

The contribution concerning the Final report of Working
Group on Complementary Competencies
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Mr. President! Distinguished members of the Convention!

At the beginning I would like to suggest not to change the name of “complementary competence”, even I am a member of the working group. After many discussions with my colleagues, I am in favor of **maintaining one system of names for competencies**. The name “assisting measures” instead of “complementary competence” seems to be too difficult to understand for the citizens, and the word “measures” could become confusing. I would rather give the name “assisting competence” to underline its character.

A separate part, or Title, devoted to Union competences should be included in the Constitutional Treaty, and it should comprise, among others, of an article providing the principles of Union competences such as “*any competence not conferred on the Union by the Constitution rests with the Member States*” and “*the primacy of Union law in the exercise of the competences conferred on the Union*” and “*any competence should be exercised in accordance with the provisions of the relevant Treaty articles for each policy area*”. In this part of the Treaty I would include as well the principles of **subsidiarity, proportionality, national implementation and execution** (except Commission implementation and execution where provided for in the Treaty), statement of **reasons for the adoption of an act** and the **principles of common interest and of solidarity**, as proposed by the Working Group.

Other article of the Treaty should enlist three categories of the competences and define them. I would propose to **maintain the existing division on: exclusive, shared and complementary competences** and I do not support renaming and changing the criteria for classification of exclusive and shared competence. In my point of view, introducing political criteria would cause serious legal consequences and make the classification less clear by including some areas of shared competence to the exclusive competence.

I generally support the definition of the complementary competence proposed by the Working Group such as application to policy areas where the Member States have not transferred legislative competence to the Union, abolishing the adoption of Union legislation (regulations and directives) under complementary competence and allowing the form of financial support, administrative cooperation, pilot projects and guidelines under this category of competence.

Another article of the Treaty should indicate areas of each competence. Taking into account the recommendation of the Working Group concerning matters subjected to complementary competence, **I would move Trans-European networks (TEC Articles 154-156) into shared competence.** I think that freedom of movement of goods, persons, services and capital requires more regulations on trans-European networks (transport, telecommunications and energy infrastructures) on the European level.

Taking into account the provision indicating that “Union respects the national identity of the Member States” (Article 6(3) of TEC), **I do not agree with including the definition of that “national identity”.** I perceive it as a step back in the Union’s integration and as a not necessary complication.

Finally **I would like to support maintaining of the TEC article 308** which gives the Community right to adopt measures in the field of the common market even if the Treaty did not provide the necessary

powers but it is necessary to attain one of the Union's objectives. I think it is functional for the future EU's evolution, and I find some of the proposals of the Working Group too strict and limiting. I am in favor, however, of *ex ante* judicial control on a request of the Member State or the Commission under this article and of allowing this article to be repealed by qualified majority voting. I believe that it would be enough flexible solution.

I would like to agree also with the recommendation of the Working Group introducing to the Constitutional Treaty **a clause on good administration** of the EU institutions and a clause underlining the efficiency of national implementation of the EU legislation, giving the Union powers to adopt measures to facilitate exchange of information and persons related to national administration of Union law, and to provide Union support for training and development programs.

Thank you for your attention.