

# The Convention - on the FutureS of Europe

*By MEP Jens-Peter Bonde*

## **Preface**

In 1787 representatives for 13 American States met in Philadelphia to form a democratic Constitution for the United States of America. They succeeded.

In 2002 a similar process starts in Europe with the call for a Convention to prepare a European Constitution. Will it succeed?

The Convention began its work on 28 February in the European Parliament Chamber in Brussels under the chairmanship of former French President, Valéry Giscard d`Estaing. The Convention will probably deliver a draft or drafts to the European Summit in Greece in June 2003.

Then, the Prime Ministers of the 15 EU Member States will call for an Intergovernmental Conference to negotiate the next European Treaty - or Constitution.

By the end of the day, we will have an amended Amsterdam Treaty or a genuine European Constitution.

There are three main directions from which to choose:

1. We can continue to amend and expand the existing Treaties.
2. We can simplify and democratise through the adoption of a Federalist Constitution as they did in the USA.
3. We can slim down the EU and form an international agreement between sovereign nation states only legislating on cross-border issues of common concern.

These are the three main models from which to choose. Why not ask the Convention to prepare the two new models in concrete articles? We could then ask the peoples of Europe whether they prefer the existing form of co-operation, the Federalist, or the Euro Realist model for the future co-operation in Europe.

## **"Yes" or "Yes please"?**

Until now, there have only been referendums in very few countries. Citizens of Europe have only been able to say "yes" or "no" to a finished and agreed text which they could not amend.

The citizens have been threatened before the referendums with isolation or exclusion. Leaders have called for referendums and said that "No" was not a possible answer. One could only choose between "Yes" and "Yes please".

No one has been asked what he or she wants from European co-operation.

The time has come to ask all citizens in all Member States through referendums. A

Constitution or a basic Treaty has to be discussed, understood and agreed upon by the peoples of Europe.

A new Treaty should not suddenly appear without the possibility to amend it through discussion. Then, the answer can easily be a "no" in any country having a referendum as happened in Ireland on 7 June 2001 on the Nice Treaty.

The Irish citizens taught the EU leaders a lesson.

We should praise them for the break they have given us to stop, think and look carefully at the figures from Eurobarometer Poll 55. The figures in the polls - sponsored by the EU - are rather alarming.

The polls tell us that if the EU collapsed, it would only be regretted by the majority of citizens in 3 of the 15 Member States.

The majority of citizens in 12 of the 15 countries would be indifferent or even happy with a dissolution of the EU.

There is a lack of confidence between the citizens in Europe and the EU decision-making in Brussels. Since it is difficult to change the citizens, it might be easier to change the way we make decisions in Europe.

The Convention may be the last chance to unite the peoples of Europe around a co-operation they have chosen themselves.

The majority in the Convention are elected representatives of the European and National Parliaments. They never received a concrete mandate from the citizens to draft a new Treaty or Constitution.

Therefore, their first and most important decision should be to propose that the result of their work should be put to referendums.

It will then force the Convention to prepare drafts with a good chance of being adopted.

It would also force both the vast majority of Federalists and the little circle of Euro Sceptics or Euro Realists to engage in real competition to offer the best possible future for the Europeans.

As citizens, we can expect "more and better" if we, ourselves, have the final word.

That is also what democracy is about:

Let the peoples decide.

Jens-Peter Bonde, 28 February 2002

## **The Futures of Europe**

### **1. Let the peoples decide**

Our Prime Ministers may have realised that the old methods of changing the EU treaties have run their course. They decided to start the Convention at the Summit in Laeken on 15 December 2001.

They have even called on us - the ordinary citizens - to discuss the future of Europe. 15 Prime Ministers have solemnly stated that they want a broad debate involving all citizens.

-“In order for the debate to be broadly based and involve all citizens, a Forum will be opened for organisations representing civil society (the social partners, the business world, non-governmental organisations, academia, etc).”

The next Treaty will be elaborated in a more open and transparent way.

This is a complete change of tune, which can be seen as a response to the growing criticism towards the EU in all Member States.

Opinion polls in most Member States show the lack of support for the EU. There have been new "NO" votes in the referendums in Denmark on the Euro in 2000 and in Ireland on the Nice Treaty in 2001.

## **2. New tactic or forward strategy**

The Prime Ministers are now rather critical towards their own past. They show understanding towards public feeling and write about people's expectations:

- "They want the European institutions to be less unwieldy and rigid and, above all, more efficient and open. Many also feel that the Union should involve itself more with their particular concerns, instead of intervening, in every detail, in matters by their nature better left to Member States' and regions' elected representatives. This is even perceived by some as a threat to their identity. More importantly, however, they feel that deals are all too often cut out of their sight and they want better democratic scrutiny."

The question is whether the new music represents a new tactic or a radical change in their forward strategy, involving and serving the peoples of Europe.

Will the debate on the future of Europe become representative of public opinion or will the same elite operate in the same way but dressed in new clothes?

## **3. A Forum for discussion**

To assist the debate, the Prime Ministers will establish a Forum for organisations representing civil society.

Will this Forum also involve EU critics or will members be handpicked to represent established views?

## **4. A Convention for drafting**

A specific Convention will draft and analyse different possibilities for European integration.

Will the Convention actually represent public views as they appear in the opinion polls or will the same people just meet once again?

## **5. An Intergovernmental Conference to decide**

Once the Convention has given birth to a new draft Treaty, the Prime Ministers and their representatives will meet and negotiate at an Intergovernmental Conference including special summits.

At this point, will they listen to the views of the participants in the public debates, the Forum and the Convention?

In the end, will they offer us a new European Treaty or Constitution?

Will it be a new, clear and understandable model for democratic governance or will the next Treaty be just as complicated, unreadable and undemocratic as before?

## **6. The Nice Treaty not seen as a success**

After 5 days of intense horse trading in Nice, no one was really satisfied with the result. New important proposals, such as appointing Commissioners by qualified majority, were proposed, discussed and agreed upon as late as after midnight on the very last night of deliberations.

None of the Prime Ministers had a chance to discuss this proposal with their colleagues in their own governments. No government had a chance to bring forth this far-reaching idea in its own National Parliament or have a public debate.

In the European Parliament, the idea had been raised in the Constitutional Committee but it was immediately turned down by Commissioner Michel Barnier. He told his Federalist friends that not one single country had even proposed it during the preparatory talks.

After a few hours of negotiations in Nice, it was suddenly decided that the Commissioners would be appointed in this new way.

### **7. Big battle over votes**

Votes in the Council were changed despite all logical arguments.

Hungary and the Czech Republic were offered fewer members in the European Parliament than Belgium and Portugal which have fewer citizens.

Similarly illogically, France and Germany will be entitled to the same number of votes in the Council even though Germany has 82 million inhabitants and France has only 60 million.

By way of compensation, Germany will be able to claim a special counting of votes based on the size of populations in the Member States.

In the future "qualified majority" will require a number of Member States representing at least 62% of the population of the EU.

Summarised, this means that Germany, considering its size of population, will enjoy increased ability to block decisions. However, it will not have any extra say in the decision making process - in the Council.

In the European Parliament Germany will continue to have 99 representatives against a foreseen reduction from 87 to 72 each, for France, Italy and the UK.

### **8. New margin for majority**

The margin for "qualified majority" was raised in a way that no Prime Minister can explain to his or her fellow citizens.

Today, "qualified majority" requires 71.3 % of the votes in the Council.

With the Nice Treaty it will gradually be raised to 73.4 %, making it a little more difficult to amend existing laws or agree on new laws.

The mess was criticised in the European Parliament. For the first time in history, the Parliament did not approve a new draft Treaty or recommend the Member States to ratify it.

Contrary to strengthening democracy, as the Prime Ministers wished to do with the Laeken Declaration, the Nice Treaty adds to the democratic deficit.

### **9. Criticised from more than one side**

Leading Federalists protested against the result from Nice using the same strong words as the Euro Sceptics.

Both sides criticised the democratic shortcomings in the Treaty and were applauded by the incoming President of the European Council, Belgian Prime Minister, Guy Verhofstadt.

At a welcome dinner for the Group Chairs in the European Parliament, Verhofstadt said that the Euro Sceptics were "completely right in their analysis, but wrong in their solutions".

Verhofstadt then wrote a draft Declaration that - partly - could have been written by any Euro Sceptic. However, in the final Laeken Declaration he added a lot of questions concerning the democratic shortcomings to which his solutions were all from the

Federalists' arsenal.

On his tour of the different capitals, he was told to limit criticism and broaden his questions. Still, after a lot of amendments and redrafting, the final Laeken Declaration contains historic self-criticism.

### **10. Secret call for transparency**

The Laeken Declaration calls for transparency. Ironically though, the Declaration draft calling for transparency was kept completely secret before the final adoption.

A few journalists had read the draft and quoted a few sentences from it, but no one dared break the promise of keeping the draft secret.

High-ranking Civil Servants who would normally have access to Summit drafts did not get a chance to copy the Laeken draft. Verhofstadt was very efficient in securing secrecy at the same time that he was arguing for transparency.

Transparency, it seems is always important - in the future - but just not right now.

### **11. No taboos in the preparation**

The Prime Ministers have agreed on a completely new method for drafting Treaties.

This was the aim of the Belgian Presidency, and Verhofstadt succeeded almost 100 %.

Until now, all negotiations about new Treaties have taken place in secret horse trading between Civil Servants and Ministers.

Meeting documents and minutes have been kept secret, even from most Parliaments.

Next time the process will take place in the open. Every topic is up for discussion.

- There are "no taboos", said the President in Office, Guy Verhofstadt when he published the revolutionary decision with the two key words Convention and Constitution.

The Summit took place at the Royal Palace in Laeken, a suburb of Brussels, on 14 and 15 December.

### **12. A Federalists dream from America**

The idea of a Convention is a Federalist dream, which reminds one of the founding of the American model.

Back in 1787 leading personalities met in a Convention in Philadelphia to draft a Federal Constitution for the United States of America.

In Europe, leading politicians are now talking about a Federation or a Federation of Nation States.

For a long time, the United Kingdom and other hesitant countries opposed the use of Federalist keywords such as Convention and Constitution. It turned out that both words were finally included in the Laeken Declaration.

The Declaration has a headline, "Towards a Constitution for the European Citizens", and it summons the Convention to start its work in Brussels on 1 March 2002 under the Spanish Presidency.

### **13. President Giscard - President again**

The work in the Convention will not be left to the Spanish, Danish and Greek Presidencies.

At the Summit in Laeken, three experienced statesmen were appointed to lead the negotiations.

The former French President Valéry Giscard d'Estaing will preside with the former Belgian Prime Minister Jean-Luc Dehaene and the former Italian Prime Minister Giuliano

Amato as his two Vice Chairs.

The Praesidium of the Convention totals 12 members. It is made up of the Chairperson, the two Vice-Chairpersons, two nominees each from the European Parliament, the National Parliaments and the European Commission, and three representatives from the relevant EU Presidencies – Spain, Denmark and Greece.

The Convention itself consists of 16 members from the European Parliament, two members from each of the National Parliaments, one member from the 15 governments and a similar composition from the 13 Applicant countries, each sending a government representative and two delegates from their National Parliaments.

There are three observers from the Economic and Social Committee, six Observers from the Committee of the Regions and they all have substitutes. The Ombudsman also take part as an Observer.

According to the Laeken Declaration, Substitute Members will only have the right to participate in the absence of Full Members.

In the first preparatory meeting of the European Parliament, it was agreed that Substitute Members would be allowed to take full part in all deliberations in the Delegation. It was also agreed to allow the independent MEPs to participate with an Observer.

Formally, the representatives from the Applicant countries cannot "hinder a consensus among Member States", but since there are no votes planned, they will, in practice, become equals in the negotiations on the next Treaty or Constitution.

In the final Intergovernmental Conference the Applicant countries can only take part if they have already signed agreements on enlargement.

### **13. Enlargement and European elections in 2004**

The discussion about the next Treaty or Constitution will take place in parallel with the planned enlargement of the EU with 10 new members and the next European elections in 2004.

Surprisingly, the 13 Applicant countries include Turkey, which will also take part in the Convention, drafting different options for the organisation of an enlarged European Union.

The Prime Ministers want to please Turkey because they need Turkey's support to be able to borrow NATO assets for the EU Rapid Reaction Force. They also need Turkey to accept an enlargement which will include the divided island of Cyprus but not Turkey itself.

The Belgian Presidency bought full page advertisements in 32 leading European newspapers to announce what they called the Laeken Declaration.

The heavily promoted document from the Summit in Laeken is formally called "The future of Europe".

It raises 64 concrete questions on the future construction and suggests, between the lines, a lot of Federalist answers.

Most of the Laeken authors have one specific model for European co-operation in their minds. They want to build a Federalist co-operation.

### **14. More than one future to choose between**

The subtitle of this book is "The futures of Europe" to underline that there might be alternatives. We have a choice.

This book contains both the Federalists solutions and the alternative vision of the Euro

Sceptics, or Euro Realists, as most of them prefer to call themselves.

The two different visions could be named A democratic EU and A Europe of democracies. The two models can be seen as ideal types, which can be modified and even combined in a final European compromise.

We cannot continue making Treaties which make lawmaking so complicated that it is impossible to explain how a law comes into being to citizens - and even to MPs and Ministers.

We cannot continue changing the basic Treaties in an ongoing process.

We cannot continue battling over the future of Europe while people are starving from hunger, wars are going on and the globe is threatened by environmental destruction. By 2004, a historic decision will have to be made on how we unify and organise the whole of Europe.

### **15. Who should take the final decision?**

The peoples of Europe have the right - and duty - to decide how we build Europe and reform the enlarged EU.

Can we build a European super power without creating a super state, as the British Prime Minister Tony Blair argues?

How can we organise the division of powers between EU and the member states if the EU is not to be the ever-expanding super state the 15 Prime Ministers rightly warn against in the Laeken Declaration?

Can today's secret law making by Civil Servants and Ministers be reformed into a European Parliamentary Democracy as proposed by the European Federalists?

Can the European Parliament become an institution that represents the Europeans to their satisfaction?

Would it help if the European Parliament had the right to elect the President of the Commission following a competition between genuine European parties in common European constituencies?

Would you prefer an alternative vision with a slimmer and freer Europe, governed by the different national democracies as proposed by the Euro Realists?

The choice is yours.

Why not leave it to the peoples of Europe to choose between the two different models in a referendum?

Democracy was born in Europe. Generations fought for that bright and simple idea.

Millions of Europeans have lost their lives in the fight for democracy. Why then give it up?

Why not give democracy a chance - also in the way we determine our future?

Why not leave the final say to the electorates?

Let the peoples decide.

It is what democracy is about.

### **16. Preparations in Nice**

On 11 December 2000, the record 5-day long European Summit in the Mediterranean city of Nice finally came to an end.

The leading Ministers had spent 330 hours negotiating and horse trading to finalise the new Draft EU Treaty. It was named the Nice Treaty after the city in which the summit took place and it was solemnly signed in Nice on 26 February 2001.

The Nice Treaty would alter the governing Amsterdam Treaty with new areas for

qualified majority voting as one important amendment.

### **17. An Irish "No" vote**

The Irish voters rejected the Nice Treaty in a Referendum on 7 June 2001. The Irish Government was surprised and apologised for the electorate's mistake.

The Irish Prime Minister promised the other EU leaders that he would call for another Referendum.

The other EU Member States have now ratified - or are in the process of ratifying - the Treaty in the expectation that the Irish voters will change their minds.

