution. The need to **distinguish between the Council’s legislative and executive/coordinating functions** is recognised in all official documents/statements expressing the Bulgarian government’s position.⁸ Several representatives of the National Assembly share the same view.⁹ According to both, a more categorical division between the two types of Council functions would improve the effectiveness of its work¹⁰.

An overwhelming number of Bulgarian representatives in the Convention have consistently expressed their support for transforming the Council into a more open and transparent legislator. The need to establish the principle that **the Council deliberates in public when adopting legislation** is widely recognized in Bulgarian documents submitted to the Convention¹¹, as well as in the common paper of 16 government representatives of March 2003¹².

Already in its Initial Position, the Bulgarian government admits the need to **improve coordination within the Council** – mainly regarding the **General Affairs Council (GAC)**. It finds useful to divide the competences of the formation dealing with foreign policy issues (and consisting of Foreign Ministers) and the one responsible for the coordination of sector Councils. On the latter, the Initial Position outlines a concrete proposal – the coordinating formation of the General Affairs Council should comprise specially appointed “European ministers” or Vice-Premiers, who should gather in Brussels at least twice a month. This position remains unaltered later, at the start of the institutional debate in early 2003, as regards both the general proposal (divide foreign policy and coordinating GAC) and the concrete proposal (“European ministers” or vice-premiers).¹³ Nevertheless, the last official statement of the Bulgarian position on institutional reform within the Convention in May 2003 does not reiterate this specific proposal about the composition of the coordinating GAC, but rather focuses only on the question of the chairmanship of both formations – the foreign policy GAC and the coordinating GAC.¹⁴ The Revised Position reiterates the view that the coordinating formation of GAC should be chaired by the President of the Commission.¹⁵

Another concrete proposal aiming at improving the operational capacities of the Council is focused on upgrading its administrative backup. The common paper of 16 government representatives of small countries argues in favour of the re-establishment of a **full-time position of Secretary-General to the Council** after reforming the current High Representative (see below

⁸ Initial Position, Government Position of December 2002 & M. Kuneva on 5 February 2003

⁹ See CONV 493/03 & CONV 590/03

¹⁰ Government Position of December 2002 & M. Kuneva on 5 February 2003

¹¹ Initial Position, Government Position of December 2002 & CONV 590/03

¹² CONV 646/03

¹³ Initial Position, Government Position of December 2002 & M. Kuneva on 5 February 2003

¹⁴ M. Kuneva on 15 May 2003

¹⁵ See Revised Position, p. 5

on the European Foreign Minister). The objective of such a move would be to strengthen continuity within the Council.¹⁶

- **European Council**

In the views of the Bulgarian government, the **European Council** should continue to be the principal **strategist** and the ultimate **arbiter** of the whole institutional system of the EU.¹⁷ On the background of such a cautious/conventional standpoint, it is worth noting that the group of 77 full or alternative members of the Convention, which includes the Bulgarian representatives Alexander Arabadjiev and Nelly Kutzkova, calls for a sort of “self-restraint” in the span of European Council work. According to this group, deliberations at the summit level **should focus strictly on giving impetus and defining general guidelines**. In other words, its arbitrating function should not dominate and disrupt this organ’s strategic vocation.¹⁸

The question of the European Council’s consistency, efficiency and transparency of work is treated in a coherent manner in the relevant governmental documents submitted to the Convention. Both before the decision taken in Seville and after that, Bulgaria’s position was favouring **the adoption of a multi-annual legislative programme**. The practical application of this idea would tilt the balance towards intergovernmentalism. To avoid it, the Bulgarian proposals envisage the involvement of the supranational EU institutions: the multi-annual programmes should be adopted “on recommendation of the European Commission and the European Parliament”¹⁹. The same proposal can be found in the Revised Position of the Government of May 2003.²⁰

The group of 16 Convention members regards the multi-annual programming, likely the Bulgarian government representative, in a more general perspective, and not only as a feature of the European Council. It is interpreted as a comprehensive approach to the functioning of the presidency, implicitly applied at all levels, which will enhance continuity and “help to increase further its coherence and effectiveness”²¹

The Bulgarian government has stated its support for two other possible changes in the current system that would result in enhancing the influence of the European Council:

- In both official government positions of February and December 2002, Bulgaria finds “reasonable” that the European Council be given **the right to dissolve the European Parliament** on proposal of the Commission²². The reason why this proposal was dropped at the last stage of public statement of positions during the Convention debate in May 2003 is unclear – whether it was omitted to allow for a brief intervention that would be more focused on the most contentious issue (full-time president), or it was abandoned because its testing among Convention members gathered little support.

¹⁶ CONV 646/03

¹⁷ Initial Position & Government Position of December 2002

¹⁸ CONV 590/03

¹⁹ Initial Position, Government Position of December 2002 & M. Kuneva on 5 February 2003.

²⁰ See Revised Position, p. 5

²¹ CONV 646/03

²² Initial Position & Government Position of December 2002

- The common position of 16 government representatives indirectly suggests that the European Council, as well as the European Parliament, should have the power to **dismiss the Commission through censure**.²³

The most contentious institutional issue under debate in the Convention proved to be the idea to have a **Full-Time President** of the European Council. The elaboration of a position of the Bulgarian government focused on institutional issues in December 2002 necessitated the formulation of an attitude to this idea.

The analysis of the choices made and stands taken in the Bulgarian position of December 2002 should take into account the fact that, on the institutional questions, it is relatively close to and consonant with two other positions promulgated at the beginning of December 2002: the Benelux memorandum²⁴ and the Commission paper on the institutions²⁵, as should be logical for a small member state. There are essential principles in all papers that serve as common points of departure, such as, for example, the centrality of the community method for the future construction of the enlarged European Union, or the importance of strengthening the role of the Commission in the institutional triangle.

Nevertheless, apart from these objective prerequisites for so similar views, one should look back to the positive influence of the pre-accession process on the creation of a commonality of visions. Thus, back in the second half of 2001 M. Kuneva, Bulgaria's European Minister has stated on many occasions her satisfaction with the impressive advancement of accession negotiations during the Belgian presidency²⁶. On the other hand, the Dutch programmatic assistance for societal transformation has fostered Bulgarian domestic pre-accession efforts. In short, it is very likely that successes in Bulgaria's accession process due to common efforts with Belgium and the Netherlands have been translated into mutual understanding during the Convention debate. Such a conclusion is confirmed by feedback about intensive consultations between the Foreign Ministry and the Belgian and Dutch Embassies in Sofia.

Thus, after the government's decision to join the group of Convention members who – led by UK representatives – opted for more cautious modalities of incorporating the Charter of Fundamental Rights in the future Constitutional Treaty (see comments under item 1 of this report), since the end of 2002 onwards **Bulgarian representatives have definitively demonstrated a rather more consistent pro-integrationist stance on the main “battlefield” in the Convention – the institutional architecture**. As if to confirm this conclusion, the Revised Position of the Bulgarian government of 22 May 2003 explicitly instructs the Bulgarian government representatives in the Convention (M. Kuneva & N. Kutzkova) “to underline the existence of shared views with the Benelux countries on one of the most sensitive themes in the European Convention – institutional reform”²⁷.

²³ CONV 646/03

²⁴ See the Benelux Memorandum “*A Balanced Institutional Framework for an Enlarged, More Effective and More Transparent Union*”, December 2002

²⁵ European Commission, “For the European Union – Peace, Freedom, Solidarity: Communication of the Commission on the institutional architecture”, Brussels, 04.12.2002, COM (2002) 728 final

²⁶ Between July and December 2001 Bulgaria closed the highest number of negotiating chapters so far within one semester, which, in turn, M. Kuneva explained with the significance of Belgian investment interests in Bulgaria.

²⁷ Revised Position, p. 4

In conformity with the general approach outlined above, the proposal to create the position of President of the European Council was met with concern. The main argument that was given was that it would threaten the principle of equality between member states and would thus imperil the existing institutional balance.²⁸ If Bulgaria would accept a permanent presidency position at any level, this would be the General Affairs Council in its coordinating function: Similarly to the proposal found in the Commission paper, the government representative in the Convention “considered logical that the coordinating formation of the GAC be chaired by the president of the Commission”²⁹. At the last stage of Convention debate, M. Kuneva confirmed this view, while considering it together with the need for the future European Foreign Minister to chair the external relations GAC.³⁰

In this context, special attention should be paid to the contribution to the institutional debate made by Bulgaria’s leading parliamentary representative in the Convention. Daniel Valtchev’s paper of 16 January 2003 on the institutional debate³¹ offers a very early comment on the Franco-German proposal to establish a full time president of the European Council. As this idea aims at replacing the current presidency system, Valtchev summarizes the pros and cons of the rotating presidency. He registers the latter’s weaknesses (the overwhelming burden that is expected to be laid on each presidency in EU-27), but reminds also its advantages (demonstration of each member state’s involvement in EU affairs), and concludes that “the rotating presidency should be maintained in one or another form”. Nevertheless, he does not discard the relevance of the Franco-German proposal altogether. He makes a reference far back to Ancient Rome – to the “two consuls of the Roman Republic”, assuming that the two “interdependent consuls are a symbol of democracy”. He also admits that the dual presidency – especially in a situation where the Commission President will be elected by the EP – “might prove efficient and reconcile the large-small member states conflict”.

The reaction of D. Valtchev to the Franco-German proposal seeks a more balanced evaluation of its potential and deficits by trying to understand the rationale put forward by its authors. However, it is worth noting that the justification given by D. Valtchev stems mainly from theoretical legal sources (based on the personal competencies of the writer as law professor), rather than from practical power-political considerations, which tended to dominate the discussions on this issue.

In sum, it seems on order to compare D. Valtchev’s analysis with the firm scepticism of the government’s representative regarding the European Council President idea. Although both M. Kuneva and D. Valtchev are from the governing NMS2 party, the difference of attitudes is telling. It would not be illogical to make a conclusion about the existence of scope for improvement of the making of Bulgaria’s European policy.

The participation of Bulgarian representatives in the Convention in launching group papers has followed the logic of making coalitions with those who are not in favour of the European Council President proposal, ardently advocated by Giscard. These moves and documents gradually became part of the overall confrontation between large and small member states in the framework

²⁸ Government Position of December 2002 & M. Kuneva on 5 February 2003

²⁹ M. Kuneva on 5 February 2003

³⁰ M. Kuneva on 15 May 2003

³¹ CONV 493/03

of the institutional debate. Two important group papers, supported by Bulgarian Convention members, treated the presidency issue in a similar fashion:

- The document signed by 77 Convention members (including A. Arabadjiev and N. Kutzkova) in January 2003 states explicitly that the presidency of European Council must rotate between member states³² also in the future.
- The common paper of 16 government representatives (including M. Kuneva) declares firm support for the principles of rotation and equality of all member states with regard to the execution of EU presidency functions. The 16 signatories of this position call for retention of the rotating system in particular in the European Council, the General Affairs Council and Coreper.³³

During the concluding plenary debate in the Convention on the institutions on 15-16 May 2003, M. Kuneva reiterated her principal stance. She expressed her doubts about the creation of a permanent president of the European Council, stressing on two arguments: (1) the risk of entering into direct competition with the Commission president and of undermining the role of the latter, and (2) the absence of any parliamentary accountability of this figure at either European or national level.³⁴

The Revised Position of the Bulgarian Government elaborates a set of proposals regarding the functions of the presidency of the future EU focused around the idea of **team presidencies** (full quotation follows³⁵):

- To keep the system of rotation of the presidency;
- To prolong the period of the presidency from 6 months to 1 year;
- The presidency should be exercised by four member states simultaneously (team presidencies);
- At the end of every 6-month period, 2 member states from among the 4 will leave and 2 new member states will enter the presidency (rolling system). This will allow every member state to participate in the presidency of the Union once every 6 years. That is how the principle of equality and that of continuity will be respected as well.
- The presidency of the separate sector Councils will be carried out in accordance with the comparative advantage (relative specialization) in certain fields of each one of the 4 member states that form the presidency.
- The presidency of the General Affairs Council is carried out by the president of the European Commission. The presidency of the External Relations Council is carried out by the future European Foreign Minister. The presidency at the meetings of the European Council will be carried out jointly, and the tasks will be distributed depending on the specialization in the sector Councils.

This set of proposals deserves at least four critical comments (after first reading):

1. It is misleading conceptually. Indeed, it prolongs the individual presidency of each member states up to 1 year. But during the first 6 months the team presidency will consist of states A, B, C & D, during the second 6 months – of states C, D, E & F, during

³² CONV 590/03

³³ CONV 646/03

³⁴ M. Kuneva on 15 May 2003

³⁵ See Revised Position, p. 6

the third 6 months – of states E, F, G & H, etc. Therefore, each state will have the task to form a real team of leadership, which will last only 6 months.

2. It establishes a system that will be extremely difficult to operate. During 1 year in the chair, one single member state will have to coordinate actions with 5 member states. It will be very difficult even for the robust administrations of big states, let alone small ones and those of newcomers.
3. The European legislative and policy process will be fragmented. If coordination is problematic, each member state will focus on its “own” responsibilities in the sectors, in which it has comparative advantages and over which it, therefore, presides. In one year, this member state will not have the time to start to “think European”, but will have more than enough time to push through its national priorities into EU legislation (thereby increasing its comparative advantages in the respective sectors).
4. It will de-legitimise Union action, as it is too complicated and will, therefore, diminish the level of recognition and acceptance of those who are in charge in the eyes of the citizens. Too much “coming in” and “going out” will break down even the weak possibilities that exist now of holding politicians accountable. Citizens will turn away from the EU decision-making and policy-making even more than they currently do.

- **European Foreign Minister**

The idea of merging the positions of High Representative for CFSP and the Commissioner for External Relations is supported by the Bulgarian government’s positions in a consistent manner with the argument that such a move will “lead to more efficiency and coherence on CFSP matters”³⁶. However, the official statements made in 2002 and at the beginning of 2003 do not answer the question whether the new “double hatted” position (i.e. the European Foreign Minister) should be member/vice-president of the Commission and, thus, become accountable to both the European Parliament (via the Commission) and the Council.

A similar open-ended approach is valid also for the common paper of 16 government representatives, which is signed by M. Kuneva. There, on the one hand, the signatories advocate “double hatting” for the future EU foreign policy *supremo* and, even more – the need to provide “a single service” for this political position. On the other hand, however, they call for establishing “clear lines of accountability” without making an explicit reference to the Commission-Parliament line of accountability.³⁷

Only at a rather advanced stage of debate, on 15 May 2003, did M. Kuneva overtly state her support for giving the future European Foreign Minister the responsibilities of **a Vice-President of the Commission**.³⁸

At the last stage of Convention debate in May 2003, M. Kuneva declared her support for the idea of giving the future European Foreign Minister the role of chairing the GAC in its external relations formation³⁹.

³⁶ Initial Position, Government Position of December 2002 & M. Kuneva on 5 February 2003

³⁷ CONV 646/03

³⁸ M. Kuneva on 15 May 2003

³⁹ M. Kuneva on 15 May 2003

Judging from the official statements, the unfavourable attitude of the Bulgarian government towards the European Council President idea was justified mostly with arguments about the internal institutional architecture of the EU and the inter-institutional balance. The institutional implications of the posture of the future enlarged Union in world affairs were absent from the Bulgarian line of reasoning – in terms of both criticizing the arguments that support the full-time president proposal and presenting counter-arguments. That is the reason we must register another conceptual absence – that of the concrete modalities of relationship between the imaginary full-time president of the European Council and the future European Foreign Minister.

The Revised Position of the Bulgarian government describes in detail the status and functions of the European Foreign Minister (full quotation follows)⁴⁰:

1. S/he will be appointed by qualified majority by the European Council, after consultation with the President of the European Commission.
2. S/he will have at the same time the status of vice-president of the European Commission, but in the field of CFSP and ESDP will be subordinate to the Council.
3. S/he will no longer perform the role of Secretary General of the Council.
4. S/he carries out his/her competencies in accordance with community procedures, or in accordance with the procedures that are applicable in the field of CFSP, depending on the field of action.
5. S/he will preside over the External Relations Council.
6. S/he will represent the EU in the world on all issues related to CFSP or ESDP.
7. After the entry into force of the EU's Constitutional treaty, s/he will have power of initiative in the field of CFSP, while relying on the support of the respective services of the European Commission, whose staff will have to be expanded with experts from the member states and from the services of the General Secretariat of the Council. In this sense, the idea of creating a pan-European diplomatic service deserves support.

Item 2 above confirms previous statements of the minister's membership of the Commission team as vice-president. However, it does not fully answer the question of his/her political responsibility when the European Parliament votes the whole Commission out of office. Although it states the minister's accountability to the Council, it will be difficult for him/her not to resign together with his/her fellow commissioners, if his/her other ("community-related") fields of responsibility (such as trade or humanitarian aid) are part of the reasons for the vote of no confidence.

- **Commission**

Bulgarian views displayed in the Convention depart from **the general belief in a strong Commission** as defender of the common interest and protector of small states. The need to increase the institution's efficiency and authority is viewed by Bulgaria exactly as a means "to help it to defend the common European interest"⁴¹. The European Commission has played this role insofar as it has acted as an independent and non-partisan body. The common paper of 16 government representatives emphasizes on the unique characteristics of this institution that have to be retained in future – the Commission should remain a "supranational, independent & collegial body"⁴².

⁴⁰ See Revised Position

⁴¹ Government Position of December 2002

⁴² CONV 646/03

Following the 1999 resignation of the Santer team, it has been thought possible to restore this institution's future credibility by means of increasing its democratic legitimacy. The post-Nice debate on strengthening the Commission shows a clear trend towards a higher degree of politicisation and towards its possible transformation – “in time” – into a European proto-government. An obvious example of this long-term tendency is the proposal to have the Commission President elected by the Parliament.

According to the Bulgarian position, **the Commission President's election by the European Parliament** would strengthen his/her political authority⁴³ and that of the whole Commission⁴⁴. This would also make the Commission President a true unifying political figure in Europe that is supported by the main political formations in the European Parliament.⁴⁵ S/he could be given stronger powers in distributing the portfolios among commissioners.⁴⁶ Moreover, it “would reinforce the community method and would increase the democratic accountability of this institution”⁴⁷.

However, should such an election take place, it could lead to making the Commission dependent on a political majority in the EP, whereby it might lose one of its main virtues – its independence and non-partisan character. It would become, therefore, a European proto-government that is much more attentive to its electoral constituencies – be they political (right-wing or left-wing political coalitions in the EP and across Europe) or demographic (the national political parties from the larger member states will have much greater bearing in the EP system than those from small states).

The Bulgarian positions formulated above are consistent in their main thrust from the outset until the concluding plenary debate in May 2003, but they have to be better fine-tuned. They do not take into account the necessity to have a sort of guarantee that could help the Commission to preserve its current independence also in the future enlarged EU, when there will be greater need for it. Such guarantees could be (a) the insertion of a special treaty text stating that the composition of the Commission should reflect the whole political spectrum in the EP resulting from European elections, or (b) the claim that the election of the Commission President should be made by some sort of a reinforced majority (yet to be fixed) of MEPs.

The latter of the two options is, in fact, taken up in the paper of 16 government representatives, signed by M. Kuneva. Bulgarian support for this document compensates for the lack of fine-tuning in the individual statements. The paper of 16 outlines two options for election of the Commission president: (a) by the EP with a reinforced majority (!), with confirmation by a qualified majority vote in the Council at the level of heads of states or government, or (b) by a “joint electoral college” comprising the EP and national parliaments (which would not sit, however, as a separate institution!). Depending on the method of election chosen, appropriate arrangements for the nomination of candidates by the European Council would need to be put in place.⁴⁸ The first option develops the Bulgarian position formulated in previous statements and

⁴³ Initial Position & M. Kuneva on 5 February 2003

⁴⁴ Government Position of December 2002

⁴⁵ M. Kuneva on 5 February 2003

⁴⁶ Initial Position & Government Position of December 2002

⁴⁷ M. Kuneva on 15 May 2003

⁴⁸ CONV 646/03

makes it more precise and balanced. It is important that, by allowing for further discussion on the modalities for nominating the candidates by the European Council, the paper of 16 leaves room for manoeuvre of the big member states.

The Revised Bulgarian Position of May 2003 takes up the idea of the Commission president's election by the EP by a reinforced majority⁴⁹ – 3/5 (three fifths) – and thus makes the position more balanced. Judging from the composition of previous and the current EP, it will be difficult to form either a right wing or a left-wing coalition that would summon this majority for electing the Commission president without support from at least one party group from the opposite part of the spectrum. According to both M. Kuneva's intervention and in this position paper, the European Council by qualified majority should confirm such an election⁵⁰.

Another aspect of the Bulgarian sympathy vis-à-vis the Commission is concern about the possible erosion of its **right of initiative**. That is the reason why all official statements of the government in this sphere systematically stress that “the Commission should keep its monopoly of initiative in proposing legislation, and should be given a greater role in defining the agenda and programme of the European Council and in the formulation of new policies”⁵¹. This attitude is shared also by other Bulgarian representatives in the Convention, which is reflected in the joint paper of 77 members of January 2003 – it calls for preserving the Commission's “exclusive right of initiative in all non-intergovernmental matters”⁵². Moreover, support for this institution is extended beyond the Community field in the paper of 16 government representatives of March 2003, who argue in favour of “a stronger role of initiative in the current second and third pillars”⁵³.

The positions of the Bulgarian government also stress on the need to give the Commission a more essential role in “defining the relationships between European institutions on policy implementation”⁵⁴, which could be interpreted as support for the **reform of Commission-Council relations under the comitology procedures** so as to lessen the latter's capacity of inhibiting effective implementation of EU policies.

The evolution of the institutional debate in the Convention has caused a cleavage between big and small member states⁵⁵ on such a key issue as **the composition of the Commission**. Related Bulgarian views – expressed by several representatives, whether individually or in group papers – have included both declarations of principle, such as the need to preserve the collegial nature of Commission⁵⁶, and definitive specific positions, such as on the number of commissioners. Following small-state logic, these views have displayed stability and endurances, which reaches the threshold of spilling over into rigidity and inflexibility.

⁴⁹ See Revised Position, p. 4

⁵⁰ M. Kuneva on 15 May 2003 & Revised Position

⁵¹ Initial Position, Government Position of December 2002 & M. Kuneva on 5 February 2003

⁵² CONV 590/03

⁵³ CONV 646/03

⁵⁴ Initial Position & Government Position of December 2002

⁵⁵ The evolution of the institutional debate towards a conflict between big and small states provoked many Convention members to urge their colleagues not to fall in the trap of being “labeled” to belong to either the “biggies” or the other group. On the contrary, the Revised Position of 22 May 2003 gives an imperative instruction: “the Bulgarian government representatives should identify themselves with the representatives of the small/medium current and future member states of the EU” – Revised Position, p. 3

⁵⁶ CONV 590/03

The views shared by Bulgarian members of the Convention focus on two elements:

- First of all, non-discrimination among all member states as regards the composition of the Commission is imperative⁵⁷. In practical terms, this favours the option of a large Commission consisting of one commissioner per member state⁵⁸.
- Secondly, there should be no differentiation inside the Commission in terms of status and voting rights – all commissioners have equal rights within the college⁵⁹. The creation of the category of “associate commissioners” is found unacceptable⁶⁰. Moreover, an explicit linkage is made between the two component parts of the position – the signatories of the paper of 16 support the principle of one Commissioner per Member State “provided there is full equality”⁶¹ within the college.

Such a firm position eliminates any possibilities for structural differentiation inside the institution and leaves only the option of displaying creativity in finding solutions for functional differentiation. The latter will become inevitable, if a compromise is to be found during the IGC.

It is worth noting that the Bulgarian government representative has declared her support for fostering the two supranational political institutions in the EU system simultaneously. M. Kuneva has pointed out that the increase of political weight of the Commission should go hand in hand with strengthening the role of the European Parliament.⁶² The latter is a demonstration of a complex approach to the reforms of the institutional triangle.

- **European Parliament**

The Bulgarian government has continuously supported **additional expansion of the application of the co-decision procedure**⁶³, whereby the European Parliament becomes an even more important co-legislator. In one of the basic documents treating the future EU institutional architecture, Bulgaria even lists in a rather exhaustive manner the areas – in the general field of justice and home affairs policy – in which co-decision should be applied “in order to improve transparency”. These are: border control, asylum, visas, immigration, right to free movement of third country citizens, judicial cooperation on civil matters as well as administrative cooperation.⁶⁴ The overall approach towards extending the powers of the European Parliament reaches out in other areas beyond co-decision and, in the text of the paper of 16, envisages the application of **the Parliament’s assent for international agreements**⁶⁵.

The need to **increase the Parliament’s budgetary powers** is supported in a consistent manner throughout the debate. Interestingly enough, the two major government position papers and Ms. Kuneva’s intervention on 5 February 2003 use surprisingly strong wording on the issue: the EP

⁵⁷ CONV 590/03

⁵⁸ Revised Position

⁵⁹ CONV 590/03

⁶⁰ M. Kuneva on 15 May 2003

⁶¹ CONV 646/03

⁶² M. Kuneva on 5 February 2003

⁶³ Initial Position, Government Position of December 2002 & M. Kuneva on 5 February 2003; see also CONV 646/03

⁶⁴ Government Position of December 2002

⁶⁵ CONV 646/03

should be given “autonomous” / “independent” budgetary competences⁶⁶. The abolition of a distinction between obligatory and non-obligatory expenditure in the EU budget is regarded as the path to be taken for attaining such a result.⁶⁷ Only the intervention of M. Kuneva during the concluding debate on the institutions in the Convention plenary on 15 May 2003 marks a return to a more traditional understanding of the debate on this topic. The call for enabling the EP “to share with the Council the power [...] to adopt the Union’s budget”⁶⁸ sounds closer to the widespread demand to give the Parliament “full” budgetary powers (rather than “independent” budgetary powers).

Despite of the relatively more moderate phrasing of M. Kuneva’s speech on 15 May on this issue, the Revised Position of the government clearly demands again that the EP should be assigned “independent competencies on the budget”⁶⁹

A number of specific proposals have a bearing on the role of the European Parliament, its political weight and effectiveness, and should not be omitted:

- A specific proposal on the EP’s institutional relationships is made on the eve of the opening of the Convention. The government’s Initial Position finds “reasonable” that the European Council would be given the right to dissolve the European Parliament on proposal of the Commission.⁷⁰ This view is linked to the expansion of the Parliament’s powers.
- The creation of a mixed system of national electoral polls and European electoral polls would contribute to a greater participation in elections for the European Parliament.⁷¹
- In his contribution to the institutional debate, D. Valtchev regards the election of the Commission President by the EP as a way of reinforcing the parliamentary character of the EU’s political system⁷².
- According to the position of 77 Convention members of January 2003, the Parliament should have only one location as its permanent seat⁷³.

The last intervention of the government representative in the debate on 15 May formulated a particular concern on some points relevant to the institutions. It should be regarded as a reaction to proposals from several Convention members for reconsidering the weighted votes and/or the seats in the EP agreed at the end of the previous IGC in Nice. That is the reason why M. Kuneva called for respecting the agreement reached in Nice on the number of MEP seats per member state⁷⁴.

- **Institutional balance**

There are three reoccurring themes concerning the overall institutional architecture in almost all important statements of Bulgarian representatives: the promotion of the community method, the

⁶⁶ Initial Position, Government Position of December 2002 & M. Kuneva on 5 February 2003

⁶⁷ Initial Position & Government Position of December 2002

⁶⁸ M. Kuneva on 15 May 2003

⁶⁹ Revised Position, p. 4

⁷⁰ Initial Position & Government Position of December 2002

⁷¹ Government Position of December 2002

⁷² See CONV 493/03

⁷³ CONV 590/03

⁷⁴ M. Kuneva on 15 May 2003

preservation of the general institutional balance, and the preservation of the principle of equality among member states. These themes should be considered together: While summarizing past developments, D. Valtchev, Bulgarian parliamentary representative in the Convention, points out that, in previous decades, the distortion of the original institutional balance (e.g. the growing role of the Council) has been undermining this method for years.⁷⁵ One of the government's positions even states the existing interdependence between strengthening the community method and the preservation and improvement of the EU institutional balance⁷⁶.

The Bulgarian government has expressed its full and continuous commitment to **the Community method**, which “stands in the essence of the integration mechanism”. In its Initial Position, it calls for “the wider application of the Community method”, which should be used “in balance with the forms of intergovernmental cooperation” in areas where the support of the member states is required.⁷⁷

In developing the initial thesis, the government's position and M. Kuneva's intervention stress that the Community method should remain “dominant”⁷⁸ after the institutional reform is completed and call for the “careful extension” of its application in new fields⁷⁹ because it guarantees equal treatment of big and small member states. This method also prioritises the common interest over specific national interests and thus legitimises Europe both vis-à-vis the states and the peoples.

In consonance with the individual Bulgarian position, the joint paper of 16 government representatives establishes a direct link between EU enlargement and “the maintenance and development of the community method”. As a founding stone of the Union, this method “will be all the more important”⁸⁰ when there will be 25-27 EU member states.

Preserving the inter-institutional balance is a concern of both joint papers produced in early 2003 by 77 Convention members (end January) and 16 government representatives (end March), both of them co-signed by Bulgarian Convention members. The second paper defines the meaning of the term shared by its signatories: Preserving the institutional balance should be achieved through arriving at “a clear definition of the respective roles, responsibilities and tasks of all players”⁸¹. According to the other paper, institutional changes must respect the inter-institutional balance, not disrupt it.⁸²

In fact, Bulgaria's genuine concern, as well as that of other small countries, is about disrupting the balance to the detriment of the supranational institutions and in favour of the power base of the (big) member states. Proofs thereof can be found even with a simple comparison of vocabulary: the proposals on the future role of the European Commission and the European Parliament use terms such as “strengthening”, “enhancing”, “increasing the weight”, etc. On the contrary, the Council “should keep its current standing in the institutional triangle”⁸³, according

⁷⁵ CONV 493/03

⁷⁶ Government Position of December 2002

⁷⁷ Initial Position

⁷⁸ Government Position of December 2002 & M. Kuneva on 5 February 2003

⁷⁹ M. Kuneva on 5 February 2003

⁸⁰ CONV 646/03

⁸¹ CONV 646/03

⁸² CONV 590/03

⁸³ Government Position of December 2002

to the Bulgarian view. This is not incoherent with the definition of the principle given above, since many expert analyses and policy conclusions made during previous years have pointed out that the institutional balance had been gradually eroded exactly because the players' roles and functions have gradually been blurred, especially in the eyes of the citizens.

