



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 26 September 2003  
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**PE 181  
POLGEN 61**

**NOTE**

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from :	General Secretariat of the Council
to :	Delegations
Subject:	European Parliament resolution on the draft Treaty establishing a Convention for Europe and the European Parliament's opinion on the convening of the IGC

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Attached is the text of the resolution passed by the European Parliament, following the report by Mr José Maria Gil-Roblès Gil-Delgado and Mr Dimitri Tsatsos, on the draft Treaty establishing a Convention for Europe and the European Parliament's opinion on the convening of the Intergovernmental Conference, at its part-session in Strasbourg on 24 September 2003.

A summary of the debate is given in 12938/03 PE 1780.

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## **European Constitution and IGC \***

### **European Parliament resolution on the draft Treaty establishing a Constitution for Europe and the European Parliament's opinion on the convening of the Intergovernmental Conference (IGC) (11047/2003 - C5-0340/2003 - 2003/0902(CNS))**

#### **(Consultation procedure)**

*The European Parliament,*

- having been consulted by the Council, pursuant to the second paragraph of Article 48 of the Treaty on European Union, on the convening of an intergovernmental conference (IGC) to consider the changes to be made to the treaties on which the Union is founded (11047/2003 – C5-0340/2003),
- having regard to the draft Treaty establishing a Constitution for Europe <sup>1</sup> prepared by the Convention on the Future of Europe,
- having regard to its resolution of 31 May 2001 on the Treaty of Nice and the future of the European Union <sup>2</sup>,
- having regard to its resolution of 29 November 2001 on the constitutional process and the future of the Union <sup>3</sup>,
- having regard to its resolutions of 16 May 2002 on the distribution of competences <sup>4</sup>, of 14 March 2002 on the Union's legal personality <sup>5</sup>, of 7 February 2002 on the role of the national parliaments <sup>6</sup> and of 14 January 2003 on the role of the regions in European integration <sup>7</sup>,
- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to the Commission's communication entitled "A Constitution for the Union" (COM(2003) 548),

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<sup>1</sup> CONV 850/03, OJ C 169, 18.7.2003, p. 1.

<sup>2</sup> OJ C 47 E, 21.2.2002, p. 108.

<sup>3</sup> OJ C 153 E, 27.6.2002, p. 310.

<sup>4</sup> OJ C 180 E, 31.7.2003, p. 493.

<sup>5</sup> OJ C 47 E, 27.2.2003, p. 594.

<sup>6</sup> OJ C 284 E, 21.11.2002, p. 322.

<sup>7</sup> P5\_TA (2003)0009.

- having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy; Committee on Budgets; Committee on Budgetary Control; Committee on Citizens' Freedoms and Rights, Justice and Home Affairs; Committee on Economic and Monetary Affairs; Committee on Legal Affairs and the Internal Market; Committee on Industry, External Trade, Research and Energy; Committee on the Environment, Public Health and Consumer Policy; Committee on Agriculture and Rural Development; Committee on Fisheries; Committee on Regional Policy, Transport and Tourism; Committee on Development and Cooperation; Committee on Women's Rights and Equal Opportunities and the Committee on Petitions (A5-0299/2003),

Whereas:

- A. the citizens, parliaments, governments and political parties - in both the Member States and at the European level - as well as the institutions of the Union are entitled to take part in the democratic process of drawing up a Constitution for Europe; therefore, this Resolution constitutes Parliament's evaluation of the draft Constitutional Treaty produced by the Convention on the Future of Europe,
- B. the preparation, the conduct and above all the outcome of the Nice Conference definitively demonstrated that the intergovernmental method for the revision of the Union's treaties has reached its limits and that purely diplomatic negotiations are not capable of providing solutions to the needs of a European Union with twenty-five Member States,
- C. the quality of the Convention's work on the preparation of the draft Constitution and the reform of the Treaties fully vindicates the decision of the Laeken European Council to move away from the intergovernmental method by adopting Parliament's proposal for the setting up of a constitutional Convention; the result of the Convention, in which the representatives of the European Parliament and of national parliaments played a central role, shows that open discussions within the Convention are far more successful than the method followed up to now of intergovernmental conferences held in camera,
- D. Parliament demands to be actively and continually involved not only in the Intergovernmental Conference but also in the future phases of the constitutional process,
- E. important progress has been made by the Convention's proposals, but the new provisions will have to be tested with respect to the challenges presented by the enlarged Union; the method of the Convention should apply for all future revisions,
- F. the Convention, like its predecessor on the Charter of Fundamental Rights, has initiated a new phase in European integration, during which the European Union will consolidate its legal order into a constitutional order binding on its Member States and citizens, even if the Constitution is ultimately approved in the form of an international treaty,