Only Italy has not yet started its ratification process. However, the Nice Treaty will only come into force and amend the Amsterdam Treaty if the Irish voters change their minds and vote "Yes" in a second referendum.

This is the rule of the game: The basic Treaty of the European Union can only be changed if all Member States agree. This is also the rule of the game for the new Laeken process.

We can only transform the existing Treaties into a Constitution with unanimity, unless the existing Treaties are replaced by a new system for those countries willing to sign. Of course, this radical approach would also demand unanimity.

The fundamental demand of unanimity in Treaty amendments proves that the existing EU is still founded on international law. Sovereignty still lies within the 15 Nation States.

### **18. A constitutional legal system**

The 15 Nations are the masters of the Treaties establishing the European Communities and the European Union. It shows that the EU is not a Federation like the US.

On the other hand, the EU Treaty does not allow Member States to leave the Union without unanimous agreement among the 15 governments.

Further more, the European Court has itself established a constitutional legal system.

From the point of view of the EU judges in Luxembourg, the EU is already a Federation with EU law prevailing over National law.

The judges themselves have amended and altered the basic Treaties with revolutionary verdicts at times.

The Nice Treaty does not alter the requirement of unanimity for amending the basic Treaty, but it changes the position, radically, of countries rejecting Treaty amendments and new areas of co-operation.

### **19. Enhanced co-operation**

The Nice Treaty introduces qualified majority voting for enhanced co-operation.

Eight Member States will be able to establish a stronger co-operation between them and use the common European institutions for their own purposes.

They can form an "avant-garde club in the club" or a "Federation within a confederation" as proposed by the late French President Francois Mitterand and his Socialist countryman and former Commission President, Jacques Delors.

The strengthened co-operation can operate in all areas with the exception of Defence.

For Defence, unanimity is still required, leaving a veto for every single Member State.

Enhanced co-operation does not change the national right to veto Treaty amendments, but it weakens the negotiating strength for countries in minority positions. They cannot threaten to block new areas of co-operation. They can only isolate themselves from the mainstream countries.

## **20. Photocopying EU decisions**

Formally, they keep their sovereignty, but small countries in particular will soon find themselves photocopying the decisions made by the avant-garde countries.

This is the experience from the so-called Danish Derogations whereby Denmark makes copies of most European legislation in its opt-out areas.

This is also the experience in Norway, Iceland and Liechtenstein where the EEA-agreement allows a certain freedom, but the freedom is never used by their Parliaments or Governments.

## **21. Strong weapon for integration**

Closer co-operation is a strong weapon for speeding up the European integration process, isolating countries where the National Parliament or a referendum blocks a new EU step.

But the new majority vote for a stronger co-operation also contains a risk for a major split among the EU members if more countries around a bigger country like the United Kingdom are all outvoted by the more Federalist thinking countries.

Formally, enhanced co-operation cannot alter the Treaty but the reality can be altered and the power of the blocking veto will disappear once the Nice Treaty is ratified or included in a completely new Treaty - or Constitution.

The principle of enhanced co-operation has been chosen.

## **22. New Treaty for the majority**

The Prime Ministers will not re-open this important point in the Laeken declaration.

Nevertheless, the Belgian Prime Minister and other leading Federalists, have suggested that the principle that lies behind strengthened co-operation could also be used in Treaty amendments.

When the Belgian Prime Minister met with a delegation from the Euro Sceptic European Parliament Intergroup SOS-Democracy, he proposed a European wide referendum on the next Treaty.

Countries voting "No" should then accept that the other countries can move ahead without the acceptance of all.

The question of national veto rights on Treaty amendments will certainly be raised in the Convention as it has already been raised in the European Parliament's Constitution draft. However, in the short run it is difficult to imagine a European Constitution without national veto rights in constitutional matters.

They might decide on a different compromise along the lines of enhanced co-operation where no one is allowed to block and no one can be excluded from existing co-operation.

## **23. The right to withdraw**

The French Commissioner Michel Barnier has proposed that the next Treaty or Constitution includes the possibility for Nation States to secede from the European Union.

This possibility does not exist today unless all Member States allow secession by a unanimous decision. That is what happened when Greenland - formally a part of Denmark - left the EU in 1985.

When Altiero Spinelli made his first Draft European Constitution for the European Parliament in 1984, he accepted that Member States should have the right to withdraw.

- The European union should not be a prison, he said.

The eventual approval of the proposal from the Commissioner with responsibility for Constitutional Affairs will show that the new EU is a Federation of nation states.

In federations like the US or Germany the participating states have no right to secede and become independent Nation States.

#### **24. A last resort**

Perhaps it is not realistic that any country will ever use the right to secede, but it can also be seen as a confidence building measure, assuring people that the EU is not the prison Spinelli wanted to avoid.

It can be seen as the ultimate guarantee that nothing can develop so badly that you cannot find an alternative.

A clause about possible secession could state that a Member State has the right to secede from the Union.

The conditions could be negotiated and settled in an agreement between the seceding country and a qualified majority in the Council.

If they cannot agree on the conditions, it could be decided in the International Court in The Hague.

It could be argued that this possibility already exists today. According to the Vienna Convention on International Agreements, a country can always state valid arguments for wishing to leave an international organisation.

The EU is established under international law and therefore sovereignty lies with the participating states.

However, many EU lawyers do not accept the argument. The Court in Luxembourg has not accepted the possibility. The Treaty itself states that it is done for an indefinite time. Therefore, the best solution will be to have a clear rule in the next Treaty or Constitution.

Another option could be to demand a referendum in the relevant state and settle a possible conflict with the European Court in Luxembourg.

That model would prove that the EU has developed into a federation where sovereignty lies with the Union and not with the participating states.

#### **25. The distribution of competences**

When the EU was established as a Common Market in 1958, the common institutions had no real lawmaking power besides in Trade, Agriculture and the Customs Union.

If laws were harmonised it could only be decided by unanimity. If there was a conflict between a decision in the institutions and a National Parliament, it was clear that the will of the National Parliament would prevail.

The European Court in Luxembourg changed that balance and invented a federal legal system through a sequence of revolutionary verdicts.

The most important verdict that which stated that EU law should always prevail over national law. Later they added that EU law should also prevail over national constitutions.

With creative use of the old Article 235, now re-numbered to Article 308, the Council of Ministers developed the areas of common lawmaking in the Common Market and introduced common environmental policy, regional policy etc.

#### **26. From unanimity to majority votes**

With the Single European Act in 1987, the EU countries introduced qualified majority in general lawmaking and forgot the so-called Luxembourg compromise that had given every Member State a possibility to veto common legislation.

The Treaties of Maastricht in 1991, Amsterdam in 1997 and Nice in 2000 added more decisions with qualified majority voting making it easier to take decisions in the Council. However, there were not many new areas of law making to add.

According to Professor J.H.H Weiler, the principle of legality disappeared in the 70s and 80s. He agreed with the Dutch Judge Koen Lenaerts in 1990 when he wrote there is no longer any core of national sovereignty that cannot be reached by EU decisions: "(There) simply is no nucleus of sovereignty that the Member States can invoke, as such, against the Community", ("Constitutionalism and the Many Faces of Federalism", 38 A.J.Com.L. 205, 220 (1990)).

### **27. Common fundamental rights**

The European Court in Luxembourg has also developed common human and fundamental rights and even used self-developed principles in the few areas where the communities explicitly have no competence.

A German women soldier asked the European Court to give her the same right as men to take part in different military activities. She won the case and was given rights equivalent to men in an area that, at the time (1999), was completely beyond the competence of the EU.

It illustrates the quotation from the Dutch Judge. There are no areas where the common institutions cannot interfere if they wish to do so.

### **28. A constitutional legal system**

The EU Judges have developed a legal system of their own. In their judgement of a draft EEA-agreement, they even overruled a unanimous Council and characterised the legal system as a constitutional legal system.

A law made by a judge is called legal activism. The most important developments in the EU have been expedited by judges and not by the elected representatives of the people.

### **29. Legal guarantees for regions**

In legal terms, the EU has developed into a super state that also interferes in the competence of the regions in Federal States like Germany and Belgium.

Particularly in Bavaria, people and mainstream CSU politicians have reacted and called for a clearer distribution of powers between the EU and the Member States and their regions.

The Prime Ministers have now heard this call. In the Laeken Declaration, the Prime Ministers even offered legal guarantees for regional competence:

"How can we intensify co-operation in the field of social inclusion, the environment, health and food safety? But then, should not the day-to-day administration and implementation of the Union's policy be left more emphatically to the Member States and, where their constitutions so provide, to the regions? Should they not be provided with guarantees that their spheres of competence will not be affected?"

The most time consuming discussion in the Convention will be the distribution of powers. This is the core of any Constitution. It is also the core of Euro Sceptic criticism of the EU. Both Federalists and Euro Sceptics criticise centralised lawmaking. That is why

Verhofstadt surprisingly declared he was at one with that analysis of the Euro Sceptics but in disagreement with their solutions.

The Laeken Declaration suggests that the EU will gain more competences in Common Foreign and Security Policy, Defence, Asylum and Immigration Policy, and Crime.

This is where most Euro Sceptics will disagree.

Nevertheless, there is common ground where the Laeken Declaration asks "what tasks could better be left to the Member States?"

The Prime Ministers foresee both more tasks for the Union and the return of competences to the Member States. They have warned against over-centralisation:

"-...., citizens also feel that the Union is behaving too bureaucratically in numerous other areas

- What they expect is more results, better responses to practical issues and not a European super state or European institutions inveigling their way into every nook and cranny of life.

- they sometimes have the impression that the Union takes on too much in areas where its involvement is not always essential."

The Prime Ministers will also re-invent the legacy principle and state that all competences, not mentioned in the Treaty, belong to the Member States:

- And should we not make it clear that any powers not assigned by the Treaties to the Union fall within the exclusive sphere of competence of the Member States?

### **30. Change without changing**

The Declaration foresees that competences can be given back to the Member States. This has never happened before.

Notwithstanding that, those opposed to de-centralisation also score an instant victory.

The next sentence in the Declaration states that the existing *acquis communautaire* will not be touched.

"respecting the '*acquis communautaire*'", are the words used.

The sentences are contradictory. You can keep the legislation as it is and you must change it at the same time.

This is the usual way Ministers make compromises, leaving it to the next level to sort things out.

### **31. National MPs dominate**

Now, there is a new level for deliberating the existing distribution of competences.

The vast majority in the Convention will certainly propose new tasks for the Union. But the Convention will be dominated by elected National Parliamentarians. Therefore, there is a chance that the Convention could also produce a list of legislation to be returned to Member States and their regions.

The condition will be that those gaining from the common policies to be returned are prepared to lose economically or have other forms of compensation.

Otherwise, there will be no return of powers but only more centralisation.

No one is prepared to give up a policy that has a special advantage for his or her own country other than as part of a bigger deal benefiting all and harming none.

This can be presented as a good argument for the Federal approach where the common interest can prevail over narrow national interests.

Furthermore, it is a good argument for the radical decentralisation proposals put forward by the Euro Realists in SOS Democracy.

They propose that the EU should only be able to legislate in cross border issues where it can be proved that Nation States are not able to govern on their own.

### **32. Package deals and horse trading**

The Intergovernmental method of horse trading and “package solutions” in the Council of Ministers has often produced results that no National Parliament would have chosen if it had to pay the bill itself.

That can easily be seen in the case of the CAP which eats up 40% of the total budget. In one year, Greece received community support to buy 65% of its production of peaches.

Would the Greek Parliament really pay so much for the destruction of peaches if Greek taxpayers had to pay the bill themselves?

### **33. A skimmed milk circus**

For many years, one of the richest EU countries, Denmark received more than €125 million for the production and storage of skimmed milk powder.

The EC budget paid a premium for breeding the calves, paid for their milk, paid for turning the milk into powder, paid to add a copper additive making the powder undrinkable for human beings, paid to bring the powder back to the farms to be mingled with water, feeding new calves to produce new mountains of skimmed milk powder. In the 1980's, it was the biggest single subsidy from the EU to Denmark. Most politicians praised such subsidies as the real benefit of EU membership.

Now, the subsidy has almost disappeared and price supports have been halved through reforms and direct support. Following the reform, farmers' incomes have grown.

Still the net income for Danish farmers from farming is less than half of the subsidy paid by the EU budget to Danish farming.

The Danish Parliament would never have paid such a large subsidy for the 30,000 full time farmers now left in agriculture.

The Danish politicians accept the different schemes of support because Danish tax payers only pay 2 % of the bill, leaving 98 % of the subsidy to be paid by tax payers from the other countries.

The system made even the skimmed milk powder carousel a good business for Denmark. In Italy it is a similarly good business to receive subsidies to sort and destroy tomatoes or to harvest from non-existent olive oil trees.

### **34. The CAP against enlargement**

The CAP is bad for the environment, a catastrophe for agricultural production in third world countries, and very expensive for both consumers and taxpayers in Europe - without even producing a good income for farmers.

The CAP will also hinder Polish membership if it is not reformed.

No one in the EU is prepared to pay for millions of Polish farmers, intensifying agricultural production for even more storage, to be financed by European taxpayers.

It is not likely that the Polish people will vote "Yes" to a membership of an institution in which they will become 2nd Class members and not have the same rights as the rest of the farmers in the EU.

Therefore, both Federalists and Euro Sceptics should now unite to seek the elimination of every subsidy for agricultural prices.

They could be reduced by 20 % every year and terminated after 5 years.

### **35. Compensation for those who lose**

If farmers lose income by a radical reform of the CAP they could be compensated from the community budget for a certain period. However, this should not be done in a way in which subsidies are capitalised in higher prices for the farms, as this would leave a bigger burden for the next generation of farmers.

What should be left ought only to be the common organisation of the Common Market for the sale of - safer and more environmentally responsibly produced - agricultural products.

Common rules for national subsidies should be allowed so the market will not encourage competition between different levels of national support.

Clearly some Member States would benefit more than others. If necessary, the net losers could be compensated with a special discount for their contribution.

Before enlargement we need radically to reform the CAP. This would benefit all greatly by making EU membership cheaper or by reserving the sum saved for better purposes.

### **36. The Structural Funds**

Most structural funds were devised to redistribute money from the richer to the poorer nations. What happens in reality is different.

Most EU funds re-distribute from the poorer people in all countries to some rich people - or investments - in the poorer countries.

If the purpose is to support the poor it would be much more efficient to give all the Applicant countries and the 3 poorest current Member States free membership of the EU.

In the budget for 2001, €33 billion were put aside for Structural measures.

A free membership for 10 countries and the 3 poorest current EU countries would only cost €14 billion leaving €19 billion to be used for better purposes including assisting Bulgaria, Romania and other poorer countries.

### **37. Difficult to decide in Brussels**

Brussels is the wrong place and level for determining Structural support. Brussels could determine the frameworks for possible levels and criteria for national support.

National Parliaments are more qualified to decide what is really needed since they also represent the interests of the taxpayers.

What gives the Civil Servants in Brussels a comparative advantage in deciding whether a certain amount of public money should be spent on a golf course in the North of Jutland or a church restoration in Christiansfeld in the South of Denmark?

Why not leave it to the National Parliaments and authorities to control internal distribution of money for different purposes?

Why is Brussels better at deciding whether Portugal should have a new airport, motorway or education centre?

### **38. Focus on cross border projects**

Structural spending in Brussels should focus on cross border issues where national authorities are in a bad position to judge on their own.

Common projects should be easy to administer and there should be a significant European extra value in making the decisions in Brussels.