Similar rhetoric was used to comment on some ideas about the creation of new institutions. The 16 government representatives rejected them arguing that new bodies could upset the overall balance⁸⁴. Both at the initial and at the closing stage of debate in the Convention, the Bulgarian government representative expressed her scepticism about the appropriateness of new structures (e.g. a Congress), adding more arguments – they would make the institutional structure more complicated and the decision making process even more cumbersome.⁸⁵

Both joint papers of January and March 2003 analysed in this report emphasize on the need **to respect the principle of equality between member states**. This should remain a core principle of the EU also in the future. Institutional changes made by the Convention must respect the balance and equality between member states⁸⁶. More particularly, there should be no differentiation between member states in terms of their entitlement to involvement in the operation of the institutions⁸⁷.

3. Decision-making

- **Unanimity**

Bulgarian positions, in their overall pro-integrationist orientation, have a general focus not on defining the areas where unanimity should be preserved, but on **the consistent extension of qualified majority voting** as a unique decision making tool in the framework of the community method. Both government positions, taken in 2002, call for expanding QMV in the Council⁸⁸. Moreover, M. Kuneva as government representative in the Convention has subscribed to the view of the 16 that QMV be established “as the normal decision making mechanism”⁸⁹ in the EU system. A. Arabadjiev and N. Kutzkova also side with such an approach and even go further in the joint paper of 77 Convention members of January 2003, where they express the view that co-decision between the Council and the European Parliament should be used in all cases when Council decides by QMV⁹⁰.

In some public statements, Bulgarian representatives pay particular attention to the essence of the QMV in two aspects:

- The application of the full scale of re-weighted votes in the Council that came out of the Nice negotiations;
- The substitution of the current (post-Nice) system of weighted votes by the system of “double simple” majority.

⁸⁴ CONV 646/03

⁸⁵ M. Kuneva on 5 February 2003 & M. Kuneva on 15 May 2003

⁸⁶ CONV 590/03

⁸⁷ CONV 646/03

⁸⁸ Initial Position & Government Position of December 2002

⁸⁹ CONV 646/03

⁹⁰ CONV 590/03

As mentioned earlier, following some calls in the Convention to reconsider the Nice arrangements on the institutions, in her intervention at the last public hearing in the Convention plenary M. Kuneva demanded that “the Constitution should include the **figures for EU of 27** agreed in Nice”⁹¹ on QMV in the Council. Such a decision would be a very strong positive signal about the commitment of the EU to regard the accession of Bulgaria and Romania as part of the Eastern enlargement. On the contrary, avoiding explicit reference to the Nice figures about Bulgaria and Romania might lead to a situation where they could be re-negotiated substantially in a manner less favourable for the acceding states. On a more general note, there was a risk of discarding the Nice view of an enlargement towards a future EU of 27 members, as in 2007, and sticking to the view of an enlarged EU of 25 members, as in 2004. Concerns about such negative developments were the reason why the Bulgarian government representative did not join the proposals for amendments on the institutional chapter made by 9 government representatives in the Convention on 5 May 2003.

But there is more than that in the Bulgarian position. “Holding the grip” on Nice means also sticking to the traditional/current meaning of QMV and the logic of weighted votes. Not only prior to Nice, but also after Nice this system gives a relatively higher weight for small states, because it does not reflect their population size in an absolute proportion. Abandoning this system in favour of the proposed system of majority of member states plus majority of populations would not be positive for small states. Scepticism about such a shift is made explicit by one Convention member from Bulgaria at the earlier stages of institutional debate: In the joint paper of 77 members of January 2003, N. Kutzkova, alternate to the government representative, disagreed with the proposal to use “simple double majority” (majority of member states & majority of population) when Council decides by QMV⁹². True, after the Presidium proposed that “simple double majority” is to mean majority of member states & three fifths of population of the EU, the requirements were brought closer to the Nice thresholds and small state resistance to “simple double majority” lost its cause to a great extent. That is why M. Kuneva’s demand (on 15 May) to write down the Nice figures in the constitution should be justified mainly with arguments given in the preceding paragraph.

- **Procedures for ratification**

There are not particular positions publicly shared by Bulgarian members of the Convention in the papers written or co-written by them. The only relevant proposal can be found in the joint paper of 77 members. Its authors, including two Bulgarians, proposed, “the convention method should be formalized for treaty changes of constitutional nature”⁹³.

- **Differentiation**

In January 2000, on the eve of the Nice IGC, the Bulgarian government expressed a positive attitude to the concept of enhanced cooperation. However, this has not been a priority topic for Bulgarian politicians during the “Future of Europe” debate post-Nice and post-Laeken, including in the Convention.

⁹¹ M. Kuneva on 15 May 2003

⁹² CONV 590/03

⁹³ CONV 590/03

- **Neighbourhood policy**

The Initial Position includes a special section on “The Political Content of the European Project”, where it calls for a substantive debate in the Convention not just on constitutional, but on a number of policy issues, as well. Among them are security and defence, neighbourhood policy, control on external borders, judicial and police cooperation on criminal matters, EU as a “developmental community” and solidarity, etc. At a later stage, the Bulgarian participation in discussions on policy issues has concentrated mostly within the working groups, rather than with the help of official contributions addressed to the plenary.

4. Awareness of the European Convention

The Initial Position was adopted on 7 February 2002 by a decision of the Bulgarian government, and was followed by a special resolution of the Parliament. In most other cases the Minister of European Affairs, being the government’s representative in the Convention, has been the leading and most active figure in the formulation of positions and undertaking action, assisted by a tiny group of experts in the Foreign Ministry and by individual experts from academia and think tanks.

The major political parties have been able to follow the debate with the help of their parliamentary representatives in the Convention and have organised occasional discussion forums during the work of the Convention. They have supported, in broad lines, the stands taken by the government, including on the contentious institutional questions.

At the level of academic and civil society, the debate has become possible both via the participation of Bulgarian think tanks and experts in pan-European networks (mostly focused on the “Future of Europe” themes), as well as via the initiation of a series of discussion forums in academia. University circles logically appeared to be among those most actively involved in the domestic debate – a special “Academic network for the future of Europe” was formed gathering 9 Bulgarian universities and coordinated by the College of Europe Alumni Association in Bulgaria.

The debate has been mostly informative at the initial stage, but has gathered momentum by the end of 2002 among academic circles to create a critical mass of expert knowledge on the relevant *problématique*, which was reflected in the publication of the series “We in the European debate”, consisting of five volumes.

The media has occasionally followed the major stages of work of the Convention, but has been much more concerned with developments of the accession negotiations.

For the time being it is not envisaged to hold a referendum on Bulgaria’s accession to the EU. As far as the general link between the “Future of Europe” debate and the domestic pre-accession debate, it has not been established. Bulgarian members of the Convention have failed to establish parallels between topics discussed in the Convention and hot issues arising from pre-accession efforts and internal reforms.

Sources:

- Decision of the Council of Ministers (i.e. the Bulgarian government) of 7 February 2002 approving an “Initial Position of the Republic of Bulgaria on the debate about the future of the European Union”; available at: www.evroportal.bg; quoted further as: Initial Position;
- Resolution of the National Assembly of the Republic of Bulgaria on the “Initial Position of the Republic of Bulgaria on the debate about the future of the European Union”, adopted on 27 February 2002; available at: www.parliament.bg; quoted further as: National Assembly Resolution;
- Intervention of Ms. Nelly Kutzkova, alternate to the government representative, on 6 June 2002 on the area of freedom, security and justice, available at: <http://european-convention.eu.int/docs/speeches/937.pdf>; quoted further as: N. Kutzkova on 6 June 2002;
- Intervention of Ms. Meglena Kuneva, Minister for European Affairs and official representative of the Bulgarian government to the Convention, on 12-13 September 2002 on the simplification of legislative procedures and legal instruments, available at: <http://european-convention.eu.int/docs/speeches/2980.pdf>; quoted further as: M. Kuneva on 12-13 September 2003;
- European Convention, Final Report of Working Group II “Incorporation of the Charter / Accession to the ECHR”, CONV 354/02; further quoted as: CONV 354/02;
- Intervention of Ms. Nelly Kutzkova, alternate to the government representative, on 29 October 2002 on the report of the Working Group II, available at: <http://european-convention.eu.int/docs/speeches/4176.pdf>; quoted further as: N. Kutzkova on 29 October 2002;
- “Strengthening Democracy, Transparency and Efficiency in the EU by Enhancing the Powers of the Institutions”, Position of the Government of the Republic of Bulgaria, December 2002; published in: NIKOLOV, Krassimir (ed.), “*We in the debate on Europe*”, vol. 4 in the series “We in the European debate”, ABSKEB / Academic Network for the Future of Europe, Sofia, 2003; quoted further as: Government Position of December 2002;
- Address of Ms. Meglena Kuneva, Minister for European Affairs and official representative of the Bulgarian government to the Convention, to a debate held on 5 February 2003 during an open session of the European Integration Committee of the National Assembly; published in: NIKOLOV, Krassimir (ed.), “*We in the debate on Europe*”, vol. 4 in the series “We in the European debate”, ABSKEB / Academic Network for the Future of Europe, Sofia, 2003; quoted further as: M. Kuneva on 5 February 2003;
- European Convention, Contribution to the Convention Debate on the Functioning of the Institutions, by Mr. Daniel Valtchev, chairman of the European Integration Committee of the National Assembly and official representative of the Bulgarian parliament to the Convention, CONV 493/03, 16 January 2003; quoted further as CONV 493/03;
- European Convention, “Premises and principles of EU institutional reform”, CONV 590/03, 28 January 2003, signed by 39 full members & 38 alternative members of the Convention, including Mr. Alexander Arabadjiev & Ms. Nelly Kutzkova (alternates to the representatives of the parliament and the government respectively); quoted further as: CONV 590/03;
- European Convention, “Reforming the Institutions: Principles and Premises”, CONV 646/03, 28 March 2003, signed by 16 government representatives (later 18 signatories in total), including Ms. Meglena Kuneva, Minister for European Affairs and official representative of the Bulgarian government to the Convention; quoted further as: CONV 646/03;
- Intervention of Ms. Meglena Kuneva, Minister for European Affairs and official representative of the Bulgarian government to the Convention, at the plenary session of the

Convention on 15-16 May 2003 on the institutional provisions of the future constitutional treaty, available at: www.evroportal.bg; quoted further as: M. Kuneva on 15 May 2003;

- Decision of the Council of Ministers (i.e. the Bulgarian government) of 22 May 2003 approving a “Revised Position of the Republic of Bulgaria on the debate about the future of the European Union”; quoted further as: Revised Position.

National Report Czech Republic

by Petr Krotohvil, Institute of International Relations, Prague

The European Convention does not play a prominent role in Czech Foreign Policy discourse: It is overshadowed by the enlargement negotiations and preparations. Citizens generally do not know almost anything about the Convention and the media coverage is also rather poor. Therefore, it is not an easy task to answer the presented questions in detail. When trying to do so, I have encountered a somewhat confusing mixture of sometimes sharply differing opinions. Unfortunately, there are differences not only among Czech political parties, the parties and Government or academia but also within each of these groups.

I describe below the positions of the four main political groupings:

- ÈSSD – the Czech Social Democratic Party, which has won the last elections and is the biggest party in the current government, the Party declares to be “pro-European”⁹⁴
- Coalition (formerly 4K) – originally a coalition of four smaller parties that disintegrated later; the bigger two parties of the coalition (KDU-ÈSL and US) became members of the coalition government with the ÈSSD
- ODS – the Civic Democratic Party, the biggest opposition party, labelling itself “Euro-realist”, which is interpreted by its opponents as “Euro-sceptical”⁹⁵
- KSÈM – the (Bohemian and Moravian) Communist Party, in some respects probably the most Euro-sceptical part of the Czech political spectrum (apart from some negligible extremists), its criticism is often directed against the membership of the Czech Republic in the EU (under the leitmotiv of bad accession conditions⁹⁶)

I also analyse the documents from:

- Several think-tanks, above all the Institute of International Relations,⁹⁷ Prague, and Europeum (a pro-European think-tank that also takes active part in the Czech debate about the future of Europe)⁹⁸
- Senate of the Czech Republic (the upper chamber of the Parliament)⁹⁹

⁹⁴ For examples of the ÈSSD’s view of the Czech future in the EU see Politika ÈSSD ve vztahu k evropskému sjednocování (The Policy of the ÈSSD in Relation to the European Unification), an analysis from the official ÈSSD web site: http://www.socdem.cz/vismo/index.asp?tz=2&?u=422010&id_org=422010&id=109860, or, in more detail: Euromanifest ÈSSD: Èlenství v Èvropské unii – historická pøležitost pro Èeskou republiku (ÈSSD Euromanifesto: Membership in the European Union – a historical opportunity for the Czech Republic). http://www.cssd.cz/vismo/index.asp?tz=2&id_org=422010&id=112051

⁹⁵ Cf. e.g. Zahradil, J., Plecický, P., Adrián, P. and Bednáø M.: Manifest èeského eurorealismu (Czech Eurorealist Manifesto). Dokument k ideové konferenci ODS 21.4.2001

⁹⁶ Cf. Stanovisko KSÈM pro referendum ke vstupu Èeské republiky do Evropské unie (Opinion of the KSÈM on the referendum on the accession of the Czech Republic to the European Union) http://www.kscm.cz/news_detail.asp?menu=1&necId2=175&necId=175&newId=556

⁹⁷ Ústav mezinárodních vztahù (Institute of International Relations). www.iir.cz

⁹⁸ <http://www.europeum.org/EN/default.asp>

⁹⁹ See Czech Senate’s web site (www.senat.cz) and especially its section dedicated to the Future of Europe (<http://www.senat.cz/ISO-8859-2.cgi/evropa/>).

- Internet journal Integrace which copes with questions on the EU¹⁰⁰
- Websites of some politicians, especially those who represent the Czech Republic in the Convention¹⁰¹

1. Results of work of the Convention

Most of the political parties (and also Czech Government) share the opinion that the result of the work of the Convention should be a single document that would state the main principles and objectives of the Union. What is still being disputed is what should be included in the document. While the ÈSSD does not speak with one voice about whether the basic document should be a proper constitution or not, the ODS is strictly against a constitutional settlement. The ODS, nevertheless, believes there should be a quasi-constitutional document which would set barriers to further integration.

Mr. Jan Kohout (ÈSSD), nominated to the Convention by the Government, also hopes for the constitutional document to be as detailed as possible. The reason for this is, however, quite different from the reason that can be heard in the ODS circles: Mr. Kohout does not want to leave much space for further negotiations of the IGC. Although the Czech Republic (ÈR) will be probably given a vote at the IGC, it is clear, in Mr. Kohout's view, that the chances of the ÈR of influencing the negotiations of the IGC are not very high. Mr. Kohout believes that the result of the Convention should be consensual, i.e. he does not consider voting to be an appropriate working method for the Convention.¹⁰²

The Coalition (or what was formerly known as 4K), i.e. the KDU-ÈSL and the US also support the creation of a single document and understand the constitution as a means for strengthening of political identity of the Union.¹⁰³

- **The structure of the new constitutional treaty and the Charter of the Fundamental Rights**

According to the ruling parties (ÈSSD, KDU-ÈSL and US), the Charter, together with the catalogue of competencies, should be incorporated into the document. The Constitution should also integrate the texts of all existing Treaties.

The Charter itself is considered vital not only by the left part of the political spectrum (ÈSSD, KSÈM) but also by the former 4K (Coalition) which even considers it to be one of the key parts of the future Constitution.

The Communists qualify their support for the inclusion by stressing that the complete European Social Charter should be added to the Charter of Fundamental Rights.

¹⁰⁰ <http://www.integrace.cz/>

¹⁰¹ Mr. Jan Zahradil (<http://www.zahradil.cz/html/index.htm>), Mr. Josef Zieleniec (<http://www.zieleniec.cz/konvent/JZokonventu/konvent-integrace.html>)

¹⁰² Cf. Rozhovor s Janem Kohoutem, vládním delegátem v Konventu (Interview with Jan Kohout, delegate of the Government in the Convention), 30th October 2002, Integration, <http://www.integrace.cz/integrace/clanek.asp?id=612>

¹⁰³ The author draws much of the information relevant for this questionnaire from Drulák, P., Königová, L.: Debata o budoucnosti Evropy a ÈR (Debate about the Future of Europe and ÈR). Report form the research project, MZV ÈR, ÚMV, Praha, March 2003

Hence, the ODS is by and large the only important political party that explicitly rejects the Charter of Fundamental Rights as a legally binding document. More to that, Mr. Jan Zahradil who is at the same time member of the ODS and of the Convention explicitly rejects the concept of a European convention and proposes instead a “Europe of Democracies”.¹⁰⁴

The governmental delegate to the Convention advances a view that the constitutional document shall be divided into two parts. First would be of higher quality – only IGCs would have the right to make amendments to it; whereas the other part would be more subject to change – its revision would be possible at the level of summits of the European Council.

Europeum believes that the Constitution should incorporate the following parts:

- the catalogue of competencies
- horizontal division of competencies among EU institutions
- definition of the citizenship of the EU a catalogue of fundamental rights (similar to the Charter or the Charter itself)
- mechanism of changes of the Founding Treaties
- sectoral provisions about the respective policies (this could, however, be part of a special “implementing” treaty)

2. Institutions

In this section, I will concentrate on three documents: official position of the Czech government and two papers drafted by independent think tanks (the IIR and Europeum on EU institutional reform.

As for the overall character of the debate about the institutional architecture, there are only two streams present in the Czech discourse: the intergovernmental and the supranational. Post-Westphalian notions of transcending the nation-state are as good as absent and they can be traced only in the speeches of the former President Václav Havel.¹⁰⁵

Whereas the Communist Party recommends its voters to vote down the referendum on EU accession, it is not against the idea of the European integration on the whole. The KSÈM welcomes the principle of solidarity and the European model of social state.

The Tory-like ODS, is the strongest supporter of uncontested power of Member States. This is also reflected in their proposals about the institutional reforms. The Party rejects any rise in powers of the EP, the European Commission should not be strengthened either. The Council is viewed as the most legitimate European institution. Veto in vital areas must be therefore maintained.

The ruling parties, on the other hand, are vocal advocates of further deepening of the integration project. This can be clearly seen when reading the governmental “Non-paper on the reform of the EU institutions.” Their enthusiasm about the EU is nevertheless not unlimited. This stance is clear enough if we take into account the fact that the ÈR is a country, which gained its real

¹⁰⁴ Evropa demokracií místo státní ústavy EU (Europe of Democracies Instead of a State Constitution of the EU). 7. 11. 2002, <http://www.zahradil.cz/html/publikace/new/projevy/projevy071102.htm>

¹⁰⁵ Cf. Havel’s speeches (in English), http://www.hrad.cz/kpr/evropa/index_uk.html

sovereignty only about a decade ago. In fact, even the proposals made by the pro-European parties (ÈSSD, KDU-ÈSL, US) are fairly modest and sober in most respects. To put it differently, “in general terms the Czech Republic advocates positions of a pro-integration oriented middle-sized acceding new Member State that is interested in stronger, transparent and comprehensible EU.”¹⁰⁶

2.1. Non-paper on the reform of the EU institutions¹⁰⁷

This document expresses the views of the Czech government (ÈSSD, KDU-ÈSL, US) and its delegate to the Convention Mr. Jan Kohout.

- **Council**

The non-paper rejects the idea of a permanent President. The government sees positive aspects of the current rotating presidency but is aware of its drawbacks, especially in the Union of 25. ÈR supports the idea of combined team and sectoral Presidency, which would bear in mind the balance between small and large states, the rich and poor, the old and new ones.

- **European Foreign Minister**

The ÈR basically agrees. The “double-hatted” representative would act as a Vice-President of the EC and would have two deputies – one for external relations in the Commission and the other for the external affairs in the Council.

- **Commission**

The election of the President should be in accordance with the balance of “both fundamental sources from which legitimacy for decision-making in the EU is derived.”¹⁰⁸ This means both the European Council and the EP should take active part in the election. The candidates should be nominated by the European Council. The EP would elect her/him. And the President her/himself would select the Commissioners who would have to be confirmed by the EP. The Government believes, the interests of the ÈR will be best served if the principle one state –one commissioner remains valid. The sheer number of 25 commissioners does not translate into less effectiveness in itself.

- **European Parliament**

Parliament’s right of co-decision is welcomed, the other procedures associated with the QMV in the Council (consultation, cooperation) should be abolished. The EP should get full budgetary rights, i.e. “the approval of the budget is expected to take its final phase in the EP”.¹⁰⁹ This is, however, such a fundamental change that is must be accompanied by a clear statement (in the Constitutional treaty) of how the EP can be dissolved. “Provided the abolition of non-mandatory

¹⁰⁶ Mission of the ÈR to the EC, <http://www.mzv.cz/missionEU/convention.htm>

¹⁰⁷ Non-paper on the reform of the EU institutions. <http://www.mzv.cz/missionEU/Czech-non-paper-reform-institutions.doc>

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

spending means establishing the right to get a Community share for co-funding legally guaranteed, e.g. within the regional policy, this can only be welcomed.”¹¹⁰

- **Institutional balance**

The only note about the balance among the institutions says that it is necessary to finalise the question of who, when and how would have the right to dissolve the Parliament.

2.2. The IIR research project “Debate about the Future of Europe and ÈR”

The second compact formulation of the Czech position towards the debate about the institutional reform is Debate about the Future of Europe and ÈR:¹¹¹

- **Council**

The results of voting should be published (as regards both legislative and executive matters). The sessions of the Council should be open to the public in case of legislative questions. Unanimity should be applied to those areas where a newcomer has vital interests (e.g. taxes). The rotation principle causes ineffectiveness, inconsistency and discontinuity, but, on the other hand, increases legitimacy of the Union in the eyes of the domestic public. Three models are proposed:

- Preserving the rotation: The principle could be modified, e.g. the sandwich method (big-small/old-new) or rotation of groups.
- Supranational model: Presidency in the hands of the Commission
- Compromise: a permanent secretariat, its members would be the ministers for European affairs, fixed time-tables and assessment of the progress would be inevitable, a “report on the state of the Union” or a sanction mechanism would be useful as well.

- **Commission**

The paper proposes three alternatives as to the possibilities of electing the President: (S)he could be appointed by the European Council, or elected by the EP or directly by the citizens. The third variant would, however, probably be disadvantageous for small countries. Therefore, the election by the EP is the recommended option.

- **European Parliament**

The co-decision procedure should be extended to all areas where the Council decides by QMV.

- **Institutional balance**

The present system secures the required balances and checks sufficiently well.

¹¹⁰ Ibid.

¹¹¹ Drulák, P., Königová, L.: Debata o budoucnosti Evropy a ÈR. (Debate about the Future of Europe and ÈR) Zpráva z výzkumného projektu MZV ÈR, ÚMV, Praha, March 2003

2.3. “Europeum Paper”

The third, and probably the most comprehensive statement about the Czech vision of the future of Europe has been presented by Europeum.¹¹²

- **Council**

There shall still be a European Council in the future. The current system of presidency would be, however, abolished and replaced by a permanent President who would be both the head of the Commission as well as the Council at the same time. The European Council would nominate the President of the Commission and the Commissioner for external relations. The President would afterwards appoint the other members of the Commission who would be collectively approved by the lower chamber of the EP. The European Council would de facto serve as the collective head of the EU.

- **European Foreign Minister**

The European Foreign Minister (in the paper he is called Commissioner for the external relations) shall be a member of the Commission. He shall be nominated by the European Council.

- **Commission**

The Commission shall remain the sole executive institution. It should be dependent on the vote of the lower chamber of the EP and it should, gradually, become a mirror image of the political parties and their representation in the Parliament. The Commission shall not be the only institution with the right of legislative initiative. This should also be vested into both the chambers of the EP. (The required quorum would be absolute majority in the lower chamber and unanimity in the upper chamber.)

- **European Parliament**

The EP should be composed of two chambers; the lower would be constituted on the basis of the current EP, and it should be elected with the help of a unified electoral system. The lower chamber should have the right of co-decision for every legislative act. The current state of affairs allowing the EP to vote on the accession and not on the changes of Treaties is unjustifiable. Europeum proposes two ways of dissolution of the EP – either by itself or pursuant to a unanimous decision of the European Council.

The upper chamber would be created from the current Council of the EU and would thus represent the interests of Member States. The upper chamber should be permanent too. The optimal way seems to be creation of the function of European ministers who would become MPs of the upper chamber. The current system of QMV/unanimity would remain intact.

- **Institutional balance**

¹¹² Background notes for the Czech position in the Convention on the Future of the European Union. Podklady pro české pozice v Konventu o budoucnosti Evropské unie. Europeum - Fórum pro evropskou politiku.

It is necessary to make the structure of and relations among the Union's institutions more transparent. They should more closely resemble the traditional model of separation of the three branches of power.

3. Decision-making

A real debate about the advantages of QMV and its drawbacks has actually yet not started; ministerial clerks were rather used to follow the instructions from Brussels. Even the Czech Government or the Czech representatives in the Convention have not – apart from general statements – fully specified what their positions on the questions of unanimity and QMV are.

At the end of the last year, however, three research fellows (Petr Drulák, Lucie Königová, and Petr Kratochvíl) from the Prague Institute of International Relations carried out an extensive research under the title “Qualified majority voting and the interests of the Czech Republic”.¹¹³ The research was performed on behalf of the Czech Ministry for Foreign Affairs and should serve as a guide for the Czech participation in the discussion in the Convention. We interviewed many members of the Czech administration, especially high-ranking representatives of various ministries. The results shown below are not the final result of the survey; they just reflect the state of affairs after the first phase of the project. It will be further refined by consulting independent experts, discussion with interested public, pressure groups, etc. The results should be, therefore, considered preliminary.

Here, I present a part of the resulting report (first phase), which I suppose should give a clear picture about the matter:

Qualified majority voting (QMV) shall be a rule for the following articles¹¹⁴

- Art. 18 Free movement of persons
- Art. 42 Measures in the field of social security
- Art. 47(2) Mutual recognition of diplomas
- Art. 57(2) Restrictions of the movement of capital
- Art. 62 Measures in the field of visas
- Art. 63 Measures on asylum and refugees
- Art. 67(5) Provisional measures
- Art. 71(2) Necessary measures in the field of transport
- Art. 80 Measures on transport
- Art. 88(2) Compatibility of State aid with the rules of the Common Market
- Art. 93 Harmonisation of indirect taxation
- Art. 94 Approximation of laws and other provisions
- Art. 133 Common trade policy
- Art. 137 Improvement of working conditions; minimum requirements; social measures (except for 1c)
- Art. 139 Social dialogue (except for matters relating to art. 137 (1)c)
- Art. 175(2) Environmental protection

¹¹³ The result of the project has not been published yet.

¹¹⁴ Numbering according to the text of the Nice Treaty)

- Art. 213 (1) Alterations of the number of members of the Commission
- Art. 222 Increases in the number of Advocates-General
- Art. 308 Measures to attain the objectives of the Community

Unanimity is the preferred option of the Czech Republic for the following provisions:

- Art. 13(1) Actions to combat discrimination
- Art. 19(1) Right to vote
- Art. 137 (1c) Improvement of working conditions; minimum requirements; social measures
- Art. 139 (measures relating to Art. 137 (1)c)
- Art. 225 (2) Court of First Instance
- Art. 245 Statute of the Court of Justice, Rules of Procedure
- Art. 269 Own resources

The Europeum think-tank is convinced there are areas in which preserving national sovereignty must be the guiding principle but, in addition, these areas should be explicitly listed in order to calm the Eurosceptic part of the European population. These areas could be for example constitutional affairs of Member States, official languages, education, social security, health care system, etc.¹¹⁵

- **Procedures for ratification**

The representative of the Government believes the “constitutional part” of the new treaty should be subject to change by IGCs only and the other part (policies) could be amended by the European Council as well.

The Europeum think-tank believes that treaty changes should be subject to a unanimous vote by the European Council. The procedure should nevertheless include the approval of the lower chamber of the EP, as well as the ratification of the treaty in all Member States. Generally, for treaty changes the method of the Convention should be always used so as to allow the widest possible participation by the public, national parliaments, etc.¹¹⁶

- **Differentiation**

The Czech Government (i.e. above all the ÈSSD) accepts the possibility of enhanced cooperation, which shall not lead to a permanent division between first-class and second-class memberships. The ODS rejects the concept of “avant-garde”, only full-fledged membership with equal rights for everyone is acceptable. The Communists prefer “a looser bundle of several groupings, one of them from among relatively more advanced Central European countries.”¹¹⁷

¹¹⁵ Background notes for the Czech position in the Convention on the Future of the European Union. Podklady pro èeské pozice v Konventu o budoucnosti Evropské unie. Europeum - Fórum pro evropskou politiku, Rytířská 31, Praha 1.

¹¹⁶ Ibid.

¹¹⁷ Königová, L.: An Ever Closer Finalité: Czech Future of Europe Discourse. Slovak Foreign Policy Affairs 1/2002, pp. 32-47

Mr. Zahradil (ODS, delegate to the Convention) speaks about a possibility of enhanced cooperation after unanimous decision by the EU (in the quoted document he calls the EU “Europe of Democracies”). The countries must respect the possible future decisions by the Council.¹¹⁸

The Europeum paper¹¹⁹ mentions the concept of enhanced cooperation only in connection with transfer of competencies. The aim of the transfer (which would be possible only in the upward direction) would be increase of effectiveness of the Union. This means that the think-tank does not refute the possible use of enhanced cooperation in the future.

4. Czech debate and its priorities: role of national parliaments, CFSP and EMU

- **The role of national parliaments**

Sometimes, the role of national parliaments is discussed. The two biggest parties (ÈSSD and ODS) maintain that the role of national parliaments should be enhanced. While the Social Democrats support parallel strengthening of both the EP (especially in the budget sector) and national parliaments, the Civic Democrats (ODS) suggest that the EP should be added an upper chamber (Chamber of Nations), which would in turn be constituted from national parliaments. The upper chamber would become afterwards a key European player.

