

THE EUROPEAN CONVENTION

THE SECRETARIAT

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CONTRIB 8

COVER NOTE

from: Secretariat

to: Convention

Subject: Contribution from a member of the Convention

The Secretary-General of the Convention has received the attached contribution from the Minister-President Erwin Teufel, member of the Convention.

Minister-President Erwin Teufel

Key Issues for the Convention

I. I. Division of competences

1. Compiling a catalogue of competences based on the principle of subsidiarity, in which the competences defined in the Treaties are structured according to competence categories such as

- exclusive EU competences
- fundamental competences of the EU and
- supplementary competences of the EU.

2. Protection for Member States' areas of responsibility by defining the areas where Member States have competence which limit EU competences (e.g. Member States' political and administrative structure, administrative enforcement, local autonomy, relationship to the churches, public order and public safety, basic public services, education, cultural promotion, regulation of the media, social security, land use planning).

3. Comprehensive elaboration of principles governing the discharge of responsibilities:

- principle of limited individual authorisation
- principle of subsidiarity
- principle of proportionality
- principle of loyal cooperation ("mutual loyalty to the Union")
- respect for the national identities of the Member States, including their internal

structures (regions and local autonomy)

- the basic assumption that responsibilities lie with the Member States
 - clarification that the general targets at the beginning of the Treaty of the European Communities do not by themselves constitute authorisation to take action, but only help to define the competences specifically laid down.
 - clarification that in addition, the integration clauses intended to include certain policy objectives (e.g. environmental protection, health protection, equal opportunities, cultural diversity), do not on their own constitute a sufficient basis for competences.
 - establishing the basic principle that if a special competence has not in fact been allocated, there can be no recourse to the general provisions (especially concerning the internal market).
4. Dispensing with the pillar-based structure of the Treaties, fundamental incorporation of the areas of Foreign and Security Policy, and Justice and Home Affairs. Transfer of additional responsibilities in these areas, e.g. executive powers for Europol, European border guard.
 5. Monitoring of the distribution of competences in individual areas (e.g. with a more precise definition of the article concerning the internal market and the competence to take measures supplementary to the powers provided in the Treaties [Article 308 of the TEC]).
 6. Regulation of the restoration of EU competences to the Member States.
 7. Extension of the existing jurisdiction of the European Court of Justice in special cases through a common arbitration or decision-making authority, to ensure that division of competences follows the correct procedure.

II. Democracy, Transparency and Efficiency

1. Democratic legitimacy and transparency of the institutions

- With regard to the European Parliament, extension of the procedure for co-decision in the legislative process as normal procedure.
- Abolition of the differentiation between obligatory and non-obligatory expenditure; comprehensive budget responsibility for the European Parliament.
- Establishing in the Treaty common suffrage in elections to the European Parliament (proportional representation with the possibility of regional constituencies).
- In the Council, clear differentiation between executive and legislative functions.
- New rules governing the election of the President of the Commission (either by the European Parliament or linked to the European elections).

2. Role of the national parliaments

- A mixed political body composed of representatives of the national parliaments and the European Parliament, for the purpose of monitoring the division of competences and the subsidiarity principle in the EU legislation (see above).
- After the reform, wherever areas remain in which the European Parliament is not qualified to participate in European actions, the national parliaments would have to assume this responsibility.

3. Working methods of the EU institutions

- Based on a clear division of competences, extension of the decision-making powers of the Council with qualified majority voting (double majority of states and size of population) as normal procedure.

- Procedure of co-decision with the European Parliament as normal procedure.
- In the longer term, regulations governing the allocation of the Presidency and the Presidency of the Councils of Ministers.
- Greater coordination of the work of the Council.

III. Simplification of the Treaties, Charter of Fundamental Rights, Constitution

1. Elaboration of a constitutional treaty based on the existing Treaties.
2. Establishment of a European Union as a legal person with concomitant fusion of the three existing “pillars” in the constitutional treaty.
3. Incorporation of the Charter of Fundamental Rights solemnly proclaimed in Nice into the constitutional treaty (reference to the Charter of Fundamental Rights as an integral part of the treaty or inclusion of the complete text).
4. Regulations governing amendments to the constitutional treaty (institutionalisation of the Convention) and to the other Treaties.

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