Research on rare diseases, cleaning the Mediterranean basin or developing innovations

for sustainable energy could be Brussels level issues.

There needs to be a limited number of projects to safeguard quality management and administration without too much waste and fraud. The majority of the common projects ought to be especially advantageous for the poorer countries. Through this we would be expressing community solidarity.

In the Laeken Declaration the Prime Ministers from the poorer countries won a battle on economic solidarity because they fear that re-nationalisation of some policies and projects will only be beneficial to the richest countries.

The Declaration states, "constantly bearing in mind the equality of the Member States and their mutual solidarity".

### **39. Representative offices could get their money back**

This concern is real but the solution will never be more spending at European level. Decisions made in Brussels do not replace those made in the national authorities. The EU level is an additional and very costly decision making process where national Civil Servants and lobbyists travel to Brussels to influence the last level of decision making after having tried to exercise as much influence as possible at the national and/or regional level.

Most social fund projects are national projects seeking community support.

Local governments open representative offices in Brussels to ensure that money will be spent in their particular regions or towns.

It may be rational for a single town or local council to pay €500,000 a year to have a representative in Brussels, but seen from the level of the nation state financing the projects through contributions to the community budget, it is an absurd way of using taxpayers' money.

The salary for a Civil Servant in Brussels is around 3 times the salary in the major capitals of the richer European countries and perhaps 25 times the salaries in many applicant countries.

Are Civil Servants in Brussels so much more efficient in managing public spending?

Certainly not, but it is necessary to have international governance including a common Civil Service for purposes which cannot be solved at national levels.

### **40. Less and better**

The understanding that the EU is involved in too many activities is not new. When Jacques Santer took office as President of the European Commission he said he wanted the EU to be moderated in terms of, "less and better".

When he was forced to resign on 15 March 1999 his Commission had delivered much more and much worse.

The new President Romano Prodi has expressed similar views, and even the most centralising former President Jacques Delors has argued against the Commission being involved in too many areas.

With the Laeken Declaration the Prime Ministers attack the past in strong words.

But...

There is also a call for more resources to be spent in Brussels. This will encourage more projects, more fraud and more waste even if every single project can be argued for positively.

The final outcome is one which no National Parliament would have chosen on its own.

#### **41. Taxing and spending**

It is dangerous to divide the responsibility for collecting taxes and the responsibility for spending public money in two. Everyone wants to spend money they can easily get from others.

Everybody has different needs that they want satisfied immediately. The only way to make people prioritise is to let them finance their own needs.

Priorities, choices. This is also what democracy is about.

We vote in elections and elect politicians to spend public money the right way. If they fail then next time we elect others.

In relation to community spending we can elect new politicians but never change the way money is spent. We can elect politicians to fight for more money being spent in our region or to our benefit, but we cannot elect the body responsible for both taxation and financing.

This is a good argument for the federal approach: to make the European Parliament the governing body of both community taxation and spending.

Similarly it is a good argument for the Euro Realist approach to slimming the EU to a few cross border issues we cannot solve on our own.

#### **42. Forces behind centralisation**

We will return to this but first, we must analyse the forces behind the process of centralisation from which the EU secures its competences and responsibilities.

There is a good deal of hypocrisy when Commissioners criticise centralisation, because not one single project or one single law could have passed without the support of a majority in the European Commission.

The ongoing, unwanted, centralisation is primarily the responsibility of the Commission. It has the monopoly on initiating regulations and directives. No one else has this right. The Commissioners propose the laws. They propose the projects. They propose the annual budget.

Living in Brussels, they are not the natural watchdog for subsidiarity and decentralisation.

#### **43. Legislates through the budget**

The European Parliamentarians are jointly responsible because they use their limited control over the EU budget to insist on new projects run from Brussels.

The European Parliament only has the final say over 4 to 5 % of the budget every year, but it can use its margin of spending to call for pilot projects in new areas.

Through the discharge procedure, it forces the Commission to spend money designated for new purposes even if the Council of Ministers has rejected the cost or refuses to give the proposed spending a proper legal base.

The European Parliament legislates via the budget. This method is contrary to budget rules in all National Parliaments.

It is a very bad way of spending public money, but since it is the only way the European Parliament can operate it exploits its limited powers to the maximum.

A substantial proportion of the projects that are criticised by the European Parliament's own Budgetary Control Committee for mismanagement are originally the responsibility of the Parliament itself.

The European Parliament and the Commission are lobbied daily by people with good

interests, asking them to support every possible good cause on earth.

No one can resist demands to spend money on a Centre against Torture in Copenhagen or on the restoration of the Parthenon Temple in Greece or money for women's, immigrants', or children's rights.

The MEP has only one way of reacting: propose a budget line and be popular with the electorate.

In seeking financing of good causes, the MEP has no responsibility for the taxation of the electorate. This way it is both easy and cheap to propose community spending.

#### **44. Nation State as competitor**

The Commission has seldom admitted to Parliament that it was incompetent to spend money in a proper way. Neither has it argued that the proposed purpose would be better served by using national money controlled by the national governments and Parliaments.

Both the European Parliament and the Commission sees the Nation States and particularly the National Parliaments as competitors or direct enemies.

Quite often Commission Departments work together with the relevant committees in the European Parliament to prepare more spending for their common interests.

The Department in the Commission can gain more staff, offices and money, more power internally and externally. Who can resist money and power?

It is useless to criticise a lion for eating meat and it is useless to criticise the Brussels based European Parliament and Commission for their wish to centralise.

What else could you expect?

If you really want to decentralise, you need to change the way they are appointed, or change the balance between national authorities and European institutions.

#### **45. A Catalogue of Competences**

The proposed Catalogue of Competences is one way to limit the powers of Brussels but it will be very difficult to agree on a catalogue. Probably, the final Intergovernmental Conference will only produce a political document full of good intentions for decentralisation.

The only chance of being positively surprised is that the Convention with its majority of national MPs will produce a draft returning some powers to the National Parliaments and proposing procedures to avoid centralisation in the future.

If decentralisation is not taken on board as the primary task of the Convention, it will never succeed with the electorate.

According to Eurobarometer 52, 60 % of all Europeans prefer decisions to be taken at local, regional or national level. Only 18 % prefer the Brussels level.

There is a general feeling among all Europeans that Brussels decides too much.

At the same time, there are also majorities in the polls calling for action against pollution, international crime and other substantial problems.

#### **46. Compromise always means more**

Every concrete proposal of returning a competence or giving up a project in Brussels will mobilise people and organisations profiting from the projects or legislation.

It will not be easy to for decentralisation to succeed.

In 1990 when the European Parliament Constitutional Affairs Committee discussed subsidiarity, every Member who spoke was in favour of a strong application of the principle and of limiting the centralisation of overly detailed regulations (report

A3-163/90 and A3-267/90).

After several weeks of discussion, the various vested interests had done enough to ensure that no decisions would be moved from Brussels. Members from great tourist nations were certainly in favour of adding tourism to the existing Catalogue of Competences. By the end a compromise in the Committee was established by giving the tourist minority their wish and the energy minority their wish and... exactly the same method used in the Council when they are making so-called "package deals":

You get that agency, and you that and then we produce new agencies for those who haven't got their fair share of agencies...

#### **47. Regional Committee for EU school books**

You could at least expect at least the advisory Committee of the Regions to take care of subsidiarity. Yet, in its last report on subsidiarity it even included a wish for community interest in the content of school books - an area where the community explicitly is without competence.

If you bring people together in Brussels they will soon start producing solutions from the level of Brussels. We need a radical change.

In the German Federation, Education and Policing are referred to the 16 Constituent States.

There is a basket for regional competences and a basket for national competencies. In between there is a basket of competences that can be allocated on the basis of common accord or certain procedures.

In the American Constitution there is the famous 10th Amendment placing all competences at the level of the Member States unless the competence is explicitly placed at the Federal level in the Constitution.

In the Swiss Constitution the same principle applies. Any competence, not placed by the Constitution at Federal level, belongs to the 26 cantons.

In the existing EU Treaties we already apply the same principle. The so-called legacy principle demands a special legal base in the Treaty for a community initiative. However, as we have seen with the quotations from Professor Weiler and Judge Lenaerts such words do not guarantee much in practice.

#### **48. Who should control subsidiarity?**

If you want to stop centralisation, you need to limit the powers of the Brussels based institutions.

One could limit the initiative monopoly that currently lies with the Commission.

One could make the Commission become the Secretariat of the Council or the Secretariat of the National Parliaments.

One could change the composition of the European Parliament and go back to indirect representation via the National Parliaments.

One could give the National Parliaments control over subsidiarity.

Without radical institutional change there will not be less centralism - but more.

#### **49. The principle of subsidiarity**

Subsidiarity is a Catholic principle referring to the distribution of powers between the state and the family. The state should not govern on issues that can be dealt with at a lower level, e.g. in the family.

The principle of subsidiarity is now a part of the existing Treaties. A specific protocol on

subsidiarity defines it as the obligation to find the lowest possible level for a decision to be made.

The principle does not apply to areas where the communities alone have competence, but even here the communities are bound by a similar principle of proportionality obliging EU institutions to choose the type of decision that leaves the greatest possible freedom to the Member States.

The existing principles of legacy, subsidiarity and proportionality should guarantee decentralised decision-making. They do not.

How then would it help just to repeat sweet words about the right principles in a Constitution?

We need much more radical action.

### **50. A Sunset Clause**

We could introduce a Sunset Clause in every piece of legislation making decisions disappear after a certain period unless they are confirmed by a new decision.

It would oblige the Commission to put forward a proposal, which would then need a qualified majority in the Council and to pass in the European Parliament.

A new obligatory reading after, say 5 years would ensure that outdated and no longer necessary legislation could be repealed.

Without a Sunset Clause, repeal could only occur if the Commission puts forward a proposal to limit its own powers.

The Commission has no incentive to do that. If it were bound to argue repetitively, many intermediate initiatives would never have become permanent regulations.

### **51. The control of subsidiarity**

The SOS Democracy Intergroup in the European Parliament has produced a radical proposal for controlling the principles of legacy, subsidiarity and proportionality for new legislation.

The Group simply proposes to modify the Commission's monopoly of initiative by moving it to the National Parliaments.

Every National Parliament could appoint 20 Members to meet twice a year to adopt the running legislative programme.

The adoption should include the legal base for proposals and thereby define the scope of the community competence.

- Should the EU be able to decide on a supra-national regulation, which can never be amended by the National Parliament?

- Should the EU only be able to decide a framework leaving the definite decision to the National Parliament?

- Could the need for common action not be met with looser forms of co-operation involving mutual recognition, non-binding recommendations, bench-marking etc?

### **52. The Legislative Programme**

The European Commission has now obliged itself to propose the annual Legislative programme including the legal basis by October so that the European Parliament can express its view before the New Year.

But the Commission has never done what it has promised.

It was only in December 2001 that the Commission published the Work Programme for 2002, and it did not include the proposed legal bases.

The programme was impossible to work from and it was impossible to have a special reading of the application of the principle of subsidiarity.

If the monopoly of initiative is taken away from the Commission it will be forced to defend its proposals.

If the Commission cannot convince the representatives of the National Parliaments it will simply not be allowed to put forward a proposal.

Very simple. Immediate effect. Too radical?

### **53. Unanimity to overrule the Commission**

Today the Commission decides the legal base and it is only possible to change its proposed base if all 15 Member States agree.

The European Parliament and the National Parliaments have no say whatsoever. If the Commission agrees with one single Member State it can insist on a regulation where the majority of Member States might prefer a softer kind of legislation.

The power of the Commission is limited by the fact that it requires a qualified majority in the Council to adopt the proposal. Yet, the Commission's monopoly still gives the non-elected Commissioners a major say.

If the right to initiative is moved to the National Parliaments we will have a better guarantee for subsidiarity. Why should National Parliaments decide to reduce their own legislative powers?

National Parliaments can only be expected to move decisions to Brussels in areas where they cannot legislate with efficiency on their own or where they are convinced that they will gain an extra value by legislating in common.

In deciding the legal basis the National Parliaments can also be expected to choose the legal base which gives themselves the most influence. Why should they propose a binding regulation if it is not necessary for the purpose?

### **54. Add to democracy**

On the other hand, when the National Parliaments agree there is a need for common legislation because they are powerless on their own, there is nothing to lose but everything to win.

The National Parliaments can then profit from co-influence in areas where they would have no influence otherwise.

By controlling subsidiarity, the National Parliaments can add to democracy instead of losing influence in areas they can deal with on their own.

### **55. Types of decisions**

Today the EU has more than 30 different types of decisions. It is impossible to explain them in a textbook. No Ministers or experts are able to name all of them.

Even the best experts are not able to explain the differences and scope of the different types and anyway the scope changes over time.

When the EC was born there were three main types of decisions:

The Regulation, to be applied directly in all Member States without national transformation.

The Directive, which established a common framework for national legislation but with no legal effect of its own and

The Recommendation, which had no legal effect.

Why not bring back this simple and understandable scheme and give the three types of

decisions easier names?

A Regulation could be named an EU-law.

A Directive could be named a Frame

A Recommendation could keep its self-explanatory name.

## **56. The Court made Directives binding**

The European Court confused the original scheme by making directives directly applicable if they were precise enough.

The consequence is that no one knows what they decide when they choose a directive because it is up to the Court to decide if it is directly applicable or not.

But it is not a task for a Court to decide whether a document should be binding or not. It is up to the legislators in all democracies in the world.

If the legislators want a binding obligation with no freedom for the Member States then they simply have to choose the regulation/EU law.

If the legislators only want to give a common frame and leave it to the National Parliaments to decide on the binding law then they should choose a directive - or frame.

If they want to give the Member States a certain time to implement a law they could simply state that this regulation enters into force, for example, 2 years after publication in the Official Journal.

Today the major difference between a directive and a regulation is the time it takes for implementation.

We do not need a special type of legal instrument for such a small difference.

If the legislators prefer soft legislation through recommendations they should simply use the word recommendation to state that it is not legally binding.

Those 3 types could be amended with administrative acts as the legally binding decision which, in legal terms, is a regulation with the only difference being that it is only binds the person or company to whom it applies.

But to become a legal decision it needs to have a legal base in the Treaty itself or a regulation.

Directives and recommendations should not give the Commission the possibility to make a legally binding decision.

## **57. Decide the type of act**

Every time the Treaty mentions another type of decision we will then have to decide if it should be changed to a regulation, directive or recommendation.

It is here that you decide the borders between supra-national and international co-operation.

It is here that you decide if the supra-national Court in Luxembourg can overrule a National Parliament and a National Constitution.

It is here that you decide if you want to give the supra-national Commission a possibility to overrule national authorities and administer directly in the Nation States without the necessity of having national permission for doing so.

## **58. Frames and recommendations**

Frames and recommendations can be just as, or even more important in the content and scope, but in relation to national democracy they have a completely different status.

Here it should be the National Parliaments alone that decide on legal obligations for citizens and

companies.

Here it should be the national courts alone that can overrule a decision from a government. Here the Commission should have no legal right to overrule national legislation or administration.

For the directly applicable principles in the Treaties you would need to decide what parts should continue to be directly applicable and under surveillance of the EU Court and what parts should not.

### **59. Human and fundamental rights**

You would also need to decide which parts of the Human and Fundamental rights developed by the Court and then clarified and further developed and extended by the Charter should be legally binding.

And you would need to decide if it should be binding outside areas regulated by supra-national legislation.

For the detailed analysis, the Convention will need to go through all important verdicts developing legal obligations and then decide concretely what part should be binding and what should no longer be binding on nations, companies and citizens.