- **CFSP**

According to the Czech Foreign Policy Conception, the CFSP is one of the very important steps towards deepening of the integration process and the ÈR is ready to participate in it more actively already before the accession takes place.¹²⁰

In reality, there is, however, no common Czech position on the issue. This is probably due to the conflicting conceptions of the “Atlanticists” who believe that NATO should be the sole guarantor of Czech security and “Europeanists” who support more Europe-oriented approach. Both aforementioned groups believe that NATO is more appropriate for hard security whereas the EU and its CFSP is more suitable for soft security matters such as peace keeping operations, etc. Therefore, much emphasis is put on the EU-NATO relations, which are seen as the fundamental question for any discussion of the Czech security milieu.

- **EMU**

The European Monetary Union gains surprisingly strong rhetorical support from the Government. The “Coalition” speaks even about “the fastest possible joining” of the EMU.¹²¹ The ODS, on the other hand, believes such considerations are still premature.

¹¹⁸ Cf. Evropa demokracií místo státní ústavy EU (Europe of Democracies Instead of a State Constitution of the EU), 7. 11. 2002, <http://www.zahradil.cz/html/publikace/new/projevy/projevy071102.htm>

¹¹⁹ Background notes for the Czech position in the Convention on the Future of the European Union. Podklady pro èeské pozice v Konventu o budoucnosti Evropské unie. Europeum - Fórum pro evropskou politiku, Rytířská 31, Praha 1.

¹²⁰ Koncept zahranièní politiky (Foreign Policy Conception). MZV ÈR, http://www.mzv.cz/_dokumenty/koncepce_b1.html

5. Awareness of the European Convention

First of all, I would like to stress that the European Convention does not play a prominent role in the Czech Foreign Policy discourse: It is overshadowed by the enlargement negotiations and preparations. The connection between the debate about the future of Europe and the referendum is, therefore, virtually non-existent.

- **Government**

The policy statement of the new Government, which was published in August 2002 dedicates an entire chapter to the European Union and its enlargement. But this statement is somewhat vague. The programme also mentions the debate about the future of Europe: “The Government will actively take part in debate on the future of the European Union, both within the framework provided by Convention and in the following intergovernmental conference which will decide on the form of the Union in the next future. In this debate, the government will urge for a further deepening and enlargement of the economic and political integration of Europe, including its social welfare dimension, strengthening its democratic nature and supranational elements and their development, while respecting the national and cultural independence of individual states and regions on the basis of the principle of subsidiarity.”¹²² In practical terms, however, the Government has not succeeded in reaching the wider audience.

- **General public and media**

The general public is almost totally ignorant of the Convention and its activities. But it would not be fair to blame for this situation the Government only. The Convention and its complicated discussion about questions which are commonly subsumed under the term „technicalities“ of the integration process (e.g. institutional reform) are not suitable for newspaper headlines and Czech media are quite reluctant to inform the public about the current developments in the negotiations. One wonders, however, whether the situation in other candidate or member states is any better because catalogues of competencies are not exactly breaking news and, in my opinion and they hardly attract the attention of the public irrespective of the country. The Czech public has not yet been convinced that the issues discussed in the Convention (and the Convention itself) are important for their own future.

If trying to look up the press articles about the Convention (since the beginning of the year 2002) on the website of the most popular Czech newspaper (Mladá fronta Dnes), one would find a mere dozen of articles or so. Similarly, the coverage of other newspapers is not better and the articles about the Convention are almost always hidden somewhere under the title „Briefly from the EU“ or the like.

- **National Forum**

The Future of Europe is nevertheless quite often subject of debates in academic circles and sometimes also in specialised organisations. The interested organisations (including NGOs,

¹²¹ Drulák, P., Königová, L.: *Debata o budoucnosti Evropy a ĚR*. (Debate about the Future of Europe and ĚR) Zpráva z výzkumného projektu MZV ĚR, ÚMV, Praha, March 2003, p. 13

¹²² Statement of Government Policy of the Czech Republic. Prague, August 2002, <http://www.vlada.cz/1250/eng/vlada.htm>

academic institutions, think tanks, professional bodies, churches, regional governments, etc.) became members of the so-called National Forum (Národní fórum).¹²³

The setting up of the National Forum was preceded by an internet discussion on the website of Czech Foreign Ministry about the impact of the Laeken Declaration on the future of Europe.¹²⁴ Afterwards, Foreign Ministry agreed with the foundation of an informal National Forum where wider public could discuss the future of Europe. The Senate Committee on European Integration was entrusted with the coordination of the activities of the National Forum. On the whole, the National Forum works quite satisfactorily. Above all activities of the academia are in strong contrast to the almost total lack of interest on the side of citizens.

Sources:

- Background notes for the Czech position in the Convention on the Future of the European Union. Podklady pro české pozice v Konventu o budoucnosti Evropské unie. Europeum - Fórum pro evropskou politiku, Rytířská 31, Praha 1
- Drulák, P., Königová, L.: Debata o budoucnosti Evropy a ĚR. (Debate about the Future of Europe and ĚR). Report from the research project, MZV ĚR, ÚMV, Praha, March 2003
- Havel, V. (speeches). http://www.hrad.cz/kpr/evropa/index_uk.html
- Euromanifest ĚSSD: Clenství v Evropské unii – historická příležitost pro Ěskou republiku (ĚSSD Euromanifesto: Membership in the European Union – a historical opportunity for the Czech Republic). http://www.cssd.cz/vismo/index.asp?tz=2&id_org=422010&id=112051
- Europeum. <http://www.europeum.org/EN/default.asp>
- Evropa demokracií místo státní ústavy EU (Europe of Democracies Instead of a State Constitution of the EU), 7. 11. 2002, <http://www.zahradil.cz/html/publikace/new/projevy/projevy071102.htm>
- Integrace. <http://www.integrace.cz/>
- Koncept zahraniční politiky (Foreign Policy Conception). MZV ĚR, http://www.mzv.cz/dokumenty/koncepce_b1.html
- Königová, L.: An Ever Closer Finalité: Czech Future of Europe Discourse. Slovak Foreign Policy Affairs 1/2002, pp. 32-47
- Mission of the ĚR to the EC, <http://www.mzv.cz/missionEU/convention.htm>
- Národní fórum (National Forum). Senate, <http://www.senat.cz/ASCII.cgi/evropa/narforum.html>
- Non-paper on the reform of the EU institutions. <http://www.mzv.cz/missionEU/Czech-non-paper-reform-institutions.doc>
- Politika ĚSSD ve vztahu k evropskému sjednocování (The Policy of the ĚSSD in Relation to the European Unification). An analysis from the official ĚSSD web site http://www.socdem.cz/vismo/index.asp?tz=2&?u=422010&id_org=422010&id=109860
- Rozhovor s Janem Kohoutem, vládním delegátem v Konventu (Interview with Jan Kohout, delegate of the Government in the Convention), 30th October 2002, Integration, <http://www.integrace.cz/integrace/clanek.asp?id=612>

¹²³ The list of participating organisations can be found on <http://www.senat.cz/ASCII.cgi/evropa/nfucast.html>

¹²⁴ www.euroskop.cz

- Senát České republiky (Czech Senate). www.senat.cz
- Stanovisko KSĚM pro referendum ke vstupu České republiky do Evropské unie (Opinion of the KSĚM about the referendum on the accession of the Czech Republic to the European Union). http://www.kscm.cz/news_detail.asp?menu=1&necId2=175&necId=175&newId=556
- Statement of Government Policy of the Czech Republic. Prague, August 2002, <http://www.vlada.cz/1250/eng/vlada.htm>
- Ústav mezinárodních vztahů (Institute of International Relations). www.iir.cz
- Zahradil, J. (personal web site). <http://www.zahradil.cz/html/index.htm>
- Zahradil, J., Plecítý, P., Adrián, P. and Bednář M.: Manifest českého eurorealismu (Czech Eurorealist Manifesto). Dokument k ideové konferenci ODS 21.4.2001
- Zieleniec, J. (personal web site). <http://www.zieleniec.cz/konvent/JZokonventu/konvent-integrace.html>

National Report Estonia

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1. Results of work of the European Convention

The Estonian government welcomes the preparation of a new Constitutional Treaty and, in general, approves of the proposal presented to the Convention by Valéry Giscard d'Estaing and the *Presidium*. Speaking at the Convention ten days after the draft treaty had been presented, a representative of the Estonian government, Hendrik Hololei argued that the preparation of a constitutional treaty is a necessary objective, “as the ambitious aims that have been set for us cannot be achieved by a simple brushing up of the existing treaties. A new constitutional treaty will help to consolidate and simplify the basic legal foundations of the Union.”¹²⁵ While it was initially unclear whether the Convention should produce a single document or an option paper presenting different solutions, the advantages of the former approach have become increasingly evident. Most participating states now agree that the work of such a high-level Convention cannot be limited to delineating problems and defining tasks to be tackled – it must lead to tangible solutions. The fact that many of the larger member-states (Spain, Germany, France, and Greece) have upgraded their involvement by replacing the original representatives with the Foreign Ministers has added weight to this argument. These developments suggest that the Convention is becoming a *de facto* intergovernmental conference (or at least the first phase of it). It is thus likely that about 95 per cent of the solutions proposed by the Convention will make it to the new constitutional treaty. While it will be possible to debate some of the more controversial issues later, it is hard to imagine that any of the participants would propose extensive changes to the general logic and structure of the draft after a year of intense discussion at the Convention.

Estonia's reaction on the proposal presented to the Convention on October 28, 2002 by Giscard and the *Presidium* was generally positive. A position paper, approved at a cabinet meeting in November 2002, states that the draft treaty is “a good foundation for the future work of the Convention” that will help make further debates more concrete.¹²⁶ The document notes several positive aspects of the proposal such as the simplification of the existing treaty structure, the elimination of the pillar structure of the Union, establishment of the legal personality of the Union, formalizing the role of the European Council, and incorporation of the Charter of Fundamental rights into the treaty. The government agrees with the proposed three-part structure of the treaty (Constitutional Structure, Union Policies and their implementation, General and Final Provisions). According to a representative of the Estonian government at the Convention, it is reasonable to separate “the basic premises from the implementation of policies.”¹²⁷ The Estonian government agrees with the position, widely supported in the Convention, that the EU should be granted a legal personality (Article 4) that would replace the legal personalities of the European Communities. The government stresses the need to clarify the division of competencies, and regards this as one of the key objectives of the work of the Convention. A

¹²⁵ Statement by Mr. Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on the Architecture of the Constitutional Treaty, 7-8 November 2002, *Brussels*. All statements by Estonian representatives at the Convention cited in this article are available at www.eib.ee.

¹²⁶ Positions of the Government of the Republic of Estonia in the European Convention, November 2002.

¹²⁷ Hololei, *Ibid*.

clear delineation of Union competencies (Title III) is expected to contribute to the transparency and effectiveness of decision-making and make the activities of the Union more comprehensible. At the same time, there is no need for a rigid catalogue of competences as this would hinder the dynamic development of the Union and obstruct its ability to react to new circumstances.

Despite its generally favourable reaction to the draft, Estonia has proposed a number of changes and amendments. Above all, Estonia is opposed to any references to federalism while simultaneously arguing that the treaty should place more emphasis on the sovereignty and equality of member states. This general principle is reflected in a number of concrete propositions. Estonia is opposed to the use of the phrase „on a federal basis“ in Article 1 on the establishment of the Union.¹²⁸ Speaking at the convention, a representative of the Estonian government pointed out that the inclusion of this phrase would lead to “a linguistic and legal debate about the true meaning of “federalism” as in each Member (and candidate) State we tend to understand this term in a different manner.”¹²⁹ In a similar vein, a position paper of the Estonian government argues that Article 2 of the treaty should contain a reference to sovereignty as a fundamental value. Furthermore, Estonia supports adding a special “member state protection clause” to the treaty (the so-called Christophersen clause named after the author of the proposal). The clause would stipulate that the EU respects the national identity, administrative and political structure, political choices and societal values of all of its member states (reflected in the educational system, social policy, military service, etc). This does not mean that the EU cannot take measures in these policy areas but is simply meant to ensure that the unique values and interests of member states continue to be safeguarded. Estonian reactions to the draft treaty also reflect domestic concerns about the survival of the Estonian language and culture in the EU. Estonian representative in the Convention has expressed concern over the fact that the “skeleton” makes no mention of linguistic diversity in the Union, leaving open the question of official languages.¹³⁰

The government’s position paper from November 2002 lists a number of specific points where amendments should be made. First, Estonia is opposed to the establishment of a Congress of the European Peoples (Article 19) which is believed to further obfuscate the institutional system. Second, the Estonian government has strong hesitations about the establishment of double citizenship (Article 5), arguing that because member-state and Union citizenship create very different rights and obligations, this issue must be given careful consideration. An Estonian representative at the Convention pointed out that dual citizenship is not allowed in certain countries, which in itself could lead to unwanted debates. Third, Estonia is uneasy with the title on “The Union and its immediate environment” (Article 42), arguing that it “may to some remind a similarly sounding term employed by one of the neighbours of the Union in a very different context.”¹³¹ As this quote suggests, the title is likely to evoke undesirable associations with great power politics exemplified by Russia’s practice of using the geopolitically charged concept of the *near abroad* to denote countries of the former Soviet Union. Such undesirable associations could strengthen the eurosceptic cliché of comparing the European Union to the Soviet Union and intensify the historical sensitivities of the Estonian public.

¹²⁸ Positions of the Government of the Republic of Estonia in the European Convention, November 2002.

¹²⁹ Statement by Mr. Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on the Architecture of the Constitutional Treaty, 7-8 November 2002, *Brussels*.

¹³⁰ *Ibid*.

¹³¹ Hololei, *ibid*.

Estonian government strongly favours the incorporation of the Charter on Fundamental Rights in the new Constitutional Treaty. The Charter on Fundamental Rights is seen as being based on the same values and democratic principles that have been central to the democratic transition of the Central and Eastern European countries. Making the Charter binding by incorporating it in the Constitutional Treaty would have a positive effect on strengthening the link between the Union and its citizens. However, the precise method of incorporating the charter depends on the ultimate structure of the new treaty. The Estonian government sees two main options. The Charter could be fully incorporated in the text of the treaty or, alternatively, a clear reference to the Charter would be made in the constitutional section of the treaty. In addition, the government supports the position that EU should accede to the Convention for the Protection of Human Rights and Fundamental Freedoms in order to guarantee uniform application of fundamental rights and to prevent possible conflicts between two jurisdictions. Arguably, acceding to the convention would improve the reputation of the EU because it would prevent the formation of an exclusive system for the protection of human rights inside the EU, consistent with the negative image of the Union as Fortress Europe. The existence of separate systems of human rights protection for the EU and third states would not erase but strengthen symbolic dividing lines in Europe.¹³²

2. Institutions

Estonia's general positions and principles with regard to institutional reform are summarised in a joint position paper of "small states" presented to the Convention on March 28, 2003. The document was signed by the representatives of 16 small states, including Lennart Meri, the representative of Estonia.¹³³ The main principles of the document include preserving and strengthening the Community Method, maintaining the existing institutional balance, and ensuring the equality of all member states.

- **European Council/Council**

The Estonian government is opposed to the creation of a full-time Presidency of the European Council, which would tip institutional balance "in an undesirable direction."¹³⁴ Along with the other 15 signatories of the joint position paper, Estonia believes that the rotating presidency is "a symbol of the equality of the Member States and is a bridge between their peoples and the Union."¹³⁵ Estonian representatives at the Convention have argued that the current system of rotating presidencies has "considerable merits especially in bringing the Union closer to citizens, giving national administrations an ownership feeling, and providing fresh impetus twice a year to the efficient functioning of the Union."¹³⁶ The importance of rotation in guaranteeing equality of member states has been emphasized by Hendrik Hololei who argues that the right to chair "the most powerful form of cooperation of States in the world" gives every Member State international visibility and stresses the European values of equality and solidarity. For Hololei, the disadvantages of the rotating system, such as a lack of continuity, are "largely managerial"

¹³² Report to the Government of the Republic of Estonia on the Convention of the European Union, by Hendrik Hololei, Alternate Member of the Convention, November 6, 2002.

¹³³ „Reforming the Institutions: Principles and Premises,“ Contribution 288 to the European Convention, CONV 646/03, 28/03/2003.

¹³⁴ Positions of the Government of the Republic of Estonia in the European Convention, November 2002.

¹³⁵ „Reforming the Institutions: Principles and Premises,“ Contribution 288 to the European Convention, CONV 646/03, 28/03/2003.

¹³⁶ Intervention by Mr. Tunne Kelam at the plenary session of the European Convention, 20-21 January 2003.

and can be easily corrected by means such as long-term sectoral planning and work-plans, closer cooperation between presidencies, ensuring better cohesion of different policy areas and strengthening the role of the Secretary General of the Council and the High Representative.¹³⁷ An Estonian representative at the Convention has also suggested that, at the level of the Council of Ministers, the General Affairs Council should be formally separated from the External Relations Council to ensure better preparations of the European Council.¹³⁸

- **European Foreign Minister**

Estonia agrees with the generally shared position that the Union must have more visibility in the field of foreign policy. According to a vision laid out by Hendrik Hololei, this visibility could be increased by strengthening the role of the High Representative who could become the true 'External Representative' of the Union. This representative, nominated by the Member States, would represent the member states' common interests and lead the EU delegation at political cooperation meetings with third countries. The position would be supported by autonomous finances and all other necessary means for efficient functioning. The Estonian government does not seem to have a strong preference regarding the institutional accommodation of the "Foreign Minister." Estonia seems to prefer an arrangement where the post of the External Representative is kept separate from the post of Commissioner. However, it does not exclude the possibility of 'double hatting'. The creation of a strong external representative would help to reduce the workload of the Council presidency, enabling it to concentrate more on internal Union matters.¹³⁹

- **Commission**

According to the joint position paper of small states, the Commission must remain a strong, independent supranational and collegial organ. The Commission should retain its right of initiative in areas falling under the first pillar and to an extent, this initiative should be strengthened in areas falling under the second and third pillars. The paper lists two options for electing the president of the Commission. According to the first, the president would be elected by the European Parliament based on qualified majority vote and approved at the level of heads of state and government. According to the second option, the President would be elected by the so-called joint electoral college consisting of the European Parliament and member state parliaments. The Commission should be responsible to both the EP and the Council. To ensure equality of member states, each state would appoint one commissioner.

The principles of this declaration have been affirmed by Estonian representatives at the Convention. As can be expected from a small state, Estonia is firmly committed to maintaining the principle of one Commissioner per member state. This would not only ensure that all member states have an equal voice – it would also give "a human face to the EU" in the eyes of the domestic public who would be able to "recognise a domestically well-known public figure in the heart of the decision-making of the European Commission."¹⁴⁰ Estonia's representatives do not

¹³⁷ Statement by Mr Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on Institutional Questions, 20-21 January 2003, Brussels.

¹³⁸ Ibid.

¹³⁹ Statement by Mr. Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on External Action, 20 December 2002, Brussels.

¹⁴⁰ Statement by Mr Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on Institutional Questions, 20-21 January 2003, Brussels

seem to be concerned about the increased size of the Commission, arguing that the downsides of this are minor compared to the “serious disadvantages” associated with reducing the number of Commissioners.¹⁴¹ Estonian representatives do not support electing the president according to the parliamentary model of choosing the executive, arguing that the president of the Commission should not be too dependent on the political majority in the European Parliament. Hendrik Hololei has argued that “the present system of election could be preserved as this has in the best way ensured the support of the Member States to the President of the Commission.”¹⁴² Another representative, Tunne Kelam, however, has said that recognizing the need to strengthen the Commission’s authority, he is “ready to consider the idea of involving an electoral college of national and European parliamentarians in its president’s appointment procedure.”¹⁴³

- **European Parliament**

Estonian government supports the incremental development of the powers of the European Parliament through an expansion of the co-decision procedure, enhanced role in the selection of the president of the Commission and strengthening the ties between the European Parliament and its electorate. The positions of the Estonian government regarding the future role of the EP are reflected in the joint position paper of small states, presented to the Convention on March 28, 2003. Like other signatories, Estonia supports the strengthening of the Parliament’s legislative role through the expanded use of the co-decision procedure. Estonian representative in the Convention, Tunne Kelam, has argued that the EP “should be given the right of co-decision in case of legislative acts, except in clearly defined areas where unanimity remains the voting rule in the Council.” Estonia supports strengthening the role of the EP in electing the president of the Commission and mentions possible new functions for the EP, such as giving its consent to international treaties. Estonian representatives have argued that the European Parliament should obtain budgetary powers similar to the parliaments of member states. The Parliament should be able to rule over the whole budget of the Union without a distinction being made between obligatory and non-obligatory expenditure.¹⁴⁴ Finally, in order to strengthen the ties between the European Parliament and its electorate, common principles for organising European elections should be inserted in the Constitutional Treaty.¹⁴⁵

On a number of occasions, Estonian representatives have emphasized that the role of the EP cannot be discussed separately from the question of the role of national parliaments. A greater involvement of member state parliaments in European affairs is necessary in order to prevent the distancing of the electorate and the domestic political system from the EU. National parliaments have an important role in monitoring the implementation of the subsidiarity principle.¹⁴⁶ However, the Estonian government believes that it is not possible to establish a single set of norms for guaranteeing the involvement of the national parliaments; given the differences in institutional set-up and political norms, each state must find its own solution to the issue.

¹⁴¹ Intervention by Mr. Tunne Kelam at the plenary session of the European Convention, 20-21 January 2003.

¹⁴² Statement by Mr Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on Institutional Questions, 20-21 January 2003, *Brussels*.

¹⁴³ *Ibid*.

¹⁴⁴ Statement by Mr Henrik Hololei, Alternate Member of the Convention, Government of Estonia on Simplification of Legislative Procedures, 12-13 September 2002, *Brussels*.

¹⁴⁵ *Ibid*.

¹⁴⁶ Positions of the Government of the Republic of Estonia in the European Convention, November 2002.

- **Institutional balance**

Overall, Estonia's positions on institutional reform favour the *status quo* over radical changes. Along with the other signatories of Contribution 288 on institutional reform, Estonia supports preserving and strengthening the Community Method, maintaining the existing institutional balance, and ensuring the equality of all member states. The joint position paper argues that the Community method has played an important role in the success of European integration, reflecting the EU's unique nature as a union of states and peoples. The paper argues that the „maintenance and development of the Community Method will be all the more important at a time when enlargement is increasing the size and complexity of the Union.“¹⁴⁷ Institutions need to be reformed and strengthened so that they could cope with the challenges of the future but these reforms should be carried out in a way that does not disturb the existing institutional balance. The document clearly spells out the principle of “No New Institutions” arguing that the creation of new permanent institutions would disturb the existing balance. Another central element of the Estonian position on institutional reform is the principle of the equality of member states. The principle is laid out in the joint position paper of small states and has repeatedly been emphasized by Estonian representatives at the Convention. Estonia is opposed to any kind of hierarchy of member states or differentiation between states in their right to be included in the functioning of institutions. Estonian government believes that demographic differences must be reflected in representation in the EP and in assigning voting weights in the Council of Ministers but are not relevant to other dimensions of institutional reform.

3. Decision-making

Estonia supports an extensive simplification of decision-making procedures because the complexity of the system is a principal cause of citizens' alienation from European politics. In particular, it is necessary to reduce the number of legislative procedures and to set up a clearer hierarchy of legislation.¹⁴⁸ At the same time, the government recognizes that maximum simplicity cannot be achieved because existing treaties and secondary legislative acts are the result of complex interstate negotiations.¹⁴⁹

The cooperation procedure should be abolished and co-decision should become a standard procedure for arriving at most legislative decisions. In particular, extending the co-decision procedure to the field of the EMU seems to be a straightforward solution. However, further extension of the use of the co-decision procedure must be carefully considered in order not to over-burden the European Parliament with technical legislation. The existing system of legal instruments could be clarified by creating a hierarchy of norms similar to the distinction between parliamentary and implementing acts in domestic legislative systems. This distinction, according to Hololei, “would enable the European Parliament to concentrate on the more important initiatives /.../ while leaving acts of technical nature to the Council working groups and to the Commission.”¹⁵⁰

¹⁴⁷ „Reforming the Institutions: Principles and Premises,“ Contribution 288 to the European Convention, CONV 646/03, 28/03/2003. Support for preserving the Community method and retaining the existing institutional balance was also expressed in a Statement by Mr Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on Institutional Questions, 20-21 January 2003, Brussels.

¹⁴⁸ Statement by Mr Henrik Hololei, Alternate Member of the Convention Government of Estonia, on Simplification, 5-6 December 2002, Brussels.

¹⁴⁹ Positions of the Government of the Republic of Estonia in the European Convention, November 2002.

¹⁵⁰ Statement by Mr Henrik Hololei, Alternate Member of the Convention, Government of Estonia

Estonian position regarding the extension of qualified majority voting in the Council coincides with that expressed in the Contribution 288 on institutional reform. The signatories believe that the use of QMV „should be further extended as the normal decision-making mechanism, save in those limited areas where the particular sensitivities of Member States require the maintenance of unanimity.¹⁵¹ The Estonian government does not share the view that QMV should be used in the Council in all matters where co-decision is used in the European Parliament and vice versa. Although this would significantly reduce the number of combinations of legislative procedures and make the working of the Union more comprehensible to the average citizen, such streamlining might threaten vital interests of member states. Instead, the use of the co-decision procedure and QMV should be extended on a case-by-case basis, recognizing that there are areas “which are too sensitive for Member States to give up their powers.”¹⁵² In particular, Estonia is interested in retaining unanimity in the areas of foreign and defence policy, social and regional policy, and taxation. Tax harmonization, in particular, is seen as a threat to the unusually liberal features of the Estonian tax system (proportional taxation, no corporate tax on reinvested profits). Thus, Estonian attitude towards the extension of co-decision and QMV appears to be contradictory: it recognizes the need for greater efficiency but is unwilling to give up unanimity in areas connected to Estonian vital interests.

- **Differentiation**

Overall, Estonia seems to be open to differentiation between member-states with regard to the present *acquis* and its further development, recognising that it would be increasingly difficult to reach unanimity in a Union of 25 or more member states. Enhanced cooperation among certain member states might prove feasible in the field of foreign policy, given the diversity of member-state interests and positions. Hendrik Hololei has stated that “given the potentially different views in a Union of 25, one should allow for enhanced cooperation also in the field of foreign policy where a ‘coalition of the willing’ may pursue actions in the name of the whole Union.”¹⁵³

4. Priorities of the Estonian debate

In retrospect, it can be said that the defining themes of the Estonian debate on the future of Europe were laid out by Toomas Hendrik Ilves, the Estonian Foreign Minister, in a speech held at Humboldt University in February 2001.¹⁵⁴ Speaking in the same spirit as Joschka Fischer nine months earlier, Ilves laid out his vision of the future Europe, focusing on three central dichotomies „that call for some kind of resolution.“ These include, in Ilves’s formulation, the issue of new vs. old member states, small vs. large states and Democratic legitimacy versus Effective decision making.

on Simplification of Legislative Procedures, 12-13 September 2002, Brussels

¹⁵¹ „Reforming the Institutions: Principles and Premises,“ Contribution 288 to the European Convention, CONV 646/03, 28/03/2003

¹⁵² Hololei, *Ibid.*

¹⁵³ Statement by Mr. Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on External Action, 20 December 2002, Brussels.

¹⁵⁴ Constructing a New Europe, Lecture by Toomas Hendrik Ilves, Minister of Foreign Affairs, Estonia, at Humboldt University, Berlin, 5 February 2001. The speech has been widely cited in the West as one of the first substantive contributions to the debate by a representative of a candidate country.

These themes have remained the cornerstones of the Estonian debate since, although recent years have added some discussion on concrete policies, such as CFSP, taxation, and border control. However, it should be noted that the debate on the future of Europe has largely remained limited to political elites while broader public discussions focus on more general issues related to accession. It appears that the general public is not sufficiently familiar with the institutional structure and policies of the EU in order to fully comprehend the work of the Convention or have informed opinions about the specific reform proposals discussed.

The issue of New versus Old member-states is related to the question of equality of member states, the desire to be included in debates and decisions about Europe's future, and an objection to the sense of distrust and supremacy with which the candidate states are sometimes treated. In his speech, Toomas Hendrik Ilves paints a colourful picture of the psychological and cultural prejudice against the candidate countries in many member states and calls for an „integration in attitudes toward the new members of the EU.“ He argues that it is essential that the opinions and positions of new member states be given the same attention and consideration as those of older member states. The desire to be included in decisions concerning future development of the EU (and concerns about being excluded) continue to be a prominent theme in the statements made by the country's political leaders.¹⁵⁵ Affirming Estonian readiness to participate in such debates, political leaders argue that lessons of the Estonia's successful reform experience might prove valuable in reforming the European Union.¹⁵⁶ At various points there have been concerns that even though the candidate countries are represented at the Convention, they might be excluded from the work of the intergovernmental conference where the new constitutional treaty would be adopted.¹⁵⁷ Such concerns are evident from Hendrik Hololei's remark at the Convention in November 2002:

I do not find it premature to stress that my Government finds it self-evident and inevitable that the new Member States should be able to participate in the work of the intergovernmental conference discussing the outcome of the Convention. Any other organisation of the IGC would ruin the positive reactions that the involvement of the present candidate countries in the Convention has so far received from their people.¹⁵⁸

The second issue raised by Ilves, the relationship between Small versus Big member states continues to resonate with the Estonian public due to painful historical experiences with great power domination. In fact, the exceptionally low levels of public support in Estonia have been interpreted to reflect historically grounded fears about loss of sovereignty and survival of identity, language and culture. The predominant response to these domestic fears among the political leaders has been to emphasize sovereignty and to favour a „Union of sovereign states“ over a federation. Toomas Hendrik Ilves has remained the only prominent advocate of federalism. In his speech, Ilves argues that the creation of a bicameral legislature, organized

¹⁵⁵ Statements by the President, Mr Arnold Rüütel, the speaker of the Parliament, Mr Toomas Savi, and the Foreign minister, Toomas Hendrik Ilves, at the 8th international conference "Estonia and the European Union: Estonia on its way to a changing Europe," November 2, 2001, Tallinn.

¹⁵⁶ Address by Ms Kristiina Ojuland, Foreign Minister of the Republic of Estonia, at the European Policy Centre's lecture series "Meet the New Member States", 23 October 2002, Brussels

¹⁵⁷ Report to the Government of the Republic of Estonia on the Convention of the European Union, by Hendrik Hololei, Alternate Member of the Convention, November 6, 2002.

