



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 12 March 2007**

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**PE 69**

**NOTE**

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from : General Secretariat of the Council  
to : Delegations

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Subject : Report on the meeting of the Committee on Constitutional Affairs, held in  
Brussels on 28 February and 1 March 2007

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The meeting was chaired by Mr LEINEN (PSE, DE).

**I. Reports for which AFCO is responsible**

(a) Roadmap for the Union's Constitutional Process

*Co-rapporteurs: Mr Brok (PPE-DE, DE), Mr Barón Crespo (PSE, ES)*

- Exchange of views

The co-rapporteurs stressed that the resolution had to be adopted by the Plenary before the European Council meeting and wanted a clear and concise report which would show that the Constitutional Treaty should be the basis for the new negotiations. Mr BÁRON CRESPO underlined in particular the importance of not losing anything that had been achieved with regard to codecision. It was important that the European Parliament and the national parliaments were involved in the negotiations for a new treaty. According to Mr BROK, if there was agreement to maintain the substance of the Constitutional Treaty, leave parts I and II untouched and amend part III, the conference would be very technical. If the whole Constitutional Treaty were opened up for negotiations, a convention involving the European Parliament and the national parliaments should

be demanded. This might deter governments from opening up the whole package. Mr Brok hoped that the Berlin Declaration would give a better view of the overall consensus. Mr Barón Crespo considered that energy policy, climate change, immigration, the fight against terrorism and the social model were issues of particular importance.

Several speakers stressed the importance of asserting the European Parliament's right to be a player in the IGC, as well as the need for a clear mandate. There was a broad agreement that the report should focus on method and procedure, not on details of the content. It was stated that there would have to be a second report from the European Parliament in September, to influence the IGC at an early stage. A number of speakers underlined the need to keep the substance of the Constitutional Treaty. Mr CARNERO GONZÁLEZ (PSE, ES) considered that setting up a Convention might be a mistake if there were only to be small amendments to the current text, but that the process should not be behind locked doors. He suggested using interparliamentary fora and involving civil society. Mr CORBETT (PSE, UK) said that an IGC could only be avoided if the problems were solved through declarations. If there were protocols or revisions of any kind of the text, an IGC would be necessary.

(b) Simplification of Community legislation

*Rapporteur: Ms Reynaud (PSE, FR)*

- Consideration of amendments

The report concerned the procedures in cases of codification and recasting. Ms REYNAUD could agree with or find a compromise for several amendments but had problems with amendment 10 by Mr Corbett. According to this amendment, if a proposal from the Commission entailed substantive changes other than those identified as such in the proposal, the proposal should be treated under the normal procedure. Ms Reynaud considered that this would complicate, not simplify things, and wanted such a proposal to simply be rejected, so that the Commission would have to come back with a new proposal. Several members agreed with her on that point.

(c) Reform of Rule 47 "Enhanced cooperation between committees"

*Rapporteur: Mr Corbett (PSE, UK)*

- Consideration of a draft report

The proposal to modify Rule 47 originated with the Conference of Committee Chairs. According to

this proposal, an opinion-giving Committee would be allowed to table its own amendments in Plenary if the lead Committee had not accepted them. Mr CORBETT considered that it would be a waste of time not to demand a degree of support for an amendment before it was tabled in the Plenary (at least 40 members or one political group). He was not in favour of the proposal to have an explicit deadline for requesting enhanced cooperation, since such a deadline already existed implicitly in Rule 179(2). However, to make things clearer, a reference to Rule 179(2) could be included in Rule 47.

Most members supported the suggestions made by Mr Corbett, although Mr PEK (UEN, PL) disagreed with the demand that the support of at least 40 members or one political group should be required in order to table an amendment in the Plenary, in which he considered there was a risk of limiting democracy. Mr LEINEN suggested that Mr PEK should share his opinion with the group that was working with the general reform of the European Parliament. Noting the composition of the Council, Mr MÉNDEZ DE VIGO (PPE-DE, ES) pointed out that the European Parliament was not the only democratic body of the EU.

*Timetable:*

Deadline for amendments: 20 March 2007.