It is not an easy exercise but it is what a basic Treaty or Constitution is about. It must inform citizens of their rights, duties and possibilities. People should know who decides what and when it can be amended.

### **60. Simple and qualified majorities**

Today most laws are passed in the Council by qualified majority. The main rule in the Treaties is simple majority when no other rule is stated. However, other rules are normally stated so that the main rule becomes the derogation.

I propose that the main rule should actually be the main rule.

If decisions with qualified majority continue to be the main rule then that should be stated as the main rule, and unanimity and simple majority should be stated in all articles where they are used.

And why not get rid of all special rules about 80% majority, 2/3 majority etc. and simplify the method for counting votes in the Council?

### **61. A federation of Nation States**

To prove the Union is a federation of Nation States as proposed by Chirac, Jospin, Schröder, Fischer and others they should get rid of the different weighting for the different Member States in the Council and simply give every nation one vote.

In the American Senate all states, regardless of their size, have two Senators.

Qualified majority could then be fixed to, for example 75% of the votes.

### **62. A special veto for the large countries**

To satisfy the bigger countries we could possibly keep the special right of veto, from the negotiations of the Nice Treaty, and allow a Member State to question a decision by qualified majority vote if the countries making the qualified majority vote represent less than 50, 60 or 62% of the EU's citizens.

50% is necessary to avoid the argument that a European law is below the level of the majority of the European citizens.

62% is the figure from the Nice Treaty allowing Germany to block a decision with one other large and half a large country.

### **63. Difficult to remember**

The system from Nice demands a 71.3% majority before the enlargement but the margin will then gradually be raised to 73.4%.

No one can explain the system, and no one can remember the figures. In practice, most decisions in the Council are taken by consensus anyway.

The drive for consensus reflects the rules of the game and urges countries in a minority to give in and accept a compromise.

The distribution of the votes certainly counts. But the different sizes of the Member States is also taken into consideration in the representation in the European Parliament. Here Germany has 99 seats with 82 million citizens and will continue to have that representation after enlargement even if France, UK and Italy will have to reduce their seats from 87 to 72 each.

### **64. Delicate balance between small and large**

The balance between the smaller and larger nations is a sensitive question. We need to find simple expressions for the differences.

It makes no sense to have very sophisticated weightings of votes when they are very seldom used and impossible to explain to the citizens.

In normal democracies it is very simple to explain how a law is made. You change the majority in your parliament and you have a new law. In most National Parliaments it is that simple.

It cannot be just as simple in the Council, but why not give simplicity a chance?

The advantage of being able to explain a system to citizens cannot be valued enough.

If we want to give the larger nations a bigger say in the Council it could be done by using easier figures, for example by giving three votes to the countries with more than 40 million citizens, two votes to the countries with more than 20 million and one vote to all other nations.

It is more complicated than the simple solution with one each but it is much less complicated than the nightmare figures from Nice.

### **65. Expand or drop simple vote**

Today, even the Ministers do not know the actual distribution of votes.

Only skilled Civil Servants with the Treaties on their laps are able to say when a decision is carried out, and when it is not carried out under Nice rules.

Only a few Civil Servants will be able to keep the figures in their heads

In the Council, simple majority is so rarely used that one could gain simplicity by getting rid of it.

Then we would only have qualified majority voting and unanimity. Multiplied with three types of decisions we would already have six forms of decision making in the Council, multiplied still further by the number of decision-making methods in the European Parliament.

### **66. Decisions in the European Parliament**

Today most decisions in the European Parliament are decided by an absolute majority of the Members.

With 626 members it means that 314 Members have to vote "Yes". If an amendment is voted for, by 313 votes to nil, it is rejected!

It is very difficult to explain even to Members when and when not they need to be in the Chamber to take part in the votes.

At First Reading under Common Decision Making or the Conciliation Procedure as it is often nick-named, Parliament only needs a simple majority of the votes cast to propose an amendment.

The amendments only have real influence if they can be repeated in the Second Reading with the 314 vote threshold.

### **67. Get rid of absolute majority**

Why not get rid of the absolute majority rule and let Parliament express its wishes by simple majority in all questions?

The European Parliament has no final say anyway. It is the Commission who has the monopoly to propose and the Council who has the monopoly to decide.

The European Parliament can only propose amendments to the Commission and the Council. It is always up to the simple majority in the Commission or the qualified majority vote in the Council to adopt the amendments from European Parliament - if they should have any effect.

Finally, the European Parliament has the competence to block a decision with an absolute majority. Here I would propose to take simple majority as well but to add a possibility for the National Parliaments to overrule a veto from the European Parliament. The European Parliament could then rightly have a warning function but not the same legislative importance as the Council which represents the Member States, or the National Parliaments, representing the electorates much better than the European Parliament.

The veto on laws under Common Decision Making could then be extended to Treaties of Enlargement, important international Treaties where Parliament today has the so-called assent procedure - avis conforme.

If a European Parliament veto can be overruled by the National Parliaments, there is no need to demand the complicated absolute majority.

If Federalists oppose the national vetoes they could then propose a 75% majority in the European Parliament instead of absolute majority so that qualified majority vote would always mean 75% or another agreed figure.

### **68. No clearing in the European Parliament**

The absolute majority is an absurd figure dependent on factors such as when there are national elections or how many are on maternity leave without substitutes being called upon.

The European Parliament has no system of clearing, as many parliaments have. It would also be very difficult to construct one, since political groups are not homogenous.

In an important vote about competition rules most German MEPs vote more in favour of Volkswagen than in accordance with their political groups. That is not the only case of non-partisan but nation based voting.

The European Parliament also has a special Co-operation procedure, which is now only used for the economic and monetary union. Drop it and change it to Common Decision Making where it is appropriate and Hearing when it is more logical or desirable.

### **69. Role of the National Parliaments**

Federalists and Euro Sceptics will disagree on the roles of the National Parliaments and

the European Parliament. They should at least agree on the basic democratic principle that either the European Parliament or the National Parliaments approve a law. We can't have laws in democratic nations made by Civil Servants behind closed doors. All laws will need to be passed in public deliberations in open parliaments, if they should have any legitimacy. Federalists could demand that the existing so-called Common Decision-making be changed into real Common decision making. Today there is not very much "common" about it.

### **70. Legislation by junior Civil Servants**

70% of all EU legislation is carried out by junior Civil Servants in working groups of the Council.

15% is carried out by the ambassadors. Only 15% is left to the Ministers.

Council meetings seldom contain real debates.

Ministers have speaking notes prepared by the Civil Servants. Often Ministers are not even part of the meetings.

Many decisions would be illegal if they used the Treaty demand that a majority of members in the Council should be Ministers.

Often the participants are only junior Ministers or Civil Servants from the Ministries at home or the Permanent Representations in Brussels.

### **71. Public deliberations on laws**

Now the Laeken Declaration puts the question of whether the meetings in the Council about legislation should be public. The easy and only possible democratic answer is: Yes. When Ministers discuss laws those deliberations should take place in public meetings. All laws should be carried in public meetings leaving nothing to be decided by working groups.

All laws should also pass the European Parliament and the National Parliaments so that we can see who takes responsibility for the adopted texts.

For Euro Realists in SOS Democracy the major point for reform is making the National Parliaments responsible for all EU legislation without exception.

The Euro Sceptics do not see the European Parliament as a representative or legitimate body. In practice, they are also very critical of many decisions from the National Parliaments but they all accept that there is no alternative to decisions via National Parliaments.

In good and bad, it is where the public will is represented.

Difficult or not, it is where all opposition should try to achieve a majority.

Just or not, it is as Churchill put it: The least bad way of decision making.

It is democracy.

### **72. Democracy at European level**

Federalists would argue that it is possible to establish a genuine European Democracy instead of national democracy in the areas moved to the higher level in a Catalogue of Competences.

The argument runs as follows:

- We could have just as vivid and representative elections for the European Parliament as we have for National Parliaments.
- When most National Parliaments were born the turnout was low as well. It is only a

matter of time before the turnout for the European Parliament could be the same as for national elections.

- If we only gave the European Parliament the power to appoint the Government in the same way as the National Parliaments appoint the national Governments, it would immediately raise the turnout since people could see what they got for their vote straight away.

- If we establish genuine European parties putting forward candidates in European constituencies not bound to the old nation states we would see a development comparable with the US where federal parties compete on federal representation.

- Why not, they say, have a direct election of a European President, as proposed by the former French President Giscard d'Estaing, now heading the Convention?

### **73. No European people**

Some Euro Sceptics would say it may look like a beautiful dream, but is not possible, as long you have no European People.

The first condition to have a European Parliament, Government and President, is the existence of a European People who are prepared to share their sovereignty and solidarity.

That is also the crucial point to answer for the single European currency.

Are all Europeans prepared to pay for development in less prosperous regions with less growth and employment?

If there is a will for solidarity between the Peoples of Europe, then a European People might possibly emerge by the end of day.

We are very, very far from that situation today.

### **74. Nation States for their own interests**

Every nation state tries to get as big a slice of the cake as possible in all deliberations in the Council.

The real reason for secrecy in the Council is that decisions cannot be seen by the public when ambassadors make package deals with all possible items included.

You give in on your position in a Foreign Policy issue and you get an agency before your next national elections...

Before enlargement the rich countries like Germany, Austria, Sweden and the UK have demanded special discounts in the financing of enlargement.

### **75. A public European room**

There is no common "room". The Laeken Declaration will establish that, but how?

There will not be 50 Danes who can pronounce the name of the Belgian Prime Minister.

If you took the Danish Prime Minister to neighbouring Sweden, no Swedes would recognise him in the street.

If you took the more well known Swedish Prime Minister through a Danish street, no Danes would know him either.

Even the most well known politicians from neighbouring countries are bound to be known in their own nation but not even in the closest neighbouring countries.

Maybe Tony Blair would be recognised from television, but democracy still demands more than one person.

There is only one Danish MEP who regularly takes part in television debates on cross border issues, and he does not know Blair or any other European politician in the way he

knows his countrymen.

### **76. No European news room**

For many years to come a European space for debate will not exist just as there is no European newsroom.

There is only one common newspaper, European Voice. 2/3 of its circulation is in Brussels.

It is a very British newspaper run by the famous Economist group, but it will hardly succeed in being read by Germans and French at the same rate as Britons.

There are common European electronic news services like Euractiv.com and EUobserver.com but none of them could continue to exist if they were paid for by their users alone.

European news agencies like Agence Europe or European Report are heavily subsidised by community funds. The only European television channel, EuroNews is wholly EU financed.

Maybe it could change over time.

### **77. National Parliaments better off**

The European Federalists owe their populations a little more humility in respect of the National Parliaments. They still represent the voters in elections where the turnout in many countries on average is the double of the turnout for European elections.

Perhaps Euro Sceptics could also be a kinder towards the democratic aspirations shown by the Euro Federalists when they argue for their European Parliamentary democracy. They are, despite everything, just as critical towards the existing lack of democracy as the Euro Sceptics are.

They also demand public deliberation of all laws. They also fight for transparency and citizens' access to EU documents. And they also call for a referendum on the next Treaty or Constitution.

### **78. Common democratic ground**

There is much more common ground between European Federalists and Euro Sceptics than many people think.

When leading Euro Federalists saw working documents from SOS Democracy they supported 85 % of the Euro Sceptical claims.

This is not a cover for the more important differences between those wanting a European state and the Euro Sceptics who want to avoid exactly that.

Euro Sceptics and Federalists are political enemies, but they also have a strong, common enemy in the existing lack of democracy. They can both be defeated unless they unite their forces in areas on which they might agree.

Perhaps a possible compromise between the two directions could be that the Euro Realists accept a certain role for the European Parliament in cross border issues and the Federalists accept that European laws need to come through at least one reading in all National Parliaments?

The compromise could last as long as the turnouts for national elections are higher than the turnout for European elections.

### **79. Which law should prevail?**

What should then happen if a National Parliament votes against a European law in an

area where the EU law can be carried by qualified majority vote?

In the answer to that question we will see if EU is a state or an international co-operation.

If the EU is a Federation, it is clear that the Federal law would prevail and the National Parliament would have to abide by it.

But even then the majority in the National Parliament could submit in a Declaration of Vote that they accept the law because they feel bound to do so but will still ask their Minister to work for another text.

They could simply state that they accept being voted down in that case because they have the right to vote down in other issues.

### **80. All laws should have visible masters**

It is not fair if laws are made behind closed doors and no one takes visible responsibility for the result.

In some situations you could even be brought to believe that a law was rejected according to the comments in the press room where most Ministers attack what they had just passed!

We need to know who is behind our laws and how we amend the laws at the next polling day.

That is the basic demand of democracy. It should unite both Federalists and Euro Sceptics/Realists.

Then the Federalists can work for the day where a European People produce a higher turnout for European elections than for national elections.

They can argue that most nation states went through a similar development when small states and local communities united into nation states.

When national democracies were born, the turnouts were also very low.

Euro Realists can argue that that day will probably never come since there is no common language like in the US or a necessary "we"-feeling among Europeans.

This battle is a fruitful democratic battle, which can go on.

In the Convention the Federalists and the Euro Sceptics/Realists have to unite in the attack on the existing lack of transparency, decentralisation and democracy.

### **81. A possibility for vetoes in vital questions**

The former close collaborator of Jean Monnet, Georges Berthoin, has proposed that Member States get a right of veto in vital questions inscribed in the Treaties.

Mr. Berthoin is not a leading Euro Sceptic. He is a leading Civil Servant having earned all his credentials serving the greatest Federalists leaders of the European Communities. He proposes that the nation state using the veto should be prepared to defend it at the European Council. It could be a way of burying the late, so-called Luxembourg compromise.

### **82. The Luxembourg compromise**

In 1965 the late French President Charles de Gaulle let his Ministers boycott all meetings in the Council until a compromise was reached - the so-called Luxembourg compromise.

It allows every Member State to block any law for vital reasons. Every nation decides on its own what is a vital question. The Luxembourg compromise paralysed the decision making process for 20 years but has not been used since the mid-80s.

It is an open question whether it exists or is dead. Anyway, it is no longer used. Since a lot of decisions still demand unanimity a nation has always got the possibility to veto something wanted by the others to have a special concession.

It is better to regulate the possibility for national vetoes where the union has a possibility to take decisions with qualified majority vote.

Why not take Berthoin's proposal and ask Member States using the veto to defend it at the next meeting in the European Council.

And why not add that a veto has to be decided in public by the National Parliament.

### **83. Will move the veto**

It will move the threats of vetoes from the Minister with responsibility for a certain area to the Prime Minister and the majority in the National Parliament.

A Prime Minister would never want to have a big basket of vetoes to defend for his colleagues. It would make law making more flexible since Member States could be willing to accept more qualified majority votes if they had a guarantee that they could always use Berthoin's alarm.

It could also have avoided many difficult situations in the past, producing "No" votes in Danish referendums and destroyed the honest reputation of many Danish politicians dealing with European affairs over the years.

### **84. The environmental clause**

In Denmark there has been a big battle over the years over the so-called environmental clause in Article 100a part 4, now Article 95.

The Danes were told that this Article would protect the higher Danish standards for food safety and the environment when the EU started making Internal Market decisions by qualified majority in 1987.

To safeguard a "Yes" in the Referendum on the Single European Act, the Danes were also assured that the Luxembourg compromise would continue to guarantee Denmark the right to bloc any unwanted decision.

The two guarantees were heavily advertised and they were the reason for the small "Yes"-majority in the referendum in 1986.

