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The Secretary-General of the Convention has received the contribution annexed hereto from Mr Pierre Lequiller, member of the Convention.



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**CONTRIBUTION BY MR PIERRE LEQUILLER
TO THE EUROPEAN CONVENTION**

A PRESIDENT FOR EUROPE

PRESENTATION OF MOTIVES

1. An ambitious reform of institutions is required without delay

- This Convention is the last chance, prior to enlargement, which will involve new institutional limitations;

- public opinion requires something “*better*” from Europe centred on the areas in which it is more efficient than the disparate action by States, *with the prospect of the consolidation of a “Federation of Nation States”*;

- the context of globalisation requires that the Union be more present in the world to *defend, together, our interests and our values* and to assume our responsibilities ;

- Europe needs a project that can be understood by her citizens, with a joint ambition.

Institutional reform is indispensable in order to give a new legitimacy and increased efficiency in Europe. The alternative is increased scepticism and populism of all kinds, resulting in collective weakening.

2. There is a big majority, within the Convention, for the *basic objectives* of the institutional reform and already, over and above the question of presidency, in terms of certain orientations, which must be kept in mind within the context of the current considerations

a) Strengthening of European democracy

Orientations being outlined within the Convention:

- establishment of a “*constitutional treaty*” more easily understood by citizens and introduction into the treaty of the “Basic Rights Charter”,

- clarification of the role of each institution, strengthening of the *European Parliament* (extension of co-decision, debate on an increased role for the European Parliament in budgetary terms) and confirmation of the role of the Commission, particularly in terms of its independence,

- introduction of *national parliaments* into the European system (role in terms of subsidiarity, role of a possible Congress for the election of a President or for an annual information debate),

- *simplification* of classification of jurisdictions, procedures and legislative instruments.

b) Concentration of the Union on subjects of common interest, where it is efficient

Prospects arising:

- strengthening of the Union’s *objectives* within the Treaty (and debate on the introduction, in the field of foreign policy, of a joint “*diplomatic doctrine*”)

- no challenge to the current jurisdictions of the Union and stronger application of the *principle of subsidiarity* for existing jurisdictions,

- *development of the Union’s actions* in the field of foreign policy, defence, internal security (and for some of those attending the Convention, of economic governance).

c) Improvement of the conditions of efficiency of action

Orientation elements that are being outlined:

- reinforcement of *decision-taking* conditions: extension of the qualified majority, gradual application of the community method to most areas covered by the third pillar and introduction in stages of community elements to the PESC (Foreign and Joint Security Policy)(in terms of the capacity of initiative, and voting rules in the Council),

- requirement for a European executive enjoying increased drive, coherence, visibility and stability: in terms of *external relations*, with regard to third countries and within the context of international organisations and in terms of *the internal plan*, with regard to citizens,

- implementation of the institutional conditions for an open “*avant-garde*” and considerations on the evolution of methods to *review the Treaty* to avoid potential blocking linked to the unanimity rule,

- debate on the establishment of real *own resources*.

The basic objectives would appear to meet with approval from the majority of those present at the Convention and they are already being expressed by means of major orientations that may inspire an agreement. It is on this convergence and within this context that the institutional reform must be built, serving the peoples of Europe.

3. To achieve the joint objectives within the context of the institutional orientations that are coming forward, proposals for reforms relating to Presidency of the Union must confirm a range of method principles which are at the heart of the efficiency of the action taken to serve the joint European interest

a) Strengthening the elements relating to institutional balance and the community method

This is a matter of not challenging the principle and essential modalities of the balance of powers between national and European legitimacies (*inter-governmental /supranational*) and the main institutional bases of the powers of the elements within the “Triangle” (the powers of co-decision of the Council of Ministers and the European Parliament, the power of initiative of the Commission which demands that the conditions of its independence and its executive strength be maintained). The *community method*, which has shown proof of its efficiency, must be reinforced.

The general direction of the institutional reforms must therefore go rather in the direction of a *simultaneous reinforcement* of the various components within the system, rather than a *Council choice* or a *Commission choice*.

