

CONV 567/03

CONTRIB 253

NOTE DE TRANSMISSION

du: Secrétariat

à la: Convention

Objet: Contribution présentée par M. David Heathcoat-Amory, membre de la
Convention: "La Convention européenne, le Conseil de l'Europe et l'avenir de
l'Europe"

Le Secrétaire général de la Convention a reçu la contribution figurant en annexe de M. David Heathcoat-Amory, membre de la Convention.

THE EU CONVENTION, THE COUNCIL OF EUROPE AND THE FUTURE OF EUROPE

**Submitted by Rt Hon David Heathcoat-Amory, MP:
The views of five delegates to the Council of Europe**

Five members of the Council of Europe have come together to remind us of some basic facts, and challenge the present autopilot mode of Convention thinking.

All of us should welcome the forthcoming enlargement of the European Union.

But these delegates have a basic message to tell: when EU officials and MEPs say it will reunite Europe, they are wrong.

Europe has already been re-united – in the Common European Home that is their organisation, the Council of Europe.

We must avoid the creation of a second common home which would be at the expense of the Council.

These members, experienced in European politics, fear that the European Union, as it enlarges, will also expand its activities into areas of their competence.

They fear that the European Union Charter of Fundamental Rights will compete with the European Convention of Human Rights;

They fear that the Luxembourg Court will clash with the Strasbourg Court;

They fear that the broad legal framework that already exists for Europe based on the Council of Europe's 185 conventions will compete with double standards imposed by the EU;

They fear that the work of their Congress of Local and Regional Authorities in promoting local democracy and transfrontier co-operation will be duplicated by the EU;

They fear that the EU Convention will make recommendations to the Inter – Governmental Conference that will threaten the primacy of the work of the Council of Europe, and undermine the assets they have been developing for over half a century.

This Paper appeals to the EU Convention not to re – invent the Europe we already have – the confederation that is the Council of Europe.

THE EU CONVENTION, THE COUNCIL OF EUROPE AND THE FUTURE OF EUROPE

Paper prepared by: David Atkinson MP
Baroness Hooper
Sir Sydney Chapman MP.
John Wilkinson MP
Sir Teddy Taylor, MP

A. Introduction.

The EU Convention will pave the way for institutional reform and a possible constitutional framework. Its outcome will have consequences for all the institutions of Europe including the Council of Europe (COE).

The Council of Europe, not the Common Market - the present EU, was established in 1949 as the political forum for dialogue between governments (through the Committee of Ministers) and national parliaments (in its Parliamentary Assembly) to avoid and resolve disputes.

Today, with 44 member states, it is the only pan-European organisation to represent the entire continent. It can fairly claim the greatest expertise in the field of human rights, democratic institutions, the rule of law, and cultural and educational co-operation.

The Council of Europe represents a confederation of European nation states which, through its conventions, provides a legal framework for the entire continent. Its European Convention on Human Rights, enforced by the Court in Strasbourg, upholds the highest standards of human rights anywhere in the world.

The EU Convention provides an opportunity to confirm the leading role of the COE in the future architecture of the continent. In particular its recommendations to the IGC should avoid competing with or duplicating the work of the Council of Europe.

B. Human Rights and a European Constitution

The European Convention on Human Rights, with its protocols, has been the standard setting 'charter' of human rights and fundamental freedoms in Europe for over 50 years. It is required to be ratified by all COE member states. This includes all EU and EU applicant states. It can be enhanced by the addition of further protocols.

The EU Charter of Fundamental Rights, adopted at the Nice European Council, defines the rights and freedoms of EU citizens. Its status will be considered by the IGC. It is anticipated to become legally binding under the European Court of Justice in Luxembourg and incorporated into an EU constitution.

The EU Charter of Fundamental Rights should not complicate or compete with the European Convention of Human Rights. The Luxembourg Court should not confuse the findings of the Strasbourg Court.

This can be avoided if the EU were to apply for accession to the European Convention of Human Rights to create a single legal mechanism for the protection of human rights applied on an equal basis to all European states.

The European Convention of Human Rights would be an appropriate basis for any EU Constitution. The European Court in Strasbourg should be recognised as the principle judicial authority of Europe.

C. A Legal Framework for the Continent

The 185 Conventions of the Council of Europe, which member states are obliged or encouraged to ratify, provide a legal framework for the entire continent of Europe defining standards on human dignity and democracy, culture, educational and social cohesion, daily life and the media.

They can be enhanced by additional Protocols, and incorporated into national laws.

There is no justification for a separate legal framework for the European Union.

D. The role of National Parliaments in the EU

It is anticipated that the EU Convention will make proposals on a more precise delimitation of competence between the European Union and its member states, and the role of national parliaments in the European architecture.

These may lead to the EU Council concentrating on decision making, the EU Commission on its executive role, with legislative tasks performed by the European Parliament.

A role for national parliaments should be introduced into the European Parliament.

This can be done by introducing an inter-parliamentary chamber to the European Parliament: a body of representatives of national parliaments to form, in due course, a second chamber.

This inter-parliamentary chamber could have responsibility for scrutinising policies that continue to be intergovernmental and areas in which competence is complimentary or shared such as foreign affairs, security and defence, police and judiciary co-operation in criminal matters, and other matters concerning the entire continent.

The Parliamentary Assembly of the Council of Europe (PACE) is the only inter-parliamentary assembly exclusive to Europe, and soon to be representative of every European national parliament.

Members of the national delegations to the PACE are practical politicians representing local constituencies. This double mandate can be used to enhance the parliamentary dimension of the EU.

The PACE can form the basis of any new role for national parliaments that would make up the “democratic deficit” of the European Parliament. That it represents 44 states should be no impediment – rather an asset in being able to promote a constitutional ideal.

E. Local Government in Europe: the CLRAE

The Council of Europe's Congress of Local Regional Authorities (CLRAE) is the only pan-European organisation for promoting local democracy structures and trans-frontier co-operation.

The EU Convention should not seek to introduce duplication or parallel activities by the EU which would undermine the CLRAE.