Without those two guarantees there would not have been a "Yes" vote and the plans for the internal market would have been blocked.

### **85. Guarantees disappeared**

Both guarantees have now disappeared.

The Luxembourg compromise has not been used since that Referendum. The environmental clause was radically changed by the Court on 17 May 1994 when it ruled against the Danish interpretation.

In the Amsterdam Treaty the clause was formally amended to include some of the Danish hesitations.

Again, it was a convenient, short sighted, half-truth to convince the Danes to vote "Yes". Later, people were upset when the European Commission outlawed a unanimous decision from the Danish Parliament about food safety.

The politicians who had made the famous guarantees lost some credibility.

Few Danes will believe a Danish politician talking about the EU, even if he speaks the truth. The people are used to half-truths. This might be the major reason for the Danish "No" to the Maastricht Treaty in 1992 and to the Euro in 2000.

The politicians felt they had no alternative but to tell only one side of the story. The politicians calculated - rightly - that they would have lost the Referendum in 1986 if they had told the truth.

A change to more qualified majority voting is not possible to sell as a decision-making method in Denmark - unless it is combined with certain guarantees. It is a fact of life. But it is not only wrong in principle but also very short sighted to hide things ahead of referendums. People remember. Sometimes they punish the politicians responsible. Sometimes they punish others. Sometimes they react with apathy.

It is wrong anyway, and there are only two acceptable possibilities. We accept that the necessary guarantees are kept or we accept that the Treaties cannot be amended since that demands unanimity.

Why not try the first option. Make an honest alarm for a few vital issues and shape a real environmental clause allowing Member States to increase the level of food safety and environmental protection.

### **86. Flexibility and enlargement**

When Sweden voted on membership they were told a lot of half-truths as well. Gradually, promises proved to be empty, and the Swedes reacted by turning their backs on the EU. For several years after the Referendum there was a majority of Swedes in favour of leaving the Union. They were simply disappointed because politicians they normally believed in had to hide and deny to sell membership.

In Finland the politicians did not use the same doubtful arguments as in Sweden. The major argument in Finland was geopolitical: It was to drive Finland away from the old Soviet Union into a safe haven in the European Union.

The Finnish government did not sell an almost empty environmental clause to the Finns. Finland accepted the rules of the game and presented the rules of the game to the Finns. They then succeeded in placing Finland at the centre of the European debate.

### **87. Nothing but the truth**

The difference between Denmark/Sweden and Finland is striking. Those who hide today, limit their own room for manoeuvre tomorrow.

Politicians in the applicant countries should learn from the Nordic experiences in telling truth and half-truths.

They should stick to the truth ahead of their referendums and explain both the good and the not so good sides of the EU.

In particular, they should never defend the current lack of democracy in the EU.

Unless they tell the truth, they risk "No"-majorities in their referendums. The truth cannot be hidden from the electorates anyway. There are strong Euro Realist and Euro Sceptical movements in Europe who will tell people in the Applicant countries the negative arguments as well.

### **88. Admit the shortcomings**

From that perspective it is fairer to do what Verhofstadt did - admit that the Euro Sceptics are right in their analysis but wrong in their solutions.

Then people in the Applicant countries could discuss what should be their country's position towards the European future.

By admitting the shortcomings they can strengthen their position. By denying the shortcomings they will weaken their own position for negotiations, possibly lose the

referendums and destroy their credibility as Danish politicians have done for three decades.

We, in the current Member States could also help the politicians in the Applicant countries to avoid the temptation to deceive simply by offering those countries better conditions than we do now.

### **89. No real negotiations**

It is a major misunderstanding that there are negotiations about membership.

There is not one simple law from an applicant country which would have the slightest chance to prevail against community law.

The so-called negotiations are solely about the timetable for the introduction of community law in the applicant country.

The screening reports explain how far the applicant countries are from having accepted the *acquis* and how prepared they are to administer it.

Those reports are kept secret, even from the European Parliament that has to give a final "Yes" before enlargement.

### **90. Secrecy helps the "No" side**

Secrecy is another way of helping the "No" side to win in the forthcoming referendums on membership. The content of the reports will certainly be leaked at an inconvenient time.

Maybe the reports contain dangerous news seen from the "Yes" side. It cannot be hidden forever.

There is only one fair way of preparing referendums: Tell the truth. Give the public all information.

If the screening reports show problems, it is far better to discuss those problems publicly and find solutions.

### **91. Agricultural land and secondary housing**

Why can we not be much more flexible in offering solutions to sensitive problems such as the right to sell agricultural land and space for secondary housing?

There are no demonstrations in our cities calling for the right to buy cheap land in the applicant countries. It is not a real demand for us, in the current EU countries. It is only a matter of blindly following dogma: The *acquis* and nothing but the *acquis*.

Why not accept long transition periods of up to 20 years? We have already waited for 12 years since the Wall came down and the historic chance we were given to unite Europe in a peaceful way.

Why not accept conditioned transition al periods where, for example, the sale of land is only completely freed from the year when an applicant country reaches the average income in the EU?

### **92. They could decide themselves**

Applicant countries could then decide on their own when time is ripe to move to the next steps in their liberalisation processes without being forced to do so by Civil Servants in the enlargement "negotiations".

Then such questions could be part of the normal political conflicts in society and be solved when there is a majority for the EU *acquis* in the National Parliament.

Why not give existing laws in the Applicant countries at least a chance to prevail over

community law?

Is it completely unthinkable that at least one of the applicant countries has at least one law, which is better than ours?

Why not discuss it publicly in the EU as well, instead of forcing all applicant countries to take every piece of legislation from us instead of pieces of legislation from their own free Parliaments?

### **93. We plan for difficulties**

All institutions are now planning to incorporate 10 new countries from 2004.

The way we negotiate and the way we have not prepared our own negotiation mandates in the difficult areas of Agriculture, Structural spending and the Budget may produce major crises instead of a smooth enlargement.

The way we have already forced Applicant countries to accept inflexible conditions may give problems in the referendums when politicians have to explain to the Czechs that no Germans will use the right to buy secondary housing and agricultural land in the old Sudetenland.

We can already expect long series of half-truths from the governments in the applicant countries when they will explain that doubling of certain prices doesn't matter; when they will promise that social pensions will increase as well; and European funding will solve all problems.

### **94. The EU is not Paradise**

The EU should not be presented as a paradise but as the battlefield it is with all its fraud, secrecy and other shortcomings.

That is the first condition for confidence between the electorates and the elected. We should not assist in overselling the product. If a product cannot be sold it should be withdrawn from the market or improved - never oversold.

That is the necessary condition for democratic governance in all countries.

### **95. More flexible conditions**

The Convention could assist by proposing more flexible conditions for all newcomers - also opening possibilities for Romania, Bulgaria, Turkey (when the human rights problems are solved), and the countries from the Ukraine to the Balkans to prepare for early membership in a much freer and more flexible European co-operation.

### **96. Go through the existing legislation**

The Commissioner for Enlargement, Günter Verheugen, has informed MEPs that there are over 20,000 EU rules.

He and other EU institutions representatives have refused to give the exact numbers of rules so we do not know how big the *acquis communautaire* actually is or has been at given times.

The EU demands from farmers that they count every sheep and lamb, hen and egg, cow and calf and sort the tomatoes in five different sizes before they get their subsidy for destruction.

Neither the Commission nor the Council is able to produce a simple statistic about their complete legal production and they have refused access to the European Parliament to see a full copy of what has been sent for acceptance to the Applicant countries.

The Convention should demand full statistics so we can assess how the *acquis* has

developed over time and over different areas. In my office we have made our own private counts over the years but we have never been able to get our figures verified.

### **97. Consolidation of laws**

The EU has a very complicated way of initiating and passing laws. Both Federalists, Euro Sceptics and other normal human beings have a common interest in making lawmaking straightforward and simple to read.

Today laws are amended by adding a new law with its own number.

To read a regulation on fishery you might need to find over 70 different Articles in several Official Journals.

Even specialised lawyers have difficulties in compiling the existing *acquis* for their clients.

From now on, we should demand that no law can be amended unless the Commission proposes a consolidated version of the full *acquis* for the given area.

We should also introduce sunset clauses to all existing laws so that they are repealed, unless they are confirmed and consolidated. All existing laws should be re-numbered as well.

Instead of having over 20,000 laws and amendments we might then get down to much fewer, "easier to catch" laws, just as every Member State has Consolidated Law books for the different areas such as Housing, banking etc.

Professional law and lobbying companies in Brussels can make a good business from the lack of transparency in law making, but laws are not made for that purpose. They are produced to service the peoples.

All laws could be compiled on CD-roms and be circulated free of charge through libraries giving all interested citizens cheap and easy access to the existing *acquis*.

It is difficult enough to read law books. Why make it more difficult than necessary?

### **98. Should the existing *acquis* be reduced?**

In one sentence, the Laeken Declaration defends the existing 20,000 laws and law amendments. In others, it asks whether they can be reduced.

SOS Democracy has proposed a general review of the full existing *acquis* with the intention of reducing it to the necessary minimum.

The first exercise should have the purpose of returning all rules that have no cross border effect to the Member States,

If it is possible for a decision to be taken by National Parliament, then that decision must be taken by that Parliament. This is simply democracy.

### **99. Children's work**

Politically, some people may think it is a good idea to have common rules for distribution of newspapers in the morning by children.

The relevant question is not whether it is a good idea or not. The relevant question is, "Can this question only can be answered from Brussels?"

If the answer is that children's work is destroying the common market there might be a cross border issue to solve at the level of Brussels.

If it is mainly a matter for the local markets, without seriously disturbing effects in EU trade, why then solve the problem at the level of Brussels?

Why not limit the effects of all rules to cross border problems and leave it to National Parliaments - and parents - to decide whether the children should be allowed to

distribute newspapers in the morning or not?

### **100. Education**

The exercise will need to be a very time consuming case-by-case analysis because you cannot just return every directive, for example, in the area of Education.

Is it not a good idea to have common rules for the mutual recognition of exams so that young people can mix their education from different high schools, technical schools and universities?

Is it not a good idea to keep the common programmes for student exchange?

Education is a state competence in Federal states and not the competence of the Federation. This is the case in Germany. But still, there are a few cross border issues from which all countries can profit from co-operating.

Here, we have an area where no regulations or EU laws should be allowed. Here it will be enough with co-ordination through non-directly-binding directives/frames and recommendations.

### **101. Can we find a lower level?**

When we have been through the cross border analysis, the remaining part of the acquis should be tested with the question: "Can we find a lower level of decision-making than regulations?"

Can we use minimum-directives instead of total harmonisation?

Can we leave it to mutual recognition of standards instead of having completely the same standards?

Can we change compulsory rules to non compulsory rules, which are only put into force through private contracts?

### **102. Regulation of strawberries**

Let us take an example from the numerous detailed regulations for the sale of fruit.

According to an EU Regulation a strawberry has to be more than 23 mm in diameter to be sold.

Smaller strawberries are illegal unless they are sold for jam. It is illegal to sell strawberries of smaller size anywhere in the EU.

In the Northern part of the Nordic countries the climate has arranged it so that strawberries are not the same size as in the countries in the centre of the EU.

It is not a very big problem for the international trade in strawberries. Lapland doesn't destroy the Belgian market for strawberries.

Why not change the regulation into a non-compulsory standard so that a grocer in Athens can offer his strawberries following the rules in the common fruit rules to a grocer who wants to buy the strawberries according to the common rules?

If strawberries are sold at the local markets we could simply forget the common rules and leave it to God, the producer and consumer to decide size and weights.

### **103. Not forbidden to sell cucumbers**

The British Press in particular has laughed at the detailed EU rules for the curvature of cucumbers.

Here the regulation is right since it is not forbidden to sell curved cucumbers. It is only illegal to sell a class III cucumbers presented as class II cucumbers.

No one should mislead his or her customers. But honestly, is it a case for Brussels if the

wrong sale takes place in a local market in London?

Why not decide that the detailed rules for fruit only apply in cross border trade?

By the end of the day the result of such detailed analysis in all directives and regulations, will be more freedom and less bureaucracy.

#### **104. Transparency more important in Brussels**

Transparency is more important in Brussels than in the nation states.

In the nation state there is a healthy competition between different media to discover secrets. There are many more Danish journalists working in the Danish Parliament than in Brussels.

Scotland which is the same size as Denmark does not have a single permanent correspondent in Brussels.

There are only 800 correspondents in Brussels and they are busy covering day-to-day affairs in the Council of Ministers.

The main sources for their stories are the Spokespersons of the Commission who have to keep secret information that it is not in the interest of the Commission to reveal.

The competing sources are the specialised Civil Servants in the Permanent Representations whose function it is to spin to the Press the version the Ministers prefer to see in the newspapers.

#### **105. No time for investigative journalism**

There is very little time for investigative journalism in Brussels and there is a very limited co-operation between the different media.

The so-called independent news agencies are mainly subsidised from the EU budget. The EU information departments buy articles for their different magazines from the correspondents in Brussels making them economically dependent.

To bring critical and independent journalists to Brussels and make them compete in disclosing fraud, waste and mismanagement is imperative if the common institutions are to survive the current crises where very few have confidence in EU.

Every institution needs healthy criticism to develop and improve its skills and services. It is not only in the interest of the public but also particularly in the interests of the institutions to make radical changes in the information policy.

#### **106. The main rule should be openness**

In the Commission and the Council the main rule is still secrecy, unless a competent body has decided to disclose a document.

As proposed by the European Parliament, this rule should change so that all information and documentation is deemed public unless a competent body has decided to keep a document closed for concrete legal reasons.

There has been a lot of practical progress in the last decade on openness. Many services have good web sites delivering a lot of information to the public. But it is always the information they, themselves, want to be public which is published.

Transparency rules should also safeguard the public interest in having access to the documents that the services are less keen on publishing on their own.

#### **107. Propose new rules for control**

Here the Convention should review the existing rules and propose changes.

Firstly, the specialised organs of the Union should have full access to in order properly to

fulfil their controlling functions.

Today the European Ombudsman, the Court of Auditors and the European Parliament's Budgetary Control Committee do not have access to all necessary documents from the Commission.

It is still the Commission that decides what it will hand out for control.

### **108. Necessary secret preparations**

There are internal deliberations in every organisation that need to be protected by a certain level of confidentiality.

If a Commission Department prepares a new law it should be allowed to have all possible ideas on the table without being forced to deliver different suggestions to the public.

But when the Commission has handed out the draft or made a decision, there should be general access to the document.

Today a lot of documents are released, partly through friendly journalists, to safeguard positive coverage of a new draft initiative.

It is not in the general interest only to cover from only one point of view. The general interest is to leave it to a pluralistic press to describe both the good and the bad sides of a draft.

### **109. Publish the full documents**

Public debate deserves access to the full document if a part of it is disclosed. Therefore, it should be a general rule that the public has access to a document if it is partly published one way or the other.

Such a rule would still protect the internal deliberations since drafts could be kept secret as long as they are kept in-house.

If the Commission delivers an internal draft to the European Farmers Organisation, COPA, it should also be obliged to deliver the draft to the green organisations and vice versa.

If a Commissioner delivers a secret document to a political friend in the European Parliament, he should also be obliged to deliver the document to other MEPs.

The equality principle should also be applied to information policy.

When the European Commission delivers a document to a working group in the Council they should also be obliged to deliver the document to the European Parliament and the National Parliaments.

### **110. Members of Parliament don't know**

Today the major part of the legislative progress under so-called Common Decision-making is controlled by the Commission and the Council.