The introduction of national parliaments into the system must, moreover, constitute a further element of response to the requirement for a *reinforcement of the legitimacy of the institutions*.

b) Fully integrating the principle of equality between member States

Account must be taken of the *fundamentally collegiate* nature of the building of Europe, the necessary balances between the “large” and “small” States and regional balances, on the basis of a *principle of equality*.

c) Setting up a real Union “executive”

Giving the European executive more stability, legibility, legitimacy and ability to drive ahead – serving the interest of the peoples of Europe – is an objective that is widely shared. However, the term “*executive*” or “*government*” covers a variety of concepts and ambiguities. It is, in fact, both a matter of the ability to govern, i.e. to give the necessary drive and to decide in non-legislative areas, for example in the field of diplomacy, and of responsibility for standards and administrative *implementation*. The mission of representation is another aspect of these executive functions.

In the current institutional system, these functions are divided between the European Council in terms of drive, the Commission for power of proposal, the Council of Ministers for decision-making power and, once again, the Commission, for implementation, at the same time as the member States for anything that does not involve community implementation.

Although this complexity cannot be resolved at one stroke, since it is in part necessary due to the various levels of power and the different sources of legitimacy, the various components of the executive functions – coordination function, execution function, representation function – must be better understood, and this “*European executive power*” must be given more legitimacy, more legibility, coherence, efficiency and, in the end, more **political weight**.

This is particularly true *in the field of foreign policy*, for which the current dichotomy between the Council and the Commission, between the diplomatic field on the one hand and trade relations and development aid on the other, means that new coherence must be found *from the top*

This is a major challenge for the Convention.

d) Combining the various institutions

The President of the Union will have to have, in one way or another – and whatever the nomination method used – *the confidence of the European Council*, as well as, using terms to be confirmed, that of the other institutions, and particularly that of *parliamentarians*.

e) Endeavouring to progress towards greater simplicity and understanding

In addition to the major challenge of greater “*visibility*” the solution found must remain relatively simple and easy to communicate, even though a certain degree of complexity will remain the necessary consequence of a combination of European and national legitimacies.

In terms of the method, an antagonistic view of inter-governmental and supranational approaches must be overcome in order to promote the institutional expression of a concrete reconciliation of these two approaches, in a community spirit. It is only from above that such potentially limiting and blocking antagonisms can be transcended.

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MECHANISM

The mandate of the European Convention is ambitious: to conceive of a simpler, more legitimate and more efficient institutional system. The alternative with which we are confronted is clear:

- either we limit ourselves to “technical” reforms, on the margins, and we disappoint the citizens who are expecting a great deal from our work,*
- or we consider together an institutional structure that is able to overcome the usual oppositions between “communitarians” and “intergovernmentarians”, between countries that are demographically more important and the others, in order to give meaning and prospects to a reunified Europe.*

Because the Convention must give itself the means by which to seize an historic chance, my approach is one that is, without ambiguity, part of the second option, but one which has the realism and pragmatism required for any kind of institutional consideration.

In a spirit of opening and compromise, I suggested the idea that the Union should have a single President, presiding over the Council of Europe and Commission. Over the past few weeks I have consulted on many occasions with numerous European partners. I intend to continue with, and to intensify these contacts. I have listened carefully to arguments on both sides, to their concerns and their expectations. I am convinced that today we have the means by which to overcome our differences. An agreement is already in the making on the basic questions:

- A single “constitutional treaty” must be drawn up which can be understood by the citizens;*
- This treaty must include the Charter of the basic rights of the European Union;*
- The European Union must acquire a single legal personality;*
- The pillars of the Union must be merged, whilst allowing for distinct procedures depending on matters being dealt with;*
- Recourse to reinforced and opened cooperations must be encouraged in order to make progress on the road to European integration.*

The emergence of a real European executive is an essential condition for the deepening of the European project. My proposal for integrated presidency continues with the objective of clarification of functions and responsibilities. This proposal is not set in stone and its terms will have to evolve in order to widen the basis of an agreement that I believe is possible, and which seems to me to have the merits of being clear. However, I intend above all to trace out a new prospect which will enable us, when the time comes, to explain to citizens the reasons for our institutional choices.

1. An institutional triangle whose legitimacy and efficiency are reinforced :

- **Presidency of the European Council and of the Commission performed by the same person**
- **A European Commission with stronger prerogatives**
- **A European Parliament with greater powers**

Presidency of Europe and presidency of the Commission are integrated and performed by the same person: the President of Europe. He is the “*face*” of the Union, both in terms of external relations (he represents the Union with regard to third countries and within the context of international relations) and in terms of internal affairs, with regard to European citizens. The President will have, over time, a capacity for drive, for proposal and for implementation of the decisions taken by the European institutions.