- G. despite the many differences of opinion initially existing between the members of the Convention, a large majority of all four component parts of the Convention, including Parliament, supported the Convention's final proposal, which is therefore based on a fresh and broad consensus, even if not all of Parliament's demands concerning democracy, transparency and efficiency in the European Union were met; to reopen the important compromises reached within the Convention would not only jeopardise the progress made by the Convention in re-founding the Union on a more efficient and democratic constitutional basis but would also subvert the whole Convention method,
- H. the draft Treaty establishing a Constitution for Europe should be evaluated on the basis of the following criteria:
- a. respect for the preservation of peace, democracy, freedom, equality, linguistic and cultural diversity, the rule of law, social justice, solidarity, the rights of minorities and cohesion, all of which can never be deemed to have been definitely achieved but must be kept under constant review as to their meaning and must be fought for anew through historical developments and over generations;
  - b. respect for the European Union as an entity united in its diversity;
  - c. confirmation of the unique nature and of the dual legitimacy of the Union drawn from its Member States and citizens;
  - d. commitment to the preservation of the principle of equivalence between the Member States and the interinstitutional balance, which guarantees the Union's dual legitimacy;
  - e. efficiency in a Union composed of twenty five or more Member States while enhancing the democratic functioning of its Institutions;
  - f. development of a system of values with cultural, religious and humanist roots which, going beyond a common market and within the framework of a social market economy, aims at a better quality of life for Europe's citizens and society at large and seeks economic growth, stability and full employment, greater promotion of sustainable development and better implementation of citizenship of the Union;
  - g. strong political legitimacy in the eyes of the Union's citizens and through the European political parties;
  - h. an overall constitutional settlement which should enhance the Union's credibility and its role at home and abroad,
1. Welcomes the progress towards European integration and democratic development represented by the Convention's proposed "Constitution for Europe", to be established through a Treaty establishing a Constitution for Europe enshrined in a text expressing the political will of the European citizens and the Member States in a solemn and comprehensive way;

2. Notes with satisfaction that the draft Constitution entrenches to a significant extent the values, objectives, principles, structures and institutions of Europe's constitutional heritage, so that, to a great extent, the draft not only assumes the character of a constitutional text but also provides for its continuous evolution;
3. Welcomes the inclusion of the symbols of the Union in the draft Constitution;

***Important steps towards a more democratic, transparent and efficient European Union***

***Democracy***

4. Greatly welcomes the inclusion of the Charter of Fundamental Rights as an integral, legally binding part of the Constitution (Part II) and stresses the importance of human dignity and the fundamental rights of the individual as crucial elements of a civic, social and democratic Union;
5. Welcomes the new "legislative procedure", which will become the general rule, as an essential step towards increasing the democratic legitimacy of the Union's activities, acknowledges this notable extension of codecision and stresses that this must be pursued further;
6. Regards as positive the election of the President of the European Commission by Parliament and stresses that this is in any case an important step towards an improved system of parliamentary democracy at European level;
7. Acknowledges the possibilities for increased participation by European citizens and the social partners and, especially, the introduction of the citizens' legislative initiative;
8. Regards as important the increased role of the national parliaments and of the regional and local authorities in the Union's activities;
9. Supports national parliaments in their efforts to carry out more effectively their task of guiding and monitoring their respective governments as members of the Council of the Union, which is the effective way of ensuring the participation of national parliaments in the legislative work of the Union and in the shaping of common policies;
10. Instructs its competent Committee to organise joint meetings with representatives of national parliaments, if possible including former members of the Convention, to ensure the follow-up and evaluation of the proceedings of the Intergovernmental Conference;

### *Transparency*

11. Regards as fundamentally important the fact that the Union will acquire a single legal personality and that the pillar structure will formally disappear, even if the Community method does not fully apply to all Common Foreign and Security Policy, Justice and Home Affairs and coordination of economic policy decisions;
12. Welcomes the introduction of a hierarchy and the simplification of the legal acts of the Union, and the explicit recognition of the primacy of the Constitution and of Union law over the law of the Member States;
13. Recognises the steps made towards greater transparency and clarification of the respective competences of the Member States and of the Union, with the retention of a certain level of flexibility to allow for future adaptations in an evolving Union comprising twenty five or more Member States;
14. Welcomes the separation of the Euratom Treaty from the legal structure of the future Constitution; urges the Intergovernmental Conference to convene a Treaty revision conference in order to repeal the obsolete and outdated provisions of that Treaty, especially those relating to the promotion of nuclear energy and the lack of democratic decision-making procedures;
15. Welcomes the commitment given by the President of the Convention that the entire text of the Constitution will be written in gender-neutral language and calls on the Intergovernmental Conference to arrange for the necessary editorial changes to be made to the draft Constitution in this respect;