Vote in Committee: 10 April 2007.

## **II. Reports for which other committees are responsible**

Assessing Euratom – 50 years of European nuclear energy policy

*Draftsman for opinion: Mr Voggenhuber (Verts/ALE, AT)*

- Consideration of a draft opinion

Mr VOGGENHUBER stressed that the opinion should not just be a birthday celebration of the Euratom Treaty; he would prefer it to be a critical stocktaking of the situation. It was not a manifesto against nuclear energy, but it should be noted that the political situation had completely changed since the 50s, when nuclear energy was seen as a saviour. He noted that there was a democratic deficit in the Euratom Treaty, which had not taken on board the development of the codecision procedure in the EC Treaty. He supported the idea that there should be a review conference.

Mr LEINEN noted that while codecision was not in the Euratom Treaty, the European Parliament had budgetary powers under that Treaty. He noted paragraph 5 which called for an incorporation of the provisions of the Euratom Treaty in the EC Treaty in a separate energy chapter, and paragraph 6, which stated that the right of the Member States, as laid down in the Vienna Convention on the Law of the Treaties, to withdraw from the Euratom Treaty without this affecting its EU membership, should be duly acknowledged.

Mr CORBETT agreed that paragraphs 5 and 6 had to be re-examined and, noting that some consider it more urgent to reduce the use of carbon energy, called for a more neutral language. He stressed that the opinion should be on constitutional matters.

Mr DUFF reminded members that there had been a long discussion during the Convention on whether or not to include the Euratom Treaty in the Constitutional Treaty and the final decision had been that it was not feasible to do so. If there were no convincing evidence that the circumstances had changed, Mr Duff's conclusion was that it should not change. However, that did not mean that the European Parliament should not call for a revision IGC.

Mr CARNERO GONZÁLEZ (PSE, ES) agreed with the draft opinion, and was positive about paragraph 5.

Mr PEK was rather critical and considered that there was a "lack of strategic thought" in the draft opinion. He stressed the need for a serious discussion about nuclear energy, in particular since energy had recently been used as a weapon.

The COMMISSION representative wanted paragraph 1, which referred to the view on nuclear energy, to be more balanced. He stressed the role of the European Parliament with regard to the health and safety and the budget. As regards paragraph 4 and the idea of Euratom creating a "market within a market", he stressed that normal competition rules also apply to the nuclear industry. He reminded the members that the Commission had recommended integrating the Euratom Treaty into the Constitutional Treaty, but that the Convention had rejected that idea.

In his concluding remarks, Mr VOGGENHUBER stressed that the 1957 consensus no longer existed and that a review conference was necessary. Once the new consensus was found, incorporation in the EC Treaty would be possible. Paragraph 6 was there to show the options. He

said that he might possibly make some changes to paragraph 1.

*Timetable:*

Deadline for amendments: 6 March 2007

Vote in Committee: 19 March 2007

### **III. Other items**

#### Ratification procedures concerning the Constitutional Treaty

- Exchange of views on the meeting of 26 January 2007 of Member States having ratified the Constitutional Treaty with Mr Schmit, Deputy Minister for Foreign Affairs and Immigration of the Grand Duchy of Luxembourg and Mr Navarro Gonzáles, Spanish State Secretary for the EU, Ministry for Foreign Affairs and Cooperation

In his introductory remarks, Mr SCHMIT stressed that the EU did not allow failures and that any obstacles in the integration process had always been overcome. Mr Schmit noted that the two countries initiating the Madrid meeting, Luxembourg and Spain, might be different with regard to, for example, size and geographical situation, but that they were similar in that they both had had successful referenda for the ratification of the Constitutional Treaty. Stressing that the constitutional debate should not just focus on the countries that had said no, he pointed out that there had indeed been 18 positive ratifications, five of which had taken place after the "No" votes in France and the Netherlands. The aim of the meeting in Madrid had not been to split the EU in two, but to make a fresh start to give it new momentum. The will to keep the substance of the Constitutional Treaty had been clear. The objective of the meeting, which was to show citizens that there was a desire to continue the process, had been fully attained. Acknowledging that there were certain problems, he underlined that these problems demanded a European solution. The problems could only be addressed if the EU of 27 States was able to take decisions. Now was the moment to support the German Presidency in its work to establish a roadmap to make it possible to come up with a new Treaty already this year. That Treaty should have the same substance as the one that had been ratified by 18 Member States.