The President is elected for a mandate of five years, non-renewable, by the European Council which will decide by means of twofold majority of States and of population. He may not be a current Head of State or of government and will only take up his functions after *an investiture vote by the Congress*, comprising 1/3 representatives of the European Parliament and 2/3 representatives of national Parliaments.

He will form the college of commissioners, using the rules currently in force. The collegiate nature of the European Commission will be preserved and geographical balances will be respected.

Through the President of Europe, the Commission will be strengthened in its role in terms of drive and execution. Its monopoly of initiative will be confirmed. Within this integrated concept, the President of Europe transcends an approach that opposes the national legitimacies of States on the one hand and European legitimacy on the other. It will be the role of the President of Europe to assume and combine this double legitimacy. He will thus be supported, in the exercise of his functions, by the services of the Commission and by the services of the Council secretariat, depending on the areas of jurisdiction concerned. In order to perform his mission in complete independence, the President of Europe will not vote, either within the European Council or within the Commission.

The powers and responsibilities of the President are linked to the role of the institutions he presides. In this respect, the role of orientation of the European Council should be strengthened and a transformation of the Council into a court of appeal against decisions – or the impossibility of making a decision – by the Council of Ministers should be avoided.

The President of Europe is placed at the head of the Union’s permanent Council (Ex General Affairs Council), to which he will present the *Union’s triennial programme* prepared by the Commission (which reinforces the role of the Commission in terms of the conclusions of the European Council in Seville). This programme must be validated by the European Council. Initially, an information debate is organised on this programme before the European Congress.

In order to reinforce the legitimacy of the institutions and to respect the parallelism of forms, *the President of Europe and the Commission are responsible to the European Council and the Congress*, which decides by majority of two thirds of its members. The initiative to challenge the

responsibility of the President and the Commission belongs concurrently to the European Council and to the European Parliament. The European Parliament has the power to trigger, alone, a procedure to dismiss the President of Europe and the Commission by itself going before the European Congress, by means of a vote on a resolution carried by the majority of two thirds of its members.

2. A restructured Council of Ministers

Organisation of the Council of ministers is simplified in order to increase the efficiency of its action.

Three major sections will be created: an “*Economy and currency*” section comprising ministers of economy and finance, a “*Foreign Policy and Joint Security*” section, comprising Foreign Ministers and, possibly, Ministers of Defence and an “*Internal Affairs and Justice*” section, comprising Interior Ministers and Justice Ministers.

The general secretariat of the Council will be maintained as it is, particularly in terms of the PESC.

The “*Foreign Minister for the Union*”, the nomination of whom will be confirmed by the European Council, will work close to the President of Europe and preside over the “*Foreign Policy and Joint Security*” section. He will have a five year mandate. As a member of the Commission, he will exercise jointly the functions of Commissioner with responsibility for external relations and High Representative of the CFSP, thus ensuring coherence in the running of external affairs and representation of the Union within international institutions.

The stability and legibility of presidency of the «*Foreign Policy and Joint Security*» Council, in the person of the Union’s foreign minister, will enable the latter to clearly highlight, after council meetings, the points on which agreement has been reached. The same situation will occur for the European Council, in terms of the President of Europe.

Pursuant to the reform of structures and of the functioning of the Council, approved in June 2002 by Heads of State and government during the European Council in Seville, the six sector Councils will be: Employment, Social Policy, Health and Consumers, Competitiveness (internal market, industry and research), Transports, Telecommunications and Energy, Agriculture and Fishing, Environment and Education, Youth and Culture.

Presidencies of the various formations of the Council of Ministers must be assured using rules of geographical rotation by groups of countries for a duration, for example, of two and a half years. This system, which has already been suggested by several Member States, has the advantage of respecting the principle of an egalitarian participation by States. With the exception of the “*Foreign Policy and Joint Security*” section, presidencies of the Council will thus continue to be assured by ministers currently in power and stability will thus be assured, whilst retaining a necessary rotation within an extended Europe which takes account of political and geographical balances.