¹⁵⁸ Statement by Mr. Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on the Architecture of the Constitutional Treaty, 7-8 November 2002, Brussels.

according to the federal model, provides the best answer to the „structural tension between small and large constituent members.“

The debate on the future of Europe is closely linked to the development of common policies and Union competences. Among the more controversial policy areas for the Estonian decision-makers and the general public is the development of common foreign and defence policy, social policy, tax policy and the issue of border control. With regard to foreign policy, Estonia believes that CFSP should be regarded as part of a broader transatlantic security structure (along with OSCE, NATO, the European Council, etc). This position has been strengthened by the developments since September 11 that have vividly demonstrated Europe’s incapacity to speak with one voice in world affairs. Estonian government regards NATO as the “cornerstone of hard security in the free world” and argues that a significant upgrading of European-level security cooperation would “inevitably divert resources, financial or other, from the existing cooperation within the NATO.”¹⁵⁹ In order to reduce the risk of duplication, Europe should “continue contributing to security in areas where it is the strongest - in developing and liberalising trade with third countries thus increasing global welfare; spreading democratic values in the world and leading here by example; continuing fulfilling the Petersberg tasks where the necessary tools already exist.”¹⁶⁰

With regard to economic governance, Estonia supports preserving the existing framework for coordinating economic policy in the EU. It is strongly opposed to the harmonization of tax policy, arguing that such attempts would violate the principle of subsidiarity. Hendrik Hololei argues that “taxation is a direct outcome of domestic policy choices in every Member State and therefore should reflect the fundamental preferences of the society. Therefore I do not see any need to change the present decision making procedure regarding taxation; the principle of unanimity should be maintained.”¹⁶¹ Estonian active stance on this issue is also evident from the fact that, together with Irish, Swedish and Latvian representatives, it submitted a letter to the head of the economic policy working group expressing opposition to the expansion of EU competences and the use of QMV in the field of tax policy.

Estonia also has strong views regarding control on the EU’s external borders which will include Estonia’s 330-kilometre border with the Russian Federation. Estonia welcomes the position that all member-states should share the burden of controlling the external border but wants to maintain sovereign responsibility for guarding its borders. Estonia appeared to be alarmed by the wording of Article 10 of the draft treaty that refers to a “gradual introduction of a common integrated management system for external borders.” Estonia remains opposed to the creation of an integrated border control unit, arguing that “the implementation of the border control should remain the responsibility of each member state and one should rather concentrate on common standards, joint financial responsibility i.e. burden sharing and solidarity as well as possibly co-operation regarding training.”¹⁶²

¹⁵⁹ Statement by Mr Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on External Actions of the European Union, *11-12 July 2002, Brussels*

¹⁶⁰ Ibid.

¹⁶¹ Statement by Mr. Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on the Final Report of the Working Group on Economic Governance, *7-8 November 2002, Brussels*

¹⁶² Statement by Mr Henrik Hololei, Alternate Member of the Convention, Government of Estonia, on the articles about the area based on freedom, security and justice, *3-4 April 2003, Brussels*.

5. Awareness of the European Convention

The Estonian debate on the future of the EU may be characterized as taking place on two levels: the level of the political elite and the level of the general public.¹⁶³ The debate at elite level is better informed and more concrete, focusing on the specifics of institutional reform and the proposals presented at the Convention. The general public, however, “is still in the phase of discussing fears and expectations related to accession.”¹⁶⁴ As awareness of the work of the Convention remains limited, public discussions focus more on the terms of accession and less on the future of the Union *per se*.

Even among the political elites, the substantive debate tends to be limited to a relatively narrow circle of politicians and experts, most of whom are in one way or another associated with the work of the Convention or responsible for the national coordination of integration (members and alternate members of the Convention, ministerial officials and civil servants working in the government EU Secretariat, etc). The broader political elite does not have the incentive to familiarize itself with the complex details of European governance. Most political parties have not formed clear preferences or opinions on issues relating to Europe’s future. This can be seen as a logical consequence of the fact that European issues have low salience for the electorate and do not feature prominently in the electoral campaigns. However, there is a noticeable difference between those political parties that have a delegate at the Convention (ProPatria Alliance, the Moderates and the Centre Party) and the unrepresented parties, with the former appearing better informed and more involved.

Although substantive contributions continue to come from a limited circle of individuals, the government has actively tried to promote broader public discussion about the Future of Europe. The Ministry of Foreign Affairs has opened a special website, containing an overview of the debate and featuring statements by foreign and domestic contributors.¹⁶⁵ The Estonian Parliament, and, in particular, its European Affairs Committee, has encouraged debate by creating a round-table on the future of the EU and by devoting its annual international conference “Estonia and the EU” to the issues of Laeken declaration.¹⁶⁶ Various NGOs have also been active in facilitating the debate. The Estonian European Movement has organised several large-scale conferences and a debate series that featured prominent foreign and Estonian politicians, diplomats, writers and journalists. Cooperation between the state and the civil society was enhanced by an agreement between the State Chancellery and the Open Estonia Foundation, concluded in January 2001. According to the agreement, the Foundation will promote public awareness of EU issues and help to involve non-governmental organisations in debates about the EU.¹⁶⁷ Over the past few years, a number of NGOs have received funding that enables them to organize conferences, seminars and other informative events and promote discussion of integration related issues in the mass media.

¹⁶³ For a more detailed overview of the Estonian national debate, see the contribution by Mr Tunne Kelam and Mr Peeter Kreitzberg, representing the Estonian Parliament, Convention on the Future of Europe, June 24–25, 2002.

¹⁶⁴ Ibid.

¹⁶⁵ <http://spunk.vm.ee/euro//tulevikudebatt/>.

¹⁶⁶ <http://www.riigikogu.ee/chancellery.html>.

¹⁶⁷ Brief overview of the Estonian national debate, Contribution by Mr Tunne Kelam and Mr Peeter Kreitzberg, representing the Estonian Parliament, Convention on the Future of Europe, June 24–25, 2002

Despite these efforts by the government and the third sector, public debate tends to focus more on the terms of accession and less on the future of the Union *per se*.¹⁶⁸ Public debates revolve around issues of sovereignty, national currency and the adoption of the euro, living standards and social security, and the preservation of national identity and culture. As pointed out by the representatives of the Estonian Parliament at the Convention, the complex issues discussed at the Convention often remain beyond the grasp of the electorate that has no previous experience with the work of EU institutions:

*The questions of Estonia's accession and the results of this historic action stimulate more lively discussions than the four subjects put forward in the Laeken Declaration on the Future of the European Union. The general public does not discuss subsidiarity or the role of the national parliaments, but shows more interest in questions such as "will we still be an independent state after accession?" or "will we start getting instructions from Brussels for our daily lives?"*¹⁶⁹

The connections between the work of the Convention and the preparations for the referendum are indirect. Above all, the adoption of the new Constitutional Treaty before the enlargement would send a negative signal to the electorates of the candidate countries. Estonian and Latvian publics might be particularly susceptible, as these countries already have the highest levels of popular euroscepticism among all of the candidate countries.¹⁷⁰ They are also the last nations to hold accession referendums in September 2003, as their leaders expect to benefit from the domino-effect of positive referendum outcomes in other countries. The exclusion of candidate countries from crucial decisions about the future of the Union would, no doubt, lead to increased scepticism about democracy and equality in the EU.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ See the Candidate Countries Eurobarometer 2002, http://europa.eu.int/comm/public_opinion

National Report Hungary

by Krisztina Vida, Institute for World Economics, Budapest

1. Results of work of the European Convention

Regarding the result of the work of the European Convention the Hungarian members of the Convention share the overall view that it should be a single, coherent document adopted by large consensus (or even unanimity). This should be a completely new treaty (of course with reference to its legal connection to the previous treaties). Hungary as a future new member state welcomes the whole “constitutional process” and is interested in a simpler, transparent, comprehensible and “citizen-friendly” EU treaty. This would make it easier for Hungarians to understand that they do not join another superpower but a democratic community of European states having a transparent institutional and competence-sharing structure.

The Hungarian members supported the structure of the draft Constitutional Treaty proposed by the Chairman and deemed it as a good starting point for the debate. Moreover they would like to see the Charter of Fundamental Rights fully incorporated in the text. Mr. Péter Balázs (secretary of state, Hungarian government) signed up to a joint initiative of several members calling for the Charter’s legally binding status, in which they underline that “The Charter of Fundamental Rights is a unique expression of European identity. It is proof that the European Union is something far more than an economic community, that is a community united by the shared values of the countries and peoples of Europe. To the citizens of Europe the Charter is a confirmation that in this integrating community to which they belong they have not only duties but also rights.”¹⁷¹

The Hungarian members did not put forward any contribution regarding the structure of the draft Constitutional Treaty and they are of the opinion that it should not be broken down into parts of different legal status but it should be a single document subjected to ratification in its entirety. They especially welcomed such points as the legal personality of the EU, or the elimination of the pillars, while none of them had objections against the expression indicating that the EU would be exercising some of its competences “on a federal basis”. Hungarians agree to put defence policy in a separate chapter since even the most federalist minded Hungarian member (Mr. István Szentiványi, MP, alternate member) admits that full integration of defence issues in the EU is rather unrealistic at present. All Hungarian members, excluding Mr. József Szájer (MP, opposition) supported the “double citizenship” idea, but Mr. Szájer deems it redundant. Furthermore, Mr. Szájer is among the 25 members who would like to have a reference to God in the Preamble of the Constitutional Treaty (invocatio Dei).¹⁷² In general, the Hungarian members welcomed the fact that in the Convention a European constitutional document is emerging without any serious opposition by any country (especially the British lacking a written constitution at national level).

¹⁷¹ CONV 607/03

¹⁷² CONV 480/03

2. Reform of Institutions

Hungarian Convention members made it clear from the outset (the very first speaker after the solemn opening was Mr. János Martonyi, then Foreign Minister, professor of European law) that Hungary as a medium sized country will be in favour of strengthening the Community institutions/methods while respecting the institutional balance and the equality of members states. There has always been a consensus regarding these principles among all Hungarian members regardless of party affiliation, while Mr. István Szentiványi is more federalist and would be in favour of a fully-fledged European federation sooner or later. Beyond these considerations another set of premises for Hungarians has been to see a more efficient EU emerging on the basis of the future Constitutional Treaty, both inside and on the international stage.

- **European Council/Council**

According to the Hungarian position the rotation principle of the Presidency should be continued, because it gives every member country an important say in the Union's current matters as well as in the setting of new priorities. Therefore the rotating presidency is perceived by Hungarians as a value added in the European institutional system. As a response to the idea of an appointed permanent president of the EU – which is negated by all Hungarian members – one of the Hungarian members of the Convention, Mr. Balázs even proposed a “4-wheel drive” rotating presidency, to be held for 12 months by 4 countries. At the end of each six-month period two members would leave as two new countries would join. The one-year period would harmonise with the Commission's annual working programme and this periodicity would enable every member state in the EU-25 to hold presidency every six years. Mr. Balázs underlined three sets of advantages in such a system: “The maintenance of the rotation principle ensures appropriately the equality of member states. Stability and continuity would be achieved by the extension of the presidency's duration. Consistency and efficiency would be guaranteed by the “rolling system”, i.e. by two member states leaving and two other joining the team at regular intervals.” In his conviction the key benefits of this model would be threefold: “respect for all basic principles (equality, efficiency, stability); providing a healthy equilibrium of member states; preserving the current institutional balance.”¹⁷³ Thus, according to Hungarians no permanent president should be appointed and no merger of such a position with the Commission president should occur.

Regarding the Council of Ministers, Hungarians support such basic principles as laid down in two joint contributions. These include separation of the Council's legislative and coordinative functions and transparency when legislating; simple double majority instead of weighted votes and present qualified majority system,¹⁷⁴ further extension of QMV/simple double majority (with only a few, most sensitive issues remaining under unanimity) and the re-establishment of a full-time position of Secretary-General to the Council.¹⁷⁵ Hungary (allying with Germany and the UK) is in favour of decreasing the number of Council formations to 7 or less.

- **European Foreign Minister**

In the opinion of the Hungarian members there could be a new post of European “Foreign Minister” created (from the merger of the High Representative and the External Relations

¹⁷³ CONV 522/03

¹⁷⁴ CONV 590/03

¹⁷⁵ CONV 646/03

Commissioner) who could be double-hatted by serving and being responsible to both the Commission and the Council. He/she could represent the Union vis-à-vis the outside world in a coherent way. While this would be seen as “strengthening the coherence and visibility of the Union’s external projection and representation”, this position should be established along “clear lines of accountability”.¹⁷⁶

- **European Commission**

The Hungarians favour a strong, independent Commission, acting as a college, keeping the exclusive right of initiative in the current Community matters and enjoying a stronger role of initiative in the current second and third pillars. For the time being the Hungarians find it essential to keep the principle of one Commissioner per member state as put down in the Nice Treaty. According to Mr. Balázs who signed up to the mentioned contribution on the principles and premises of institutional reform, the President of the Commission could be elected by the EP with a reinforced majority and confirmed by the Council (at the level of the Heads of State or Government) by QMV; or by a “Joint Electoral College, a body called together only for the purpose (composed of MEPs and national MPs, but not a separate institution, as the Congress of the Peoples of Europe, proposed by Giscard). The Commission should thus be answerable to both the European Parliament and the European Council (and both could dismiss the college by censuring it).¹⁷⁷

- **European Parliament**

Further strengthening of the European Parliament’s powers is supported by the Hungarian members through the extension of majority voting in the Council, coupled with the co-decision procedure in each legislative case (“legislative procedure”). Full budgetary competencies are also supported with the abolition of differentiation between obligatory and non-obligatory expenditure.

- **Institutional balance**

One of the key principles the Hungarian members stick to from the outset, is the preservation of the present power equilibrium in the institutional triangle (EP-Council-Commission). The strengthening of the EP and the Commission as well as further extension of majority voting in the Council should only underpin the institutional balance and enhance democracy and efficiency in the EU-25.

3. Decision-making

The Hungarian members are not against unanimity, which could/should be retained for some sensitive issues. However, the Hungarian members so far did not disclose the list of legal bases for which they think unanimity is imperative. For example, Mr. Szájer surely wants to keep unanimity in fiscal questions since he underlined several times that tax policy is one of the few policies almost entirely remaining with the member states as a key instrument of domestic economic policy, and this should not change in the future. In the view of the socialist Mr. Pál Vastagh (MP, ruling coalition) the EU might take up stronger competencies in the field of social

¹⁷⁶ Ibid, p. 6.

¹⁷⁷ Ibid, p. 6.

policy and social security issues where he would not necessarily stick to unanimity. Another issue is common foreign and security policy where all Hungarian members seem to be cautious with extending majority voting, although, as it was mentioned, Mr. Szentiványi is most keen on “federalising” this policy. Regarding the area of freedom, security and justice, Hungarians are in favour of “communitarising” it and so far did not mention any legal base where the national veto right should be preserved.

Regarding the future procedure for ratification Hungarians seem to be of the opinion that the Constitutional Treaty, as accepted by the member states after the IGC, should be put to ratification in the traditional manner. As Mr. Szájer underlined, the citizens of the EU are not a “constituting nation” therefore the introduction of ratification via majority of states and majority of populations would not be justified.

Hungarians, just like most candidate countries, have not been enthusiastic supporters of differentiated integration, and similar concepts of “Europe à plusieurs vitesses”, since they are afraid to become a second class member not making part of the entire integration process to which they pledged to belong. Moreover, there is no single policy, in which Hungary would not like to or would not be able to participate after entering the EU. Nevertheless, the enhanced cooperation instrument as enshrined by the Amsterdam and Nice Treaties are perceived differently. Hungarians are not against this principle, as they understand this tool as making further progress easier. Once Hungary becomes a full member, she will be able to join an enhanced cooperation just like any other member state.

4. Hungarian priorities: CFSP, rights of minorities, EU external borders

A generally important issue for the Hungarian participants is the timing of the next IGC. All three permanent members and one alternate member signed up in February 2003 to a joint contribution from several members calling for a “full participation of the acceding states in the European Convention and on the timing of the Intergovernmental Conference to follow”.¹⁷⁸ According to this position the IGC should by no means start before the last referendum in the acceding countries took place (September 2003), and should not be finished before the ratification process comes to an end in all current members states, and the new states actually become full-fledged members themselves.

As regards the future of CFSP/ESDP, in the shadow of the recent Iraqi crisis, the Hungarian members emphasise the importance of efficiency and coherence in this respect, but none of them takes the presently unrealistic position of full integration of these important issues. As further important issues for Hungarians, one can mention the two individual proposals made by Mr. Szájer and Mr. Vastagh.

Mr. Szájer put forward the idea of setting up a consultative Committee for National and Ethnic Minorities (“CONEM”), representing the interests of the different minorities in the member states.¹⁷⁹ He proposed this given the fact that with eastern enlargement a large number of national (e.g. Hungarian) and ethnic (e.g. Roma) minorities will enter the EU. The respect for minority rights has always been among the “desiderata” of the EU when examining the candidate countries – without having any *acquis* in this area. The creation of such an institution would raise

¹⁷⁸ CONV 566/03

¹⁷⁹ CONV 580/03

awareness of the minority problems not only in Central and Eastern Europe but in the whole Union, and might contribute to their common solving.

As parts of the Hungarian borders will for the foreseeable future be the external borders of the EU, border control is also of crucial importance for Hungary. This is why Mr. Vastagh (former minister of justice) proposed that “a European border guard unit should be created and provided for in the Constitutional Treaty.”¹⁸⁰ He also emphasised that national parliaments should be given more scrutiny power regarding the area of freedom, security and justice, as they touch on important parts of national sovereignty.

5. Awareness of the European Convention

The Hungarian members of the European Convention (both on the government’s and on the opposition’s side) are actively participating and contributing to the Convention’s work. Nevertheless, the top priority of European policy of Hungary until the 16th of April was the closing of accession negotiations, the management of a nation-wide information and mobilisation campaign (in which there was practically no connection made between our future membership and our future European Constitution), the national referendum, and the signing of the Accession Treaty. After all these events the European Convention is now coming to the fore, especially as it is making important progress and is heading towards conclusion by the middle/end of June.

The public took some notice of the Convention, especially via the media. In the national TV and radio channels, as well as in the newspapers Hungarians could from time to time – and recently more frequently – get some impression of what is going on in the Convention and what do the Hungarian members represent there. For example, the national TV 1 translated some interviews with the three permanent members from Brussels, or recently there was a very interesting round table debate on the national TV 2 about the Convention, with the participation of well-known political scientists and experts of European law.

The Hungarian members are often invited to public debates, especially by universities and/or institutes dealing with European issues. A recent example is the debate at the Institute for World Economics with two Convention members, attracting an audience of some fifty people mainly from academic and university circles.

Moreover, myself, and my colleagues teaching European studies at universities and colleges – we all are including the Convention into our programmes. In this way several hundreds of students are learning about the present constitutional process of the EU and about the future Constitutional Treaty.

¹⁸⁰ CONV 665/03

Sources:

- Joint contribution signed by Mr. Balázs and Mr. Szájer, as well as Mr. Szentiványi: “Premises and Principles of EU Institutional Reform” CONV 590/03
 - Joint contribution signed by Mr. Balázs: “Reforming the Institutions: Principles and Premises” CONV 646/03
 - Joint contribution signed by Mr. Balázs: “Initiative for the Incorporation of the Charter of Fundamental Rights into the Constitutional Treaty” CONV 607/03
 - Joint contribution signed by Mr. Balázs, Mr. Szájer, Mr. Vastagh, Mr. Szentiványi: “On the full Participation of the Acceding States in the European Convention, and on the Timing of the Intergovernmental Conference to follow” CONV 566/03
 - Joint contribution signed by Mr. Szájer: “Religious Reference in the Constitutional Treaty” CONV 480/03
 - Own contribution of Mr. Balázs: “Proposal for a “Four wheel-drive” Rotating Presidency of the Council” CONV 522/03
 - Own contribution of Mr. Szájer: “Unity in Diversity” CONV 580/03
 - Own contribution of Mr. Vastagh: “Freedom, Security and Justice” CONV 665/03
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- Written interviews with the assistants of the three Convention members
 - Conference with Mr. Szájer and Mr. Vastagh in the framework of the EUCON project
 - Information from “Bruxinfo” (paying electronic news service about the EU in Hungarian language: <http://www.bruxinfo.hu>)

National Report Lithuania

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1. Results of work of the European Convention

- **Result of the work**

In Lithuania it is generally understood that the simplification of the EU treaties is necessary, however clearer structure and clarity of the new text of the Constitutional Treaty should be achieved without altering the nature and meaning of the text and the Union itself. To make treaties more accessible and understandable to the citizens, the existing four treaties should be merged and simplified without substantial changes in their legal value and meaning. The Treaty has to be drafted on the basis of the structure and contents of the existing treaties rather than creating a whole new constitution of the European Unions as a super-state.

A great division of opinions on some fundamental questions exists among Lithuanian politicians. Although the Convention should end up with a set of proposals for the Intergovernmental Conference (IGC), no unanimous agreement is expected. It is thought that the document shall present several differing positions of states or groups of states and the crucial decision shall be made at the IGC.

- **Structure**

The present general structure of the Treaty is generally accepted. The main disagreement is about the Charter on Fundamental Rights. From Lithuanian point of view, the Charter has to be an integral part of the Constitution, with only few minor changes introduced in its content, in order to ensure a clarity of the future Constitution. The Charter has to be the Part One of the Treaty, which makes the Lithuanian proposal divergent from the proposal of the authors of the draft Constitutional Treaty to incorporate the Charter into the Part Two or to annex it as a separate Protocol. The main argument for such decision is that for the citizens of European Union the fundamental rights and freedoms written in the Charter are more important than the question of institutional organisation of the Union or division of the competencies among the Union and its members. The institutions are only the means to make human lives better. The Charter has to become the standard to evaluate all the decisions made by the EU, including the social and economic policy of the EU.

As to Lithuanian experts, the Convention shall push forward an opinion that the EU - after it becomes the subject of the international law according to the draft Constitutional Treaty - shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The accession of the EU to this Convention would prevent inconsistent interpretation of the provisions of the Convention in the practice of the European Court of Human Rights and the European Court of Justice.

- **Proposal of Giscard and the Presidium**

In the discussions on the Convention one finds some discontents about the proposed skeleton of the Treaty, especially that its adoption was not object of any discussion and has not been subject to clarifications. To illustrate, Jo Leinen's draft has been considered as a good example of a clearer constitution, better than the Skeleton. However, there was no further development of this idea – the further debates have been continued using the Giscard's proposed structure as the starting point. Thus, it is possible to conclude that the current structure is more or less good but accepted.

2. Institutions

- **Council/European Council**

It is the position of Lithuania that the rotation principle of the Presidency in the Council should be maintained. That would ensure the equality among the member states and their direct participation in the EU decision-making, thus playing a crucial role in connecting or legitimising the Union with its citizens. The rotation principle is considered as an important link between the societies of the member states and the EU institutions. The Presidency should be based on the principle of equality of all sovereign states, whereas it also mobilises the countries and ensures a better connection between the EU and its citizens.

However, this does not mean that the current functioning of the Council is considered as perfect. The management of the rotation principle should be improved. This is especially connected with the better coordination of the past, present and future presiding states on the two – three years time span. The continuity and succession of the Council activities should also be ensured by closer cooperation of the heads of states and governments and the EU institutions.

The proposal to elect a permanent President of the European Council, who would be elected for longer than a 6-months term is not accepted in Lithuania. There are no justified arguments to prove the necessity of such position. A permanent President of the European Council would change the EU institutional balance, would compete with the President of the Commission and would bring the confusion into the political accountability' processes. It is possible to discuss the presidency by a group of states, but this idea has also to be considered in the context of the interaction of all EU institutions. The position of the President also creates doubts because if it becomes very strong it will conflict with the President of Commission, and if it is too weak it becomes a symbolic position, thus, unnecessary at all.

Increasing of publicity, transparency and openness of the meetings of the Council is seen as a necessary task. The minutes of the Council meetings shall be available to the public. Only this lets the society to judge about the efficiency and transparency of this institution. All exceptions about the secrecy have to be clearly defined.

- **European Foreign Minister**

The current positions of the High Representative for Common Foreign and Security Policy (CFSP) and the External Relations Commissioner should be merged, and one position of the EU Minister of Foreign Affairs should be created. The European Foreign Minister should be at the same time the Vice President of the Commission. This would increase the significance of this

position at the international forum. The European Foreign Minister should be appointed by the European Council in coordination with the President of the Commission.

- **Commission**

Commission is the institution representing a common EU interest, therefore its role has to be strengthened. The President of the Commission can be elected by the European Parliament and lately confirmed at the Council. This election would give the Commission more legitimacy. Also it is possible to debate the idea to form the Electoral College from the representatives of the European Parliament and the member states. This also would lead to the growing importance of the Commission in the eyes of the public.

Each Member State should be represented by one commissioner. However, a gradual decrease of the number of commissioners is also supported. That number of portfolios should depend on the regulated areas of the EU. Which commissioner position shall belong to which state would be decided on the rotation principle among the member states.

- **European Parliament**

The co-decision procedure implying the qualified majority voting should be extended. This would strengthen the role of the European Parliament in the process of the EU legislative process. The right to elect the President of the Commission by the European Parliament would give more strength to the Parliament. The Parliament should remain unicameral.

- **Institutional balance**

There is no need for revolutionary changes in the way the Council, Parliament, Commission, Court and other institutions interact. It is doubtful whether the creation of the new institutions would increase the effectiveness of the EU. The institutions have to evolve gradually, in the same way as the objectives of the EU have been evolving at present and in the past – but that does not mean that there should be no change at all. Institutional balance can always be enhanced and ongoing discussions on EU governance are a good example showing that there is a room for improving and for running the European project more efficiently.

Lithuanian experts stress that the communitarian method is the best guarantee that the interests of both small and big countries will be protected within the EU. Strong institutions guarantee a fair game and have so far been the main engine of the European integration. Arguing for strengthening of the inter-governmentalism at the expense of communitarianism is, to a large extent, an attempt in a way to turn the integration clock backwards. Thus the community method must be preserved, strengthened and extended as the EU enlarges and develops. The main idea is that the EU was created gradually and the development of its goals and activities should be made evolutionary but not revolutionary.

Other important topic speaking about the institutions is the problem of clearer delimitation of competencies. The division of power should not be limited to the principle of subsidiarity. It has to be clearer defined which issues and areas pertaining to the European competencies are bound to be dealt with in a communitarian way and which should be left for intergovernmental co-operation.

Finally, national parliaments should be included into the political supervision of the application of the subsidiary principle before the EU legal acts have entered into the force. However, the new mechanism to control the subsidiarity principle should not impede or slow down the EU decision-making procedures.

The strong European institutions ensure better participation in the Union and balances diverse interests of the member states. No new European institution is needed, the present institutional triangle has worked efficiently most of the time of the existence of the European structures, consequently there is no time and need for more radical changes.

3. Decision-making

- **Unanimity**

It is generally understood that the structure of 25 or more nations in the EU will not be easy to govern. It has been realised that more and more areas of European common policy can be exempted from the veto right in the future. Thus, a tendency to move towards the qualified majority voting shall develop in the next future.

Representing and defending national interests of its own state is an important thing, but the discussion to apply qualified majority voting in an enlarged Union is not less significant. It is the conviction that interests of the new member states would fit into the general composition of interests of the present Union. Among the new states in the EU will be a great variety of countries, but it is believed that the national interests can be and will be integrated into the existing EU mechanisms and will never take the form of “old vs. new” voting whatever the voting procedures or weighting of votes may suggest. So, there is no need of unanimity as a prevention mechanism, and as a decision making procedure it proved itself unfruitful.

The scope of application of the qualified majority voting in the EU decision-making should be extended, but decisions concerning this extension of scope should be taken on a case by case basis taking into account financial consequences and capabilities to implement the decisions taken by the qualified majority. Thus, in Lithuania there are no clear statements about what questions or type of questions should be kept under the unanimous decision and which would be decided by the qualified majority voting.

4. Lithuanian debate: CFSP, neighbourhood policy and withdrawal from the EU

Currently three main topics are more actively discussed in connection with the European Convention in Lithuania. EU new neighbourhood, significance of the CFSP in the new Constitutional Treaty and the withdrawal from the Treaty are main subject of debate.

- **Neighbourhood and wider Europe**

Discussions about the external EU borders are of special interest to Lithuania because after enlargement the country will become one of EU border states. Bigger attention should be given to the development of the EU good neighbourhood policy. Good neighbourly relations are one of the strategic goals of Lithuanian foreign policy and its importance will be further increasing. Lithuania has a special interest in the future EU relations with Russia, Ukraine, and Belarus.

Due to its geopolitical position, Lithuania has a special interest that EU builds a solid Eastern as well as Northern dimensions. The idea of wider Europe is also the good starting point for discussing the external relations of the EU.

- **Common foreign and security policy**

Lithuanian discussion concentrates on the effective implementation of the CFSP under the new Treaty. It has been noticed that insufficiently strong European identity, large variety of interests and weak institutionalisation are the three elements of the CFSP that preclude the attainment of a larger role for the EU in global politics. The establishment of the position of High Representative is not a sufficient factor to influence the effective implementation of the CFSP. Federal ideas within the EU are constantly viable and will never cease to exist, however, it is hardly possible today to fully enshrine them in the future constitution. Nevertheless, this would enable to significantly solve the problems of CFSP implementation. Today member states are hardly prepared to renounce of the supremacy of their national interest. Taking into account this reality, article of the Constitution, which establishes the main principles of the CFSP, should be reformulated and become more flexible.

- **Withdrawal from the EU**

Neither the EC treaties nor the EU Treaty foresee a procedure of withdrawal from the European Union. Thus, the withdrawal procedure has to be defined in the new Constitutional Treaty. Undoubtedly, in accordance with international law any state could use that right any time it wishes. However, a concrete procedure at EU level would be useful to prove the democratic nature of the EU. This will also show to the Lithuanian society that we are entering the EU as the sovereign and free country and it shows that it will remain this way.

5. Awareness of the European Convention

- **Policy of the Government**

Currently the biggest priority of the Lithuanian government is the EU enlargement process, and not the debate on EU future. Nevertheless, the representatives of the government and the Lithuanian parliament are trying actively participate in the European Convention. For instance, Lithuania was the initiator of the idea that the representatives of the accession countries should also be represented at the Presidium of the Convention. However, most of the time it seems that the interest for the Convention issues is limited to responsible departments in ministries and the MP's offices. Furthermore, all discussions are limited to a small group of experts in the matter only.