Mr NAVARRO GONZÁLES considered that the future of Europe was perhaps the most important point on the agenda in Europe at the moment. He noted that Spain had enjoyed the best 20 years of

its history since it joined the EU. Mr Navarro González stressed that the Member States that had ratified the Constitutional Treaty represented about 60 percent of the citizens of the EU, and a majority of both Member States and citizens. Thus, these states had a legitimate right and even a moral obligation to meet. Mr Navarro González felt that the German Presidency could offer the best way out of the impasse. The idea of the meeting was to help the German Presidency, which had agreed to the meeting being held, to make progress. Recalling the fact that the European Parliament had also supported the Constitutional Treaty with a vast majority, Mr Navarro González stressed that not only the "No" votes should be heard and hoped that after the meeting, the existing ratifications would also be acknowledged. The meeting had adopted conclusions under the title "For a better Europe". Apart from the ministers from the 18 Member States which had ratified the Constitutional Treaty, there had also been ministers of Portugal, Ireland, and representatives of Denmark and Sweden. The Friends of the Constitution were prepared to amend the Constitutional Treaty to accommodate the Netherlands and France if necessary. As regards the Netherlands, the new government was sending out more positive signals than the previous one. Regarding France the results of the Presidential elections had to be awaited. As regards the UK, it might be noted that Mr Blair in his White paper on the Constitution had stated that the Constitutional Treaty would make significant improvements to the current situation, and that Mr Straw before the House of Commons had said that the Constitutional Treaty contained a British view of Europe. Regarding Poland, it should be acknowledged that it was a deeply European country and that the Eurobarometer showed that with each succeeding month Polish citizens felt more and more European. Quoting the conclusions of the Ministerial meeting, Mr Navarro González stressed that the aim of the Constitutional Treaty was to allow Europe to more effectively address the challenges of the 21st century and to meet its citizens' expectations. Among the topics which were of special importance to citizens, climate change should be mentioned as a topic which was not on the agenda in 2004, but which was now considered very important.

Stressing the great democratic legitimacy of the Constitutional Treaty, Mr BROK considered that there was no reason to move away from that Treaty, which ought to be the basis of the necessary negotiations. There were two main questions that demanded answers: How the EU could face the challenges of today, and how it could be made more democratic. According to Mr Brok, it must be clear that one or two countries could not set such drastic demands that the rest of the EU would have to give up its needs. While there had been calls for a "Constitution Plus", the possibility of using declarations should not be excluded.

Mr BARÓN CRESPO was pleased that the Madrid meeting had been a very open one. He reiterated that the 18 countries that had ratified represented more or less 60 percent of the population of the EU. The Constitutional Treaty would make it possible to deal with important issues such as international terrorism, immigration and energy. In the event of a new IGC, an important matter would be the participation and/or representation of the European Parliament.

Several members welcomed the fact that voices in favour of the Constitutional Treaty were now being heard. They felt that the focus should not only be on the negative referenda and that the existing ratifications had to be acknowledged. It was underlined that the Constitutional Treaty had to be the basis for any new treaty and that Member States had signed the Constitutional Treaty and thus, under international law, should ratify it. Members expressed a hope that the German Presidency would take the constitutional process forward. Many considered that a mini-Treaty would be counter-productive and wanted additions to the text concerning for example climate change. Other matters mentioned by the members were energy policy, social Europe, climate change and immigration. The importance of involving the European Parliament as well as national parliaments in the constitutional process, and also the need to listen to citizens' concerns, was underlined. It was noted that certain provisions of the Constitutional Treaty was already being applied in practice. It was suggested that a representative of the new Dutch government should be invited for an exchange of views with the Committee.