During the numerous contacts made for the preparation of this proposal, other options were looked at, to ensure the presidency of the Council of Ministers, and which require closer inspection. Thus, as an extension of the logic of integration, it could be envisaged – in the longer term – to entrust the presidency of sections of the Council directly to Commissioners. Another solution would be to allow for each section of the Council to elect its President from amongst its members.

In parallel to the sector groups of the Council of Ministers a “*Permanent Council of the Union*” will be set up, presided over by the President of Europe. Made up of the permanent representatives of member countries – who would have the rank of minister in their national governments –, this Permanent Council of the Union would be responsible for coordination, preparation and follow-up of European Councils, for institutional and administrative questions and for horizontal files affecting several Union policies. It would meet at least once a month.

In order to back-up the jurisdiction of the European Parliament, *co-decision should be extended to all community subjects*, in these areas, the Council of Ministers should make its decisions by qualified majority. In the longer term, co-decision could be extended to budgetary matters.

3. Clear, controlled competences

The division of competences between the Union and Member States must follow flexible rules, whilst falling within a clear legal framework. Without drawing up a catalogue of competences, it is suggested that, as an extension to the Lamassoure report adopted by the European Parliament, *three categories of competencies should be distinguished, it being understood that the competency of common law must belong to States, without it being necessary to specify their content*.

Three categories of competences should be mentioned in the constitutional aspect of the treaty: the Union’s own competences, shared competences between the Union and Member States and complementary competences.

In order to control application of the principle of subsidiarity, *a permanent delegation, with responsibility for this control, will be set up within the Congress*. The role of this delegation should be understood in combination with the “rapid alert” procedure, provided for in the conclusions of the working group headed by Mr Mendez de Vigo on subsidiarity.

Thus, whilst recognising for each national Parliament – and more specifically for each chamber – the right to send directly a motivated opinion to the European Commission and then the possibility, where applicable, to go directly to the Court of Justice, within the context of an ex-post jurisdictional recourse, discussion between national Parliaments should be encouraged. This is why, with regard to the ex-ante phase, the motivated opinions sent to the European Commission should also be transmitted for information to the permanent delegation of the Congress, which may possibly issue an opinion representing the joint point of view of the delegation.

By encouraging discussion we are also here avoiding the multiplication and dispersion of applications for judicial review ex-post. Within the Court of Justice, the exercise of control of the principle of subsidiarity should be entrusted to a specialized chamber, comprising an equal number of community judges and national judges.

Moreover, the *Congress could have jurisdiction for review of the treaties, in terms of the non-constitutional section*. This will be in support of the Convention method.

The Congress is in no way a second legislative chamber.

<i>Second hypothesis: Presidency of Europe and Presidency of the Commission remain separate</i>
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The hypothesis of maintaining two distinct presidencies, that of the Union and that of the Commission must not be dismissed at this stage.

In this case, the President of the Commission must be elected by the European Council, and then invested by the European Parliament which pronounces by vote by ordinary majority of its members. The Commission is responsible before the European Parliament, which has the power to overthrow it; in counterpart, the European Parliament may be dissolved by the European Council.

The President of Europe would be elected for a five-year non-renewable mandate, by the European Council which will decide by majority of States and of population. He may not be a current Head of State or of government and will only take up his functions after *an investiture vote by the Congress*, comprising 1/3 representatives of the European Parliament and 2/3 representatives of national Parliaments.

The President of Europe will act as President of the European Council and be backed by the services of the Council's general Secretariat. He plays a driving role, contributing to definition of the Union's fundamental political orientations. He is the "face" of the Union, with responsibility for the Union's foreign policy. A Foreign Minister, who would preside over the "Foreign Policy" section of the Council of Ministers, would work alongside him.

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CONCLUSION

The institutional proposal for a *President of Europe* –nominated by the European Council and confirmed by the Congress – *bringing together presidency of the Council of Europe and that of the Commission*, such as the mechanism described above, would be a concrete answer to a *twofold challenge*, the essential expression of an objective of *service to the common interest of the peoples of Europe*:

- a *democratic imperative*: conferring upon the President of the Union – head of the community executive – the stability and conditions of authority linked to a full-time mandate covering several years, and to a double investiture by the European Council and the Congress, a “face” is given to Europe and a new legitimacy to the Union’s executive, which *are the essential conditions for deepening of European democracy*.