- **Public**

According to the Ministry of Foreign Affairs of Lithuania, March 2001 might be considered as the official launch of the debate in Lithuania on the future of Europe when the Prime Minister of Sweden during the Swedish Presidency sent a letter to Lithuanian Prime Minister calling upon Lithuanian interest groups, youth organisations, political parties and other segments of civil society to start a comprehensive discussion on various aspects of the future of the EU. In February 2002 the Lithuanian Forum on the Future of the European Union has been established. The Forum brings together non-governmental organisations and professional unions, youth

organizations, religious communities and academic institutions. The main goal of the Forum was intended to involve the public into the debate about the Convention on the Future of Europe. From time to time the forum organises roundtables and discussions, which are however not very popular among the wider public. The most active non-governmental organisations are youth organisations.

As a matter of fact, the Lithuanian Government is currently trying to keep the debates about the Convention deliberately silent because of the coming referendum on EU accession on 10-11 May, 2003. The biggest public debate is thus the debate on the advantages and disadvantages of entering to the EU. A debate on what kind of European Union Lithuania will enter is not existing.

Until now, interest groups, media or even the political parties have not really paid big attention to the European Convention. Speaking about the EU means discussing more important substantial questions, such as agricultural problems, structural funds or question about the sovereignty, and not the abstract matters of the EU future institutional shape.

- **Referendum on EU membership and the Convention**

As stated above, at present the main interest and concern of the political life in Lithuania is the referendum on EU accession that will be held in May 2003. In principle, the enlargement debate in Lithuania and the debate on the future of Europe are basically linked. However, it is natural that accession negotiations and discussion on costs and benefits of EU membership attract the biggest part of the public attention. EU enlargement as such remains the most important element of EU evolution in the eyes of Lithuanian politicians. An opinion that without a successful enlargement there would not be a successful future of the Europe is repeated quite often.

The Ministry of Foreign Affairs is proposing its own – very extensive – timetable for the next intergovernmental conference. The IGC could start by the end of the year 2003 and gain its momentum in 2005 when Lithuania will already be a fully fledged member of the EU. This timetable explains the concern of the Lithuanian government to explain to the population first the rationale to enter EU and than, reasons why a reform of EU institutions is needed.

Sources:

- Contribution from Mr Vytenis Povilas Andriukaitis, member of the Convention, on the Draft of Articles 1 to 16 of the Constitutional Treaty Based on the opinion of the Lithuanian legal experts, Brussels, 26 February, 2003, CONV 578/03, CONTRIB 257
- “Discussion on the EU future”, website of the Ministry of Foreign Affairs of Lithuanian Republic, http://urm.lt/data/3/EF71985417_eida51.htm
- Guiding Principles of the Government of Lithuania on the Future of the European Union, 2002 07 01
- Position of the Government of Lithuania on the EU Institutional Reform
- Position presented by the Committee on European Affairs of the Seimas of the Republic of Lithuania

- “Reforming the Institutions: Principles and Premises”, Contribution submitted 28 March, 2003, CONV 646/03, CONTRIB 288
- Speech by A. Gricius, member of Parliament, at Convention on February 28, 2002, http://www.urm.lt/data/3/LF31714434_Gricius020228.htm
- Speech by V. Andriukaias, member of Parliament, at Convention on 27 February, 2003, http://www.urm.lt/data/3/LF3171445_Andriukatis030227.htm
- Statement by Antanas Valionis, Minister of Foreign Affairs of Lithuania, Informal meeting of EU Ministers for Foreign Affairs (‘Gymnich’), 6 May 2001, http://www.urm.lt/view.php?cat_id=10&msg_id=331
- Statement by Dr. Dalia Grybauskaitė, Deputy Minister of Foreign Affairs, at the European Conference ‘Candidate Countries Opinion Concerning the Future of the EU’, 20 April 2001, Copenhagen, http://www.urm.lt/view.php?cat_id=10&msg_id=189

National Report Latvia

by Ainars Dimants, European Movement Latvia

1. Results of work of the European Convention

Desirable **result of the work** of the European Convention from Latvian official point of view was more or less only rearrangement and streamlining of existing EU treaties¹⁸¹. The argument for that: we don't have so big experience with EU to be ready for big reform proposals. But the nongovernmental organization European Movement Latvia¹⁸² already in November 2001 proposed main elements of the new constitution of Europe (constitutional basic treaty of the European Union)¹⁸³. The European Movement Latvia considers that in order to improve EU institutional clarity, to make the EU more understandable and closer to its citizens as well as to promote the integration of EU member states, the current basic treaties should be replaced with a new constitutional document.

It could be a new type of a quasi-state legal fundamental document – the constitution of Europe. It could also be written in treaty form and called “The Constitutional Basic Treaty of the European Union.” The form of this document could be very different. By all means it will be a new constitutional basic treaty that summarizes and supplements all current EU fundamental treaties and other fundamental documents.

The **structure of constitutional basic treaty** would consist of the Preamble, General provisions, Human Rights Chapter, Chapter on the Division of Powers in the EU, Freedoms and Policies Chapter, Institutional Chapter and Final regulations. Therefore **the proposal of Giscard and the presidium (the skeleton)** was seen in Latvia as a good starting point.

From point of view of the European Movement Latvia the text of the constitutional basic treaty should be clear and simple, including only norms of legal substance, whereas political goals and intentions should be concentrated in the Preamble of the basic treaty. The Preamble should include references to EU common traditions. EU basic goals and main principles of activity should also be reflected, especially:

- The principles of national sovereignty, regional cooperation and subsidiarity of member states,
- Diversity of cultures and languages,
- Common traditions of history and culture,
- Principles of democracy and legality,
- Principles of market economy and social solidarity,
- Willingness to actively participate in tackling global problems,
- Rights, freedoms and responsibility of the “European citizen”

¹⁸¹ See: Dimants, Ainārs: Jāprot spējēt ar atvērām acīm (intervija ar Krišjāni Karišu). Latvija un Eiropas Savienība (2003), No. 24, pp. 6-7.

¹⁸² See: www.eiropaskustiba.lv

¹⁸³ See: http://europe.eu.int/futurum/documents/other/oth051201_2_en.pdf

The General provisions must define the European Union as a union of sovereign states, which have delegated powers to institutions of the Union in order to reach common goals. EU legal qualification as a “supranational organization”, “confederation”, “federation” or others are not necessary in the text of the fundamental treaty. That is a very principal position especially from Latvian official side, because of the Latvia’s bad experience with “Soviet federation”¹⁸⁴.

The principles of democracy, legality and human rights are mandatory for all member states. The procedure by which the EU monitors their observance should be defined. If the principles are not observed, the EU can impose sanctions and even exclude a state from the Union. Otherwise member states themselves can freely establish their political and legal system.

The element of the citizen of the European Union should be expanded and strengthened. A citizen of each member state is also a EU citizen.

The hierarchy of legal provisions adopted by EU institutions (European Parliament, the Council of the European Union and the European Commission) should be clearly defined.

The Human Rights Chapter of the basic treaty would be based on the norms of the European Charter of Fundamental Rights.

Relations between human rights in this Chapter and in national constitutions should be more precisely defined. Human rights set out in the constitutional basic treaty of the European Union are fundamental and simultaneously function both in regard to individual’s legal relations with the EU and with member states, whereas the specific EU human rights primarily function in legal relations with EU institutions.¹⁸⁵

All human rights must be subject to judicial review, i.e. an individual can implement them with the assistance of a national court or the Court of Justice. Those goals and intentions of state policy, which are not connected with human rights, but which cannot be implemented by an individual with the assistance of the Court, should be included in a separate sub-chapter. Currently several provisions that are objective tasks for public power institutions, but are not subject to judicial review, are included in the European Charter of Fundamental Rights.

2. Institutions

- **European Council/Council**

From point of view of the European Movement Latvia rights and obligations in EU legislation should be redistributed by diminishing the scope of power of the Council of the European Union and by increasing the powers of the European Parliament. Simultaneously it would be possible to unify the representation quotas and to simplify the thresholds of the qualified majority.

¹⁸⁴ See:

http://www.eiroinfo.lv/pages/ESIC/content_list.jsp?category_id=11&chapter_id=304&content_id=1348

¹⁸⁵ See: <http://www.eib.gov.lv/254>

Thus strictly defining and limiting the competence of the Council of the EU, the most important issues that need to be adopted unanimously or by a high level of consensus among the member states would be within the competence of the Council of the EU.

Governments of the member states are represented in the Council of the EU. Each member state depending on the number of its population has 3, 4 or 5 votes. Representatives of each country should vote equally. Thus it has been stressed that the European Union is a community of sovereign and equal countries attaching importance to the different size of countries.

Member states can “fill-in” their country’s representation either with members of their government or, the more preferred choice, with special representatives who would work in Brussels permanently, but would be in constant contact with their governments.

The constitutional fundamental treaty must identify which issues within the Council of the EU are adopted on the basis of a:

- simple majority
- 2/3 majority
- 4/5 majority
- unanimously

The more important the issue, the higher the consensus required. The increasing of majority voting is a goal of both – Latvian government and European Movement Latvia; not so by the rotation principle of the Presidency, which is strongly supported only from government side¹⁸⁶.

An element of openness needs to be introduced into the work of the Council of the EU. The current situation whereby all Council of the EU meetings are confidential does not promote the trust of the citizens in the EU. At least the Council of the EU work which concerns legislative functions and the adoption of normative acts must be open. The experience of the Latvian government could be useful in this regard. All draft documents of the meetings of the Latvian government and the minutes of the decisions made in its meetings are accessible on the Internet.

- **European foreign minister**

The unification of the functions and persons in European Commission and European Council on the field of foreign policy is wide accepted in Latvia; only by the name of this position the government side is reserved, because such title have the connection to the federal state¹⁸⁷.

- **Commission**

The same unanimity prevail in Latvia concerning the European Commission (EC), which carries out the functions of the “government” of the European Union, represents the common interests of

¹⁸⁶ See: <http://www.eib.gov.lv/84>; Dimants, Ainārs: Jāprot spējēt ar atvērtām acīm (intervija ar Križjāni Kariū). *Latvija un Eiropas Savienība* (2003), No. 24, p. 7.

¹⁸⁷ Idem.

all member states – big and small; therefore each member state must be represented at the European Commission. This is a very substantive principle, which must be observed.¹⁸⁸

The EC should be approved and dismissed by the Council of the European Union, which represents the governments of member states and is the main legislative body. The European Parliament can also vote no confidence in the EC.

Each member state can nominate one EC member. The Council of the European Union unanimously approves EC members.

The President of the European Commission has the right to divide responsibilities among commissioners, set operational guidelines for EC members and requires resignation of one or several commissioners. The EC President is not elected directly, but he/she is chosen from several applicants by the Council of the European Union and approved by the European Parliament.

From point of view of the European Movement Latvia in case of necessity the EC President can establish the EC Presidium consisting of 4 - 6 commissioners. The right to make decisions in urgent cases can be delegated to the EC Presidium. The argument that the EC with its 27 members would be incapable to act could be partially refuted by this construction. In many governments, e.g. in France there are more than 27 members; usually in large governments “internal cabinets” are established. It is important that members of the EC Presidium have been chosen according to an objective system, i.e. the commissioner of each country has an opportunity to become a Presidium member. Commissioners can become members of the Presidium by rotation; their term of office would be one year.

- **European Parliament**

Latvia sees the European Parliament (EP) as representation of the citizens of the EU through the political will they have expressed in direct democratic elections.

The EP, together with the Council of the EU is the legislative organ of the EU. According to the position of European Movement Latvia the competence, however, of both of these legislative organs is separated – they do not overlap. Decisions on set issues can be adopted either by the EP or the Council of the EU.

EP parliamentarians are elected in general and direct elections. The total number of members of parliament should be (approximately) 500. The number of mandates among the member country parliamentarians must be divided on the basis of a transparent and logical system taking into account both that the EU constitutes equal and sovereign member states and that the populations of member states differ.

Thus the number of parliamentarians of each member country is set by the following principles:

- 1/2 of the total of parliamentarians is divided equally among the member states;
- 1/2 is divided among member states in proportion to their population.

¹⁸⁸ Idem.

Each country determines individually the procedure by which the EP parliamentarians are to be elected from its country.

The most important rights of the EP are:

- Complete control of the budget,
- The right to declare a show of no confidence towards the EC
- Approval of the EC President.

Usually the EP adopts decisions with a simple majority. In the basic agreement, it is possible to identify issues, which would require a 2/3-majority vote.

- **Institutional balance**

From Latvian point of view, represented from government, NGO's and media, the present relationship in the institutional triangle (EP-Council-Commission) should be more or less maintained and balanced, but the most important institution must be the Commission¹⁸⁹. The overall trend in Latvia is going towards a more parliamentary and not presidential political system for the European Union.

3. Decision-making

- **Unanimity**

From Latvian point of view especially for the decision of treaty changes and accession of new member states the unanimity is absolutely needed¹⁹⁰. Powers, which member states delegate to the EU, should be listed in the constitutional basic treaty. Preconditions and procedure for accession of new member states should be defined.

EU powers should be especially expanded in the area of foreign affairs, defence, justice and home affairs. In order to promote the establishment of a balanced social space in the EU, its social policy should be expanded.

The harmonisation of rights should be intensified, especially stressing the goal to decrease unnecessary bureaucratic obstacles for citizens both within member states and in regard to transboundary communication.

The cooperation in home affairs should be intensified in order to combat crime, especially trans-boundary crime. The European Criminal Investigation Bureau and European Prosecutor's Office should be established with sufficient resources (data base etc.) and authority.

Data protection as a special policy area should be developed. It is not enough that the right to data protection has been formulated as an individual human right.¹⁹¹ Active EU policy to react to

¹⁸⁹ Idem.

¹⁹⁰ Idem.

¹⁹¹ See: Article 8 of the European Charter of Fundamental Rights.

and prevent threats to the private life of an individual, and to tranquillity and individuality (both by public institutions and private legal subjects) is needed. Such threats are on the increase especially due to the rapid growth of technology.

Cooperation in foreign affairs should be in order to elevate the importance for the EU and consequently to all its member states in global politics.

The defence area should be expanded; taking into account the fact that in the future the EU must become a real defence community within NATO.

According to the position of European Movement Latvia it should be defined that by a unanimous decision of the Council the powers delegated to the EU can be temporarily or permanently returned to the member states if their centralization is no longer necessary. In the same way the powers returned to member states can be redelegated to the EU. Formal amendments to the basic treaty would not be necessary in such cases. It would be a mechanism how competences could be flexibly “shifted” between the EU and member states within the framework of the constitutional basic treaty. The competence provided by the constitutional basic treaty can be temporarily or permanently returned to member states in case the centralized policy in a concrete situation is contra productive. Member states themselves would not be entitled to act without this mechanism, because the respective issue has been removed from their competence. The return of EU competence to member states is a substantial decision, therefore a unanimous decision of governments of all member states is necessary, and thus the heavy amendment procedure of the basic treaty would not be necessary. This mechanism of transfer of powers is one of the forms of expression of the principle of practical subsidiarity.

The principle of subsidiarity should be expanded. Powers that have been delegated to the EU can be used by the EU only if the institution that wants to use them motivates the necessity of their use, because member states cannot use them more effectively. Cases of subsidiarity can be decided by the special National Parliaments Council.

- **Procedures for ratification**

Final regulations should set out the procedures for ratification of the constitutional fundamental treaty. It is possible only with the consent of all member states. The manner by which the member states express their consent is determined by the national legislation of that member country. An alternative would be to think about a regulation that this consent is always given by the parliament of the member country. In this case all EU citizens would have equal democratic possibilities to influence the issue in question (currently some countries require a referendum to amend the basic agreement, in other the consent of the parliaments is sufficient).

Additionally the procedure for a member country to revoke membership is to be set out here¹⁹². The revocation of membership depends on the will of the member country in question.

- **Differentiation**

¹⁹² See: the article of Foreign Minister of Latvia Mr. Indulis Berzins already from 31.05.2001: http://europe.eu.int/futurum/documents/press/pr310501_en.htm

The principles of intensified cooperation should be defined. Temporal intensified cooperation is acceptable to achieve concrete common goals in the States that are ready to take part; however, it cannot hinder EU integration. Regional cooperation should be expanded. It should play a bigger role as a special form of promoting the common goals.

4. Priorities of the debate in Latvia

The most important issue, which is discussed in Latvia in all context of the work of European Convention, is the possibilities of small country to influence and contribute for EU decisions and policies, especially in relations between EU and Russia. Also the efficiency of the economical governance in the EU is an important point in discussion of the future economical development of Latvia. The future EU has to be based on the former principles of solidarity. The principles of solidarity, equal terms of competition in the common EU market, especially in the sensitive market of agricultural products have to be observed after the enlargement of EU. Therefore we have to sit at the table of decision-makers, not only to become the performers of decisions of EU, what we shall be when we stay outside.

According to the Latvian discussion special guarantees should be defined for the development of national cultures and languages. Primarily member states are responsible for the diversity of European culture and languages; however the EU also promotes it in an appropriate way.

Official languages of all member states are also official languages of EU institutions. Each inhabitant of the EU has the right to approach EU institutions in any of these languages and to receive a reply in the same language.

5. Awareness of the European Convention

The Latvian **government** actively follow and contribute to the European Convention, especially together with other small countries¹⁹³. It is a priority of European policy. Together with European Movement Latvia and Latvian representatives at the European Convention the Prime Minister Mr. Andris Berzins and Foreign Minister Mrs. Sandra Kalniete organized four meetings of Latvian National Convention about the Future of Europe (09.05.2002, 23.08.2002, 14.04.2003, 04.06.2003), following the debate of the European Convention and broadcasted by **public** Latvian Radio¹⁹⁴. The connection between the preparation for a **referendum on EU membership** on 20th September 2003 and the European Convention is mostly used by the information campaign of the European Movement Latvia, which is coordinated together with other European Movements (e.g. Danish European Movement), but not by official government's campaign, because it is a difficult issue for normal people and a field of euro-sceptics too.

¹⁹³ See: <http://www.am.gov.lv/en/?id=51&work=search&summary=on&and=0&userbit=0&userint=1>

¹⁹⁴ See: <http://www.eib.gov.lv/lv/konvents/lv/>

National Report Poland

by Rafal Trzaskowski, European Centre Natolin

1. Results of work of the European Convention

The Polish government follows the mainstream in agreeing that the Convention should propose a single document, which then should be adopted by large consensus.¹⁹⁵

The Polish government supports all of the efforts aimed at simplification of the existing Treaties, acknowledging that it is not a technical question but a political process,¹⁹⁶ and therefore that it will be by no means automatic. Polish representatives to the Convention, in accordance with the Convention's mainstream, favour dividing the existing Treaties into two parts – a constitutional and a political (operational) one.¹⁹⁷

According to the government's representative to the Convention, Danuta Hübner, the draft articles of the future Constitutional Treaty presented by the Presidium constitute a solid attempt at extracting the discussion in the plenary, taking into consideration most of the recommendations of eleven working groups.¹⁹⁸

Danuta Hübner is also of the opinion that the constitutional treaty, in its final provisions, should provide for a rule which would allow to conduct interim reviews and to assess the efficiency of operations undertaken by the EU on its basis. In this context, the form of the current Convention seems appropriate to her.¹⁹⁹

The Polish government is convinced that it is indispensable to include common, fundamental values in the Constitutional Treaty. Therefore, it supports making the Charter of Fundamental Rights a legally binding part of the constitutional Treaty.²⁰⁰ The Polish government believes that such move will have an enormous 'public relations' effect. It will prove that the Union is not only about economy but that it is a political entity, guided in its activities by universal human rights. All of the Polish representatives in the Convention, both representing the government and the opposition, support the option of including the entire Charter in a prominent position in the text

¹⁹⁵ On the topic of Poland's position more extensively, see: Rafał Trzaskowski, *From Candidate to Member State: Poland and the future of the EU*, 37 Occasional Paper of the EU Institute for Security Studies, Paris, 2002.

¹⁹⁶ Leszek Miller and Miłosz Zeman, "Trybuna", No 49 (3646) 27 February 2002.

¹⁹⁷ Włodzimierz Cimoszewicz (2002a) Speech at the Dublin Institute of European Affairs, 21 March 2002; Danuta Hübner, Address to the Participants of CEEC Debate Workshop, European Institute, Łódź 25.10.2003.; Contribution submitted by Ms Danuta Hübner, member of the Convention: - Title III of the draft Constitutional Treaty (articles 8 to 16), CONV 613/03, CONTRIB 275, Brussels, 12.03.2003.

¹⁹⁸ Personal remarks by Danuta Hübner, Convention's plenary session, 27-28.02.2003.

¹⁹⁹ Personal remarks by Danuta Hübner, Convention's plenary session, 27-28.02.2003. op.cit.

²⁰⁰ Włodzimierz Cimoszewicz (2002b), Forum – 'Together on the Future of Europe', Warsaw, 18.02.2002. Cimoszewicz (2002a) op.cit.

of the European Constitutional Treaty itself. According to the contribution signed by them all, tucking away the Charter in some protocol would be to deny its real worth and importance.²⁰¹

2. Reform of EU Institutions

- **European Council/Council**

Poland's attitude towards the Franco-German proposal on the double presidency is not clear cut. The first reactions were mixed and somewhat confused. The representative of the Polish Parliament in the Convention, Józef Oleksy was rather positive on the whole idea. At the initial stage of the Convention he himself proposed the creation of a post of a permanent President of the Council, as the only way to remedy some of the problems associated with continuity and coherence of EU policy-making after enlargement.²⁰² The government and its representative in the Convention, Danuta Hübner, were much more cautious. Just after the Franco-German paper was published, the minister of foreign affairs, Włodzisław Cimoszewicz refused to comment on it. He, however, chose to remind the press that Poland traditionally supported the idea of a team presidency.²⁰³

The Franco-German proposal is generally understood as aimed at strengthening of the intergovernmental method. Sophisticated argumentation, according to which intergovernmental organs do create a certain supranational dynamics, is not shared by the majority of political class. Poland, in general, is cautious when it comes to voicing strong support for the initiatives opting for the strengthening of the Council in the EU institutional triangle. Regardless of their ambitions, it seems that the greatest part of the Polish political elite is aware that immediately upon membership Poland will not be able to play a leading role in any kind of a *directoire*, assuming that it were to emerge, and therefore is wary when it comes to an idea of a strong, political, permanent President of the Council.

Because of various misgivings the Polish government decided to choose the middle way.²⁰⁴ In its official position submitted to the Convention (CONV 550/03, CONTRIB 240, 12 February 2003) the government's representative opted for bringing together the idea of group presidency and that of an elected chairman of the European Council. Danuta Hübner, was of the opinion that rotating presidency, although making continuity difficult, offers more pros than cons.²⁰⁵ "It creates value added by empowering governments and administrations to make the best of their expertise and experience (...) it also allows citizens in the member states to take an active interest in EU affairs and identify themselves with the process of integration". Therefore Hübner proposed to retain

²⁰¹ Contribution by members of the Convention: "Initiative for the incorporation of the Charter of Fundamental Rights into the European Constitution", CONV 607/03, CONTRIB 274, Brussels, 11.03.2003.

²⁰² Speech by J.Oleksy at the plenary session of the Convention, 20.01.2003.

²⁰³ *EuroPap*, 23.01.2003. www.euro.pap.com.pl

²⁰⁴ As the only future member, Poland did not support the initiative of seven smaller current member states which opposed the proposal aimed at establishing the post of a permanent President of the European Council. Danuta Hübner asserted that even though the line of thinking presented by smaller states is close to her own reasoning she has her own ideas concerning the Presidency. According to the Poland's representative, the chairman of the European Council should be elected by the countries exercising the team presidency in order to coordinate their work. See: *EuroPap*, 04.04.2003. www.euro.pap.com.pl

²⁰⁵ Similarly to Peter Balazs, see: CONV 522/03, CONTRIB 218, 31.03.2002, Proposal on a Four Wheel Drive, rotating Presidency of the Council.

elements of rotation while designing the new institutional system. According to the minister's line of reasoning, precisely in order to preserve the continuity in the workings of the EU and provide improved leadership, the EU should be managed by a light Steering Committee consisting of the chairman of the European Council and chairpersons of the respective Council formations. To avoid the creation of new institutions, the Steering Committee should be supported by the General Secretariat of the Council.

The group presidency should be managed by 4 countries taking the helm in the EU for 2-2 and a half years. The responsibility for each of the Council formations should be delegated to specific countries and co-ordination should be limited to ensuring the full execution of the presidency's programme. The countries exercising the presidency would decide the repartition of tasks among themselves. The prerogatives of the chairman of the Council should be clearly delineated in order to avoid the distortion of the EU institutional balance. The tasks of the chairman should be limited to: preparing European Council sessions, overseeing the implementation of its decisions and representing the EU in the wider world. According to Hübner's contribution, none of these tasks should be performed independently of the other two EU institutions, the Commission and the European Parliament. The candidates for the post of the Chairman of the European Council should be designated by the group presidency. The Chairman himself, in turn, should be elected by the entire European Council deciding by qualified majority voting.

The government is concerned that the creation of a post of a permanent chairman of the Council could upset the EU institutional balance in favour of the European Council. Especially if one wants to endow the chairman with a task of adjudicating conflicts arising at the ministerial level. In order to avoid such a possibility, Hübner's contribution opted for engaging, in case of need, of the President of the Commission in a sort of arbitration/leadership committee meant to resolve outstanding issues.

- **European Foreign Minister**

The government accepts the idea to merge the posts of external relations commissioner and High Representative. Danuta Hübner commented that an idea contained in the Franco-German proposal is good. However, if such a post was to emerge within the Commission and there would be a simultaneous creation of a permanent president of the European Council such solution might provoke certain tensions stemming from competence overlap.²⁰⁶ Zygmunt Wittbrodt, however, supports the merger of both posts precisely within the Commission.²⁰⁷

- **Commission**

In general, because of its support for the community method, Polish government supports all the moves aimed at strengthening of the Commission, especially in its role as the guardian of the Treaties. However, there are certain departures from that general rule. Józef Oleksy in one of his contributions even proposed abolishing the Commission's right of initiative within the first pillar²⁰⁸, but it seems that he did so without realising the full consequences of such move.²⁰⁹

²⁰⁶ *Europap*, 15.01.2003. www.euro.pap.com.pl

²⁰⁷ Contribution of, Zygmunt Wittbrodt, Convention session, 11-12.07.2002.

²⁰⁸ Contribution by Józef Oleksy, "The simplification of legislation procedures and European Union instruments", CONV 261/02, CONTRIB 90, Brussels 01.09.2002.

Poland always shared the opinion that each member state should retain the right to propose a candidate for the European Commission. The foreign ministry argued that effectiveness of the Commission is much more closely related to clear-cut division of responsibilities and greater transparency, than to size. In its official assessment of the Nice Summit, the MFA welcomed the decision to defer the question of the Commission's size to the future. According to the government's position, a guarantee for the EU's new members to have a seat at the College from the moment of accession constitutes an important condition for the maintenance of the institution's democratic legitimacy within the new members.²¹⁰

Poland's official position on the issue of the election of the Commission's President is unclear. Initially, the prime minister and the President, as well as Józef Oleksy, supported the idea of endowing the European Parliament with that particular prerogative.²¹¹ However, after conducting a thorough analysis, the government started having its misgivings. Recently, Danuta Hübner warned that the election of the President of the European Commission by the majority in the European Parliament could politicise the whole institution to unwanted degree. Such a reform would have a negative impact on the perception of the Commission's impartiality, hindering its ability to play a role of an honest broker.²¹²

- **European Parliament**

The support for the community method is consistent with the Polish government's stance on many detailed issues, most notably all the initiatives aimed at strengthening of the European Parliament – through new prerogatives (more co-decision and more budgetary powers).²¹³ The representative of the opposition in the Convention, Zygmunt Wittbrodt, goes even further, he supports the strengthening of the European Parliament's role in formulating and assessment of the Common Foreign and Security Policy.²¹⁴

There is not doubt that the Polish government supports the extension of co-decision, with a possible exception of issues dealing with Monetary Union. Such move is wholeheartedly shared by the representative of the Polish parliament in the Convention, Józef Oleksy.²¹⁵ The representatives of the opposition in the Convention, Marta Fogler and Zygmunt Wittbrodt, also voice support for extending co-decision with a simultaneous streamlining of the legal instruments.²¹⁶ They also propose a further simplification of co-decision (elimination of the

²⁰⁹ Especially that soon afterwards he signed a contribution of Andrew Duff, one of which most principle arguments was precisely to retain the Commission's initiative monopoly. Contribution of Andrew Duff on behalf of a number of members and alternate members of the Convention. "Key elements of Institutional Reform", CONV 487/03, CONTRIB 190, Brussels 16.01.2003.

²¹⁰ Polish MFA document – *The Treaty of Nice - The Polish Point of View*, Warsaw, 15.02.2001, p.22.

²¹¹ Miller and Zeman (2002) op.cit, Aleksander Kwaoniewski, 'Enlarged EU: Moving Towards a Political Union' – Stockholm School of Economics, 10.05.2001. Speech by J.Oleksy, at the plenary session of the Convention, 20.01.2003.

²¹² *Europap*, 20.01.2003. www.euro.pap.com.pl Such reasoning was firstly espoused by former Secretary of the Committee of European Integration, Jacek Saryusz-Wolski.

²¹³ Miller and Zeman (2002) op.cit.,

²¹⁴ Contribution of, Zygmunt Wittbrodt, Convention session, op.cit.

²¹⁵ Speech by Józef Oleksy at the plenary session of the Convention, 20.01.2003.

²¹⁶ Contribution of Marta Fogler and Edmund Wittbrodt, "Simplification of the legislative and budgetary procedures of the European Union", CONV 280/02, CONTRIB 99, Brussels 01.10.2002.

conciliation committee). It seems, however, that such proposal was submitted without a thorough analysis of all the sophisticated consequences of such a reform.

