

THE EUROPEAN CONVENTION

THE SECRETARIAT

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CONTRIB 84

COVER NOTE

from	Secretariat
to	The Convention
Subject :	Contribution by Mr Hannes Farnleitner, Member of the Convention "Asylum, Migration and Police Cooperation"

The Secretary-General of the Convention has received the contribution annexed hereto from
Mr Hannes Farnleitner, Member of the Convention.

Asylum, Migration and Police Cooperation

Contribution by Mr. Hannes Farnleitner,
Member of the Convention

I. ASYLUM (Title IV TEC)

⇒ **Support for communitarisation** (as already laid down in the 1st Part of the Nice Treaty in Art 2 lit 4).

A common asylum system constitutes an integral part of a European Migration Policy. It is the only way to avoid imbalances between the Member States caused by the influx of asylum seekers, asylum shopping and abuse.

Approval of the idea of a common asylum area. The Commission proposals on a common asylum area have to be supported .

⇒ **Communitarisation should also lead to:**

- the harmonisation of substantive asylum law
- mutual recognition by Member States regarding the result of asylum procedures

⇒ **In return for this communitarisation:**

- **Right of Initiative for Member States**
- **Voting Rules** : based on a double majority requirement (majority of Member States combined with a majority of the EU population along the lines of Art. 3, 1c of the Nice Protocol on the Enlargement of the Union), which would exert pressure with a view to reaching compromises.

II. LEGAL MIGRATION (Title IV TEC)

- ⇒ **General support for a gradual communitarisation** as envisaged in the Presidency Conclusions of the European Council Meetings in Laeken and Seville.
- ⇒ **Dropping the Principle of Unanimity**
once common rules and basic principles (basic acquis) have been defined unanimously (as laid down in the Nice Treaty)
- ⇒ **Particularly sensitive issues are:**
 - decisions in cases of initial entry
 - legalisation of illegal migrants
 - access to the labour market
In order to ensure transparency as well as simplified and accelerated procedures, the one-stop-shop principle must be established at Community level – there should be no more than 1 decision on both permanent residence and working permits.
- ⇒ **Migration must be compatible with the EU Member States' reception capacities and can only take place on a legal basis.**
- ⇒ **In return for this communitarisation:**
 - **Right of Initiative for Member States**

Voting Rules : based on a double majority requirement (majority of Member States combined with a majority of the EU population along the lines of Art. 3, 1c of the Nice Protocol on the Enlargement of the Union), which would exert pressure with a view to reaching compromises.

- All relevant legal acts should contain a clause on quota compatibility as laid down in the draft directive on family reunification.

III. ILLEGAL MIGRATION (Title IV TEC)

⇒ **Support for a gradual communitarisation**

- The Seville Presidency Conclusions provide for a concerted action between the Council, the European Commission, and the Member States where measures combating illegal immigration and integrated border management are concerned
- European Border Police: joint training, equipment, joint operations; the setting up of a supranational police unit should only be considered at a later stage; for the time being mutual assistance among Member States in case of need should be sufficient,

⇒ **Dropping the Principle of Unanimity**

once common rules and basic principles (basic acquis) have been defined unanimously (as laid down in the Nice Treaty)

⇒ **In return for this communitarisation:**

- **Right of Initiative for Member States**
- **Rules for Voting:** based on a double majority requirement (majority of Member States combined with a majority of the EU population along the lines of Art. 3, 1c of the Nice Protocol on the Enlargement of the Union), which would exert pressure with a view to reaching compromises.

IV. POLICE COOPERATION (Title VI TEU)

⇒ **Communitarisation with a view to creating a "Safe European House "**

⇒ **Prerequisites:**

- Monopoly on the use of force remains with national states
- No executive powers for EUROPOL
- Clear delimitation of the EU-sphere of competences in the area of crime control.
- EU competences where needed, esp. in the fields combating organised crime, cross-border police co-operation, and fight against terrorism
- Harmonisation of the rules governing police activity

⇒ **In return for this communitarisation:**

- **Right of Initiative for Member States**
- **Rules for Voting:** based on a double majority requirement (majority of Member States combined with a majority of the EU population along the lines of Art. 3, 1c of the Nice Protocol on the Enlargement of the Union), which would exert pressure with a view to reaching compromises.