

CONV 665/03

CONTRIB 296

NOTA DE TRANSMISIÓN

de la:	Secretaría
a la:	Convención
Asunto:	Contribución presentada por D. Pál Vastagh, miembro de la Convención: - "Libertad, seguridad y justicia"

El Secretario General de la Convención ha recibido la contribución adjunta de D. Pál Vastagh, miembro de la Convención.

Contribution of Mr. Pál Vastagh

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The Draft Constitutional Treaty contains Articles relating to Freedom, Security and Justice. These issues are of major importance to us and that is why my contribution focuses on those which I consider to be essential.

1. It is vital that the future Constitutional Treaty enshrines the principle of solidarity, coordination and cooperation between competent authorities and the concept of facilitating access to justice based on mutual recognition. In my contribution of 22 November 2002, I stressed the requirement for confidence and trust among member states as crucial to the provision of cohesion in this area. Unless we are able to trust in each other's criminal and civil law order, police, customs, border control measures and security standards we cannot expect to achieve effective cooperation. Moreover, our citizens will not be able to take advantage of such revolutionary instruments, such as the European arrest warrant and rather potential advantages which would lead to the kind of flexible and effective cooperation hitherto unrealized. This is why I think that in order to have a tangible effect, the concept of *mutual trust* should have its constitutional basis.
2. Democratic control of national parliaments should be extended to all areas in the field of Justice and Home Affairs, particularly as there is no real justification for limiting national parliaments' evaluation mechanisms exclusively to Europol. This argument is supported by the fact that Eurojust, the European Public Prosecutor, police cooperation and the yet to be established European border guard unit are all concerned with national and cross-border activities, affecting Members States' sovereignty. These activities should all be scrutinized by and reports on their functioning should be sent to national parliaments, whose legislative and controlling role is anticipated to increase in the future, let alone the implementation of the early warning system guaranteeing the principle of subsidiarity.
3. I consider it to be of major importance to ensure that all Justice and Home Affairs institutions have a firm constitutional basis. Consequently, I strongly believe that in order to ensure the effective management of external borders, including coastal borders, which is a matter of shared interest and responsibility, a European border guard unit should be created and provided for in the Constitutional Treaty.
Taking into account COM (2001) 672 final and the Final Report of Working Group X, we can say that such a provision would serve as the legal basis by which further measures, for example common training, exchange of information and financial solidarity could be taken. The latter document (CONV 426/02, p. 6, # 4) says the following: "The Group recognizes that in an area without internal border controls, the effective management of external borders – including coastal borders – is a matter of shared interest and responsibility. The Seville European Council welcomed the objective of the gradual development of an integrated system of external border management."