Danuta Hübner believes that budgetary procedures have worked rather well, as she puts it: “there is a temptation not to try to mend something which is not broken”. However, one should analyse closely the distinction between obligatory and non-obligatory expenditures. According to Hübner, it is strange that there exist important areas which cannot be influenced by the Parliament through its budgetary prerogatives.²¹⁷ The members of the opposition, who take part in the deliberations of the Convention, in their proposal aimed at simplification of the legislative and budgetary procedures explicitly opt for doing away with the distinction between compulsory and non-compulsory expenditure, precisely in order to strengthen the European Parliament.²¹⁸

- **Institutional balance**

The most important feature of Polish government’s position on the future of Europe is the declared support for the community method. That particular line of policy is supported by most pro-European political forces, the social-democratic government and the liberal opposition (Civic Platform), with a possible exception of conservative PiS (Law and Justice), which from ideological reasons declares greater affinity to intergovernmentalism.²¹⁹

Many Polish decision-makers have realised with time that as a newcomer and a relatively weak country, Poland will have to rely on the community institutions, in order to secure a more effective defence of its interests. Since the support for the intergovernmental line could turn out to be counterproductive for a country of limited potential, the current government opts for retaining a healthy balance between intergovernmental and community methods.²²⁰ Even though the government agrees that not all of the EU policies have to be conducted in the same way, its representatives pronounced recently quite radical views on the issue, stating that pillar structure of the Union becomes of a lesser importance, as the thematic division between policies becomes more and more outdated.²²¹ Sometimes, however, the support for the community method stands in contrast with the discourse of important social-democratic politicians.²²²

The Polish elite, with few exceptions, shies away from the discussion concerning the final design of the enlarged Union. The Polish members in the Convention opted for deleting the word “on a federal basis” from the draft articles of the Constitutional Treaty. Danuta Hübner, the government’s representative to the Convention suggested that one should stick to the relatively

²¹⁷ Personal statement by Prof. Danuta Hübner, The simplification of legislative procedures in the Union.

²¹⁸ Contribution of Marta Fogler and Edmund Wittbrodt, “Simplification of the legislative and budgetary procedures of the European Union”, *ibid*.

²¹⁹ The position of the Peasant Party (PSL) is also closer to intergovernmentalism, the two remaining parties in the Polish Parliament, The League of Polish Families and the radical, peasant Self-Defence, are openly Euro-sceptic.

²²⁰ See for example: the opinion of Danuta Hübner, Deputy Minister of Foreign Affairs, Secretary of the Committee for European Integration, Polish Government’s Representative to the Convention. *Europap*, 11.02.2003. www.euro.pap.com.pl

²²¹ Danuta Hübner – Address to the Participants of CEEC Debate Workshop, European Institute, *op.cit*.

²²² See for example: J.Oleksy initial support for the Franco-German proposal on the permanent presidency of the Council. Speech by J.Oleksy, at the plenary session of the Convention, 20.01.2003.

uncontroversial and catch-all formula of “an ever closer union”.²²³ Clearly the reasons for such position are political. The government does not want to furnish the anti-European opposition with arguments in a pre-referendum campaign. During the Convention session which took place on the 4th of April 2003 Hübner stated explicitly that it is not in Poland’s interest to present a complete position of the government on the future of Europe.²²⁴

3. Decision-making

- **QMV/Unanimity**

In most of the official documents the Polish government agrees with a need for a more efficient decision making in the enlarged EU. The Poland’s stance on the issue is consistent, regardless of the changing government. The current social-democratic government, just as its conservative predecessor, in principle supports the extension of QMV. The current governing élite might be even more positive on the issue, which is consistent with Poland’s support for strengthening of the community method. Miller’s government, however, just as almost every government of the current member states, would not go so far as to honestly vouch for a complete generalisation of the principle (an across the board extension).

In the first position of the previous government, issued before the conclusion of the 2000 IGC, we could read that ‘any extension of qualified majority voting should be preceded by a thorough analysis of all Treaty articles to which the unanimity principle has applied up to date’.²²⁵ According to the Poland’s official assessment of the Nice Treaty, the fact that the extension of QMV was modest was assessed as advantageous for Poland. The document of the ministry of foreign affairs quoted the following arguments in support of its stance:

- ‘a decrease in the negative effect of the feeling of resignation in part from national sovereignty which may emerge in Polish society immediately after achieving membership,
- a decrease in the possible additional economic burdens for Poland which QMV, covering such areas as environment protection, taxation, welfare, structural and asylum policy may imply,
- gaining the opportunity of a ‘fuller’ influence on the shaping of EU common policies,
- in the case of quick accession the opportunity of influencing the evolution of majority voting e.g. on the IGC 2004 forum’.²²⁶

The issue of QMV extension is the most sensitive from all of the Amsterdam left-overs. In contrast to many other aspects of EU decision-making, the question of majority voting is

²²³ Secretariat of the Convention, Reactions to draft articles 1 to 16 of the Constitutional Treaty – Analysis, CONV 574/1/03, REV 1, Brussels, 26.02.2003.

²²⁴ *Europap*, 13.04.2003. www.euro.pap.com.pl

²²⁵ CONFER/VAR 3964/00, op.cit.

²²⁶ Polish MFA document – *The Treaty of Nice - The Polish Point of View*, op.cit., p.26. The document treats in detail an issue of preserving unanimity in the area of structural assistance until 2007. Since the negotiations on the next Financial Perspective will probably take place in 2005, the preservation of unanimity will entail very difficult negotiations between current cohesion countries, net payers and new member states.

relatively straight-forward and easy to understand. Therefore, the defence of unanimity became a pet-project of many Polish Eurosceptics, some of whom claimed, even before Nice, that the EU system relies too heavily on QMV, and that there is an urgent need for reconsideration of the *status quo*. Therefore one might link the lack of enthusiasm for an across the board extension of QMV with strictly domestic political consideration. Every government simply wants to appear as a defender of national sovereignty. However, that being said, one has to note a very positive attitude of the members of the Polish parliamentary opposition, Zygmunt Wittbrodt and Marta Fogler, present in the Convention towards the issue of QMV extension.²²⁷

Current Polish government might be more willing to support the extension of QMV than its conservative predecessor, however, it is not reckless enough to make its support unconditional. The minority government of SLD cannot risk alienating the important part of the opposition, especially its former coalition partner – the Peasants Party (PSL), which after leaving the government adopted a much more EU lukewarm attitude, treating the issue of EU expansion in a clearly instrumental fashion.²²⁸

The government's representatives always admit that, besides the quasi-constitutional questions, for every country exist specific areas in which the defence of national interests is very important and therefore in which unanimity should be preserved.²²⁹ There are certain fields, in which adverse consequences of QMV extension for Poland, and more generally – for poorer countries, are obvious, and most of them have been correctly identified by the government. Social policy is a good case in point. Both Polish representatives to the Convention, Danuta Hübner and Józef Oleksy are against the harmonisation of all social standards, and therefore would wish to see unanimity preserved in this particular area. According to them, there is a need to retain the differences between social models existing in the member states.²³⁰ Obviously the most important argument behind that reasoning is financial. Poland would not simply have the necessary means to employ very high western standards in that field. Rationale for opposing the extension of QMV may, however, be also political. For example, Poland would want to retain veto rights as concerns taxation, because it wishes to pursue an independent policy in this specific area.

- **Procedures for ratification**

According to the Polish MFA, the procedure for the amendment of the second part of the Treaty – the operational one - should be much lighter (possibly even based on QMV).²³¹

²²⁷ Secretariat of the Convention, Reactions to draft articles 24 to 33 of the Constitutional Treaty – Analysis, CONV 609/03, Brussels, 12.03.2003.

²²⁸ Moreover, two parties of the opposition – Eurosceptic League of Polish Families and Law and Justice submitted a motion to the Parliament in which they advocate drafting a declaration concerning the sovereignty of the state in the areas of morality and culture (which would essentially be about safeguarding unanimity in these areas) See: *Europap*. 02.04.2002. www.euro.pap.com.pl Similar declaration has been recently adopted by the lower house of the Polish Parliament (374 votes for and only 35 against, with 8 abstentions) The declaration asserts that Polish law regarding moral standards regulating social life, family dignity, marriage, education and protection of life will not be limited by any dispositions originating from international law. See: “*Gazeta Wyborcza*” 11.04.2003, “*Le Monde*” 12.04.2003.

²²⁹ See for example the opinion of Danuta Hübner, *Europap*, 21.03.2002. www.euro.pap.com.pl

²³⁰ *Europap*, 06.02.2003. www.euro.pap.com.pl

²³¹ Włodzimierz Cimoszewicz, Poland in the European Union, a speech at the UMCS, Lublin, 24.03.03.

- **Differentiation**

Just like in the case of most other candidate countries, the Polish attitude towards the concept of flexible integration from the outset has been characterised by certain ambivalence. However, in the course of the few last years one may see a certain evolution of the Polish position on the issue. After the signature of the Nice Treaty by current member states, the Polish government decided to embrace the concept of 'closer cooperation' - provided that its open character were to be guaranteed. However, one can still detect certain caution in the government's attitude towards the issue. Prime Minister, Leszek Miller, on numerous occasions expressed a sentiment that Poland could not support a creation of closed, exclusive groupings within a Union, which should remain a cohesive entity.²³²

Polish elite is afraid of all ideas based on the philosophy, according to which "today's fifteen should form a hard core of the future EU while the new members should make themselves comfortable in the anti-chambre."²³³ According to the minister of foreign affairs, the idea of an exclusive *noyau dur* is not very appealing to Poland. However, nothing can prevent the willing member states to co-operate more closely if they so wish.²³⁴ It is thus better if such a possibility is offered by the Treaty, so that the member states in question would not do it outside of the Union's framework. Especially that such eventuality could provoke disintegration.²³⁵ Anyhow, since Poland does not have an opt-out mentality, it has nothing against closer co-operation, provided it would be open for all the willing member states. If an avant-garde were to be formed, in all probability, the current government and a considerable part of the opposition would aspire to be in it.

4. Poland's specific interests

4.1. Strengthening of the Common Foreign and Security Policy/European Security and Defence Policy

According to all official documents, Poland fully supports both strengthening of CFSP and the creation of ESDP. However, in reality, there is some ambivalence in Polish thinking on the issue. Just a few years ago, many Polish authorities were against the development of autonomous European capabilities in that area. Warsaw was worried that any attempt to create European security structures might in the end undermine NATO. And it is precisely the North Atlantic Alliance which in Poland has always been widely recognised as the only force able to effectively

²³² Other politicians tend to take a much more relaxed view towards the idea of creating a EU of concentric circles, thus fully subscribing to the official discourse of the Polish MFA. Bronisław Geremek, while noticing that all of the concepts aimed at a creation of avant-garde do assume the creation of two spheres within the Union, differing as to the depth of integration, doesn't see any reason to panic. According to Geremek, Poland has an every chance of becoming a member of the avant-garde, especially due to its potential and geopolitical location and therefore it should have an ambition of fulfilling all of the criteria necessitated by such membership. (Bronisław Geremek (2002) 'What Union Do We Want?' *Gazeta Wyborcza*, 08.03.2002)

²³³ Włodzimierz Cimoszewicz (2002a) op.cit.

²³⁴ Włodzimierz Cimoszewicz (2003) ibid.

²³⁵ An unconditional support for the QMV in reinforced co-operation (application of thereof) constitutes an ultimate proof of Poland's changed and constructive attitude towards the whole concept. See: Contribution submitted by Ms Danuta Hübner, member of the Convention: - Title III of the draft Constitutional Treaty (articles 8 to 16), op.cit.

take care of the security of the European continent. To change the Polish attitude on the issue it had to be absolutely clear that the new structures, however ambitious, would not duplicate or endanger the cohesion of the Alliance. The partial explanation for the perceived lack of enthusiasm for the need to develop European policy in the area of defence stems from the fact that Polish political class, because of historical reasons, tends to focus on collective security guarantees.

The Polish government is critical of two aspects of ESDP, its place and role in the system of European security and Poland's relation to the new policy. First of all, as stated above, Warsaw emphasises that the development of ESDP cannot weaken the effectiveness of NATO or lead to questioning of American involvement in Europe. Therefore, Poland supports full coordination of all action and a common planning system between NATO and the ESDP structures. Second of all, the Polish government has never been satisfied with its position within the nascent ESDP. Poland has always expected greater participation of the non-EU NATO members in decision-making within ESDP, defending the right to be treated on equal footing.²³⁶ Therefore, it did not assess positively the Helsinki Summit decision, according to which the position of non-EU NATO members, as regards operations not making recourse to NATO assets, was to be equal to all the other countries willing to participate in them.²³⁷

Polish elite may be ambivalent about building ESDP or strengthening CFSP, but one should not take ambivalence for reticence, Poland has always shared all of the EU's foreign policy priorities, subscribed to all of its *demarches* and supported all of the common positions when only invited to. It is very doubtful therefore that Poland could interfere with any of the Union's ambitions in that particular field, especially if one assesses its current track-record. Labelling Poland "an American Trojan horse" is clearly an exaggeration. The fact that the Prime Minister Leszek Miller signed the letter of Eight should not be read as part of any pre-meditated strategy. The letter itself, if one takes an effort to read it carefully, does not contain anything controversial. The government simply found it irresistible to find itself among such important EU countries as Great Britain, Spain and Italy. Sending clear signals to the Americans that they can depend on Poland was obviously very important. However, nothing seems to indicate that the government wanted to do anything in order to widen the rift which has appeared in EU foreign policy or to alienate important European governments in such delicate time (the signature of the accession Treaty).

When it comes to the air-fighter procurement, the government declares that American F-16's were chosen solely for economic reasons. However, it cannot be denied that political consideration also played an important role. Firstly, the government wanted to pay its debt to the Americans (support for Poland's NATO bid) and secondly, Warsaw did not want to do anything to undermine the second wave of NATO enlargement. That being said, it must be stressed that from purely European vantage point it would have been wiser to choose a European consortium (British Aerospace came close second in the procurement contest) especially in such an important political time-frame – between Copenhagen and Athens Summits.

²³⁶ Some politicians even point out that the associated status in the WEU fulfilled the Polish aspirations to a greater degree than the status proposed in the realm of ESDP.

²³⁷ At the EU Feira Summit Poland proposed its own solution aimed at greater participation in the ESDP decision-making and planning through regular cooperation in the 15+6 formula. See: 'Initial Proposals for Practical Development of Feira Decisions Concerning the EU Co-operation with non-EU European Allies'. Polish [MFA website – www.msz.gov.pl/english/unia/position_18082k-ang.html](http://www.msz.gov.pl/english/unia/position_18082k-ang.html)

4.2. Relationship between smaller and bigger countries

Nowhere in the official documents can we find a reference to that particular problem. In between the lines, however, certain things can be read. Although Poland does not position itself as yet among the big current member states, nevertheless playing with the big in the future clearly constitutes one of its greatest, although maybe largely subconscious, aspirations. Before clearly answering the question on the relationship between smaller and bigger countries, the government would have to answer a question what role would Poland want to play in the future, enlarged EU. It seems that the authorities are not ready to answer that particular dilemma, or they do not simply want to risk alienating smaller member states. The government is ambivalent on the issue – a mixed and confused reaction to the Franco-German proposal for permanent presidency clearly attests to it. Poland, as the only candidate country, did not support the critical evaluation of the paper prepared by the small current member states.

4.3. Division of competencies²³⁸

Out of all the questions contained in the Nice Protocol the question concerning the division of areas of competence is by far the most difficult and controversial, and as such has been recognised by the official document of the Polish MFA assessing the results of the Nice Treaty.²³⁹ Poland's position on the division of competencies has been therefore very cautious. Such position has been consistent throughout - both former and current ministers of foreign affairs agreed that Poland could support all the moves aimed at a more specific and clearer definition of responsibilities between the different levels of governance (the Union, the nation state and the regions). However, both governments also opposed a strict definition of competencies, as creation of any kind of Kompetenzkatalog could slow down or even stop the process of European integration.²⁴⁰ Both, Polish and former Czech Prime-Minister, Leszek Miller and Milos Zeman, stated very clearly that it is impossible to delineate the division of competencies once and for all, as the integration process undergoes continuous evolution.²⁴¹

Danuta Hübner signed a contribution (with such politicians as Moscovici and Hain) which advocates enumerating in the future Constitutional Treaty three different categories of competences, but without any definite catalogue. According to her conviction, describing the system in clear and logical terms would help make Europe more transparent and credible.²⁴² On the other hand, creating a definite catalogue would strip the EU of so much needed flexibility. Hübner believes that having a rigid catalogue would push the Union into an arbitrary debate on the character of Union's competences instead of focusing on the objectives to be achieved by the

²³⁸ Also see: Rafał Trzaskowski, *Division of Competences*, Reports and Analyses of the Center for International Relations, Warsaw, 9.02.

²³⁹ Polish MFA document – The Treaty of Nice - The Polish Point of View, op.cit. p.64.

²⁴⁰ Such position has also been consistently defended by the Polish representatives to the Convention. See the statements of Danuta Hübner, who said that strict delimitation of competencies may adversely influence the effectiveness of the EU. *EuroPap*, 14.04.2002. www.euro.pap.com.pl

²⁴¹ Leszek Miller and Milosz Zeman (2002), op.cit. A very similar sentiment was voiced in a joint article entitled 'Together Towards a Future Europe' written by Leszek Miller and Tony Blair, *Rzeczpospolita*, 14.03.2002, see also former prime-minister speech: Jerzy Buzek, Royal Institute of International Affairs, Brussels, 26.06.2001.

²⁴² Contribution from Peter Glotz, Peter Hain, Danuta Hübner, Ray McSharry, Pierre Moscovici, Division of Competences, CONV 88/02, CONTRIB 46, Bruksela 14 czerwca 2002.

integration process. The government's representative in the Convention is of the opinion that if one, however, were to ascribe specific competencies to a given category, one should limit oneself only to the list of exclusive competencies, as applied in the Polish constitution.²⁴³ Therefore it might be said that the draft articles of the Constitutional Treaty dealing with the competences, as prepared by the Presidium, are not fully in line with the reasoning of the Polish representatives in the Convention.

The Polish position on the issue of competence delimitation is consistent with the support for the community method and the deepening of integration as such. The Polish authorities are genuinely convinced that a strict division of competencies could hamper the integration dynamics. As we can read in the contribution signed by Danuta Hübner, "Rigid distinction between respective competences of the EU and the member states is not the right approach"²⁴⁴ However, the most important rationale for that highly sceptical position on the issue stemmed from an overwhelming concern that an exercise of competence delimitation could lead to regression of integration – that is in specific terms – a re-nationalisation of certain common policies.²⁴⁵

4.4. Other particularities - a reference to God in the EU Constitutional Treaty

The most important particularity concerns the insistence of Polish representatives in the Convention on including a reference to God modelled on the Polish Constitution in the Constitutional Treaty. Such move is defended primarily by the members of the opposition, Zygmunt Wittbrodt and Marta Fogler, but is also supported by the representatives of the ruling social-democrats.²⁴⁶ The Polish government even prepared a declaration on that particular issue and the Minister of Foreign Affairs, Włodzimierz Cimoszewicz, defends the idea in his speeches.²⁴⁷ There is an agreement among the Polish elite that if the future Constitutional Treaty is to become something more than a mere treaty it has to address the question of fundamental values on which the whole European enterprise is based.²⁴⁸ According to majority of Poles, such foundations should include a reference to religious heritage, albeit in accordance with a tolerant formula contained in the Polish constitution - "Both those who believe in God as the source of truth, justice, good and beauty, as well as those not sharing such faith but respecting those universal values as arising from other sources..."

5. Awareness of the European Convention

The government follows the Convention intently. The Polish representatives take active part in the works of the Convention. When compared with other candidates and even current member states, the number of contributions made by Poles is quite impressive, however, their general quality varies. Even though the government is clearly involved in the process of reforming the Union institutional system, it would be an exaggeration to state that it constitutes a priority of

²⁴³ Personal remarks by Danuta Hübner, Plenary session, 27-28.02.2003, op.cit.

²⁴⁴ Contribution from Peter Glotz, Peter Hain, Danuta Hübner, Ray McSharry, Pierre Moscovici, ibid.

²⁴⁵ Former minister of foreign affairs, Władysław Bartoszewski (2001) Conference organised by the Warsaw School of Economics, Warsaw, 28.05.2001, Buzek (2001) op.cit.

²⁴⁶ Secretariat of the Convention, Reactions to draft articles 1 to 16 of the Constitutional Treaty – Analysis, op.cit.

²⁴⁷ Włodzimierz Cimoszewicz (2003) op.cit.

²⁴⁸ Further see: B.Nowak [ed.], *The Question of God, faith and religion in the European Constitution*, Reports and Analyses of the Center for International Relations, Warsaw, 4/03.

Poland's European policy. There is almost no connection between the preparations for a referendum on EU membership and the Convention.

In general, Poles, just as the majority of current EU citizens, are not very interested in the exact institutional shape of the EU. Similar thing can be said about interest groups and political parties. Effectiveness is much more important than exact systemic and political foundations of the Union. According to the study done by one of the leading public opinion institute – CBOS, the functioning of the EU institutions 'is marred by erroneous notions'. Nevertheless, when it comes to the knowledge of the details of the EU institutional system, the Poles with higher education score much better when compared with their EU counterparts. When it comes to the Convention, 69% of Poles have never heard about the forum.²⁴⁹ Those who have heard about it, are, however, hopeful. 63% of them think that Polish participation in the process of reforming the EU institutions would increase Warsaw's influence over the EU future shape.²⁵⁰

The media follow the works of the Convention, however, just as in most of current member states, the coverage is not very extensive. Generally, the articles on the Convention feature in the press in a prominent place only when an important political event takes place, a Franco-German paper is a good case in point. The mundane process of reforming EU institutions is definitely not a media priority.

²⁴⁹ However again, very similar figures are obtained throughout the current EU.

²⁵⁰ www.cbos.com.pl – Report 49 - Support for Poland's integration with the EU and the opinions on the European Convention, March 2002.

National Report Romania

by Mirela Apostol, Synergy, Bucharest

1. Results of work of the European Convention

In the Convention's timetable, the period January – June 2003 was planned as a stage of answers and concrete scenarios. The challenges of the reform had as a starting point and also as finality the points of view, the opinions and scenarios launched by representatives of the academic field, of various European *think-tanks*, by representatives of the European and national political institutions. Nevertheless, premises should be created for an efficient relationship between simple reflections on the future of the European Union and the necessity of implementing/enforcing these points of view.

Starting from the four reflection topics outlined in the Nice – Laeken processes, namely the division of competencies/powers between the EU and the member states, the simplification of treaties and judicial instruments, the role of national parliaments, and the Charter on Fundamental Rights, the activity of the European Convention evolved towards a mix of proposals spoken-out/launched during the plenary sessions and specialized debates within working-groups (initially there were six working groups which were further extended to eleven).

In the preparation process of the next Intergovernmental Conference that will take place next year, the European Convention is (as working tool) an example of virtual extension of the European Union. The success of the European institutional framework reform should have as guide-mark and the first criteria for evaluation the extension issue with all its requirements. A European Union extended from 15 to 27 member states, already facing major problems (democratic deficit, lack of transparency and efficient communication/consultation with citizens, a slow procedural activity and also some blockings) needs a radical reform of the institutional framework as well as a reform of the current political organization.

In accordance with its 'mandate', the result of the work of the Convention should meet the initial theoretic challenges. However, during some working-groups discussions, the practice showed that it's pretty difficult to reach consensus and for this reason there are some doubts concerning the coherence and viability of the solutions proclaimed by these working groups. Moreover, considering the existing dissensions and blockages within some working-groups, it was decided that the precursory instrument of the future Intergovernmental Convention will be doubled by a parallel Convention aiming to reach some intergovernmental agreements grounded on various alliances/agreements among European countries, and which are presented and analysed during the official debates.

The responsibility of the Convention's Presidency is – before having finished the text of the Constitutional Treaty - to prepare a material/document focused especially on institutional issues (options, solutions), which will be further used to produce/draft the institutional section of the Treaty.

In an attempt to find a solution to simplify the treaties and other related instruments, the idea of giving the European Union a *single legal personality*, on the basis of a *single treaty*, is almost

unanimously accepted. Furthermore, a significant number of members in the Convention, and here we include also a part of the Romanian delegation, support the idea of a constitutional formalisation of the “Convention’s method“, as preamble of any future reforms of Treaties/ Treaty²⁵¹ in IGC (Intergovernmental Convention).

In practice, the institutionalisation process could create a favourable framework for those applicant countries which are not member of the first wave of accession, to get involved in the debates that will prepare the future reforms, in other words, in the future IGCs. The Prime Minister of Romania has pointed out this paradoxical situation in a paper on the contribution of Romania in the debates regarding the future of Europe²⁵². According to some Romanian officials, the outcome of the Convention is by far very important; however, since the final decision regarding the new European architecture will be taken without any contribution from the candidate states in IGC, there is a risk that the series of proposals/contributions expressed by Romania within the Convention might not influence the evolution of the discussions in the IGC and thus, not reflected in the new political and institutional framework. Moreover, some representatives of the Romanian civil society/ research environment are sceptical about the outcome of the Romanian participation in the Convention’s meetings since at this moment the priorities of our country in the pre-accession process are focused mainly on the negotiation process and internal reforms rather than in efforts to generate scenarios for a new Europe where Romania has a rather uncertain place.

Expressing his opinion on division of competences, Puiu Hasotti, representative of the Romanian Parliament to the Convention, mentioned that the Convention task is to elaborate a treaty draft that would include attributions which are already included in the treaties and new attributions at European level.

Another point of view regarding the basic objective of this issue, formulated by Liviu Maior (MP Romania), support the proposal of a concept of the European Union, in accordance with the continental sizes and the requests of the 21st century, a concept of a united Europe, proving also respect for the diversity. This process, that means opening, transparency and creativity, must have as guideline the globalisation trends and should aim to the extension of the Union influence over the continental boundaries. In Maior’ s opinion, the reform of the Union does not necessarily mean rediscover it. The present *aquis* may be a starting point for improving the decision mechanisms, a good competence division, process that imposes to follow the flexibility criteria.

Adrian Severin (MP Romania) considers that the final point in the activities of the Convention is producing a project of a new Europe, without limiting to a simple reform of what the Union is today, as a respond to the unsolved issued after the *summit* in Nice. “We’ve gathered here to debate and to agree over a *Constitutional Treaty of Europe*. This does not only mean to correct some aspects, it rather is a creative activity.”

1 CONV 590/28 February 2003, Contribution submitted by several members of the Convention: Premises and Principles of the EU Institutional Reform

²⁵² Adrian Nastase – Opinion regarding the future of Europe. Contribution of Romania, in the volume Romania and the Future of Europe, 2001

- **The structure of the Constitutional Treaty**

The Constitutional Treaty draft was made public in October 2002, as a preliminary text meant to illustrate a potential arching of the Treaty. The preliminary structure of the Treaty's draft – the Skeleton proposed by the Convention's Presidency is a good starting point, representing the basis of discussions that take place within the Convention. The goal of simplifying the EU Treaties, a key issue of the Declaration for the Future of Europe (appendix of the Nice Treaty) could be achieved by starting with a draft like this which should briefly reflect the key issues which should be incorporated in a future Constitution. At present, the most important and controversial section – the first 16 articles of the first part, *Constitutional Structure* – is amended and submitted to the Convention Presidency's in order to be analysed.

The autonomous redrafting process of the first 16 articles of the Constitutional Treaty (CONV 528/03, February 6th 2003) is very much alike to the initial draft of the Treaty. The changes reflect a synthesis of the outcomes of some working-groups: WG on Legal Personality, WG on the Charter on Fundamental Rights, WG on the Economic Governance, WG on the Complementary Competencies, WG on the Principle of Subsidiarity and WG on External Relations.

A unitary structure of the Treaty, without differentiation between the constitutional element (first part) and the section dedicated to the communitarian policies and their implementation (second part), can be, from a certain point of view, more efficient.

At present, within Convention's debates it seems to be a consensus concerning the inclusion in the Treaty of the Charter on Fundamental Rights. The consensus reached within the working-group on Charter on Fundamental Rights (except Great Britain), shows the viability of entirely including the Charter on Fundamental Rights in the Treaty. The final report of the second work-group proposes a range of recommendations concerning: 1) ways/consequences of a possible inclusion of the Charter in Unit A of the Treaty and 2) ways/consequences of the possible adherence of the European Union to the European Convention on Human Rights (ECHR).

Although the political decision on the inclusion of the Charter in the Treaty belongs to the Plenary Session of the Convention, the report of the working-group that will serve as basis of this decision states the following: "...all members of the Group either support strongly an incorporation of the Charter *in a form which would make the Charter legally binding and give it constitutional status* or would not rule out giving favourable consideration to such incorporation. Different forms exist, in the Group's view, to achieve that result, as set out below; but in any event, a "building block" as central as fundamental rights should find its place in the Union's constitutional framework"²⁵³.

Considering the three proposals related to the inclusion of the Charter in the Treaty, the first of them seems to offer a greater clarity to the Constitutional Treaty (idea that gather the adherence of the majority representatives in the Convention) to insert the articles regarding the Charter on Fundamental Rights at the beginning of the Treaty, as Title or Chapter²⁵⁴. Romania's official

²⁵³ CONV 354/02, 22 October 2002

²⁵⁴ The two suggestions regarding the insertion of the Charter on Fundamental Rights in the Treaty are: insertion of an appropriate reference to the Charter in one article of the Constitutional Treaty (such a reference could be combined with annexing or attaching the Charter to the Constitutional Treaty, either as a

position in the Constitutional issue is in favour of separating the basic EU legislation in a fundamental legislation (the Constitution), having stipulated clear procedures for future amendments. The Romanian delegation also supports the necessity of revising the Constitutional Treaty only after direct consultations of Europe's citizens according to national practices. The political class in Bucharest is also supporting the idea of including, *in corpora*, the current Convention on Human Rights (CHR) in the Constitution, which would lead to the reinforcement of the political union and of the European identity of citizens.

2. Institutions

- **European Council/Council**

The most controversial issue of the institutional reform was and still is the presidency of the European Council. The French-German²⁵⁵ reform plan has raised many questions regarding the opportunity and the efficiency of setting up a dual presidency of the Union. The proposal of electing the president of the Commission by the European Parliament gives a partial answer to the issue of democratising the Commission and to its accountability. Likewise, the initiative of electing a president of the European Council provides a solution to the difficult problem of six months' rotating presidency, which promotes a confusing and inconsistent foreign policy, lacking coherence and continuity, and giving the Union the image of a political actor divided by internal factors.