- a *demand for the efficiency of joint action*: legibility and new legitimacy, which are the guarantee of independence and political weight, conferred upon the European executive, will mean that he is given the ability to breathe into Europe – through his responsibilities within the European Council and the Commission, and in cooperation with the other institutions, specifically the European Parliament and the Council of Ministers – *the drive necessary to serve joint action*, both on the *domestic front* and *at international level*.

This proposal seeks to be a *contribution to joint considerations* within the context of the Convention. Many of the elements contained herein remain, of course, to be specified or debated. ***The proposal is neither inter-governmental nor communitarian.*** The challenge is to highlight the routes towards institutional progress, serving the interests of peoples and of a certain idea of man, in a *spirit of union*. **This is the community way.**

It is interesting to note that as things stand, the *first observations made against these proposals* are based both on fears that they may lead to an inter-governmental drift and on the concern that they may create a bed of European power, beyond the control of the States themselves. ***The symmetry of these observations encourages one to believe that the way ahead suggested could mark out a direction towards balance and progress.***

In this spirit, this proposal aims to establish European institutions which are more democratic and more efficient and thus presupposes acceptance of a certain number of principles of logic and precaution.

- the proposal preserves and reinforces the main *elements within the current institutional equilibrium* – particularly the main respective powers of the institutions, European Council, Council of Ministers, European Parliament, Commission – and the community method, combining national and supranational legitimacies,

- it assumes the *unavoidable complexity* linked particularly to the exercise of double legitimacy and the fact that community institutions cannot be part of the traditional frameworks of constitutional law and international law,

- *there is no adequate solution that is a perfect solution*. Promotion must be made of the solution that is liable to meet, apparently, as best possible the demands of the common interest,

- finally, progress made by the institutional system will be of worth only if, in the future, *political will* to implement such progress, *in a spirit of union*, prevails over time, over the search to preserve individual interests.

In conclusion, it must be underlined that in terms of Presidency of the Union, two main proposals have been presented and referred to over the past few months, (in addition to those that aim to reform the system of six-monthly rotation of presidency of the Council of Ministers, without really challenging it in any way): on the one hand the proposal for a “President of the Union” and, on the other, the proposal for a President of the Commission, elected by the European Parliament.

If neither of these two basic proposals regarding the presidency manages to obtain agreement within the Convention, the risk of an institutional status quo – perhaps improved at the margins – is very real. This would be to the detriment of the Union and the interests of the peoples of Europe. We must seek a balanced compromise, serving democracy and efficiency. This is the very goal and inspiration behind the proposal for integrated presidency.

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APPENDIX

ANSWERS TO INITIAL OBSERVATIONS ALREADY MADE WITH REGARD TO THIS PROPOSAL FOR INTEGRATED PRESIDENCY

a) In terms of the observation stating that this proposal would be too inter-governmental and could impact the Commission's independence.

Several factors *invalidate* the opinion that the independence of the Commission and its role risk being weakened:

– the suggested *nomination rule and the method of challenging his responsibility, where necessary* (European Council and Congress) back-up the independence of the President. His independence, in this respect, would be at least equal to that of the President of the Commission the independence of whom is not currently disputed. The support role of the services of the Commission (on which the President could rely in terms of his executive tasks, as in terms of its role of President of the Commission) also backs up the idea of true independence with regard to the influence of member States,

– to *reinforce* the independence required for the exercise of the “*twofold presidential responsibility*” and to avoid *conflicts of interest*, it should be specified that the President would not vote either within the European Council nor within the Commission.

Confirmation of the role of the *European Council* as a *driving and orientation body*, and not as a body at the call of the Council of Ministers, a drift risk which was unanimously denounced by Council in Seville, should allow the President not to be directly involved in a function under the legislative process (which would be linked to the sending before the European Council of projects examined by the Council of Ministers), whereas as President of the Commission he would also be at the origin of the projects,

– in reality *coherence* between the functions exercised respectively by the President of the European Council and the President of the Commission would be strong:

- *In legislative terms*, between the political driving force of the European Council and its adaptation by the Commission. The European President will propose to the European Council a strategic programme covering several years. The European President, as President of the Commission, by virtue of his initiative monopoly, would suggest the legislative texts corresponding to the multi-year programme (which is prepared by the Commission's departments and which has been debated by the “Permanent Council of the Union”; on the latter point, the proposal reinforces the Commission's powers compared to the current situation).
- *In the executive field, particularly for the PESC*, between the Union's resources and fields of action: the European President, as President of the European Council, may propose the general principles and orientations of foreign and joint security policies, including on matters with implications in terms of defence. The Council of Ministers makes the decision. The European President, as President of the Commission, will ensure monitoring of these policies, suggesting all the initiatives necessary for their implementation. In this field, it would be particularly paralysing to prolong a situation which separates decision-making power from that of

implementation – particularly in financial terms – and diplomacy from aid with development and commercial policy.

b) In terms of the prospect, on the other hand, of the constitution of a “European power” which would be outside the control of member States:

The aim sought is indeed to give the European executive major *political weight*, serving the common interest and therefore the bases of independence (see previous paragraph). Nevertheless, control by States is still assured:

– as mentioned earlier, the power of the European Council to nominate the President and where necessary to challenge his responsibility, represents effective direct control by the States,

– moreover, the States retain their current powers over Union decisions : the European Council has jurisdiction for general orientations and the Council of Ministers is co-legislator (and holds controlling power for the drawing up of executive standards).

Moreover, *additional guarantees* are planned, reinforcing the collective role of the European Council, amongst which figure:

– approval by the European Council of the programme for the Union covering several years, with, of course, the possibility of amending it,

– coordination of the works of the Council and preparation of the European Council by a renewed General Affairs Council (“Permanent Council of the Union”).

c) With regard to the fear of “presidential power” which would be too strong and which would weaken the collegiate dimension of institutions:

The aim is indeed to give the European executive real weight and visibility. In any case, any executive power, at whatever level it is situated – local, national or supranational – has a “face”, the power of the latter being controlled and kept in balance by collegiate bodies. And, because of this fact, a good many factors limit the power of the President and act as counter-balance:

– the President is doubly responsible to the European Council and the Congress,

– his power, as President of the European Council and of the Commission, is of an *executive nature*, particularly for the running of diplomacy and representation of the Union. He also has the task of playing a part in responsibility for legislative initiative as President of the Commission,

– the President’s powers do not overstep either the *collegiate* power of the European Council (drive, orientation, programme covering several years) nor the similar power of the Commission (initiative, participation in implementation of decisions).

d) In answer to observations fearing a reduction in the powers of the European Parliament

The European Parliament currently has jurisdiction to validate nomination of the President of the Commission. This proposal aims, by means of the establishment of a Congress including European and national parliamentarians, to extend the legitimacy and therefore the independence of the President of the Union. The European Parliament remains responsible for the nomination of the President and for the challenging of his responsibility, even though this power is shared with the national parliaments. Also, the increased political weight of this President, compared to the President of the Commission in the current system, consequently increases the political weight of the European Parliament as a body taking part in the nomination of the President, and in the possible challenging of his responsibility. *All the elements in the “triangle” are therefore reinforced.*

It should also be underlined that the *sharing*, with national parliaments, of the power of validation of the President goes along, moreover, in this proposal, with a *reinforcement of the role of the European Parliament in legislative terms* by extension of the co-decision procedure. Reinforcement of the role of the European Parliament’s role in budgetary terms could also constitute a useful reinforcement of European democracy.

The role of the European Parliament would, in the end, be strengthened.

e) With regard to the concern over the constitution of a directory of the major countries

It should be underlined, in terms of the fear of a directory to which the installation of a presidency of the Union would lead, that this proposal *does not in any way affect the community structure of the institutions*. Member States remain in charge of the Union’s decisions through the jurisdictions in terms of orientation of the European Council and of the co-legislator of the Council of Ministers – subject to weighting rules. Moreover, the common European interest remains specifically the responsibility of the Commission, whose independence is strengthened, and of the European Parliament, whose powers are reinforced.

The decision itself regarding nomination of the President of the Union is taken by the European Council uses the rule of *double majority* – which will assure both “small” and “large” that no decision will be taken against one or the other of these two potential groups – and is validated by the Congress which brings together representatives of European and national legitimacies. Validation by the Congress again takes into account participation of the States, through the European Parliaments and national parliaments.

Finally, past experience shows that, for all European institutions, presidencies have been successively exercised by personalities representing countries whose demographic size is extremely variable.