Mr MÉNDEZ DE VIGO considered that the best way out of the impasse was to have an overall agreement in the form of an improved text with the addition of certain elements, demonstrating that the decision makers had in fact listened during the period of reflection. Among the things that could be added were provisions concerning climate change.

Mr DUFF had initially been negative towards the Madrid meeting, as it could have exposed tremendous disagreement between the 18 Member States that had ratified about what course to take to exit the situation, and the gap between the yes and the no sides could have been accentuated. He was however very pleased that it was the other way around and was glad that Luxembourg and Spain had contributed to pulling away from the idea of a mini-Treaty. While he agreed with the idea of adding new provisions in several fields, he wanted further explanation as to what precisely could be improved regarding asylum and immigration policy. Furthermore, according to Mr Duff, the text of the Constitutional Treaty on security and defence policy would be hard to improve. Regarding increased euro-scepticism in certain Member States, he wondered what advice the Madrid meeting

had sent to Berlin on how to manage and confront that.

According to Mr STUBB (PPE-DE, FI) there were four categories of Member States; a) the constitutional avant-garde, the 18 Member States which had ratified; b) the friends of the constitution, Portugal, Sweden, Denmark and Ireland, which would be able to approve it; c) the friends in trouble, France and the Netherlands, and finally d) the friends that needed help: UK, Poland and the Czech Republic. Mr Stubb favoured the "Treaty Plus" solution.

Mr KIRKHOPE, while not supporting the Constitutional Treaty in its current form, stressed the need to address the institutional issues.

Mr CARNERO GONZÁLEZ considered that it was important not to reopen the negotiations on the Constitutional Treaty, but said that it was important not to go backwards either. He noted that some countries wanted a lowest common denominator text to avoid having a referendum, but was not in favour of such a solution. He stressed the need to have found a solution before the European Parliament elections in 2009.

Among the more critical members, Mr BONDE (ID, DK) disagreed with the opinion that the Madrid meeting was transparent, and criticised Chancellor Merkel for conducting bilateral negotiations in secret. The current "mess" was foreseen by the Convention, which had been aware of the risk that some referenda could have negative outcomes. According to Mr Bonde, the only solution would be to have a text which was submitted to all the peoples of the EU at the same time. In such a case, it would be easier for those who did not agree to the text to agree to a compromise. Mr ALLISTER (NI, UK) underlined that No was No, and considered that Mr Blair's statement concerning the Constitutional Treaty was "a yesterday's statement by yesterday's man".

In his concluding remarks, Mr NAVARRO GONZÁLES stressed that Europe must go forward with its citizens. He underlined that the Madrid meeting had been an open meeting and that all 27 Member States had been invited. He considered that an IGC with a clear mandate on what parts of the Constitutional Treaty to look at was necessary, and hoped that a new treaty could be signed during the Portuguese Presidency. He noted that neither France nor the Netherlands had stated the reasons for the rejection of the treaty. Important issues to take into account were legal and illegal immigration, and in this context development cooperation with countries of origin and transit. He once again underlined the success of Spain during the last 20 years, and stressed that the country

had enjoyed democracy and prosperity through the European model. Underlining the need to get France and the Netherlands on board, he said he believed that a new treaty would be in force by the time of the next elections to the European Parliament. He agreed with the suggestion that representatives of the Dutch and the French governments should be invited to explain their problems with the Treaty before the Committee. He stressed that the Constitutional Treaty was not the problem, but the basis for a solution to the problems that the EU had at the moment, and that any new negotiations must be held on the basis of this Treaty. While he was prepared to accept amendments to the Treaty, it was important to keep the balance set out in it. He concluded by expressing his hope that the Brok/Báron Crespo report would contribute to a solution and support the German Presidency in its work.

Mr SCHMIT agreed with Mr Navarro Gonzáles that a mini-Treaty was not a realistic option. He was not sure if even France and the Netherlands would be in favour of such a treaty. For example, the social dimension would not be included in a mini-Treaty and a "yes" from France would be difficult without that. Furthermore, matters like subsidiarity, the role of national parliaments and security and defence were better dealt with in the Constitutional Treaty. Also, a mini-Treaty would not be enough to deal with matters of democracy, transparency and legitimacy.

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