The European Parliament, the National Parliaments and the public are kept in the dark. Most lobbyists have access to the internal documents.

Elected Members have not, unless they work as lobbyists or journalists.

They very seldom get the relevant information in their capacity as elected Members of Parliament.

When a draft is discussed in a committee, an unacceptable discrimination goes on between 1st and 2nd Class members in the room.

The young Civil Servants from the permanent representations have the relevant documents at their desks or on their laps.

The Civil Servants from the Commission and the Council secretariat have the relevant

documents as well.

### **111. Honourable uninformed**

But all the so-called honourable Members of Parliament do not have the actual updated versions on their table.

Instead, they have original Commission drafts that have been changed several times in the working groups of the Council.

There might be a few MEPs who are updated by their friends in the Commission or national governments - or the lobbyists.

There might be a Rapporteur who gets the documents in a corridor from a friendly Civil Servant.

But even the Rapporteur has no legal right to have the actual documents from the preparatory phase of lawmaking.

It is very normal that Members of Parliament are presented with documents from lobbyists or are without the documents lying on the table behind them.

It is rather humiliating and it is making fun of democracy.

### **112. Secret lists of committees**

The Commission even denies the Parliament access to complete lists of the 1500 working groups and their participants.

They are able to pay travel allowances for, perhaps, 50,000 Civil Servants and experts travelling to Brussels every year. Still they say they have no collected information about those to whom they pay the travel allowances and daily allowances.

The Budgetary Control Committee cannot even control it. Today.

Some documents from the officially established working groups are available to the European Parliament - but not all of them.

### **113. New promises on openness**

When Commission president Jacques Santer was forced to resign in March 1999 because the wise men had found no one single person taking responsibility in the Commission, the new designated Commission was very eager to have good contacts with the European Parliament.

For the first time in 45 years, they promised to publish their agendas and minutes of Commission meetings as a new sign of openness.

Commission President, Romano Prodi, repeated the promise in the Parliament Chamber. Immediately afterwards the Commission services invented a new type of agenda with only some of the discussion points and a new type of 2-3 page instead of the original 25 page minutes. When the new minutes were shown to President Prodi, he was shocked to find he could not get his instructions executed and he promised to correct it.

At the time of writing, the European Parliament has still not got the real minutes officially, but finally they should be on their way.

Soon every citizen will be able to see what the Commission will discuss at its next meeting and what it decided in previous meetings.

### **114. Convention should discuss reform**

Experienced Members can often find relevant information one way or the other, but seldom officially. Perhaps they get it in a meeting or in a corridor with the message: "I did not give you this document".

Even the highest ranking officials are not able to deliver documents, officially, to the elected Members of Parliament.

The European Parliament is presented as the democratic legitimacy of the EU and it cannot even get the most simple information from the Commission even if the same information can easily be delivered to a four- month intern at the permanent representations or the Commission.

It really shows the lack of transparency and democracy in the EU today.

The good news is that part of the Laeken Declaration states that the rules can be reviewed.

"With a view to greater transparency, should the meetings of the Council, at least in its legislative capacity, be public?" the Prime Ministers finally ask.

### **115. Should the Commission be a Government?**

The Laeken Declaration also raises the question about who should control the European Commission.

Should it be the European Council as or present, or should the President of the Commission be elected in direct elections? Or should it be left to the European Parliament?

In other words, the Convention should consider whether we want a directly elected president as in the US, a parliamentary democracy at European level as we have in the Member States at national level, or whether we should continue with today's mixture.

According to the Amsterdam Treaty, the President of the Commission is elected by unanimity among the 15 Prime Ministers in the European Council. The Nice Treaty changes unanimity to a qualified majority vote.

When he or she is appointed the President should then be presented to the EU who will vote "yes" or "no" to the proposed President. Later, the European Parliament will hold an election for the whole Commission, which can be appointed by qualified majority vote, if the Nice Treaty is ratified.

### **116. The little nuclear bomb**

The European Parliament cannot sack a particular Commissioner. It can express its lack of confidence by 2/3 majority and at least 314 votes against the Commission as a whole. This Article has never been used. The Santer Commission survived vote of no confidence but was forced to resign on its own.

Santer had explained that he would leave office if there was a simple majority of votes against him.

It was seen at the time as a step towards European parliamentary democracy.

### **117. The lex Prodi**

Prodi has forced his Commissioners to promise that they will resign if he asks them to. With the Nice Treaty he gets that right formally, with the only modification being that a resignation should be approved by the college, which means 11 of the 20 votes in the Commission.

The European Parliament wants the possibility to sack the particular Commissioner if he is opposed to the will of Parliament.

To sack the whole Commission is a difficult task. Should the Commission resign if it doesn't have the support of the majority in the European Parliament?

The European Parliament wants the political families to put forward candidates for the

President of the Commission in the European elections and have elections in European constituencies.

As a first step, 10 % of the seats in the Parliament could be reserved to union-wide parties and candidates.

### **118. Leaders from the political families**

The socialist PSE party could then propose their Chair Enrique Barón for the post of President of the Commission and try to get more votes than the President of the Christian Democrats, Hans-Gert Pötering.

The new Green Chair, the leader of the French student revolt in 1968, Danny Cohn-Bendit, has already offered himself to be the Green candidate for the post as next President of the Commission.

The political parties could also put forward well-known national politicians.

The liberals might propose the Belgian Prime Minister, Guy Verhofstadt.

The Socialists could come forward with the Dutch Prime Minister, Wim Kok or, at a later date Tony Blair.

The Christian Democrats could propose the Spanish Prime Minister, Jose Maria Aznar, who is now the leader of the Christian Democrat and Conservative World Movement.

The former French President Valéry Giscard d'Estaing has proposed direct elections of the President of the Commission to give the EU a European "Bill Clinton" or "George W. Bush".

Which procedure would you prefer?

### **119. Elected from the National Parliaments**

The Euro Realists in SOS Democracy have put forward a completely different proposal. They want the Commissioners to be appointed by, and meet regularly in the European Committee in, their National Parliament, to change the character of the Commission. Instead of being a European Government it will be a Secretariat for the National Parliaments.

Every nation would then have one seat, also after enlargement where the Treaty of Nice foresees a rotation between Member States from the date there are 27 members in the EU.

Another proposal is to make the Commission a Secretariat of the Council and eventually merge the two Secretariats.

### **120. Spokesman for the European Union**

The Laeken Declaration mentions synergy between the different foreign policy functions in the EU and raises the question of a more genuine common foreign policy.

The spokesman of the Union, the former Spanish Foreign Minister, Javier Solana, threatened to leave his job when he first saw the draft of the Laeken Declaration.

He seemed satisfied and signed the final text and presented it in the Belgian-paid whole-page ad in 32 European newspapers.

His name and the name of Commission President Prodi were co-signatories with the 15 Prime Ministers as though they were heads of a European state, themselves.

They are not, or they are not yet.

Many Federalists and the vast majority in the European Parliament want to get rid of the existing confusion where EU's foreign policy is presented abroad by the rotating function, President of the Council and his Foreign Minister, the President of the

Commission, the Foreign Policy Commissioner, Chris Patten and the special so-called High representative of the Common Foreign and Security Policy (CFSP), Javier Solana.

### **121. One foreign minister for the Union**

Solana combines his CFSP post with that of being Secretary General of the Council, a job which is in reality run by his Deputy Secretary General.

Finally, Solana is Secretary General for the WEU bringing Defence to the Union.

The Federalists want the Commission to be a genuine government and they therefore want to merge the jobs of Solana and Patten to that of Foreign Minister of the Union.

There should be one - and only one - to co-operate and negotiate with other foreign Ministers from Japan, Russia and Colin Powell from the US.

### **122. Veto in vital cases**

Today the Foreign Policy can be decided by qualified majority vote but every country has a possibility to veto a decision.

It has nothing to do with the Luxembourg compromise, but is a Treaty Article allowing a veto when vital interests are at stake.

Then a qualified majority vote in the Council can raise the issue at the next European summit where the Prime Minister should then be ready to defend his veto.

It puts a strong pressure on the countries to unite on common positions.

During the war against the Taliban regime in Afghanistan, the real co-ordination was between the US, the UK, Germany and France.

The biggest EU countries were criticised for building a directorate where a few countries would run foreign affairs for the others.

Do you want a genuine European foreign policy to compete with the US, Russia and other great powers of the world?

Do you prefer the nation states to represent their foreign policy with different voices in the UN and then a looser co-operation between the EU countries based on unanimity, as most Euro Sceptics prefer?

### **123. From Petersburg tasks to defence**

At the summit in Laeken, the Prime Ministers declared their Rapid Reaction Force to be almost operational.

60,000 soldiers should be able to work 6000 km from EU in the Middle East, Africa and the border regions to Russia.

The UN Secretary General has welcomed the force as being able to carry out peace keeping actions for the UN.

The first European Defence Forces are not limited to fighting only on a UN mandate.

They can operate after a decision made in the EU alone for all the tasks described as Petersburg-tasks after the meeting place where the decision was taken

It includes peace shaping.

The Belgian Prime Minister Verhofstadt was keen to expand the Petersburg tasks to other Defence issues, and he succeeded in having it mentioned as a point to be discussed and deliberated upon in the Convention.

### **124. Independent of NATO?**

Verhofstadt's wish is close to the French wish to have a genuine European Defence, which can operate independently of NATO.

The British have accepted forming a European pillar within NATO but have not yet accepted that it should be able to operate even if it is in disagreement with the US. Turkey has been invited to take part in the Convention to get Turkish acceptance that NATO assets can be used by the EU.

If Turkey accepts the loan of NATO assets to the EU there will soon be a possibility to enlarge the Petersberg-tasks as proposed by Belgium.

However, there is an important limitation in the existing Treaty that will not be changed by the Nice Treaty. Military actions demand unanimity. No country can be forced to send their troops to EU-decided wars.

In January 2002 the Financial Times revealed rumours about a British proposal to establish a special leadership through Germany, France and the UK with rotating representation for the smaller states.

The rumours about the "directorate" were denied but are still being heard in the corridors.

The UK and France possess nuclear weapons and a veto right in the Security Council of the United Nations. They are not prepared to share their great power status on an equal footing with the smaller states in the EU.

### **125. Should the Treaties be divided in two parts?**

Today, the EU's juridical foundation consists of four different Treaties. Added to the Treaties are a large amount of protocols and declarations. The protocols are legally binding in the same way as the Treaties. Contrary to this, the declarations are not legally binding.

It is difficult to find head or tail in the paragraphs and to understand the content, which is often in incomprehensible legal texts. The texts do not seem to resemble a constitution although the Court perceives the Treaties to be basis for an EU Constitution.

The European Parliament has suggested writing a relatively accessible constitution on aims, rules of the game and fundamental rights. Besides that, the more specific decisions on particular policy areas should be put in an independent Treaty as an appendix to the Constitution.

The idea behind the division into two different texts is very good for both Federalists and Euro Realists.

Nevertheless, the Euro Realists warn against the idea of the Federalists who want a simple procedure to amend the accompanying Treaty.

This question is now put for official deliberation in the Laeken Declaration.

"Could this lead to a distinction between the amendment and ratification procedures for the basic Treaty and for the other Treaty provisions?" the Prime Ministers ask.

### **126. Easy way to majority votes**

The idea is that the Constitution describes, for example, the rules in qualified majority voting and unanimity. Then the accompanying text states where there should be qualified majority voting and where there should be unanimity.

When the time is ripe, it would then be possible to go from unanimity to qualified majority voting with a simple decision in the Council which would not need to go through difficult ratification processes involving possible referendums.

The Constitution could be established now, and it could endure because it would not need to be altered to take important decisions in European integration.

The European Institute in Florence has already carried out an exercise in dividing the

existing Treaties in two volumes for that purpose, but they have not made a reader friendly edition.

### **127. Charter on two levels**

The Convention on the fundamental rights in the so-called Charter passed formally in Nice on the 8 December 2000 as a political declaration. The declaration has two levels. On the first level, the rights and duties of the citizens are explained by the use of ordinary words.

In an accompanying text, lawyers can see the more precise interpretations. This is a very good way of doing it.

A first draft Euro Realist European Treaty which can be found at the Bonde.com Website is written according to this model.

An article mentions that the European institutions are bound by the European Human Rights.

In the accompanying text you can then see a reference to the Human Rights Convention from 1951 as amended and used by the Human Rights Commission and the Court in Strasbourg.

On the first level, it is enough to state the human rights. For experts, you also need to write whether the verdicts from the Court in Strasbourg are included or not.

The same model can be used for the Draft European Constitution. The result would be that ordinary citizens would have a chance to read what European co-operation is about. And legal experts would have their edition as well.

### **128. Should the Charter be legally binding?**

Today, the Charter is not legally binding but it is already clear that it will be part of the next Treaty or Constitution. The opponents among the 15 governments have given up and accepted the idea.

Even the Danish government has officially said it is prepared to accept the Charter as a part of the next Treaty. There are more ways of doing it.

The next Treaty can simply repeat the articles from the Charter in the first part in what would then be seen as a Constitution.

The other possibility is to refer to the Charter in the Treaty and state that the articles with the accompanying interpretation are a part of the *acquis*. It could be underlined by giving the Charter official status as a protocol.

The third possibility is to leave it to the Court to decide what part of the Charter should be legally binding.

The Court has already used the Charter for interpretation several times. Already in the Charter Convention they signalled that they were prepared to use the Charter even if it was not legally binding.

### **129. Limitation or Constitution**

It is fair enough that the Court uses the Charter as limitations for what the European institutions can do.

The Charter has been passed unanimously by all governments with the formal support of the Commission and the European Parliament.

And there is something missing today, as all Member States are bound by the Human Rights Convention, but the European institutions can breach them freely. Their breaches cannot be controlled by the Court of Human Rights in Strasbourg.

Now, the institutions have decided they want to be bound in the same way. It is a signal to the EU Court in Luxembourg.

### **130. Accession to the Human Rights Convention**

It would be a better solution if the European institutions simply applied for membership of the Human Rights Convention obliging all European institutions - and the EU Court - to accept the common interpretations of the human rights as they are - and will be developed - by the Strasbourg Court.

This possible solution was included in the Laeken Declaration following a Finnish proposal. It is the best solution since it will avoid having more classes of human rights in Europe.

It could guarantee that the specialist Court for Human Rights makes equal interpretations for all European nations and institutions.

### **131. Possible constitutional conflicts**

If the Charter is seen as a part of the EU Treaty it raises possibilities for conflict.

The EU Court could make an interpretation of freedom of speech that is more limited than freedom of speech according to the Strasbourg court.

Bernard Connolly was a Civil Servant in the Commission who was sacked for having published a critical book warning against the EMU.

If the EU was part of the Human Rights Convention a sacked Civil Servant would gain a possibility to appeal his case in Strasbourg.

If the EU is not a part of the Human Rights Convention it is the monopoly of the Luxembourg Court to decide whether a Civil Servant has a limited freedom of speech, or not.

That example shows that it could be a big mistake to include the Charter in the Treaty without clear interpretations.

The argument for inclusion is the strengthening of human rights but the result could easily be the opposite by reducing, for instance, the rights for Civil Servants under national law and the Human Rights Convention.

If the Charter is included, it should be explicitly stated that no rights from national constitutions or the Human Rights Convention could be limited by the Court in Luxembourg.

Even such a statement would leave the final conclusion to the Court in Luxembourg with it being able to overrule both national high courts and the Court of Human Rights in Strasbourg.

Some possible conflicts in interpretation of human rights can be rather sensitive and explosive.

