

NOTE

from The Praesidium
to The Convention

Subject : Institutions
- draft articles for Title IV of Part I of the Constitution

Members of the Convention will find attached draft articles for Part I, on the Union's Institutions, as proposed by the Praesidium, with a view to the debate in the Plenary session on 15/16 May.

On several major points, two approaches were available: to keep to the provisions of the Treaty of Nice or go beyond them. Following the discussions of the Praesidium on the full range of issues, the proposals put forward concerning the representation of the European Parliament, the definition of qualified majority and the composition of the Commission reflect solutions which go beyond the Nice Treaty. It will be for the Convention to reach a view on this choice.

The Praesidium considers that the new definition of qualified majority should only come into effect at the same time as the application of the new provisions concerning the European Parliament and the Commission. For the interim period, transitory provisions, taking up the provisions of the Nice Treaty, could be inserted in the Constitution.

Members of the Convention will also find a draft text for a possible article which could be included in Title VI of Part I on "Democratic Life".

PART I OF THE CONSTITUTION

TITLE IV: The Union's Institutions

Article 14 : The Union's Institutions

1. The Union shall be served by a single institutional framework which shall aim to:

- advance the objectives of the Union,
- promote the values of the Union,
- serve the interests of the Union, its citizens and its Member States,

and ensure the consistency, effectiveness and continuity of the policies and actions which it undertakes in pursuit of its objectives.

2. This institutional framework comprises :

The European Parliament,
The European Council,
The Council of Ministers,
The European Commission,
The Court of Justice of the European Union,
The European Central Bank,
The Court of Auditors.

3. Each institution shall act within the limits of the powers conferred on it in the Constitution, and in conformity with the procedures and conditions set out in it. The institutions shall practice full mutual cooperation.¹.

Article 15 : The European Parliament

1. The European Parliament shall, jointly with the Council, enact legislation, as well as exercise functions of political control and consultation as laid down in the Constitution. It shall elect the President of the European Commission.
2. The European Parliament shall be directly elected by universal suffrage of European citizens in free and secret ballot for a term of five years. Its members shall not exceed seven hundred in number. Representation of European citizens shall be degressively proportional, with a minimum threshold of four members per Member State.
3. The European Parliament shall elect its President and its officers from among its members, for a term of five years.

Article 16 : The European Council

1. The European Council shall provide the Union with the necessary impetus for its development, and shall define its general political directions and priorities.
2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The Foreign Minister shall take part in its work.

¹ p.m.: a provision along the following lines "The institutions shall be supported, in discharging their tasks, by an open, efficient and independent public service" should appear elsewhere in the Constitution.

3. The European Council shall meet quarterly, convened by its President. When the agenda so requires, its members may decide to be assisted by a minister, and, in the case of the President of the Commission, a Commissioner. When the situation so requires, the President shall convene an additional meeting of the European Council.
4. Except where the Constitution provides otherwise, decisions of the European Council shall be taken by consensus.

Article 16a : The European Council Chair

1. The European Council shall elect its President, by qualified majority, for a term of two and a half years, renewable once. The person elected must be, or have been for at least two years, a member of the European Council. In cases of serious malpractice, the European Council can end his mandate according to the same procedure.

On issues concerning its common foreign and security policy he shall ensure that the Union at his level is effectively represented in the wider world.

2. The President of the European Council shall chair it and drive forward its work, ensuring proper preparation and continuity. He shall endeavour to facilitate cohesion and consensus within the European Council. He shall present a report to the European Parliament after each of its meetings.
3. The European Council may decide by consensus to create a board consisting of three of its members chosen according to a system of equitable rotation.
4. The President of the European Council may not be a member of another European institution or hold a national mandate.

Article 17 : The Council of Ministers

1. The Council of Ministers shall, jointly with the European Parliament, enact legislation, and shall carry out policy-making and co-ordinating functions, as laid down in the Constitution.
2. The Council of Ministers shall consist of a representative of each Member State at ministerial level for each of its formations. Only this representative may commit the Member State in question, and cast its vote.
3. Except where the Constitution provides otherwise, decisions of the Council shall be taken by qualified majority.

Article 17a : Council formations

1. The General Affairs Council shall ensure consistency in the work of the Council of Ministers. With the participation of the Commission, it shall prepare meetings of the European Council.
2. The Legislative Council shall consider and, jointly with the European Parliament, enact European laws and European framework laws, in accordance with the provisions of the Constitution. Each Member State's ministerial representative may be assisted by one or, if necessary, two specialist ministers, reflecting the business on the Council agenda.
3. The Foreign Affairs Council shall, on the basis of strategic guidelines laid down by the European Council, flesh out the Union's external policies, and ensure that its actions are consistent. It shall be chaired by the Union's Foreign Minister.
4. The Council shall also meet in the configuration of an Economic and Financial Affairs Council, and a Council on Justice and Security.

5. The Council, in its General Affairs formation, may decide on further formations.
6. The European Council may decide by consensus that the Presidency of a Council formation, other than that of Foreign Affairs, should be undertaken by a Member State for a period of at least a year, taking into account European political and geographical balance and the diversity of all Member States.

Article 17b : Qualified majority

1. When the European Council or the Council take decisions by qualified majority, such a majority shall consist of the majority of Member States, representing at least three fifths of the population of the Union.
2. Within the European Council, its President and the President of the Commission do not vote.

