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COVER NOTE

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| from | Secretariat |
| to | The Convention |
| Subject : | Contribution by Mr Josef Zieleniec, member of the Convention -“The question of Presidency in the European Union” |

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

The Question of Presidency in the European Union

*Presidency of the EU, Presidency of the European Council, Presidency
of the Council*

Contribution by Senator Josef ZIELENIEC

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I. Introduction: a risk of stalemate

It seems that **the Convention is heading for a stalemate**: on the one hand, some influential members of the Convention and Member States of the EU propose a long-term presidency of the European Council and of the Council, in other words, the creation of the post of an EU president appointed by the European council. However, on the other hand, other relevant and numerous players in the Convention strongly oppose such a development.

First of all, it is necessary to understand the **logic of these two opposing options**.

- **Larger member states** do not want to delegate any substantial powers in external and defence affairs to a Union being chaired every six months by a different Member State of whatever size and international standing. This situation creates not only **a problem of coherence and continuity, but also that of representativity**. As it stands today, the EU is chaired and represented every six months by a person (the Head of State, or government of the State holding the presidency of the EU) who other heads of State or government have no influence in choosing. Nevertheless, should the EU have a single voice on the international scene, it should be held by a person benefiting explicitly from the confidence of all, or at the very least a large majority of the members of the European council. **That is why the above-mentioned claim of larger States for a long-term presidency of the EU is both understandable and legitimate.**
- However, behind these legitimate claims, proponents of a permanent presidency appointed by the EC are **suspected of willingness to minimise the strength of the Commission, to reinforce the intergovernmental dimension of the EU, to shift more power to the biggest member states** and so on, i.e. to take a step back, on the road of European integration process. These **apprehensions and suspicions of smaller countries in particular and “pro-integration-minded” members of the Convention are also legitimate.**

Thus, there is some legitimacy in both the above-mentioned views – for and against a long-term presidency. If all members remain firm on their positions, putting forward his/her legitimate arguments, the Convention will not be able to make any progress and deliver.

In such a situation, one might seek the typical ‘EU compromise’: a solution, which would avoid any conflict, appeasing all sides involved, but going no way to fully satisfy any either. Such a solution might avoid a tricky issue temporarily, but create new problems in the longer term. For such an example, one need look no further than the so-called “double-hatted” solution for external representation of the EU proposed by many members of the Convention.

However, we do not need a low-profile compromise, but a real solution to problems of the EU, which face us at present. **We should not look for a compromise between the two above-depicted positions, based on the lowest common denominator, but for an authentic solution transcending them in a positive way.**

Such a solution has to be able to:

- 1) **satisfy legitimate claims present in this debate**
- 2) **provide sufficient guarantees rendering existing suspicions irrelevant**
- 3) **bring about a “value-addition”, making the EU more efficient, more accountable and more understandable to its citizens**

It could be outlined as follows:

The establishment of a long-term President of the European Union appointed by the European Council with a special procedure of designation of candidates, having a prevailing position in external affairs (I), with very limited powers in internal affairs of the Union where he/she will have to coexist with a reformed rotating presidency of the Council (II) and enjoying the official status of the highest representative of the EU both at home and abroad (III).

I. In order to be credible, the European union needs one official representative, who has the status, which places him/her on an equal footing with the Head of any State in the World and enjoying the confidence of the Heads of the EU Member States, i.e. of the European Council.

1) Appointment and related issues

- The President of the EU should be elected by the European Council for 4 or 5 years, by a reinforced qualified majority¹ or even by consensus

Such an appointment ensures a high rate of confidence within the EC for the president, who will have a very close co-operation with this body of the Union. A term of 4 or 5 years provides sufficient period of time to act. The term should probably not coincide with the term of the EP and of the Commission..

- The EC should be limited in its choice by a specific procedure for designation of candidates, which would imply other actors of European political life².

Such a constraining procedure of designation of candidates should ensure the political and truly European relevance of every individual candidate.

- There should also exist a difficult, but possible procedure for the impeachment of the President, provisions for possible vacancy of the presidential office, etc.

2) Centre of gravity of the EU President: external and defence affairs

- In basic terms, the President should have the competencies of the High representative for the CFSP as defined today, with possible modifications agreed by the Convention

- He/she should chair the Council of ministers for External Affairs and prepare its work

The establishment of the President should not bring about a revolution in the division of competencies between different institutions of the EU. It is also important to note, that the creation of the presidential function does not necessarily imply any shift of competencies from Member States towards the Union. The focus should be on the changing (up-grading) of the status of the person in charge of the external representation of the EU.