### **132. Irish rules on abortion**

In Ireland, rules on abortion have been implemented by referendum. Ireland gained a special protocol in the Maastricht Treaty to allow it to have its own rules on abortion.

It could be a major conflict if the Court in Luxembourg outlawed Irish laws on abortion with reference to the Charter of Human Rights.

### **133. A State Church**

In Denmark the National Constitution grants certain privileges to the Protestant Church as a State Church. It can be seen as discrimination and could be outlawed by the Court

in Luxembourg.

It may be fair enough to change the rules of the Danish State Church and adapt to modern times with religious pluralism, but it would raise a lot of tensions if that change were adapted overnight from a decision of unknown judges in Luxembourg.

The State Church is a part of the popular Constitution, Grundloven. The Constitution is seen as the basic document which can only be altered by referendum. It is not an easy task to convince the Danes that they should abolish their own Constitution for the benefit of a common EU Constitution with common fundamental rights, overruling corresponding rights from the national Constitution.

### **134. Three pillars**

Today, four basic Treaties and many different protocols make up the constitution of the EU. The Treaty of Rome has been amended many times. The last edition is called the Amsterdam Treaty. The Nice Treaty might never come into being.

The principal Treaty, the original Treaty of Rome, now has three Pillars. The First Pillar is the amended Treaty of Rome covering the single market. In that Treaty the EU operates as the European Community. The abbreviation is EC.

In the First Pillar every decision can be made as a supranational decision. The European Commission has a monopoly to initiate laws. The EC Court in Luxembourg has the last word in any dispute with the Member States.

The Second Pillar covers intergovernmental co-operation for Foreign Policy, Security and Defence. Here, the Commission has no monopoly to initiate laws, and the Court in Luxembourg has no right to overrule decisions made in the Member States.

The Third Pillar covers intergovernmental co-operation in legal affairs and policing co-operation. Here, the Court in Luxembourg can only overrule Member States that have declared their willingness to accept verdicts from the Court in this field.

Parts of the original Third Pillar issues have been moved to the first supranational pillar and there are plans and articles that foresee the movement of more competence from the intergovernmental to the supranational pillar.

The Federalists propose getting rid of the complicated division of powers between the three pillars by having only one supranational pillar. Then, the EC Court will become an EU Court and have the last word in any dispute, unless the concrete article explicitly defines a limitation.

The Euro Realists propose to minimise the area for supranational decision-making to cross-border issues in the European Community around the common market.

In their vision of wider European Co-operation there is no supranational decision-making at all, since laws only become valid legal instruments after adoption in the National Parliaments.

Both the Federalists and the Eurorealist approaches are more simple than the existing complicated division in pillars.

### **135. Flexible co-operation**

Today, there are many different types of international agreements between the EU and other European nations.

The European Agreements have been agreed upon by all applicant countries applying for membership in the EU. The purpose is to bring all EU legislation to the neighbouring countries with no exceptions at all. Only temporary, intermediate derogations, will be allowed.

Some countries can, for example, continue with restrictions on foreigners buying land for 5 or 7 years. Lasting derogations are not allowed when the European agreements are turned into membership.

The European Economic Area (EEA) is a closer co-operation between the EU and Norway, Iceland and Liechtenstein but in a limited number of areas. The EU decides the economic legislation for the whole EEA common internal market.

Norway, Iceland and Liechtenstein have been turned into a kind of rich colonies for the EU. Now, Norway and Iceland are also part of the so-called Schengen Agreement making these countries interior to the EU's external frontiers.

Consequently, they photocopy a good part of the legal co-operation in the EU as well. Norway has also decided to send 1000 soldiers to the EU Rapid Reaction Force from which Denmark has a derogation therefore only sends police.

### **136. Partnership-agreements**

Instead of forcing neighbouring countries to copy our laws without them having significant influence we could offer all European countries more flexible partnership-agreements as proposed by Dr. Alfred Sant who leads the Labour Party in Malta. Partnership-agreements could cover the areas of mutual interest and allow a common influence when the decisions are made and amended.

A new article could be inserted in the next Treaty according to the following lines:

#### **Article NN**

"The Union can enter into partnership agreements of mutual interest with other nations and groupings of nations.

The Union respects the parliamentary democracy with their partners and allows the partners to influence law making in the areas covered by partnership agreements.

When the Union enters free trade agreements with poorer countries the agreements are followed by a financial protocol offering economic aid to the poorer countries."

### **137. More power to the large states**

In January 2002 the Financial Times carried reports of rumours of a British proposal for a directorate composed of the three strongest Member States: France, Germany and UK. The proposal was denied by Tony Blair's office but the rumours kept it going. In February 2002 the British Foreign Secretary Jack Straw proposed major reforms in the interest of the bigger Member States.

The biggest Member States are not satisfied with their influence in EU decision making. France, Germany and the UK do not just want to be one of 27 countries. They want a larger say in accordance with their larger populations.

During the summit in Nice the larger Member States gained a better representation compared to the smaller countries. The four biggest countries went from 10 to 29 votes each in the Council. They increased their votes by 190 %.

Smaller countries like Denmark, Finland and Ireland only increased their votes by 133 %, going from 3 to 7 votes.

On the other hand, the five biggest countries are ready to surrender their right to second member of the European Commission. The relatively larger states say that the Council can be seen as a compensation for that and that it is the price to be paid for securing enlargement with many smaller Member States.

The new system of voting is impossible to explain to the public and difficult to remember even for experts.

Why not give every Member State one vote each and then ensure that every law also has to represent votes cast from countries with a majority of the citizens?

That was the second option from the discussions during the summit in Amsterdam. With the so-called "double majority" the bigger countries could then have their full population taking into account in their possibility to avoid being overruled.

### **138. Leadership in the Council**

In his speech in the Hague in February 2002, Jack Straw proposed scrapping the 6 month rotating Presidency and forming a strong government in Brussels made up of senior Ministers.

The 16 different councils of today could be replaced by 10 councils each lead by an appointed minister for 2 ½ years.

With no clear rules for rotation it is clear that the bigger countries would then take the major part of the presidencies just as the biggest countries have the major part of all senior posts in the Commission.

Powers will be moved from the Commission and the smaller countries and the EU might in reality be lead by a "directorate" of the 3 strongest Member States, Germany, France and the UK.

Many people fear the Federalists approach with moving more powers from the Nation States to common institutions.

Many people see the major conflicts in the European construction to be between Federalists and Inter-governmentalists.

It might still be difficult to understand that it is also possible to make a construction that is intergovernmental between the major countries and supranational in relation to the smaller countries.

There is a risk that a compromise might take the worse sides of both methods and combine the secrecy of the intergovernmental method by supremacy from the centre over the smaller states.

Maybe the next major conflict will not be between Federalists and Eurorealists but between smaller and bigger nations.

### **139. The rotating presidencies**

The arguments against the rotating Presidency sounds reasonable. Today with 15 Member countries a country waits 7 ½ years to chair the meetings again. With 27 members they will have to wait 13 ½ years.

The rotating Presidency is the most powerful sign showing the public that the EU is still a co-operation between different nation states.

There have also been proposals about forming group leaderships where 4-5 countries share the Presidency for a year.

If the groupings of countries are formed with 3-4 small nations around one bigger country, the reality could also be a directorate of the bigger Nation States.

Only if there are small and big shares on clear rules of rotation would we be able to maintain equality between Nations.

One argument is that the smaller states are not capable of organising a Presidency.

History is different. The EU's smallest country, Luxembourg, with only half a million of

citizens has delivered some of the best Presidencies. Maybe this was because they had no national ambitions to overshadow the task for the common sake.

If resources are failing it is always easy to be aided from the outgoing and incoming presidency. There is no objective need to cancel the democratic principle of rotating Presidencies.

Certainly, it is a political choice. The question might be settled before the Convention starts negotiations about the Council.

The Secretary General of the Council, Javier Solana, has been instructed to put forward proposals for the summits in Barcelona and Seville during the Spanish Presidency in the first half of 2002.

So even before the discussions have started in public a major brick of the future construction of Europe might have been placed in a decision behind closed doors among the heads of states in their June 2002 Summit in Seville.

#### **140. The rules for the Convention**

The vast majority of the members are elected representatives. They do not favour negotiations behind closed doors like those that led to the Nice Treaty.

In their first meetings both the delegation from the European Parliament and the delegation from the National Parliaments protested against ideas from the Convention Chairperson Giscard d'Estaing about having the power based in the closed Praesidium. The people around Giscard had drafted a secret proposal for regulations giving the real powers to the President. Giscard, for example, would be the only person to call for the Convention meetings and set the agenda.

He and the Praesidium would decide the items to be discussed. Members would only have the right to send their proposals to the Praesidium. Only the President could decide what written contributions could be translated.

Members would have no rights on their own to bring forward proposals and have them translated, distributed, discussed and decided on.

Giscard's original idea was to have the real deliberations in the closed Praesidium and then have 3 hour meetings once a month in the Convention.

In the first meeting of the European Parliament delegation this idea was unanimously rejected. The MEPs asked for two two-day meetings every month instead of 3 hours to applaud the ideas from the Praesidium.

The MEPs also called for a clear regulation allowing every member to speak, make proposals and vote.

#### **141. EP representatives: De Vigo and Hänsch**

The European Parliament elected the Spanish Christian Democrat, Inigo Mendez de Vigo, President of Parliament delegation with the former President of the European Parliament, Klaus Hänsch from the SPD in Germany as First Vice-President.

De Vigo and Hänsch represent the European Parliament in the Praesidium. In the internal deliberations in the EU they have the Liberal Constitutional expert, Andrew Duff, as 2nd Vice-President.

Duff was the choice of the smaller groups who felt they risked being marginalised by the two biggest groups, the PPE and PES, who often share the responsibilities between them.

#### **142. National Parliaments representatives: Bruton and Stuart**

On 22 February 2002, the Spanish Presidency had invited the members from the

National Parliaments to meet in the European Parliament to elect their two members of the Praesidium.

Again, EPP members and PSE members shared the two posts.

The Christian Democratic EPP family chose the former Irish Prime Minister, John Bruton, Fine Gael. The Social Democratic PES family chose Gisela Stuart from British Labour.

Members outside the two major families had no chance to be represented in the Praesidium.

Most members speaking protested that the Spanish Presidency had called for the meeting without inviting the members from the Applicant countries. The Laeken Declaration gave them full rights except for the possibility to block a possible consensus between the representatives from the 15 Member countries.

Now, they were not even asked if they had proposals for the Praesidium. Among the 12 members of the Praesidium there is not one single member from the 12 applicant countries and Turkey. This is despite the fact that practically all members of the Convention support the enlargement of the EU to the applicant countries.

The national MPs agreed unanimously that they should ask for having all the meetings on Mondays and Tuesdays since it is in line with the planning of National Parliaments.

Many parliaments have European Affairs committees meeting on Fridays to discuss with the Ministers about the EU ministerial meetings of the next week.

The national MPs were not prepared to accept the proposal from Giscard and the European Parliament to meet on Thursdays and Fridays.

The national MPs have the majority of members in the Convention and they insisted on putting the question to a vote in Plenary if they do not get their way in the Praesidium. They also insisted on clear rules giving the power to the Convention itself. The Spanish President of the meeting was not satisfied at all with the situation where a secret draft regulation was circulated between a few delegations without having been handed over to himself.

The mood in the two delegations of elected representatives was rather promising. The majority seem to be prepared to fight against hidden agendas and moves behind the scenes when those moves are clearly being taken by Ministers or their appointed Chair and Vice-Chairs, Giscard, Jean-Luc Dehaene and Giulio Amato.

### **143. No Euro Realists represented**

The 3 Governments having the Presidency are represented in the Praesidium by two MEPs and one former Commissioner, the Dane Henning Christophersen who was Member of the Commission from 1985 to 1995.

Christophersen has lived in Brussels ever since and is now a partner in the Swedish lobby company, KREAB. He is the former leader of the Danish Liberal Party, Venstre, and is the only Praesidium Member from the European liberal family.

The Spanish Presidency has asked the elder sister of the Commission Vice-President Loyola de Palacio, Ana Palacio, to represent them in the Praesidium. She is a very active MEP who currently chairs the important Civil Liberties Committee in the European Parliament. She is elected from the PP party of Prime Minister Aznar.

The Greek Presidency (starting in January 2003) is represented by Giorgos Katiforis, Member of the European Parliament for the Greek socialist party, Pasok

The European Commission is represented in the Praesidium by Michel Barnier who is a French Christian Democrat from the EPP family and Antonio Vitorino who is a leading Portuguese Socialist.

In the Praesidium there are now two women and 10 men. The political affiliations are to the 3 biggest of the 7 political families represented in the European Parliament.

Four groups from the European Parliament and the European Regionalists who are part of the Green group but have their own multinational party, The European Freedom Alliance (EFA), are not represented in the Praesidium.

The EPP has come out best with 6 of the 12 places, followed by PES with 5 and 1 liberal. Giscard d`Estaing is a former President of the Liberal Group in the European Parliament but his UDF party now works with the EPP.

All Members are strongly in favour of more European integration. The vast majority, if not all, are supporters of the European Movement.

President Giscard d`Estaing headed the international European Movement from 1989 to 1997.

Not one of the 12 members would have voted NO in the Irish Referendum on the Nice Treaty, the Danish Referendum on the Euro or the Referendums in France, Ireland and Denmark on the Maastricht treaty.

Not one of them belongs to the majority in Europe who would not regret the dissolution of the existing EU.

When they discuss together in the Praesidium there will be no voice from the Euro Sceptical or Euro Realist side.

When Giscard prepares the meetings with his staff there will not be one staff member who represents maybe half of the electorate in most Member States.

When the European Parliament prepares its participation the situation is the same.

Among 23 representatives in the new Task Force of the European Parliament no Euro Realists have been appointed.

The European Movement will probably have a majority of members at every level of preparation and discussion.

Why don't they dare to offer a post in the staff or the Praesidium to people with opposing views?

That might be the central weakness of the Convention. The lack of true representation.

Few young people, only 20 % women and less than 10 % Euro Realists are among the 200 plus Members and Substitute Members who will take part in the work.

The Convention and particularly its Politbureau has not been composed for genuine dialogue and compromise.

#### **144. A Civil Forum with handpicked supporters**

The contacts with the so-called Civil Society shall be organised by the former Belgian Prime Minister, Jean-Luc Dehaene.

He is a strong Federalist who was vetoed as Commission President by John Major's Conservative British government.

But he is also personally prepared to discuss with his political opponents.

He has taken part in conferences arranged by the SOS Democracy Intergroup in the European Parliament. In December 2001 he participated in one such conference with David Trimble, the First Minister of Northern Ireland who advocates reform of the EU. In the European Parliament the responsibility for organising the Civil Forum has been given to Pier Virgilio Dastoli, the outgoing Secretary General of the international European Movement.

Dastoli was a close collaborator of Altiero Spinelli, who drafted the first draft European Constitution in 1984. Dastoli has arranged several Civil Forums alongside the European

summits and is certainly qualified for the job.

But even if the responsible persons are personally prepared for open discussions it would be far better if the dialogue between different European visions was organised in common between representatives of the different visions.

Why not allow representatives from the Euro Realist and Euro sceptical organisations to take part equally part in the preparations?

Now, it looks very one sided.

#### **145. A civil Forum of EU supporters**

The first drafts for the organisations to be invited for the Civil Forum exclude most Euro Realist and Euro Sceptical organisations.

The European Movement and organisations with similar views are included, their opponents excluded.

The lists have been prepared by the Information offices of the European Parliament in the Member States.