Article 18 : The European Commission

1. The European Commission shall safeguard the general European interest. It shall ensure the application of the Constitution, and steps taken by the institutions under the Constitution. It shall also exercise coordinating, executive and management functions as laid down in the Constitution.
2. Except where the Constitution provides otherwise, Union acts can be adopted only on the basis of a Commission proposal.
3. The Commission shall consist of a President and up to fourteen other members. It may call on the help of Associate Commissioners.
4. In carrying out its responsibilities, the Commission shall be completely independent. In the discharge of their duties members of the Commission shall neither seek nor take instructions from any government or other body.

Article 18a : The President of the European Commission

1. Taking into account the elections to the European Parliament, the European Council, deciding by qualified majority, shall put forward to the European Parliament its proposed candidate for the Presidency of the Commission. This candidate shall be elected by the European Parliament by a majority of its members. If this candidate does not receive the required majority support, the European Council shall within one month put forward a new candidate, following the same procedure as before.
2. Each Member State shall submit a list of three persons, of which at least one must be a woman, whom it considers qualified to be a European Commissioner. The President-elect, taking account of European political and geographical balance, shall, from among the names submitted, select as members of the Commission up to thirteen persons chosen for their competence, European commitment, and guaranteed independence. The President and the persons so nominated for membership of the Commission shall be submitted as a body to a vote of approval by the European Parliament.
3. The Commission, as a body, shall be responsible to the European Parliament. Under the procedures set out at Art. X of the Constitution, it may pass a censure motion on the Commission. If such a motion is passed, the members of the Commission must all resign. They shall continue to handle everyday business until their successors are nominated.
4. The Commission shall work to guidelines laid down by its President. He shall decide its internal organisation, ensuring that it acts consistently, efficiently and on a collegiate basis. He shall appoint vice-presidents from among the members of the Commission.
5. The President may appoint Associate Commissioners, chosen according to the same criteria as apply for members of the Commission. Their number must not exceed the number of members of the Commission.

Article 19 : The Foreign Minister

1. The European Council, deciding by qualified majority, with the agreement of the President of the Commission, shall appoint the Union's Foreign Minister. He shall conduct the Union's common foreign and security policy.
2. The Foreign Minister shall contribute by his proposals to the development of the common foreign policy, which he shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.
3. The Foreign Minister shall be one of the Vice-Presidents of the Commission. He shall be responsible there for handling external relations and for co-ordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, he shall be bound by Commission procedures.

Article 20 : The Court of Justice of the European Union

1. The Court of Justice, including the High Court, shall ensure respect for the Constitution and Union law.

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years¹, renewable.

¹ For the Court of Justice the Discussion Circle, chaired by Mr Vitorino, also examined the possibility of a non-renewable mandate of 9 or 12 years.

3. The Court of Justice shall be competent for :

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;
- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

Article 21 : The European Central Bank

1. The European Central Bank shall direct the European System of Central Banks, of which it, alongside the national central banks, forms part.
2. The primary objective of the Bank shall be to maintain price stability. Without prejudice to the objective of price stability, it shall support general economic policies in the Union with a view to contributing to the achievement of the Union's objectives.
3. The Bank shall define and implement the monetary policy of the Union. It alone may authorise the issue of the Union currency, the Euro. It shall conduct other Central Bank tasks according to the provisions of Part II of the Constitution.
4. The Bank shall have legal personality. In the exercise of its powers and for its finances, it shall be independent. Union institutions and bodies, and the governments of the Member States, shall undertake to respect this principle.
5. The Bank shall adopt such measures as are necessary to carry out its tasks in accordance with the provisions of Articles [A-B] of Part II of the Constitution, and with the conditions laid down in the Statutes of the Bank and of the European System of Central Banks. In accordance with these same provisions, those Member States which have not adopted the Euro, and their central banks, shall retain their powers in monetary matters.

6. Within its areas of competence, the Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level; and may give an opinion.
7. The organs of the Bank, their composition and operating methods are set out in articles X to Y of Part II, as well as in the Statute of the Bank.

Article 22 : The Court of Auditors

1. The Court of Auditors shall carry out the audit.
2. It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.
3. It shall consist of one national of each Member State. In the performance of their duties, its members shall be completely independent.

Article 23 : The Union's Advisory Bodies

1. The European Parliament, the Council of Ministers and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee, exercising advisory functions.
2. The Committee of the Regions shall consist of representatives of regional and local bodies who have either been elected to a regional or local authority or are politically accountable to an elected assembly.
3. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of others in representative civil society, notably in socio-economic, civic, professional and cultural areas.

4. The members of the Committee of the Regions and the Economic and Social Committee must not be bound by any mandatory instructions. They shall be completely independent, in the performance of their duties, in the Union's general interest.
5. Rules governing the composition of these Committees, the designation of their members, their powers and their operations, are set out in Articles XY of Part II of the Constitution. The rules governing their composition shall be reviewed at regular intervals by the Council, on the basis of a Commission proposal, in the light of economic, social and demographic developments within the Union.

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Article X : to be inserted in Title VI on "The Union's Democratic Life"

1. The Congress of the Peoples of Europe shall provide a forum for contact and consultation in European political life. It shall meet at least once a year. Its meetings shall be public. The President of the European Parliament shall convene and chair them.
2. The Congress shall not intervene in the Council's legislative procedure.
3. The President of the European Council shall report on the State of the Union. The President of the Commission shall present the annual legislative programme.
4. One third of the Congress shall be members of the European Parliament: two thirds shall be representatives of national Parliaments. The total shall not exceed seven hundred.
