

Can the Laeken Convention save the European Union?



By Marc-Oliver Pahl

Article Number 10

The European Union has been discussing the reform of its constitutional foundations to prepare for enlargement to the East since spring 1996. In the first round of reforms a so-called Reflection Committee of high level representatives of the member states' governments and the Commission prepared a first proposal. Afterwards an Intergovernmental Conference (IGC) including two MEPs as observers discussed all the crucial questions intensively for a year. The final draft texts of the IGC were quite promising. Everything was on track and the finalisation of the reform by the Amsterdam European Council of June 1997 seemed to be just a formality.

But then, despite pragmatic Tony Blair replacing his eurosceptic predecessor for the first time, the negotiations in Amsterdam got stuck. They got stuck on rather minor points like the financing of the German public broadcasting system and finally there was no more time and no more political will to come up with answers to the crucial questions such as the voting system in the Council. In Amsterdam for the first time even the model European Helmut Kohl was no longer willing or able to compromise for the sake of the common European interest. It was obvious: the IGC/Summit method had failed.

But only few politicians and media joined the European federalists in their outspoken arguments against the IGC/Summit method. Only few realized that this procedure for negotiating constitutional reforms was no longer adequate in a 15 member state EU whose activities affect its citizens in nearly all fields of life. Most politicians argued that the enlargement would anyway not come before the year 2000 and therefore plenty of time would be left for a second round of reform.

The new IGC starting in February 2000 was conducted in the traditional way as a mainly secret diplomatic conference operating on the basis of unanimity. Right from the beginning there was absolutely no sense of compromise in the air, no sense of struggling for solutions in the common interest of all Europeans. When Joschka Fischer returned from a totally frustrating informal Council meeting in spring 2000 he decided that a big bang was necessary. His May 2000 Humboldt speech and the reactions from Chirac, Blair, Verhofstadt, Lipponen and others finally initiated an unprecedented Europe-wide debate on the constitutional future of the EU.

But the IGC and the Nice European Council were unable to transform the constitutional debate into a pragmatic compromise. The diplomats negotiating in the IGC did not have the ambition and the legitimacy to reach a compromise on these highly political questions. Without sufficient preparation the heads of state and government were not able to agree on clear and simple solutions. So after the longest summit meeting in EU history, we ended up with the bureaucratic monster of the Nice treaty. After this mess even Tony Blair, who had praised the European Council method at many occasions before, was sure that a new formula had to be found.

Luckily at the time of the Nice Summit a different procedure had already proved itself able to produce much more convincing results. The Cologne Summit of June 1999 had decided to establish a "body" composed of representatives of the member states' governments and parliaments, the European Parliament and the Commission to draft a text incorporating the traditions of fundamental rights in the European Union into one single document. Obviously some of the

always extremely cautious diplomats had been sleeping or heavily hit by the effects of the famous Cologne "Kölsch" beer when the German Council presidency tabled this proposal; it went through without major resistance.

Only in the following months did some of the classical actors realise that this "body" could be potentially dangerous for their negotiating monopoly. But they could not prevent the Tampere and Helsinki summits from following the Cologne path and deciding on the composition and the basic procedural rules for the "body". It started working under the presidency of former German Federal President Herzog parallel to the IGC in February 2000. The first decision of the "body" was to give itself the name "Convention".

In the following months the Convention had to work out a complete fundamental rights codex on the basis of the constitutional guarantees of the members states' constitutions and the European Charter of Human Rights. In October 2000 the Convention submitted the European Council meeting in Biarritz an impressive draft EU Charter of Fundamental Rights. The European Council decided to accept the draft text without any further changes. Eventually, in December 2000, the Council, the European Parliament and the Commission finally solemnly proclaimed the Charter in Nice.

Already in Nice many summit participants supported the idea of installing a new inter-institutional convention to preparing the next treaty reform, solving the "left-overs of Nice". The Nice Declaration on the Future of the Union attached to the Nice treaty foresaw the participation of national parliaments and the European Parliament in the great debate on the reform of the Union which will lead to a new IGC in 2004.



