

Some remarks on Legal personality for the Union and on the European Constitution
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It has to be argued that the recommendations of the Working Group on Legal Personality I was a member of, place an unequivocal emphasis on European integration evolving primarily as a political project.

What is called Legal Personality of the European Union, reflects three out of several fundamental goals outlined within the Debate on Future of Europe: transparency being obvious for citizens, simplification of the Treaties and efficiency of action being undertaken.

Transparency is supposed to move substantially forward when our Working Group produced an option for the Union to assume an explicit single legal personality. It is of significance not only for the third countries developing their relations with the Union but also as a stimulus for merging the Treaties. Simultaneously, it should be taken for granted that specific procedures valid for Title V (CFSP) and Title VI (JHA) should not cease to exist immediately. Nevertheless, our plenary discussions in June pointed at a presumption that Area of Freedom, Security and Justice was to be pushed for, esp. as regards operational capabilities of Europol. Just this example implies how the integration to be able to proceed in line with citizens's expectations. Where it happens, also some current procedures should be streamlined and/or merged. The same goes for opening the space for judicial review concerning the Title VI.

As to the mandate to negotiate and conclude the international agreements, esp. those of cross-pillar nature, it is more obvious now – after what the Working Group on Legal Personality has presented – that the mandate is initiated and completed in the Council. The possibilities of delegating the mandate to the Presidency and/or the Commission depend primarily on the character of the subject matter concerned, of course, but at the same time also on a particular institutional set-up in the end arisen. I mean that if a possibility of reforming the Council and/or the European Council respectively is still being considered it should be brought into the spotlight of the Convention.

Ramifications for the modalities of Union external representation assumed in the concept of single legal personality again highlight a crucial relationship between the Council as a whole and its Presidency in particular. For the purposes of CFSP efficiency I repeat here a proposal of mine when in July I tabled an idea of not only merging the posts of External Relations Commissioner and that of High Representative for CFSP but also a portfolio of Development Aid Commissioner. Moreover I suggest that the right of legation for the Union could in practice result in Union missions replacing those of the Member States but only where Member States do not have their own missions. A positive illustration can be provided with the situation we know from Pristina where EU mission represents all its Member States.

As the next point, let me turn briefly to incipient reflections about constitutionalisation. The basic consequence following from the attribution of single legal personality to the Union means re-ratification of the Treaties.

In my view, the Basic Treaty should be a single document with two parts in principle. The Basic Treaty should be amended only by way of Intergovernmental Conference and not, as has emerged from time to time, by a kind of Congress.

As far as pre-eminent methodology for constructing a Basic Treaty, I prefer the way of consolidated reorganisation.

While pondering about the structure of the Basic Treaty, there are two imperatives which should not be lost from our sight throughout the whole of exercise. These are firstly, legal certainty and continuity and secondly, preserving the value of political compromise of the past, the value embracing the integrity of the key Community policies.

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