Despite the importance of the responsibilities of a potential president of the Council (setting strategic directions, providing continuity of actions, foreign coordination and representativity, last but not least chairing the annual *summits*) the complexity of these activities is not enough to justify a *full-time* position for the president of the European Council.

Another issue raised by the French-German model of dual presidency is related to the risk of generating inter-institutional rivalries and tensions among member states. The originality of the European institutional structure consists among others in the division of the executive powers between the Commission and the Council. The efficient functioning of this system depends on the clear delimitation of the roles of the two institutions and their efficient co-ordination. Under these conditions, the dual presidency might generate inter-institutional rivalries built on the separation line between the strategic role of the Council and the unique right of initiative of the Commission.

Also, sharing the two presidencies between large and small member states could lead to tensions and conflicts between the two categories of member states. This gap has been pointed out after the Nice process, it is still present in the Convention's discussions and will probably be emphasized alongside the extension process. However a solution is needed to maintain the institutional equilibrium and to encourage a good co-ordination between the Commission and Council activities, rather than rivalry between them. Since we are talking about merging the

specific part of the Constitutional Treaty containing only the Charter or as a separate legal text, e.g. in form of a Protocol); an "indirect reference" to the Charter could be used in order to make the Charter legally binding without giving it constitutional status (CONV 354/02).

²⁵⁵ Contribution franco-allemande à la Convention européenne sur l'architecture institutionnelle de l'Union, Paris/Berlin, 15 January 2003, CONV 489/03, CONTRIB. 192 from 16 January 2003 (Fischer/Villepin).

functions of Patten and Solana, for a 'logic of unity', which would be then the sense of establishing a dual presidency? The objective of simplifying and avoiding blockages at the decisional level overcomes the danger of a double hat and incoherent leadership structure.

Through the voice of its representatives to the Convention, Romania supports either the idea of keeping the system of rotating presidency among member states²⁵⁶, or – proposing a double counter-alternative²⁵⁷ – rejecting the idea of a full time President of the Council. This counter-alternative implies, on one hand, the establishment of a *double hatted* presidency (President of the Commission acting also as President of the Council) and, on the other hand, the exercise of the Council Presidency either by rotation or by a Troika consisting of elected representatives of large, medium and small member states.

In the opinion of Puiu Hasotti, representative of the Romanian parliament to the Convention, the European Council must be formally recognized as an European institution with responsibilities in setting the strategic policies, and not as a structure meant to complete unclear issues from the sectorial Councils. Hasotti only agrees with a part of the proposals included in the French – German contribution regarding the institutional architecture of the Union, sustaining that a full-time President of the Council could lead to dissensions with the President of the Commission, in case the division of attributions is not clearly defined.

- **European Foreign Minister**

The Union's external representation needs to enhance its efficiency, consistency and credibility. With respect to the position of a European Foreign Minister, the opinions expressed by the Romanian representatives in the Convention support the majority option of merging the two functions (HR for CFSP and the Commissioner for external relations), and appointing a European Minister of Foreign Affairs. The European Foreign Minister should be also the Vice-president of the Commission, having the right of initiative in foreign policy issues and should be accountable to the European Parliament and to the Council. The Minister of Foreign Affairs should also guide the crisis management policy²⁵⁸.

In case the French-German plan of introducing a dual presidency is adopted, the relationship between the two presidents (of the Council and of the Commission) and the European Foreign Minister could be quite obscure/confused/ambiguous. With respect to external representation, the responsibilities of the new president of the European Council will fully overlap with those of the European Minister of Foreign Affairs and partially with the "representational" activities of the Commission's president, of the prime ministers and of the ministers of foreign affairs of the member states. On the other hand, it is possible that these collisions of responsibilities would increase the risk of an ambiguous external representation.

Hildegard Puwak agrees to the idea of a gradual merging of the function of High Representative for Common Foreign and Security Policy with the one of Commissioner for Foreign Affairs.

²⁵⁶ CONV 590/03, 28.02.2003 – Contribution submitted by several members of the Convention: *Premises and Principles of EU Institutional Reform* (the document was signed also by: Hildegard Puwak, Puiu Hasotti, Constantin Ene)

²⁵⁷ CONV 488/03, 16 January 2003 – The Institutional Reform, Contribution by Adrian Severin, alternate member of the Convention

²⁵⁸ Opinion expressed by Adrian Severin in the mentioned document. (idem 6)

Elected by the President of the Commission and by the Council, he will have a double legitimacy, which comes from the consensus of the member states, but also from the European Parliament approval to the nomination. Regarding the foreign representation, Puiu Hasotti considers that the European Secretariat for Foreign Affairs should handle this task, after combining the two functions mentioned before.

- **Commission**

As for the role of the entire body, this should be strengthened by re-asserting the right to initiative by reinforcing its executive function and the vocation of representing the general European interest. The unique right of initiative covers the strategic issues, while the Commission is also supposed to have monopoly over the adoption of decisions concerning the implementation of the strategies and other executive acts of communitarian jurisdiction. Being the most important executive structure, the Commission should guide/lead the entire executive process, evolving, gradually, through a government of the Union²⁵⁹.

With respect to the structure and characteristics of the Commission, the Romanian position—as it is illustrated in the contributions of the Romanian officials at the Convention—is divided with regard to the size and the components of the Commission: either a Commission with a reduced number of Commissioners with direct democratic legitimacy (opinion expressed by Adrian Severin, member of the Romanian delegation), or a Commission in which all Member States should have the warranty of equal representation (Hildegard Puwak—the Minister of European Integration, Puiu Hasotti—the vice-president of the Chamber of Deputies). According to the Romanian Prime Minister, Mr. Adrian Nastase, the size of the Commission should be consistent with the number of member states, according to the principle “one state – one commissioner”. A limitation possibly accepted should be conditioned by the creation – for countries which are not represented by a commissioner for a certain period – of some “task-forces” with a mandate similar to that of the entire body. Some new positions (the hierarchic level should be between a General Director and Commissioner) should be created for the presidents of these structures.

Considering that the institutional reform is a key element of the European accession, Puiu Hasotti presents the three challenges of the practical part of the reform: globalisation, extension (a numeric request) and the democratic deficit. To cover the principles of efficiency and legitimacy, Hasotti prefers the idea of a political Commission, elected by a political majority of the European Parliament. Such a political commission, evolving to a primary form of an European Government, would be able to define the common political European interest. Although in a common contribution signed by a large number of the representatives of the Convention, Hasotti agreed to a Convention with the warranty of an equal representation of all Member States, he also stands that a Convention where all the states are represented might be inefficient due to the large number of Commissioners. Following this idea, as a warranty of political legitimacy of the Commission, Hasotti supports the election of its President by the Parliament.

- **European Parliament**

The Parliament should have enhanced functions, strengthened by the increase of the co-decision method, in parallel with the extension of the majority vote in the Council and through the rationalization and simplification of the budgetary procedures, being also involved in the

²⁵⁹ Idem 8

budgetary decision-making process. The Parliament should also benefit of increased powers in dismissing or requesting the dismissal of one of the Commission members. At the official level, Romania supports the co-decision procedure and the idea of granting competencies to the president of the Commission in order to avoid any institutional blockades. Also, the Parliament should have the responsibility of electing the President of the Commission with the majority of votes, at the European Council's proposal.

There are opinions (Severin) according to which the executive should be submitted to parliamentary control at national level too. As a warranty of both local and national interests, Severin presented the proposal to create a second chamber of the European Parliament, with representatives from the regional and local structures. This institution would temper the decisions of the political chamber of the Parliament and would strengthen the Union's legitimacy. In a double-chamber Parliament, responsible for the main judicial activity at the European level, the Senate will decide on the most sensitive issues for the Member States of the Union. It will be formed by personal representatives of the heads of state, representatives of the regions, NGOs representatives. It will be build by the method of indirect election, and it could have the right to dissolve the first Chamber, which in return could have the right to dissolve the executive (the Commission). The Senate could function as a "subsidiary chamber", having the role of an arbitrator of lack of consensus in interpreting the subsidiary principle. The vote of the qualified majority will be applied in this case.

Such a solution could complicate the already complex institutional framework (Maior, Hasotti). In order to respond to the efficiency criteria, the activity of the European Parliament should, as Hasotti sustains, have at least 600 members. Puiu Hasotti points out the tendency of "parliamentarisation" of the Union and its decision-making system. This process will give legitimacy to the political decisions and will warrant the approach to the European citizens. The idea of a double-chamber presidency, with a chamber of members of national parliaments, would lead, in fact, in his opinion, to a three-chamber Parliament, with a evident lack of efficiency. A good solution would be the creation of *ad-hoc parliamentary conventions*, composed by European MPs, and also national MPs, with different specific tasks (e.g. revision of constitutional arrangements of the EU or the decision regarding the direct finance of the Union). The conclusion of Hasotti conception regarding the reform of the European Parliament leads to the necessity of its evolution towards an authentic parliament at the European level, similar to the national parliaments. It must have, *inter alia*, full budgetary powers in the field of compulsory expenses (PAC). It also should be extended the right of legislative initiative at the level of the Parliament, power that should be granted to the individual members of the European Parliament.

Liviu Maior sustains also the idea that the national parliaments of the member states and of the candidate states, together with the European Parliament, should intensify their efforts to rich a parliamentarisation of the European union, as the single solution to reduce the democratic deficit, to give legitimacy and transparency to the governance and to the decision-making process. He mentions yet that he does not support the idea of a supplementary growth of the EU institutional architecture, by creating a new parliamentary assembly, as long as the COSAC potential has not been consumed yet. He supports the proposal that the European Parliament and the national parliaments would exercise together in the future a common constituent power (in cooperation with the national governments), as active actors.

- **Institutional balance**

The equilibrium in the European institutional triangle is a prerequisite for its efficient functioning. The main reason of the dissensions that appeared in the debates regarding the institutional equilibrium of the European Union is the division of executive powers between the Commission and the Council. In the Convention, dissensions are expressed not only among partisans of federalism and those of the inter-governmentalism, but also between large and small states, Commission's representatives and European members of the parliaments.

The opinion of some of the Romanian representatives to the Convention²⁶⁰ – the issue of institutional equilibrium must not be discuss simply by analysing the powers of each of its elements, but regarding the “checks and balances” system. A right balance is conditioned by keeping a equilibrium between the interests of the European citizens (an Union of citizens) and those of the member states (nation-states federation). On the other hand, a compromise should be looked for between legitimacy and efficiency, and applied a model of institutional reform based on the principle of clear division of competencies.

Accordingly to the position of the government party, the institutional solution agreed by Romania is situated the intergovernmental model and the federal one, the role of the European Parliament being in the middle of the communitarian construction.

The warranty of an efficient institutional functioning is supposed, in the opinion of Puiu Hasotti, to strengthen the role of the EP, and also means a correct equilibrium between the roles of the Council and of the Commission, the last one representing the key element of the whole institutional reform.

3. Decision-making

The positive consequences of the debates dedicated to the change and simplification of the decisional process are:

- the reducing of the tools number that manages the decisional process from 15 to 6, with the two legal instruments – laws and legal framework – important step in the operational simplification.
- The cancellation of the co-operation procedure and the enforcement of co-decision between Council and Parliament as current procedure, with some exceptions.

In Romania, at political level and in the academic environment too, the debates dedicated to the institutional reform and to the decisional process did not come out with unanimous opinions in any of the issues (except the cases in which the application for some decisions implies military actions, in the CFSP plan). The qualified majority vote (QMV) should become unique procedure in the decisional process. The simplification of the QMV system was also suggested, in the direction of a recalculation of the votes so that it would allow to approve decisions voted by a majority of member states, representing a majority of the population (vote of the double majority).

²⁶⁰ Adrian Severin, CONV 488/03

In a Union of 27 or more members, the unanimity may paralyse the decision process, sustains Puiu Hasotti. That why QMV should be the main vote procedure in the Council, the controversial fields could be dealt with certain flexibility with the extension of the strengthen cooperation mechanism.

- **Procedures for ratification**

In Romania the trend is to maintain the referendum a method of treaty ratification, specifying that the citizens' interests must be taken into consideration not only in the final moment of ratification, but during the preparing steps of any IGC. Citizens' implication, transparency and continued information are conditions *sine qua non* for avoiding in the future situations similar to that of the first referendum in Ireland.

- **Differentiation**

The mechanism of enhanced cooperation, a rather theoretical success of the Amsterdam Treaty, became with the Nice Treaty more realistic and flexible, removing a part of the anterior restrictions that would limit the practical possibilities of using this mechanism. A Europe of *advanced / enhanced cooperation* – in the opinion of one of Romania representatives to the Convention²⁶¹ – is a right frame, although not ideal, for the development of the Romanian politic project. A differentiated evolution of some of the states (in some certain respects) would allow Romania to recover gradually some minuses for accession.

There still are opinions, moreover in the academic environment; based rather on the risks of Romania's accession in a Union in which a group of advanced states can collaborate and can detach in certain fields they afford a faster evolution as against the other states. A state that is integrated in an Union in which the systems of alliances – although dynamic and flexible – are already designed, needs to have important cards to avoid the risk of being cast out, situation, realistically, extremely difficult for Romania. It is hard to estimate now whether, for Romania, to line up to a politic system based on co-operations, differentiation and parallel evolutions, will be an opportunity to go along with the wave, or a risk of occupying the periphery place along with less evaluated states. A position sustained by the Ministry of European Integration²⁶² stresses upon the fact that the Romanian option regarding the future political pattern of the European Union must be grounded on the national interest in relation with this project of European construction. Looking from this regard, the option can not be just an academic plan, as it can not either be an exercise of choosing the most interesting (for us) scenario discussed in different chancellor's offices or European *think-tanks*.

Synthesizing the view of the chief of the Romanian delegation to the Convention, is evident the necessity to try to identify our sectorial interests in all the aspects that will count in the future European Union (institutional, decisional, financial, sectorial policies etc.). The gaps that separate us from the other candidate countries must be recognized and treated with rationalism and pragmatism. If these gaps are maintained in the post-accession period, the Ministry of European Integration says that a more viable option for Romania would be the British model rather than the French or the German one. The British, partisans of the *status quo*, reject the idea of a "Europe with more speeds" and do not consider the mechanism of *enhanced cooperation* as an important

²⁶¹ A. Severin, European identity, national identity, in the volume Romania and the future of Europe.

²⁶² Hildegard Puwak, Romania and the European project, in the mentioned volume.

element needed for a better functioning of a united Europe. In a *Europe with more speeds*, the distance among the member states would increase, and Romania could in time be cast out.

Applying the mechanism of *enhanced cooperation*, that the British do not reject categorically, but still have some doubts, yet allows a gradual integration of the new members, without the risk of being cast out in the decisional process. At the same time, a gradual accession, facilitated by this procedure, may be an advantage by reducing the impact of the effort implied by the immediate participation in the advanced forms of European integration.

4. Debate in Romania and its priorities

The main actors involved process of preparing Romania for the accession at the EU – at governmental level, and also from the academic environmental and civil society (NGOs, various Romanian think-tanks) – made efforts for promoting the debates regarding the future of Europe and also for the involving of the public in the current of these debates. The main themes discussed were: European government, MEU, competence division between the Union and the member states, the role of the national parliaments, the role of NGOs in the European architecture, the status of the Charter on Fundamental Rights, Romania's place in the Union. The common foreign security policy is a delicate subject in the in the present context of international events. The new ideas storms regarding Romania's implication, direct or not, in the conflict in Iraq, would emphasis certain differences between the official diplomatic approach and the citizens' view. Hence, the debates concerning the restructure and the enhancement of CFSP in a country that expressed a distinguished position for the rest of the European Union states do not seem to be a priority in this period in Romania.

5. Awareness of the European Convention

The involvement of the Romanian Government in the activities of the European Convention was visible rather in Brussels than in the country. A part of the taking stands of the Romanian delegation members to the Convention were gathered in a volume issued by the Ministry of European Integration, to make them accessible to the Romanian society. Also, the Romanian Government, coordinated by the prime minister, issued in December 2001 a volume²⁶³ based on the contributions of some high officials, as a result of the manifestations organised by public institutions since the launching of the debated regarding the future of Europe in Romania.

The Secretariat of the Romanian delegation to the Convention have prepared and presented a report regarding the status of the debates at national level, paper asked for in Brussels. Still, away from the tacking stands of the Romanian officials at the Convention or various other contributions of the representatives of the Government in debates and national/ international conferences, Romanian hasn't expressed an official, concrete, detailed and unitary point of view yet. The harmonization of all opinions and their synthesis in a unique document is not a responsibility easy to achieve, and it is not supposed to be treated superficially. But, as it is at least recognised the importance of the Convention activities even by a state that still has a long way to the accession, we have to say that this official position is not well enough designed and it lacks a certain coherence in synthesize and interpretation of the results of the various activities organised at national level, in the debates concerning the future of Europe.

²⁶³ Romania and the future of Europe, coordinator: Adrian Nastase, Prime Minister of Romania, December 2001.

The degree of spreading the information regarding the Convention activities towards the public opinion in Romania is, objectively analysing, proportional to the degree of awareness in this issue of the Romanians. Mass media in Romania have only taken over and spread general information about the evolution of the Convention activities, without making public special materials, dedicated to specific issues of the Convention (the results of the work groups, the synthesise of the final reports etc.). Certain coverage existed in the specialty press and TV stations, and for the cultural part of the press this issue was not a priority.

In accordance with the opinion of one representative of the civil society (...), the political parties were very less involved in the debates of this issue, so that they weren't posted with the new projects and scenarios of reforming the European Union.

The future of Europe proved to be a subject of interest, due to its actuality, rather for research institutes in the field of European studies, NGOs, and foundations acting in this field. They organised debates and issued studies, essays, different analyse materials regarding related to the matter of the future of Europe (ex. *A Romanian concept regarding the future of the European Union*, volume issued with the support of SOROS Foundation, *Guiding lines and qpinions regarding the debate on the future of the European Union*, working paper, European Institute in Romania etc.).

Based on approximately 500 questionnaires and on the answers on-line on the website of the Ministry of European Integration, a paper was issued concerning *The Romanian citizens approach regarding the future of Europe*. The enthusiasm of the Romanian society comes rather from the perception of the accession as an opportunity to develop economically and socially. The expectations of a simple Romanian citizen are related rather to the positive consequences of accession to the EU (free circulation, the right to work, the improvement of the living conditions), than to the concrete process of reform that the Union is going through.

- **Referendum on EU membership**

In Romania, the preparations of a referendum regarding the accession to the EU is premature, considering the fact that Romania is not one of the states that will access in the first wave. Generally speaking, the organization of such a referendum should be preceded by a vast citizens information campaign regarding the results of the Convention activities, so that their opinions would have a well-determined reference point (as possible in this phase of the reform) and to take into consideration the reformation way the Union is going through.

National Report Slovakia

by Vladimír Bilčík, Slovak Foreign Policy Association, Bratislava

1. Results of work of the Convention on the Future of Europe

There exists a general opinion in Slovakia that the final product of the Convention should ideally be a single document adopted by consensus of all its members. Slovakia supports the adoption of a future constitutional treaty that is going to replace the existing treaties.²⁶⁴ While the contents of the new constitutional treaty should draw upon the provisions of all documents of primary law in the EU, drafting of a single, understandable and consistent document represents an essential step toward greater transparency of the European Union. Slovakia prefers to use the name “constitutional treaty” since it reflects both the constituent nature of the document and the primacy of member states that guide the process of European integration and maintain their role of key decision-makers in the EU. The legitimacy of the EU rests with member states. The result of the current round of institutional reform should therefore not be the establishment of some kind of a super-state whose legitimacy and sovereignty originates directly from the citizens.

The structure of the proposed constitutional treaty should reflect the general need for comprehension and accessibility of the process of European integration to policymakers, to different institutional actors and - last but certainly not least - to citizens of the EU. The proposal of the skeleton of the constitutional treaty put forward by the Presidium of the Convention on 28 October 2002 is a good starting point, including the division of the text into three basic parts: articles dealing with the constitutional structure, Union policies and their implementation and general and final provisions. The proposal of the position of the Slovak Republic toward main questions discussed by the Convention on the Future of Europe outlines the essential premises and principles that ought to be reflected in the specific contents of the constitutional treaty.

2. Institutions

Slovakia supports the reinforcement of the Community method in the European Union. Slovakia, as a relatively smaller acceding country with population of approximately 5.3 million, is naturally keen on preserving the principle of equal treatment among EU member states and on enhancing the existing institutional balance in the Union. According to the proposed Slovak governmental position the institutional architecture should reflect the balance between European, national and civic foundations of the process of European integration. Hence, the Union does not need new additional institutions but it must improve the existing ones.

²⁶⁴ See “Návrh pozície SR k hlavným otázkam prerokovávaným Konventom o budúcnosti Európy” (Proposal for a position of the Slovak Republic toward the main questions discussed by the Convention on the Future of Europe), 30 April 2003. This proposal represents the most comprehensive official material produced thus far. The proposal produced by the Ministry of Foreign Affairs was to be discussed and approved during the meeting of the Government of the Slovak Republic on 30 April 2003. However, the discussion has been postponed until a later date. The full document can be accessed in Slovak at: <http://www.rokovania.sk/appl/material.nsf/0/04CC32A9B1CC5F39C1256D12003A3CF1>. Unless I refer to other sources the assessment of official Slovak positions in this questionnaire draws on the contents of the aforementioned proposal.

Based on the amendments submitted to the Convention jointly by two Slovak members and one Slovak alternate in the Convention, it is clear that the priority is the Union's improvement of its existing institutional balance, especially within the triangle of the European Parliament - the Council - the European Commission.²⁶⁵ According to the speaking points from 15 May 2003 delivered by Jan Figel, Representative of the National Council of the Slovak Republic to the Convention, the European Council should be run on the basis of rotating presidency. The institution of rotating presidency represents an important tool of identification of member states with the EU. On the contrary, "election of a personified head of the European Council brings up a number of potential risks, including the creation of a new power centre in the institutional architecture of the Union."²⁶⁶ Also according to Figel, rotating presidency is not an essential problem that undermines continuity of EU policies. Rather, it is the lack of strategic thinking and strategic planning.

To ensure equality among member states and to preserve the inter-institutional balance, the presidency of the European Council shall be held in turn by each member state for a term of six months. A member state holding the Presidency of the European Council shall be simultaneously a member of the team Presidency of the Council. According to the amendments of the aforementioned Slovak representatives in the Convention, presidency of individual Council formations shall be chaired by a team presidency of four Member States for a period of two years. The agenda of Council Presidency shall be organized in accordance with a common agreement of the four countries holding the Presidency.

Conversely, the European Commission has to remain the guardian of the treaties. It has to keep its crucial role at the centre of policymaking in the EU by preserving its sole right of legislative initiative and by reinforcing its executive tasks. Slovakia supports the principle that each member state should keep the right to nominate one Commissioner thus ensuring the principle of equal treatment for the future. At the same time, the Commission's role, legitimacy and independence should be strengthened through an election of the president of the Commission by the European Parliament through a qualified majority of members of European Parliament.

The proposal for the Slovak governmental position also supports the idea of a double-hat EU External Representative who would be responsible to the European Council for matters of the Common Foreign and Security Policy and simultaneously hold the post of a Vice-President in the Commission tasked with the area of EU external relations.

3. Decision-making

In the legislative process Slovakia supports that the Council and the European Parliament become equal co-legislators whereby all decisions taken by the Council through qualified majority are in the future co-decided by the European Parliament. In addition, all legislative meetings of the Council and the European Parliament must not take place behind closed doors and must be accessible to the public.

²⁶⁵ See <http://european-convention.eu.int/> for joint amendments by Ivan Korcok (Representative of the Government of the SR), Juraj Migas (Alternate Representative of the Government of the SR) and Jan Figel (Representative of the National Council of the SR) to the articles on EU institutions proposed by the Convention Presidium and discussed at the Plenary session on 15 May 2003.

²⁶⁶ See <http://european-convention.eu.int/> for speaking points by Jan Figel delivered on 15 May 2003.

Slovakia wishes to preserve unanimity – or keep the right of veto for individual member states – in the following policy areas:²⁶⁷

- Economic and social cohesion
- Nuclear safety and all other competencies related to peaceful use of nuclear energy
- Tax policy
- Social policy
- Ethics and culture²⁶⁸

In matters of the second pillar Slovak official maintains the need for unanimity. Qualified majority voting is not necessarily going to improve the ability of the Union to conduct better the Common Foreign and Security Policy. Rather more strategic planning and thinking are needed. However, there are voices that support the potential use of enhanced cooperation in the implementation phase of the CFSP whereby not all member states for different reasons – political sensitivities, constitutional requirements or limited resources – may be able to participate in the action.²⁶⁹

4. Other issues: the mode and contents of domestic debate

The domestic debate on the future of Europe has been institutionalised within the National Convention on the European Future of Slovakia. The idea of the National Convention was presented by Jan Figel, then the State Secretary of the Ministry of Foreign Affairs and Chief Negotiator for the Accession of the Slovak Republic into the European Union, during his speech at a Konrad Adenauer Foundation colloquium in Bratislava on 13 December 2000. It was a direct response to the conclusions of the EU summit in Nice and the idea of founding a convention was inspired by the work of the European Convention that drafted the Charter of Fundamental Rights of the EU. The aim of the National Convention is to foster a nation-wide discussion on issues and questions of the future of Europe. The National Convention is a broad body, made up of representatives of political parties, academics, churches, interest groups, trade unions municipalities and non-governmental organisations.

Since its first meeting on 14 May 2001 the National Convention has met six times. Proceedings and conclusions of each meeting are regularly posted on the Internet.²⁷⁰ The meetings of the National Convention are prepared and coordinated by the Ministry of Foreign Affairs. Since the composition of the National Convention is rather varied, its meetings have been mostly about presentation of different views and opinions rather than a genuine debate. Each meeting thus far concluded with the adoption of a broadly phrased declaration in support of different principles and priorities for the EU reform. For instance, the latest sixth meeting of the National Convention on 1 April 2003 endorsed the ideas of keeping the rotating presidency of the European Council,

²⁶⁷ These are areas mentioned in the

²⁶⁸ Resolution of the National Council of the Slovak Republic from 26 February 2003 also supports the maintenance of exclusive competence of member states in cultural and ethical matters.

²⁶⁹ See <http://european-convention.eu.int/> for speaking points by Jan Figel delivered on 16 May 2003.

²⁷⁰ See www.konvent.sk for more details on the work, composition, meetings and proceedings of the National Convention on the European Future of Slovakia.

maintaining the system of one Commissioner per one country and creating no new EU institutions but reforming the existing structures.²⁷¹

Also, the sixth meeting of the National Convention presented the results of a questionnaire that was circulated to the members of the National Convention in February 2003 with questions resulting from the conclusions of first ten working groups constituted within the Convention on the Future of Europe. These results represent the first comprehensive overview of the views of coalition political parties. All four coalition parties – Slovak Democratic and Christian Union (SDKU), Coalition of Hungarian Parties (SMK), Christian Democratic Movement (KDH) and Alliance of a New Citizen (ANO) submitted their answers to the questionnaire. Notable was the absence of contributions by three opposition parties (SMER, Movement for Democratic Slovakia (HZDS) and Communist Party of Slovakia (KSS) that did not send in its respective responses. The absence of contributions by the opposition parties does not necessarily indicate their fundamentally differing standpoints from the views presented by the representatives of the government. More likely, it is a reflection of lacking opinions toward the reform process and a lower political priority of issues of the Convention as opposed to other domestic and international matters.

In broad terms the responses of the coalition parties confirm the emerging governmental consensus on the introduction of an early warning system in monitoring the principle of subsidiarity, incorporation of the Charter of Fundamental Rights into the Constitutional Treaty of the EU, attainment of the legal personality for the EU, reinforcement of the role of national parliaments, better definition of supporting measures in the Union, simplification of legal instruments, introduction of a solidarity clause for security and defence purposes and creation of a double-hat (the Commission and the Council) EU foreign representative.

In addition to the plenary sessions of the National Convention, throughout 2002 there were three smaller working meetings – so called Mini-conventions – devoted respectively to the discussion of EU institutional reform, division of competencies and the Charter of Fundamental Rights of the EU.²⁷²

Outside of the Government of the Slovak Republic, the National Convention on the European Future of Slovakia, the issue of the EU reform has also discussed by members of the Slovak parliament. On 26 February 2003 the National Council of the Slovak Republic adopted a resolution that acknowledged the contents of the report by the Slovak Government on the proceedings of the Convention on the Future of Europe and the National Convention on the European Future of Slovakia. It also expressed support for the adoption of a new, constitutional treaty of the EU that is going to simplify the existing legal framework of the Union, raise transparency and legitimacy of its decision-making, clarify the division of competencies in the Union and bring the Union closer to its citizens. The resolution called for the mention of God in the constitutional treaty of the EU, the maintenance of exclusive competence of member states in cultural and ethical matters, the reinforcement of the principal of subsidiarity through the involvement of national parliaments in the legislative process of the Union and the inclusion of the principal of protection and rights of national minorities in the new treaty.

²⁷¹ See http://www.konvent.sk/main.php?p=show_zasadnutie&sid=1&zid=15 for the text of declaration of the sixth meeting of the National Convention on the European Future of Slovakia. Also note, that Vladimir Meciar, representing the Movement for a Democratic Slovakia, did not endorse the final declaration.

²⁷² Again see www.konvent.sk for details.

5. Awareness of the Convention on the Future of Europe

Slovak government follows and contributes to the work of the Convention. There is an internal mechanism established for gathering comments and amendments to Articles of the EU Constitutional Treaty regularly proposed by the Presidium of the Convention. The Foreign Ministry coordinates the gathering and the submission of all amendments by consulting Slovak representatives and their alternates in the Convention on the Future of Europe and relevant domestic ministries and agencies. Most recently, at the Convention meeting on 15-16 May 2003 Slovak government joined other fifteen governments of smaller member states and acceding countries in submitting a proposal to Giscard asking for keeping the rotating presidency and the principle of one country – one Commissioner and rejecting the creation of new EU institutions.

On the whole, the work of the Convention represents an increasing priority for a narrow circle of officials and representatives working on institutional questions. It is not an issue that has been politicised in any significant way, however. The media have thus far informed about its proceedings irregularly and the debates at the Convention have not made the front pages of newspapers. Following the conclusion of the accession negotiations at the EU summit in Copenhagen in December 2002 and the signing of Accession Treaty on 16 April 2003 Slovakia has been consumed with other integration policy priorities, especially the referendum on EU accession held on 16 – 17 May and the fulfilment of domestic obligations resulting from membership in the EU.