II. The President of the EU should have some symbolic and protocol competencies even within the internal affairs of the Union (i.e. within the present First pillar and domains the Convention will decide to add to it), but with no means of encroaching upon the competencies of other institutions or of disturbing the Community method and without preventing any Member State from being regularly involved in the organisation of Union's activities.

¹ for example 3/4 of Member States representing 2/3 of the overall EU population

² for example candidates could have need to be proposed by at least 5 National Parliaments, or by a group of at least 1/10 of MEPs elected in at least 5 different countries or by a popular petition signed by at least 3% of voters in 10 different countries.

1) *Symbolic powers*

- The President should formally chair the meetings of the European Council
- He/she should have the right to attend any meeting of the Council of ministers
- He/she should have the obligation to sign all EU legislative texts within a defined period after its definitive adoption by legislative bodies of the Union

These symbolic powers are important and give the President some specific powers, unable to change the institutional balance within the EU, but affirming his/her status of the highest representative of the EU.

2) *Double coexistence*

a) with external affairs Commissioner

- An imposed co-ordination between the two personalities (or rather two institutions) would be more efficient than splitting one person between different obligations and responsibilities (so-called double-hatted solution).
- The President (and behind him the European Council) should prevail in the present CFSP, while the EA Commissioner (and more generally the Commission) should prevail in external affairs linked with the present First Pillar matters; however, the two persons and institutions should be committed to co-ordinating their activities.
- Such a model is quite familiar to many European States with coexistence between the Head of State, the Prime Minister or/and the Foreign Affairs minister.

b) with the presidency of the Council of Ministers (except the “CFSP Councils”) – a reformed rotating “internal” presidency

- The tradition of rotating presidency is valuable for the cohesion and internal balance of the EU. Nevertheless, it has to be reformed in the context of an-enlarged Union on the principle of “Team-Presidency”¹.
- Such a 1-year “team-presidency” would keep all the current duties of a Member State holding the Presidency of the EU, except external representation of the EU, which would shift to the EU President. Nevertheless, the latter would have to consult regularly with the Heads of State or Government of the presiding Member States.

Such a double coexistence imposed on the President of the EU limits considerably its influence over the internal business of the Union. It guarantees a balance of power between the President (and more generally the European Council) and the Commission. It preserves also the effective possibility – and also obligation – for every Member State and its public administration to get involved directly in the EU activities and to participate in formulating EU policies.

3) *Administrative capacity*

¹ For example, every year, the Presidency of the Council of ministers could be held by a Team of Member States (basically Triads on the model big + medium + small Member State, with possible regard for geographical or historical logic. In a Union of 25, it would mean 7 triads and one group of 4 Member States, i.e. one rotation completed in 7 years and half, which is the present pace). The presidency of the Council would be run jointly by 3 countries of the triad, but every 4 months one of them would become the “*primus inter pares*”.

- The EU President should have at his/her disposal a small secretariat providing him/her with personal assistance and political advice (corresponding to a “cabinet du ministre” in France or the Czech Republic for instance or to a “cabinet du commissaire” in the European Commission).
- For other tasks, the President should
 - have the right to ask the relevant Commissioner to use services and competencies of the Commission administration
 - co-operate closely with public administrations of the Member States holding the presidency of the Council (especially embassies in Third countries, etc.)

It is important to impede the creation of a new parallel administration susceptible to be in competition with existing administrative bodies (the Commission, the General Secretariat of the Council). In order to ensure a better inter-institutional balance, it would be more practical for the EU President to rely on the Commission administrative capacities, than on the General Secretariat of the Council.

III. The creation of the office of the EU President would be a new meaningful element in the European integration process: a new symbol, a personification of the Union

- The President would highlight the unity of Europe: following the creation of the European Parliament, the European currency, a top-level common representative is another important step.
- Therefore, it has to be an office with the highest protocol status (it has to be provided with special protocol privileges). The EU president has to play the role of *primus inter pares* within the European Council and to be an equal partner to the US, Russian or Chinese President.

The President of the EU has to be visible and his/her office should have a certain prestige. Such a visibility and privileged position would be an important point for the understanding of the Union by its citizens and its partners.

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The bitter debate on the possible EU president between bigger and smaller States, representatives of governments and the Commission, etc. has led us to forget the positive potential that the existence of an EU President could have in terms of visibility and familiarity of the EU for its citizens, but also for the representatives and citizens of third countries. It would be a pity were the Convention to ignore this potential.

The “black and white” debate – for or against an EU President – should stop and be replaced by the search for a quality solution able to transcend existing divergences. The EU President is not necessarily a good or a bad solution – it depends on how and for what purposes such an office is created.