

Statement by Mr. Henrik Hololei
Alternate Member of the Convention
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on the Architecture of the Constitutional Treaty

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Ladies and Gentlemen,

I appreciate the work done on the elaboration of the project. Preparation of a constitutional treaty is a necessary aim as an end result of our work 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 – at least as far as we can see from the backbone that has been presented by the President.

The structure of the treaty seems to be reasonable, separating the basic premises from the implementation of policies. However, there are a few provisions that need to be clarified.

First, while the values and the objectives have been well defined in the Preamble, the notion of a “federal basis” remains unclear. Above all I am afraid that this would lead us 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. This debate could be avoided by stressing the principles of legality and accountability in the very beginning of the text. This would help us to alleviate the fears of some who see the term “federal” as an even more sinister replacement for the “ever closer union”. I would also like to add one more basic value that is a *de facto* basis of the European Union already, but often underrepresented in legal terms – namely, sovereignty.

Secondly, there are certain issues, which have been discussed at the plenary sessions and have not really received a positive welcome there, but have nevertheless been inscribed into the draft. Here I am referring to the part on the policies of the Union, which reminds me very much of a catalogue that has been clearly rejected before. Similarly, the idea of a Congress has been rejected by the working group on the role of national parliaments and at the last plenary session but it nevertheless figures in the text.

Somewhat unfortunately there is a risk that the public debate and the media may focus on the most visible but at the same time a rather insignificant modification that has been suggested – the name of the organisation. No matter how tempting it may seem to give a new and exotic name to the cooperation, this would only capture the attention of the people for a brief period and would not solve the problems we have convened to solve. Besides, it might have been wiser to discuss the issue at the Convention before launching it to the public, thus creating more expectations and fears than we can possibly deal with. Not to mention that the present name is rather suitable for the current form of cooperation

and a certain continuity should be observed by not changing the name every once in a while.

I also have certain doubts whether it would be possible to put an equation sign between the national and European citizenship. The rights and obligations stemming from both are too different for interchangeable use. In addition, the dual citizenship is not allowed in certain countries, which in itself could lead to unwanted debates. Instead this issue should be further considered by the working group on freedom, security and justice.

Furthermore, linguistic diversity has been one of the true cornerstones of Europe. It has, since the beginning of the Communities, been marked by a clear stipulation of the official languages of the Union. However, no such provision can be found in the current draft.

As regards the organisation of the different parts of the treaty, the principles of democratic life (title VI) seem to be an agglomeration of different points that have already been referred to under the section on the European Parliament. If we want to stress these principles, they should be brought to the beginning of the text. Also the need for a special title on “The Union and its immediate neighbourhood” does not seem to be well grounded as this may to some remind a similarly sounding term employed by one of the neighbours of the Union in a very different context.

Finally, 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. Also a rapid and short IGC before the enlargement would further alienate the people of the Member States as they will not have sufficient time to familiarise themselves with the outcome of the Convention. Consequently the people would have much less input into the future of Europe than we usually convince ourselves here at the Convention.