There has been little connection between the preparation of a referendum on EU membership and the Convention except for general calls by the media and some politicians that “we must begin a serious discussion” about Slovakia’s contribution to and vision of the future of the Union. These calls were especially voiced by leaders of the opposition party SMER. Several weeks prior to the referendum one of the governing parties – Christian Democratic Movement (KDH) – introduced its intention to propose a constitutional law on Slovakia’s sovereignty that would explicitly delineate all policy areas in which the country would keep its right of exclusive competence. Among others these should include issues of direct taxes, social policy, culture, education and ethics.

Considering the successful outcome of the referendum one can reasonably expect a greater degree of domestic attention and debates on questions of EU institutional reform and the future of EU policies in the upcoming months as the Convention wraps up its work the next Intergovernmental Conference begins. Slovak representatives have made consistent calls for full-fledged participation in the next IGC. Guaranteed by the conclusions of the Copenhagen European Council, only the realities of next months are going to reveal the practical nature of Slovakia’s participation in the reform process and the country’s ability to contribute with constructive proposals.

National Report Slovenia

by Irena Brinar, Center for International Relations, University of Ljubljana

Just as there was general consensus within Slovenia about the country becoming independent at the beginning of the 1990s, at the turn of the century there is also a general political consensus that Slovenia should become a EU member. Virtually no political party publicly opposes this orientation. An agreement exists between all parliamentary political parties (save for the small Slovenian National Party) to cooperate on issues of accession²⁷³. The level of agreement among political parties in taking European policy decisions is almost paradoxical considering the otherwise strong party competition in domestic affairs. Also concerning Convention's issues there is no difference between the representatives of the government and representatives of the parliament in the European Convention. They all represent the uniform Slovenian view regarding the future development of the European Union.

1. Results of work of the European Convention

Slovenia supports the proposal of the Chairman of the Convention that the ultimate result of the Convention should be a constitutional treaty, which should be transparent and clear. It should simplify the EU architecture and make it more comprehensible for public by implementing the principle of subsidiarity and proportionality and by the inclusion of the amended Charter of Fundamental Rights. The latter should ensure immunity of the EU citizens towards excessive intrusion of the European institutions into their rights and liberties. All this will contribute to the strengthening of European identity.

Slovenia advocates that the Charter of Fundamental Rights should be incorporated into the constitutional treaty of the Union as a legally binding text since it confirms the identity and the political culture of the EU in the wider international system.²⁷⁴ Slovenia believes that the incorporation of the Charter of the Fundamental Rights in a constitutional treaty is at the very core of developing the future concept of the EU as an area of freedom, security and justice, which is an essential element of European architecture.²⁷⁵ This is indispensable for the promotion and protection of common values that are, or should be, shared throughout the EU. The citizens of the Union cannot be considered only as an economic category or merely as consumers. Thus, Slovenia is

²⁷³ Agreement on co-operation on accession of the Republic of Slovenia to the European Union, signed on 3 July 1997 (Sporazum o sodelovanju pri vstopanju Republike Slovenije v Evropsko zvezo z dne 3. julija 1997). The agreement has not been published.

²⁷⁴ Matija Vidmar, "The legal status of the Charter of Fundamental Rights of the EU", paper presented at the Slovenian Forum on the future of the EU, <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-vidmar/>

²⁷⁵ Statement by Mr. Janez Lenaèiè, Alternate member of the Government of the Republic of Slovenia in the Convention, 6 June 2002, Brussels

hoping that the future treaty would encompass all relevant aspects of European citizenship, which includes individual's dignity and rights. As the structure of the Treaty, Slovenia welcomes its subdivisions – part A and part B since they mean more transparent Treaty and provide different revision mechanisms for respective parts of the Treaty.

Slovenian political elites and representatives in the Convention estimated that the proposal of Giscard and the presidium presented in the Autumn 2002 was a good starting point for further deliberation of the Constitutional Treaty. His proposal marked a transition from the phase of 'listening' to the 'study' phase of the Convention.

2. Institutions

- **European Council/Council**

Considering institutional reform, the Slovene positions have been close to the proposals of the European Commission²⁷⁶ and the Benelux countries²⁷⁷. As a small country, Slovenia has been particularly concerned about the position of small states in the EU decision-making and has underlined the principle of equal treatment of Member States. Therefore the idea of a **permanent Council Presidency is rejected** by Slovenia, since it could undermine the leverage of small Member States and weaken the Commission. Slovenia has also criticised the proposal for lack of clarity over the accountability of the President and fears that it might weaken openness of decision-making. The European Council should direct the future development of the Union and decide on strategic political issues. Defending the interests of small states and the principle of Member States' equality, Slovenia wishes to **maintain the rotating presidency**. Slovenia advocates the preservation of the system of a rotating presidency within the European Council, GAC and COREPER. Rotation provides the basis for identification of all citizens of the Union with its leadership. Slovenia considers that without rotation, the Copenhagen criteria would never have been drawn up exactly in Copenhagen and the negotiation process of the most extensive enlargement in the history of the EU would not have been concluded necessarily in the Danish capital. Any potential reorganisation of the rotating presidency should - apart from ensuring continuity and effectiveness - aim at an equal representation for all member states. For example, in the field of the CFSP Slovenia argues that the EU Presidency itself does not represent an obstacle for a more efficient CFSP. Multi-annual work programmes and tighter cooperation between several successive presidencies could improve continuity and coherence of the current system. In

²⁷⁶ White Paper on European Governance (COM(2001) 428 final), Brussels 27. 7. 2002,

http://europa.eu.int/eur-lex/en/com/cnc/2001/com2001_0428en01.pdf

²⁷⁷ Memorandum of the **Benelux**, "A balanced institutional framework for an enlarged, more effective and more transparent Union" - Brussels, 4. 12. 2002,

http://europa.eu.int/futurum/documents/press/oth041202_en.htm

this way, the continuity of the EU functioning in foreign policy can be provided without marginalizing the role of small states.²⁷⁸

Slovenian representatives in the European Convention support the idea of strengthening the Council - particularly by the extension of qualified majority voting. Slovenia would **increase majority voting** in the Council as well as **co-decision** with the European parliament, and introduce a **double majority** of populations and Member States. But the voting by unanimity should be preserved in areas that are most sensitive from the perspective of national interests of countries.²⁷⁹ On the other hand, Slovenia supports the reduction of number of Council formations. Regarding the EU external representation Slovenia would strengthen the position of 'High Representative' or 'European Foreign Minister' and link that institution closely to the Commission.

- **European foreign minister**

EU institutional reform should not overlook the area of Common Foreign and Security Policy. In the last few months the moment of truth has come for the CFSP with the Iraq crisis. There is, unfortunately, not enough political will for a real *common* security and defence policy. The question is: what contribution can the reform of EU institutions make? Due to a greater efficiency and continuity, Slovenia advocates the position of merging the function of the High Representative for CFSP and the Commissioner for External Relations. Such a person with a "dual role" could contribute to better co-ordination of international affairs.²⁸⁰ The new official responsible for external relations should be included in the composition of the Commission in the long run.

- **Commission**

Slovenia wishes to have a stronger Commission capable of implementing the *acquis* across the Union, therefore its democratic legitimacy and responsibility – particularly those of its president – have to be increased. The President of the Commission should be elected democratically (either by a strengthened majority in the European Parliament and subsequent confirmation in the European Council, or by a special electoral college consisting of representatives of the European Parliament and of national parliaments). An equal representation of all member states and an equal status of commissioners should be maintained in the composition of the Commission. A reasonable argument in favour of equal representation in the Commission stresses the need for someone to personify 'the

²⁷⁸ Intervention by Dr. Matjaž Nahtigal at the plenary session of the European Convention, 11 July 2002, Brussels, <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-nahtigal-03>.

²⁷⁹ Speech by Slovenian Foreign Minister, Dr. Dimitrij Rupel, at the Conference "After Copenhagen – the Larger and Closer Union", 24 March 2003, Copenhagen, www.gov.si/mzz/govori/03032401.html.

²⁸⁰ Contribution by Mr. Alojz Peterle, Representative of the Parliament of the Republic of Slovenia at the plenary session of the European Convention, 20-21 January 2003, <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-peterle-02>

Union' in each member state and to convey a European message in the national media and in the respective national languages.²⁸¹

- **European Parliament**

The legislative role of the European Parliament should be made equal to that of the Council, as far as possible. The co-decision process should become a standard procedure in cases in which the Council decides by qualified majority. When acting as a legislative body, the Council's meetings should be open to the public.²⁸² The legislative activity of the EU should, as a general principle, be based on the community method. The European Commission should preserve the exclusive competence to initiative in the entire legislative area.

- **Institutional balance**

The European Union already is a *sui generis* community. *The EU is bound together by diversity and freedom.* As anybody can imagine, freedom and diversity are not classical binding materials. The EU unites various political systems, large and small countries, developed or less developed regions, different cultures and languages. Diversity will increase further in the enlarged EU. Any institutional reform that wishes to be successful has to take that into account and facilitate diversity management. An institutional system will have to be set up that would have to ensure the effectiveness of the Union without threatening its democratic legitimacy.

Slovenia as a small country advocates the position that the EU institutional reform should be conducted in a manner in which the Union could maintain a balance at all levels: between the EU institutions, between the EU institutions and member states and between member states themselves, particularly large and small. A clear definition of responsibilities and duties in an enlarged Union is a guarantee for the credibility of institutions and their democratic, effective and balanced functioning. Slovenia is, in principle, not in favour of establishing new institutions. Thus Slovenia places emphasis on the role of national parliaments but not at the European level. According to the Slovenian members of the European Convention, the role of national parliaments should be enhanced at home, with better parliamentary control over the executive, which should also bring about more transparency to the decision-making process in Brussels.

²⁸¹ Andreja Valiè-Zupan, "The Institutions of the EU", Contribution presented at the Slovenian Forum on the future of the EU, <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-valic-zupan-02/>.

²⁸² Contribution by Mr. Alojz Peterle, Representative of the Parliament of the Republic of Slovenia at the plenary session of the European Convention, 20-21 January 2003, <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-peterle-02/>

3. Decision-making

- **Unanimity**

Considering Slovenia's contributions at the Convention's meeting we can not conclude at which policy fields Slovenia wants to preserve unanimity; in a very general way, it was stated that "unanimity should be kept at all areas of sensitive national interests".²⁸³ However, we can assume that this is primarily related to the issues of military domain of the European Security and Defence Policy. Several times and at different occasions it was repeated that these issues should continue to be an area of intergovernmental cooperation.

- **Procedures for ratification**

The ratification procedure and the entry into force of the new Treaty have not been discussed in Slovenia as a separate issue so far. However, the issue of amending the Treaty was discussed when the Constitution of the Republic of Slovenia was amended in February 2003. The government of Slovenia believes that the same ratification procedures should be used for the adoption of the Constitutional Treaty, which have been used for the ratification of treaties so far. For the time being the government does not envisage holding a referendum over the new treaty. Nevertheless, concerning the tradition to hold a national referendum on many disputable matters it is likely that there will be a referendum on a new Treaty also due to the fact that the Accession Treaty, which was accepted by the referendum, does not include many substantial changes foreseen by the Constitutional Treaty.

- **Differentiation**

In order to be able to respond to the new challenges, the EU requires flexibility and the possibility of further integration in new areas. The possibility of enhanced cooperation is, therefore, inevitable according to Slovenian standpoint. However, Slovenia emphasizes that following principles should be taken into account: cooperation should develop in compliance with the provisions of the Treaty; openness as a basic principle; solidarity, which should provide for ways and means to enable others to subsequently gain access to enhanced cooperation; the right of those who do not participate should not be infringed in any way; the *acquis communautaire* falling within the exclusive competence of the Union should not be affected.²⁸⁴

²⁸³ Written contribution by Matjaž Nahtigal, Representative of the Government of the Republic of Slovenia, Contribution 20 to the European Convention, CONV 39/02, 22 April 2002, Brussels.

²⁸⁴ Intervention by Dr. Matjaž Nahtigal, Representative of the Government of the Republic of Slovenia at the plenary session of the European Convention, Contribution 4 to the European Convention, CONV 19/02, 21 March 2002, Brussels.

4. Priorities of the Slovenian debate

Proceeding from bringing the Union closer to its citizens and the need to greater transparency, Slovenia stresses that public opinion should be taken into account in formulating the EU policies.²⁸⁵ Slovenia therefore expects the Union:

- To establish within its borders an area of freedom, justice (equality of Member States, equal rules for all, social justice, solidarity) and peace (the issue of administering the EU external borders, the fight against organised crime, protection of minorities whose status should be clearly defined);
- To ensure the conditions for a steady, sustained and stable development of all its nations and citizens (preservation of the *acquis communautaire* relating to single market, progress in certain fields – telecommunications, postal service, energy, financial services; to improve coordination of stabilisation policies and environmental protection; to simplify the rules of redistribution policies taking into account the principle of solidarity or allowing for rapid progress of less developed Member States) and to preserve the achievements of the European social model²⁸⁶;
- To act as a factor of peace and development in the international community (strengthening EU external and security policy dimensions). The response to international challenges requires greater coherence of policies to ensure internal and external security. Slovenia estimates that partial communitarisation of these activities is required.

One of the questions, which attracted the most attention at the Slovenian Forum on the future of the EU, was the question of identity. Ten contributions out of 22 presented at the Slovenian Forum deal with identity at the European, national and regional level.²⁸⁷ Considering the European reality, the authors stress that the vital question for Europe is taking into account and managing diversity. Europe's motto can only be "diversity in unity." Europe must be based on equality, on the interest in cooperation, equal rules and solidarity. In Europe, central collective identities are still national identities, based on nation-states; these national identities are also basic elements of a common European

²⁸⁵ The public opinion poll from 2002 shows that people are mostly concerned about: unemployment, environmental protection, maintenance of peace and security and the fight against organised crime and drug trafficking (<http://www.uvi.si/slo/aktualno/javnomnenjske-raziskave/pdf/aktualno.pdf>).

²⁸⁶ Intervention by Jelko Kacin, Representative of the Parliament of the Republic of Slovenia in the Convention, at the plenary session of the Convention, 6-7 February 2003, Brussels, <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-kacin/>.

²⁸⁷ Bojan Brezigar, "European Convention and linguistic diversity", <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-brezigar/>; Andreja Valiè-Zupan, "European, national and regional identity in the EU" <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-valic-zupan/>; Dr. Janez Drnovšek, "The future of the EU" <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-drnovsek/>; Felicita Medved, "In the fear of losing of identity and authority" <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-medved-02/>; Felicita Medved, "In the searching of identity" <http://evropa.gov.si/aktualno/teme/2002-02-27/govori-clanki/govor-medved-04/>;

identity and architecture. In the enlarged European Union the basic sources of individual identities have to be protected from weakening and merging. The general conclusion is that the future EU should ensure the preservation and development of national, linguistic²⁸⁸ and cultural diversities and thus also identities of European nations.

In order to maintain the legitimacy of the future European order, Slovenia is convinced that the preservation of equality of small and large countries is essential. Over-representation of small states needs to be preserved in order to attain full equality (i.e. 'positive discrimination'). On the other hand, ensuring the equality of future and present members guarantees the legitimacy of the European project.²⁸⁹

5. Awareness of the European Convention

- **Government's position**

Slovenian political elites considered the institutional arrangements, negotiated at the 2000 Summit in Nice, reasonable and favourable. However, they agree that the results of the European Convention shall determine the institutional arrangements for the future of the Union and that Slovenia should participate actively in its work in order to protect its interests. By contrast, the Union of Free Trade Unions of Slovenia stresses the importance of seeking for informal channels of influence in order to represent Slovenian interests in the EU successfully.

The Government and Parliament of Slovenia have not taken a position with regard to a number of Convention issues. They have not presented any formal comprehensive papers on the Slovenia's standpoints regarding the future development of the EU, unlikely the Czech government did in the shape of non-paper.²⁹⁰ It does not mean that Slovenia has no vision of what the institutional architecture of the enlarged EU should be, but these views were expressed by individual governmental and parliamentary representatives in the European Convention. If we look at these contributions they included some views that reflect the future position of Slovenia in the EU. Being a small-size country, a newcomer, one of the richest candidates that can soon become a net contributor to the EU budget, a country with quite a tiny but sensitive agricultural sector, with no clear vision how it can substantially contribute to the integration process, etc. are some factors that pre-determine the contents of Slovenia's contributions at the Convention.

²⁸⁸ Dr. Dimitrij Rupel, the Foreign Minister and Representative of the Government of the Republic of Slovenia in the Convention, has proposed an amendment of Art. 3 (Draft Constitutional Treaty), which in addition to cultural diversity includes "respecting of linguistic diversity". Intervention by Dr. Dimitrij Rupel at the plenary session of the Convention, 27 February 2003, Brussels, <http://evropa.gov.si/aktualno teme/2002-02-27/govori-clanki/govor-rupel-02/>.

²⁸⁹ Dr. Slavko Gaber, Representative of the Parliament of the Republic of Slovenia in the European Convention, "For a strong, democratic and tolerant Europe", (Newspaper) Delo, 6. 4. 2002, <http://evropa.gov.si/aktualno teme/2002-02-27/govori-clanki/clanek-gaber/>.

²⁹⁰ David Kral, "Czech non-paper on the institutional structure", Briefing note presented at the EPIN meeting, Prague, Europeum Institute for European Policy, 24 January 2003.

Nevertheless, it could be said that Slovenia is participating actively and contributing to the Convention's work through individual contributions. This is particularly true for the first stage of the Convention's proceedings till the end of 2002. During this stage a majority of contributions was published, particularly ones written by Mr. Matjaž Nahtigal, then the representative of the Government, and Mr. Slavko Gaber, then the representative of the Parliament.²⁹¹ On the other hand, Slovenia's role in the Convention is characterised also by the role of Mr. Alojz Peterle as the representative of the candidate countries in the presidium of the Convention. With the appointment of the new Government the composition of the Slovenian delegation in the Convention was changed. Mr. Mihael Brejc was appointed instead of Mr. Slavko Gaber (by the Parliament) and Mr. Dimitrij Rupel instead of Mr. Matjaž Nahtigal (by the Government). Compared with other candidate countries, the number of contributions made by Slovenia's representatives is under the average and reflects the Slovenian debates on Convention issues.²⁹²

The Slovenian debates have been dominated by factors that have little to do with the Convention itself. The negotiation on the accession, rapid – as well as entire – implementation of the *acquis* and the referendum on NATO membership dominated discussions.

Slovenia is characterised as a pro-integrationist future member state. Its generally pro-integrationist line has been to some extent limited by worries about national sovereignty and identity. In comparison with the representatives of Slovenia's parliament and government, the broader public tends to be more sceptical towards deepening the integration and strengthening the supranational institutions. Although it should be stressed that Slovenia did not represent any "extreme" proposals concerning different Convention issues. Its statements go alongside the mainstream ideas represented by the Group of 18 small and medium-size countries.²⁹³ Nevertheless, Slovenia's European debate, like that in most other candidate countries and member states, lacks a convincing long-term vision of the future of the EU.

The Government considers the timetable for the ratifications of the Treaty of Accession, the European Convention and the next Intergovernmental Conference (IGC), as important – insofar it will influence the status of accessing countries at the European Convention and the IGC. According to the Laeken Declaration the candidate states are "fully involved" in the work of the Convention, although, they could not prevent a consensus among the member states. Similarly, according to the Copenhagen Summit Presidency Conclusions from

²⁹¹ They have written seven contributions out of 20, published at the website of the Slovenian Forum on the future of the EU. The other contributions were made by Mr. Dimitrij Rupel (4), Mr. Alojz Peterle (3), Mr. Mihael Brejc (2), Mr. Feri Horvat (2) and Mr. Jelko Kacin (1), <http://evropa.gov.si/aktualno/teme/2002-02-07/govori-clanki/#forum>

²⁹² At the home page of the European Convention only three contributions were published and all of them are signed by Minister for Foreign Affairs, Mr. Dimitrij Rupel, http://europa.eu.int/futurum/congov_bis_en.htm#slovenia.

²⁹³ <http://register.consilium.eu.int/pdf/fr/03/cv00/cv00732fr03.pdf>. Nevertheless, it should be stated that the dividing line is not between small and large member states; instead it seems as if the division fell between traditionally so-called federalist states and states favouring inter-governmental cooperation.

December 2002, the new members will “participate fully” in the next IGC. The Slovenian Government understands this diction as a full involvement at the IGC in all its stages, with the equal right to co-decide and co-sign the Constitutional Treaty. In the practice of the Convention, the candidate states’ representatives work equally along other representatives and the formal voting procedures do not take place; therefore, the absence of the veto right for the candidate states is only a question of formality. If the IGC works on a similar basis, the timetable of the IGC, taking place before or after the actual accession, shall be of little importance. However, since the conclusions of the IGCs are formally drawn by consensus, the importance of the timetable of the next IGC cannot be neglected. In this respect it is in the interest of Slovenia to be fully involved in the IGC according to the Declaration on the Future of the Union. The Government stresses, though, that the interpretations on the right to vote at the IGC are not straightforward.

Accession to the EU is considered the main priority of external policies of the Republic of Slovenia. It is, however, concentrated on accession’s requirements themselves and on technical aspects of joining the EU (accession negotiations). Within the pre-accession strategy, Slovenia is principally concerned with the implementation and control of the EU decisions at a national level, but it is not yet involved in the preparatory, decision-making and controlling stages at the European level. It still experiences parts of the EU system as ‘outsiders’ and ‘decision-takers’ rather than decision-makers. This functional approach to enlargement overshadows a substantial political debate on objectives and scopes of the European Union in the future, long term perspectives and issues that require further political commitment. The issues of *finalité politique* of European integration and the good governance are particularly important since the quality of Slovenia’s future membership depends on them. Nevertheless, the scope of the debate remains restraint. The main problem is not a lack of debate, but the quality of political debate on Europe’s future, which is accompanied by limited knowledge on the EU’s system (structure) and its functioning among political elites and civil society. The latter is shown by a low quality and low number of reflections among political elites. It seems that they are not aware of political importance of the debate on the future of the EU.

The Slovenian Government sees the following three areas as presenting crucial problems in the coming years: (a) the substantive priorities of the EU-budget, (b) structural funds and (c) the Common Agricultural Policy (CAP). The decision should be made with a respect to the new financial perspective – whether there should be a ceiling decided and thereupon the structure of the use of the means at the disposal, or the substantive priorities shall be determined and the financing adapted according to these. The Government sees the substantive priorities in the following fields: the quality of life (agriculture, environment, health), sustainable development (the Lisbon Declaration, competition), solidarity (structural funds), home affairs (Schengen), and foreign and security policy (official development aid, through the European Development Fund or through the EU-budget). The determination of the priorities is closely linked to the decisions of the European Convention. Due to greater differences in development in the enlarged EU, the Government stresses the importance of the decision on the amount of the GNP directed for the structural funds. Regarding the CAP, the Government sees the future discussion in terms of the structure of

the use of the means for this policy and not so much in terms of the amount of the money directed for it (according to the decision of the October 2002 Summit in Brussels, resulting in the lowering of the percentage of the GNP available for the CAP in case of the inflation being higher than growth).

Concerning the EU-budget, there are two crucial questions: change in the ceiling of the GNP percentage for the EU-budget and the reform of the own-resources. The solution to the first question shall depend upon widening of the substantive framework of the EU activities. In relation to the reform of the own-resources system, the Government deems the directions of the European Convention very important and it perceives the contribution of the United Kingdom to the EU-budget as one of the crucial questions. The Government sees the introduction of the "European tax" (the impacts of which should, however, be thoroughly analysed beforehand) as positive for the transparency of the EU finances and as a means to terminate the discussions on who contributes more and who less to the EU-budget. As a possible way to be considered they see the taxation of the mobile telephone systems, which, according to some analyses, could cover up to 35 % of the EU-budget.

As for the political system of the EU after the "big bang" enlargement, the Government acknowledges the need for the EU to face the following issues: Firstly, how to ensure an efficient functioning of the EU-institutions with so many member states. The second question, equally important for the Government, is the recruitment of the personnel of the European institutions, coming from the new member-states. Not only is this important for the organisational and logistic reasons, but foremost in relation to the influence different political cultures can exert upon the work of the European institutions. Third, in relation to the reform of the political system of the EU, the question arises: how far the new member states, without experience in actual conduct of the EU affairs, will favour any deeper reform of the EU system in direction of the federal system? Here, the question arises if the likely conservative views of the new member states are realistic. Fourth, since almost half of the length of Slovenian border will become the EU external border Slovenia is particularly interested in the new arrangements in the field of the Schengen acquis. Namely, national authorities exercise the external border control but it is also an activity of common interest, which requires appropriate burden sharing. On the other side, the present enlargement is moving the borders of the EU further east and the question of the timetable for new enlargements (especially in the area of Western Balkan) shall also enter the debate according to the Slovenian opinion.

- **Public debate**

Over the past year, a quantitative shift in the perception of the EU and the role of Slovenia in these integrations took place in Slovenia. The shift has been from a country merely adjusting to the existing integrations and their rules, to a country participating in the shaping of the future EU. The Forum on the Future of Europe was set up, modelled after the Forum opened by the Convention for all organisations representing civil society to participate in identifying possible answers regarding the key questions concerning the future development of the EU. At the national level, representatives of professional

chambers and chambers of commerce, trade unions, universities, student organisations, youth, NGO's, local communities, national minorities and others participate in the Forum together with the government's and parliamentary representatives. Discussions on more specific issues are carried out as structured debates at "regional", local, academic, non-governmental or other levels. Nevertheless, the issues of the Convention have occupied a relatively secondary position in the Slovenian public interest until recently. In effect, the debate on the Convention proceedings has received a more extensive coverage by Slovenian press only after the referendum on the accession to the EU on 23 February 2003. Currently there is a section devoted to the ongoing discussions in the majority of the daily press. It can be said that the European Convention has been covered fairly well by Slovenian media since the referendum. For example, Slovenian representatives in the Convention, myself, and my colleagues teaching European studies at University regularly participate in the debates and interviews on Convention issues at the national TV 1 and radio channels. Since January 2003, the Centre for International Relations, Faculty of Social Sciences has organised 5 thematic workshops on European issues in the framework of different international projects. Guest speakers – Slovenian members in the Convention, invited speakers from abroad and scholars of University of Ljubljana - have represented their views on Convention issues. These events attracted the audience between 30 and 70 participants – representatives of civil service, NGOs, medias, university and students. In July 2003 Centre of International Relations is going to organize the International Summer School, which will be entirely devoted to the issues on future development of the EU.

- **Referendum on EU membership and the Convention**

The Convention has received moderate attention in Slovenian media and it has probably not affected public opinion with regard to referendum on accession. On the other side, the Slovenian government, as well as the Parliament are currently intensively involved with the implementation of the *acquis* and carrying out of duties lied down by the Accession Treaty. Thus, the preparation for the referendum on the EU membership has been focused entirely on the results of the accession negotiation. Since the referendum on the EU membership was combined with the referendum on the NATO membership, there was little room of manoeuvre for inclusion Convention issues. It can be said that there was no connection between the preparations for the referendum on EU membership and the Convention. The reason for such a situation might be also in the unpredictable outcome of the Convention. The Government did not want to take any risk and link the future membership with the future European Constitutional Treaty – fearing especially that the outcome might not be favourable to the small states.

Representatives of the CEECs in the Convention

Representatives of the Governments

Bulgaria:

Mrs. Meglena Kuneva (member)
Mrs. Neli Kutskova (alternate)

Czech Republic:

Mr. Jan Kohout (member)
Mrs. Lenka Anna Rovna (alternate)

Estonia:

Mr. Lennart Meri (member)
Mr. Henrik Hololei (alternate)

Hungary:

Mr. Péter Balázs (member)
Mr. Péter Gottfried (alternate)

Latvia:

Mrs. Sandra Kalniete (member)
Mr. Roberts Zile (alternate)

Lithuania:

Mr. Rytis Martikonis (member)
Mr. Oskaras Jusys (alternate)

Poland:

Mrs. Danuta Hübner (member)
Mr. Janusz Trzciński (alternate)

Romania

Mrs. Hldegard Puwak (member)
Mr. Constantin Ene

Slovakia:

Mr. Ivan Koròok (member)
Mr. Juraj Migaš (alternate)

Slovenia:

Mr. Dimitrij Rupel (member)
Mr. Janez Lenarèiè (alternate)

Representatives of the National Parliaments

Bulgaria:

Members:

Mr. Daniel Valchev
Mr. Nikolai Mladenov

Alternates:

Mr. Alexander Arabadjiev
Mr. Nezhin Uzun

Czech Republic:

Members:

Mr. Josef Zieleniec
Mr. Jan Zahradil

Alternates:

Mr. Petr Neèas
Mr. František Kroupa

Estonia:

Members:

Mr. Rein Lang
Mr. Tunne Kelam

Alternates:

Mr. Urmas Reinsalu
Mrs. Liina Tõnison

Hungary:

Members:

Mr. József Szájer
Mr. Pál Vastagh

Alternates:

Mr. András Kelemen
Mr. István Szent-Iványi

Latvia:

Members:

Mrs. Liene Liepina
Mr. Rihards Pīks

Alternates:

Mr. Guntars Krasts
Mr. Arturs Krisjanis Karins

Lithuania:

Members:

Mr. Vytenis Andriukaitis
Mr. Algirdas Gričius

Alternates:

Mr. Gintautas Sivickas
Mr. Eugenijus Maldeikis

Poland:

Members:

Mr. Jozef Oleksy
Mr. Edmund Wittbrodt

Alternates:

Mrs. Marta Fogler
Mrs. Genowefa Grabowska

Romania

Members:

Mr. Puiu Hasotti
Mr. Alexandru Athanasiu

Alternates:

Mr. Peter Eckstein
Mr. Adrian Severin

Slovakia:

Members:

Mr. Jan Figel
Mrs. Irena Belohorská

Alternates:

Mrs. Zuzana Martinakova
Mr. Boris Zala

Slovenia:

Members:

Mr. Alojz Peterle
Mr. Jelko Kacin

Alternates:

Mr. Franc Horvat
Mr. Mihael Brejc