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NOTA DE ENVIO

de: Secretariado

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Assunto: Contributo de Vytenis Povilas Andrukaitis, membro da Convenção
– "Da arquitectura institucional da UE"

O Secretário-Geral da Convenção recebeu de Vytenis Povilas Andrukaitis, membro da Convenção, o contributo que figura em anexo.

**CONTRIBUTION BY MR VYTENIS POVILAS ANDRIUKAITIS,
MEMBER OF THE CONVENTION**

ON THE INSTITUTIONAL ARCHITECTURE OF THE EU

Fundamental principles

- Equality of the Member States of the European Union, democratic legitimacy and efficiency of the EU institutions should be the cornerstones of the institutional reform of the EU. Relations between the Member States and the EU institutions should be firmly based on the principles of subsidiarity and proportionality. The institutional balance of the EU should be upheld.

Institutional framework

- The institutional framework of the Union should comprise the following institutions:
 1. The European Parliament,
 2. **The Council of the European Union,**
 3. The European Commission,
 4. The Court of Justice of the European Union,
 5. The European Central Bank,
 6. The Court of Auditors,
 7. **The Ombudsperson of the European Union,**
 8. **The Public Prosecutor's Office of the European Union,**

and the following advisory bodies:

1. **The Committee of the Regions, and**
2. **The Economic and Social Committee.**

The Council of the European Union

- The Council of the European Union should comprise both the European Council and the Council of Ministers in its different formations.

- Rotating Presidency of the European Council and the Councils of Ministers, except the Foreign Affairs Council, should be maintained. It ensures the equality of the Member States and their direct participation in the EU governance. Rotating Presidency of the Council of the European Union is an important link between the citizens of the Member States and the Union institutions.
- The principle of rotation should be maintained until each new Member State has held the Presidency over the Council of the European Union at least once. The experience gained while holding the Presidency is invaluable to new Member States. If a unanimous decision of the European Council is taken to give up the principle of rotation, this should be done after a transitional period.
- The possibility of team Presidencies could be considered, but it should be viewed in the context of interaction among all EU institutions. Presidency of a group of Member States, for example, three Member States comprising a large, a medium and a small, could be considered. The presiding Member States should decide among themselves on the Presidency in each of the Council of Ministers' formation.
- Continuity and coherence of the work of the Council should be ensured by strengthening strategic planning and by closer co-operation among the Presidencies and the EU institutions.
- The proposal to have a permanent President of the European Council (to be elected for a period of two and a half years, renewable) does not provide enough convincing arguments for the necessity of such a post. The permanent President of the European Council would alter the institutional balance of the EU, lead to a rivalry between him or her and the President of the Commission and bring confusion with regard to political accountability.
- As a compromise, I suggest that the powers of the Secretary General of the European Council be strengthened (compare, for instance, with the Secretary General of the United Nations Organisation or NATO Secretary General). The Secretary General would ensure continuity and stability of the European Council activities, would facilitate cohesion and consensus within the European Council.

- To make the Council of Ministers' activities more transparent and comprehensible, the legislative and executive functions of the Council of Ministers should be separated by establishing the Legislative Council mandated with the enactment of the EU legislative acts. The requirement that all debates on the legislative acts of the Union are public should be introduced and strictly adhered to.
- When the European Council or the Council of Ministers take decisions by a qualified majority, the votes of its members should be weighed according to the EU-25 formula of the Treaty of Nice and the Treaty of Accession.
- The scope of application of the qualified majority voting in the EU legislation should be extended, but decisions concerning this extension should be taken on a case-by-case basis taking into account financial consequences and capabilities of the implementation of the decisions taken by the qualified majority. In certain sensitive areas, such as, common foreign and security policy, common security and defence policy, the unanimity principle should be maintained.

European Parliament

- The European Parliament together with the Council is the legislator of the Union. I support the proposal on the extension of the co-decision procedure. This would strengthen the role of the European Parliament in the EU legislative process.
- The number of the Members of the European Parliament should be 732 pursuant to the EU-25 formula under the Treaty of Nice and the Treaty of Accession.
- The role of the European Parliament would be strengthened by giving it the right to elect the President of the European Commission.
- I support the proposals to simplify the EU budgetary procedure and to open discussions on the conditions under which the European Parliament could adopt decisions concerning all, or a part of, budgetary revenue without increasing the overall tax burden.

- The role of the European Parliament in other areas, such as approval of international agreements, could also be foreseen.
- The role of the European Parliament in the development of inter-parliamentary relations should be further enhanced, not only within the framework of COSAC, but also by signing an inter-parliamentary co-operation agreement between the parliaments of the Member States and the European Parliament.