Can the Laeken Convention save the EU?

In recent months the Belgian Council presidency has worked hard to come to an agreement amongst the member states governments on how to organise the debate up to 2004. Since the General Affairs Council beginning of October 2001 it has been clear that the establishment of a convention has found the support of all 15 member states. There is a broad consensus on most of the questions linked to the composition, procedures and the tasks of the Convention, but some questions are still open and will only be decided at the Summit meeting in Brussels-Laeken on 14-15 December 2001.

Like the Fundamental Rights Convention the new "Constitutional Convention" will be composed by 16 MEPs, 30 national parliamentarians (2 from each member state), 15 representatives of the national governments (1 from each member state) and one Commission representative. Representatives of the candidate countries will probably have the right to take part actively in the debates, but up to now some member states governments have resisted giving them voting rights before the accession treaties have been ratified. Civil society, i.e. NGOs, will have the chance to contribute to the work of the Convention through hearings in the framework of a Public Forum.

The Convention should work out options for the four topics mentioned in the declaration on the future of the Union, but will certainly also have the chance to

forward proposals on all related questions concerning the constitutional foundation of the EU. Ambitions for the final outcome of the Convention still vary significantly: some prefer a loose collection of options; others favour the elaboration of a coherent text or even a real constitutional document. Hopefully the dynamism of the Convention debates will lead to the drawing up of one single document to include minority proposals in all fields where a significant number of Convention members would like to express a dissenting opinion.

Crucial for the success of the Convention will be an effective organisational and political coordination by its Presidium. It is still unclear how many members each of the four groups in the Convention will provide for the Presidium. Some member states prefer a dominating position for government representatives, others advocate an equal representation of all four groups.

The Constitutional Convention will probably start its work in March 2002 and finish in mid 2003. Its results will form a - perhaps even the only - basis for the work of the IGC to start at the end of 2003 and hopefully come to a new constitutional text soon after that. If the new treaty is signed well before the European Parliament elections in 2004 those elections could serve as an unofficial, indirect referendum on this text, which could be followed by a formal ratification proce-

dure by popular referenda and/or by the parliaments.

The probable set-up of the coming Convention does not reflect all demands of the European federalists and we cannot be sure that the proposals of the Convention will advocate a purely federalist model. However, there is a really good chance that the widening of the political margin for finding common positions in the interest of all Europeans and the strengthening of the legitimacy of the negotiators - together with an important public pressure - could lead to convincing results. So European federalists should concentrate their political initiatives in the coming months on the Convention. The Convention offers a unique possibility to get closer to our political goal of bringing Europe back to its citizens, strengthening the democratic legitimacy of the European project and pursuing more effectively our common goals.

The year 2004 can and must see the birth of a new Europe, uniting East and West on the basis of a new constitutional agreement of the citizens of Europe. The Convention can save the European Union.

Marc-Oliver Pahl is a member of the Bureau of the Union of European Federalists. He may be contacted at info@mopahl.de. The views expressed in this article are those of the author and not necessarily those of Federal Union. First edition, December 2001.

Join Federal Union

Federal Union was founded in 1938 to campaign for federalism for the UK, Europe and the world. It has argued since then that democracy and the rule of law are ideas that extend beyond the nation state. It is the UK section of the Union of European Federalists.

Name (Mr/Mrs/Miss/Ms).....

Address

.....

.....

Postcode.....

Telephone.....

E-mail.....

Signature.....

Date.....

I enclose a cheque payable to "Federal Union" for:

- £10 (waged)
- £5 (unwaged)
- £5 (student)
- donation of £_____

Please complete and return to:
Federal Union, PO Box 29113, London SW1P 2WF

email: info@federalunion.org.uk

web: www.federalunion.org.uk

Federal Union may occasionally make your details available to other sympathetic organisations. Tick here if you do not want your details passed on. 10