### *Efficiency*

16. Attaches great importance to the extension of qualified majority voting in the Council, as far as legislation is concerned; welcomes the improvement of the system, while underlining the need for further extensions of qualified majority voting or for the use of special qualified majority voting in the future, without prejudice to the possibilities provided for in Article I - 24 (4) of the draft Constitution;
17. Stresses that Parliament must be the responsible parliamentary body with respect to the Common Foreign and Security Policy and the European Security and Defence Policy in so far as EU competences are concerned;
18. Welcomes the fact that the draft Constitution makes other important improvements in the sphere of decision-making and policy-making, and in particular:
  - the fact that the Union has now acquired a clear commitment to a social market economy as expressed in its values and objectives, with emphasis being placed inter alia on the importance of growth, employment, competitiveness, gender equality and non-discrimination and on socially and environmentally sustainable development,

- the fact that the Legislative and General Affairs Council, although not acting as a wholly separate Legislative Council, will in the future always meet in public when performing its legislative duties,
  - the extension of qualified majority voting and co-decision to, in particular, the area of freedom, security and justice and the extension of the general system of jurisdiction of the Court of Justice of the European Communities to justice and home affairs,
  - the fact that, for international agreements and the common commercial policy, the assent of Parliament will now be required as a general rule,
  - the provisions on transparency and access to documents, the simplification of the legislative and non-legislative procedures and the use of language commonly understood by citizens,
  - the abolition of the distinction between obligatory and non-obligatory expenditure in the budget and the extension of co-decision to the common agricultural policy and the common fisheries policy,
  - the introduction of a multiannual strategic programme of the Union,
  - the recognition of the growing importance of the regional dimension to European integration,
  - the modification of the rules concerning access to the Court of Justice,
  - the provisions on the adoption of delegated regulations by the Commission with "call-back" rights for Parliament and the Council,
  - the provision under which those countries which have undertaken to participate in enhanced cooperation may introduce, among themselves, qualified majority voting where unanimity is otherwise prescribed by the draft Constitution, and adopt the legislative procedure where other procedures would normally apply;
19. Endorses the solidarity clause regarding the fight against terrorism and the possibility of structural cooperation in security and defence policy while respecting NATO commitments;

***Aspects requiring further monitoring during their implementation***

20. Believes that the election of the President of the European Council cannot in itself solve all the current problems affecting the functioning of that institution and could entail unforeseeable consequences for the institutional balance of the Union; the role of the President must be strictly limited to that of a chairperson in order to avoid possible conflicts with the President of the Commission or the Union Minister for Foreign Affairs and not to endanger their status or encroach in any way on the Commission's role in external representation, legislative initiative, executive implementation or administration;

21. Emphasises that the provisions concerning the presidencies of Council of Ministers formations other than the Foreign Affairs Council leave the details to a subsequent decision, which should be carefully assessed, bearing in mind the requirement of coherence, efficiency and accountability and the need to address the problem of the presidency of the Council's preparatory bodies;
22. Welcomes the disappearance of the link between the weighting of votes in the Council and the distribution of seats in Parliament, as established in the Protocol on the enlargement of the European Union annexed to the Treaty of Nice; supports the system set out in the draft Constitution as regards the future composition of Parliament and suggests that this be implemented without delay, because it is a core element of the global balance between the Member States within the different institutions;
23. Understands that the creation of the office of Union Minister for Foreign Affairs will enhance the Union's visibility and capacity for action on the international stage but stresses that it is vital that the Union Minister for Foreign Affairs be supported by a joint administration within the Commission;
24. Suggests that the European Ombudsman, who is elected by Parliament, and the national ombudsmen might propose a more comprehensive system of non-judicial remedies in close cooperation with Parliament's Committee on Petitions;
25. Considers that the Intergovernmental Conference should adopt a decision on the repeal, upon entry into force of the Members' Statute adopted by Parliament on 4 June 2003, of Articles 8, 9 and 10 of the Protocol on Privileges and Immunities and of Article 4(1) and (2) of the Act on direct elections;
26. Regrets the insufficient congruence of Part III with Part I of the draft Constitution, particularly in relation to Article I-3;
27. Welcomes the introduction of the 'passerelle' clause which allows the European Council to decide to have recourse to the ordinary legislative procedure in cases where special procedures apply, after consulting Parliament and informing national parliaments;
28. Believes that Parliament must, within the budgetary procedure, retain the rights it currently has and that its powers must not be weakened; considers that the satisfactory exercise of Parliament's power to approve the multiannual financial framework presupposes the rapid opening of interinstitutional negotiations, in addition to the Intergovernmental Conference, on the structure of this framework and the nature of the constraints on the budgetary procedure; believes that the multiannual financial framework should leave the budgetary authority significant room for manoeuvre during the annual procedure;
29. Expresses its concern regarding the unsatisfactory answers given to certain fundamental questions, which were clearly pointed out in Parliament's previous resolutions, concerning in particular:

- further consolidation of economic and social cohesion policy, closer coordination of Member States' economic policies with a view to effective economic governance, and a more explicit integration of employment, environmental and animal welfare aspects in all EU policies,
  - full recognition of the role played by public services, (deletion) based on the principles of competition, continuity, solidarity and equal access and treatment for all users;
  - the suppression of the requirement of unanimity in the Council in certain vital areas, including in particular the Common Foreign and Security Policy (at least as regards the proposals made by the Union Minister for Foreign Affairs with the Commission's support), and certain areas of social policy;
30. Understands that the solution proposed for the Commission by the draft Constitution is an important part of the global institutional compromise; hopes that the reform of the Commission will not weaken its collegiality or give rise to a lack of continuity; regrets that the system envisaged makes it difficult to keep a good European Commissioner for a second term;

### ***General assessment***

31. Notes that the draft Constitution prepared by the Convention represents the result of a broad democratic consensus involving Parliament and the national parliaments and governments of the Union, thus expressing the will of the citizens;
32. Welcomes the provision whereby Parliament now also has the right to propose constitutional amendments and, moreover, must approve any attempt to amend the Constitution without convening a convention, which will enable it to exert a de facto control over the use of this new instrument of constitutional revision; regrets, however, that the unanimity of the Member States and ratification by national parliaments or in accordance with other constitutional requirements will both still be *necessary* to allow the entry into force of constitutional amendments of even minor importance; strongly deplores the fact that Parliament's approval is not systematically required for the entry into force of newly adopted constitutional texts;
33. Resolves that notwithstanding certain limits and contradictions, the result of the work of the Convention should be endorsed, representing as it does an historic step towards a European Union which is more democratic, efficient and transparent;
34. Believes that in the light of the experience of two Conventions this method ensures democratic legitimacy and, through its working methods, guarantees openness and participation; considers nevertheless that for future revisions it could be sensible for the Convention itself to elect its Praesidium;

### *Convening of the Intergovernmental Conference and ratification process*

35. Approves the convening of the Intergovernmental Conference (IGC) on 4 October 2003;
  36. Urges the IGC to respect the consensus reached by the Convention, to avoid negotiations on the fundamental decisions reached by the Convention and to approve the draft Treaty establishing a Constitution for Europe without altering its basic balance while aiming at reinforcing its coherence;
  37. Calls on the political parties, both in the Member States and at European level, the representative associations and civil society to reflect comprehensively not only on the outcome of the Convention but also on Parliament's views as expressed in this Resolution;
  38. Strongly welcomes the Italian Presidency's assurance that Parliament will be closely and continuously involved in the IGC at both levels, namely that of the Heads of State or Government and that of the Foreign Affairs Ministers, and supports its intention to close the conference by December 2003;
  39. Considers that the Treaty establishing a Constitution for Europe must be signed by all the twenty five Member States on 9 May 2004, Europe Day, immediately after the accession of the new members to the Union;
  40. Considers that Member States that hold referenda on the draft Constitution should if possible hold such referenda or ratify the draft Constitution in accordance with their constitutional provisions on the same day;
  41. Welcomes the fact that the deliberations of the IGC are to be publicised on the Internet, but calls on the Commission, the governments of the Member States and the political parties to envisage using all possible information media to acquaint the general public with the content of the IGC's work and the draft Constitution, including the organisation of national fora;
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42. Instructs its President to forward this resolution, constituting Parliament's opinion on the convening of the Intergovernmental Conference, to the Council, the Commission, the European Central Bank, the Heads of State or Government and the parliaments of the Member States and of the acceding and candidate States.