The European Commission

- The European Commission should have the right of initiative for the EU legislation.
- The composition of the Commission should be governed by the principle of equality, i.e. one Member of the Commission per Member State. Otherwise, a gradual transition to a smaller number of the Commissioners could be foreseen after the number of the Commissioners reaches 27. Their number could be drawn in line with that of the regulated areas and introduced under an equality-based system of rotation of the right of their appointment among the Member States.
- I support the proposal for the election of the President of the Commission by the European Parliament, subsequently approved by the European Council. This election method would enhance the democratic legitimacy to the Commission.
- With a view to further strengthening the democratic legitimacy of the President of the Commission, I propose the following system for the President's election: The European Council nominates, in an alphabetic order, four candidates to the President of the Commission, representing the EU smaller states for one term of office, the medium-sized states for the next term of office, and the big states for the third term of office, also taking into account the representation of the various regions of the EU. The candidates are first rated (the order of their sequence decided upon) by the national parliaments. The rating is subject to the rule: one Member State - one vote. The candidates then present their electoral programs and participate in the debates in every national parliament. In such a way the EU issues would be drawn closer to the citizens of the Member States. In addition, by visiting all the Member States, the future President of the Commission would become acquainted

with their specific concerns and would later feel supported by the citizens of the Union. The rating of the candidates takes place on the same day throughout the EU. Judging on the programs and competencies of the candidates, the national parliaments decide upon the order of their sequence and submit the results to the European Council, which in turn submits the names of the two highest rated candidates to the vote by the European Parliament. The European Council then approves the President of the Commission. The rating of the candidates to the President of the Commission by the national parliaments eliminates the problem of political accountability to the national parliaments that would be evident if the President were elected by the national parliaments or their representatives. The President of the Commission elected by the European Parliament will be accountable to the European Parliament.

- The President of the Commission should be free to decide on the internal organisational structure of the Commission based on the principle of equality of all Members of the Commission, ensuring that the Commission acts efficiently and on a collegiate basis.

The Minister of Foreign Affairs of the European Union

- Current positions of the High Representative for CFSP and the External Relations Commissioner should be merged into a position of the EU Minister of Foreign Affairs who at the same time would be the Vice-President of the Commission. The EU Minister of Foreign Affairs should be appointed by the European Council with the agreement of the President of the Commission.
- The Foreign Minister of the EU should conduct the Union's common foreign and security policy, its common security and defence policy, should handle Union's external relations and coordinate other aspects of its external action.
- The Foreign Minister of the EU should chair the Foreign Affairs Council.

National Parliaments

- The national parliaments should be better and at an early stage involved in the drafting of the EU decisions and through the "early warning mechanism" in the political monitoring of

the application of the principle of subsidiarity before the European legal act enters into force. Under this approach, parliamentary scrutiny of the decisions taken by the government representatives in the Council of the European Union is one of the key functions of the national parliaments. The monitoring of the application of the subsidiarity principle after the act enters into force should remain within the competence of the European Court of Justice.

- A requirement should be set that no formal or informal decision may be taken in the Council of Ministers on a relevant legislative proposal from the Commission over the six week period allocated for monitoring of the principle of subsidiarity by the national parliaments.
- The national parliaments should be represented in the future Constitutional Conventions.
- The role of the national parliaments would be strengthened if they were involved in the process of the election of the President of the Commission (for instance, by rating the candidates).
- The role of the national parliaments would be enhanced if they debated the annual policy strategy of the Commission, the annual programme of the Commission and the annual report of the Court of Auditors.
- The national parliaments should enhance interparliamentary, including regional, cooperation as well as their relations with NGO's, both national and European.

COSAC

- COSAC should be reinforced by setting up a small secretariat, which would promote cooperation between the national parliaments and the European Parliament, *inter alia*, by exchanging information and best practice between the national parliaments, and organising interparliamentary conferences.
- The European Parliament should consult COSAC and invite its cooperation in order to promote inter-parliamentary cooperation in the EU.

- COSAC could also be involved in monitoring of the application of the principle of subsidiarity.

The Convention

- The Convention should become the work method for drafting amendments to the EU Constitutional Treaty.
- The Convention should be convened by and receive its mandate from an Intergovernmental Conference.
- Experience has shown that the form of the Convention is the best solution to the problem of the democratic deficit; therefore, other institutions of interparliamentary cooperation, such as the proposed Congress of the Peoples of Europe, composed of the members of the European Parliament and the national parliaments, should not be established.

The EU Ombudsperson

- The status of the European Ombudsperson as a European institution should be enshrined in the Constitutional Treaty of the EU.
- Taking into account the principle of gender equality, I support the proposal of giving the institution the name of the Ombudsperson of the European Union.

The Committee of the Regions

- The Committee of the Regions should be given the right of appeal to the European Court of Justice regarding violations of the principle of subsidiary in cases where the Commission has consulted the Committee of the Regions on the relevant legislative proposal or where such a possibility is available under the national constitutions of the Member States.

The Public Prosecutor's Office of the European Union

- I support the proposal of creating a legal base in the Constitutional Treaty for the establishment of the Public Prosecutor's Office of the European Union.
- The Public Prosecutor's Office of the European Union should be empowered to combat crimes having cross-border dimension and illegal activities affecting the interests of several Member States as well as the financial interests of the Union.