From Denmark they propose that trade unions be represented from the Danish Federation of Industry and the Metal Workers` Union both known for their common financing of the Yes campaigns before Danish referendums.

Among "European" organisations they have found the European Movement and "New Europe" - both committed to a European Constitution but no one from the different Euro Sceptical organisations.

From Ireland they exclude the National Forum and other organisations who ran the campaign for a No in the Referendum of 7 June 2001, and from Britain - the single country with most Euro Sceptical organisations they have not included any.

#### **146. Open discussion, dialogue and referendums**

What is now needed is open discussion, dialogue and referendums. Open invitations where all interested parties can take part in the discussions.

The citizens of Europe deserve to be taken seriously and ought to have a clear promise of having the last say.

It is we, the citizens, who shall decide if we prefer the existing co-operation, the Federalists vision of a European Constitution or the Euro Realist vision of a new basic treaty for a slimmer European co-operation.

The discussions among citizens will only start when they are offered a referendum. When people know they have to take a stand they will start looking for facts and different views and make up their own minds.

Until then most discussions will be among a European elite far removed from the citizens. We Europeans deserve better. It is our Europe which is being enlarged and reconstructed. It is our home and the place for our kids.

We may like it, hate it or ignore it. The European institutions are already now deciding most of our laws and they also decide important laws for the European countries outside the EU.

Europe rules us.

The time has come for us - the citizens, the electorates - to rule Europe. One way or the other, the peoples must decide.

Jens-Peter Bonde

Brussels, 28 February 2002

## **The Laeken Declaration**

The Laeken Declaration was agreed at the European Summit in Laeken/Brussels December 15, 2001. The editor of this book has put important passages in bold to ease the reading:

The Future of the EU: Declaration of Laeken

Category: Press Releases by the Belgian EU Presidency

Description: THE FUTURE OF THE EUROPEAN UNION  
LAEKEN DECLARATION

### **I. EUROPE AT A CROSSROADS**

For centuries, peoples and states have taken up arms and waged war to win control of the European continent. The debilitating effects of two bloody wars and the weakening of Europe's position in the world brought a growing realisation that only peace and concerted action could make the dream of a strong, unified Europe come true. In order to banish once and for all the demons of the past, a start was made with a coal and steel community. Other economic activities, such as agriculture, were subsequently added in. A genuine single market was eventually established for goods, persons, services and capital, and a single currency was added in 1999. On 1 January 2002 the euro is to become a day-to-day reality for 300 million European citizens.

The European Union has thus gradually come into being. In the beginning, it was more of an economic and technical collaboration. Twenty years ago, with the first direct elections to the European Parliament, the Community's democratic legitimacy, which until then had lain with the Council alone, was considerably strengthened. Over the last ten years, construction of a political union has begun and cooperation been established on social policy, employment, asylum, immigration, police, justice, foreign policy and a common security and defence policy.

The European Union is a success story. For over half a century now, Europe has been at peace. Along with North America and Japan, the Union forms one of the three most prosperous parts of the world. As a result of mutual solidarity and fair distribution of the benefits of economic development, moreover, the standard of living in the Union's weaker regions has increased enormously and they have made good much of the disadvantage they were at.

Fifty years on, however, the Union stands at a crossroads, a defining moment in its existence. The unification of Europe is near. The Union is about to expand to bring in more than ten new Member States, predominantly Central and Eastern European, thereby finally closing one of the darkest chapters in European history: the Second World War and the ensuing artificial division of Europe. At long last, Europe is on its way to becoming one big family, without bloodshed, a real transformation clearly calling for a different approach from fifty years ago, when six countries first took the lead.

## **The democratic challenge facing Europe**

At the same time, the Union faces twin challenges, one within and the other beyond its borders.

Within the Union, the European institutions must be brought closer to its citizens. Citizens undoubtedly support the Union's broad aims, but they do not always see a connection between those goals and the Union's everyday action. **They want the European institutions to be less unwieldy and rigid and, above all, more efficient and open. Many also feel that the Union should involve itself more with their particular concerns, instead of intervening, in every detail, in matters by their nature better left to Member States' and regions' elected representatives.** This is even perceived by some as a threat to their identity. More importantly, however, they feel that deals are all too often cut out of their sight and they want better democratic scrutiny.

## **Europe's new role in a globalised world**

Beyond its borders, in turn, the European Union is confronted with a fast changing, globalised world. Following the fall of the Berlin Wall, it looked briefly as though we would for a long while be living in a stable world order, free from conflict, founded upon human rights. Just a few years later, however, there is no such certainty. The eleventh of September has brought a rude awakening. The opposing forces have not gone away: religious fanaticism, ethnic nationalism, racism and terrorism are on the increase, and regional conflicts, poverty and underdevelopment still provide a constant seedbed for them.

What is Europe's role in this changed world? Does Europe not, now that it is finally unified, have a leading role to play in a new world order, that of a power able both to play a stabilising role worldwide and to point the way ahead for many countries and peoples? Europe as the continent of humane values, the Magna Carta, the Bill of Rights, the French Revolution and the fall of the Berlin Wall; the continent of liberty, solidarity and above all diversity, meaning respect for others' languages, cultures and traditions. The European Union's one boundary is democracy and human rights. The Union is open only to countries which uphold basic values such as free elections, respect for minorities and respect for the rule of law.

Now that the Cold War is over and we are living in a globalised, yet also highly fragmented world, Europe needs to shoulder its responsibilities in the governance of globalisation. The role it has to play is that of a power resolutely doing battle against all violence, all terror and all fanaticism, but which also does not turn a blind eye to the world's heartrending injustices. In short, a power wanting to change the course of world affairs in such a way as to benefit not just the rich countries but also the poorest. A power seeking to set globalisation within a moral framework, in other words to anchor it in solidarity and sustainable development.

## **The expectations of Europe's citizens**

The image of a democratic and globally engaged Europe admirably matches citizens' wishes. There have been frequent public calls for a greater EU role in justice and security, action against cross border crime, control of migration flows and reception of asylum seekers and refugees from far flung war zones. Citizens also want results in the fields of employment and combating poverty and social exclusion, as well as in the field of economic and social cohesion. They want a common approach on environmental pollution, climate change and food safety, in short, all trans-national issues which they instinctively sense can only be tackled by working together. Just as they also want to see Europe more involved in foreign affairs, security and defence, in other words, greater and better co-ordinated action to deal with trouble spots in and around Europe and in the rest of the world.

At the same time, **citizens also feel that the Union is behaving too bureaucratically in numerous other areas.** In coordinating the economic, financial and fiscal environment, the basic issue should continue to be proper operation of the internal market and the single currency, without this jeopardising Member States' individuality. National and regional differences frequently stem from history or tradition. They can be enriching. In other words, what citizens understand by "good governance" is opening up fresh opportunities, not imposing further red tape. **What they expect is more results, better responses to practical issues and not a European superstate or European institutions inveigling their way into every nook and cranny of life.**

In short, citizens are calling for a **clear, open, effective, democratically controlled Community** approach, developing a Europe which points the way ahead for the world. An approach that provides concrete results in terms of more jobs, better quality of life, less crime, decent education and better health care. There can be no doubt that this will require Europe to undergo renewal and reform.

## **II. CHALLENGES AND REFORMS IN A RENEWED UNION**

The Union needs to become **more democratic, more transparent** and more efficient. It also has to resolve three basic challenges: how to bring citizens, and primarily the young, closer to the European design and the European institutions, how to organise politics and the European political area in an enlarged Union and how to develop the Union into a stabilising factor and a model in the new, multipolar world. In order to address them a number of specific questions need to be put.

### **A better division and definition of competence in the European Union**

Citizens often hold expectations of the European Union that are not always fulfilled. And vice versa - **they sometimes have the impression that the Union takes on too much in areas where its involvement is not always essential.** Thus the important thing is to clarify, simplify and adjust the division of competence between the Union and the Member States in the light of the new challenges facing the Union. This **can lead both to restoring tasks to the Member States and to assigning new missions to**

**the Union**, or to the extension of existing powers, while constantly bearing in mind the equality of the Member States and their mutual solidarity.

A first series of questions that needs to be put concerns how the division of competence can be made more transparent. Can we thus **make a clearer distinction between three types of competence: the exclusive competence of the Union, the competence of the Member States and the shared competence** of the Union and the Member States? At what level is competence exercised in the most efficient way? How is the principle of subsidiarity to be applied here? **And should we not make it clear that any powers not assigned by the Treaties to the Union fall within the exclusive sphere of competence of the Member States?** And what would be the consequences of this?

The next series of questions should aim, within this new framework and while **respecting the "acquis communautaire"**, to determine whether there needs to be any reorganisation of competence. How can citizens' expectations be taken as a guide here? What missions would this produce for the Union? And, vice versa, **what tasks could better be left to the Member States?** What amendments should be made to the Treaty on the various policies? How, for example, should a more coherent common foreign policy and defence policy be developed? **Should the Petersberg tasks be updated?** Do we want to adopt a more integrated approach to police and criminal law cooperation? How can economic-policy coordination be stepped up? **How can we intensify cooperation in the field of social inclusion, the environment, health and food safety? But then, should not the day-to-day administration and implementation of the Union's policy be left more emphatically to the Member States and, where their constitutions so provide, to the regions? Should they not be provided with guarantees that their spheres of competence will not be affected?**

Lastly, there is the question of how to ensure that a redefined division of competence does not lead to a creeping expansion of the competence of the Union or to encroachment upon the exclusive areas of competence of the Member States and, where there is provision for this, regions. How are we to ensure at the same time that the European dynamic does not come to a halt? In the future as well the Union must continue to be able to react to fresh challenges and developments and must be able to explore new policy areas. **Should Articles 95 and 308 of the Treaty be reviewed for this purpose in the light of the "acquis jurisprudentiel"?**

### **Simplification of the Union's instruments**

Who does what is not the only important question; the nature of the Union's action and what instruments it should use are equally important. Successive amendments to the Treaty have on each occasion resulted in a proliferation of instruments, and directives have gradually evolved towards more and more detailed legislation. **The key question is therefore whether the Union's various instruments should not be better defined and whether their number should not be reduced.**

In other words, should a distinction be introduced between legislative and executive

measures? **Should the number of legislative instruments be reduced: directly applicable rules, framework legislation and non-enforceable instruments (opinions, recommendations, open coordination)?** Is it or is it not desirable to have more frequent recourse to framework legislation, which affords the Member States more room for manoeuvre in achieving policy objectives? For which areas of competence are open coordination and mutual recognition the most appropriate instruments? Is the principle of proportionality to remain the point of departure?

### **More democracy, transparency and efficiency in the European Union**

The European Union derives its legitimacy from the democratic values it projects, the aims it pursues and the powers and instruments it possesses. However, the European project also derives its legitimacy from democratic, transparent and efficient institutions. The National Parliaments also contribute towards the legitimacy of the European project. The Declaration on the future of the Union, annexed to the Treaty of Nice, stressed the need to examine their role in European integration. More generally, the question arises as to what initiatives we can take **to develop a European public area.**

The first question is thus how we can increase the democratic legitimacy and transparency of the present institutions, a question which is valid for the three institutions.

How can the authority and efficiency of the European Commission be enhanced? **How should the President of the Commission be appointed: by the European Council, by the European Parliament or should he be directly elected by the citizens?** Should the role of the European Parliament be strengthened? Should we extend the right of co-decision or not? Should the way in which we elect the members of the European Parliament be reviewed? **Should a European electoral constituency be created, or should constituencies continue to be determined nationally? Can the two systems be combined?** Should the role of the Council be strengthened? Should the Council act in the same manner in its legislative and its executive capacities? **With a view to greater transparency, should the meetings of the Council, at least in its legislative capacity, be public?** Should citizens have more access to Council documents? How, finally, should the balance and reciprocal control between the institutions be ensured?

A second question, which also relates to democratic legitimacy, involves the role of **National Parliaments. Should they be represented in a new institution, alongside the Council and the European Parliament?** Should they have a role in areas of European action **in which the European Parliament has no competence?** Should they focus on the division of competence between Union and Member States, for example through **preliminary checking of compliance with the principle of subsidiarity?**

The third question concerns how we can improve the efficiency of decision-making and the workings of the institutions in a Union of some thirty Member States. How could the Union set its objectives and priorities more effectively and ensure better implementation?

Is there a need for more decisions by a **qualified majority**? How is **the co-decision procedure** between the Council and the European Parliament to **be simplified and speeded up**? What of the six<sup>15</sup> monthly rotation of the Presidency of the Union? What is the future role of the European Parliament? What of the future role and structure of the various Council formations? How should the coherence of European foreign policy be enhanced? How is synergy between the High Representative and the competent Commissioner to be reinforced? Should the external representation of the Union in international fora be extended further?

### **Towards a Constitution for European citizens**

The European Union currently has four Treaties. The objectives, powers and policy instruments of the Union are currently spread across those Treaties. If we are to have greater transparency, simplification is essential.

Four sets of questions arise in this connection. The first concerns **simplifying the existing Treaties** without changing their content. Should the distinction between the Union and the Communities be reviewed? What of the division into **three pillars**?

Questions then arise as to the possible reorganisation of the Treaties. Should a distinction be made between **a basic Treaty and the other Treaty provisions**? Should this distinction involve separating the texts? Could this lead to a **distinction between the amendment and ratification procedures for the basic Treaty and for the other Treaty provisions**?

Thought would also have to be given to whether **the Charter of Fundamental Rights should be included in the basic Treaty** and to whether the European Community should **accede to the European Convention on Human Rights**.

The question ultimately arises as to whether this simplification and reorganisation might not lead **in the long run to the adoption of a constitutional text in the Union**. What might the basic features of such a constitution be? The values which the Union cherishes, the fundamental rights and obligations of its citizens, the relationship between Member States in the Union?

### **III. CONVENING OF A CONVENTION ON THE FUTURE OF EUROPE**

In order to pave the way for the next Intergovernmental Conference as broadly and openly as possible, the European Council has decided to convene a Convention composed of the main parties involved in the debate on the future of the Union. In the light of the foregoing, it will be the task of that Convention to consider the key issues arising for the Union's future development and try to identify the various possible responses.

The European Council has appointed Mr V. Giscard d'Estaing as Chairman of the Convention and Mr G. Amato and Mr J.L. Dehaene as Vice-Chairmen.

#### **Composition**

In addition to its Chairman and Vice-Chairmen, the Convention will be composed of 15 representatives of the Heads of State or Government of the Member States (one from each Member State), 30 members of National Parliaments (two from each Member State), 16 members of the European Parliament and two Commission representatives. The accession candidate countries will be fully involved in the Convention's proceedings. They will be represented in the same way as the current Member States (one government representative and two National Parliament members) and will be able to take part in the proceedings without, however, being able to prevent any consensus which may emerge among the Member States.

The members of the Convention may only be replaced by alternate members if they are not present. The alternate members will be designated in the same way as full members.

The Praesidium of the Convention will be composed of the **Convention Chairman and Vice Chairmen and nine members drawn from the Convention (the representatives of all the governments holding the Council Presidency during the Convention, two National Parliament representatives, two European Parliament representatives and two Commission representatives).**

Three representatives of the Economic and Social Committee with three representatives of the European social partners; from the Committee of the Regions: six representatives (to be appointed by the Committee of the Regions from the regions, cities and regions with legislative powers), and the European Ombudsman will be invited to attend as observers. The Presidents of the Court of Justice and of the Court of Auditors may be invited by the Praesidium to address the Convention.

### **Length of proceedings**

The Convention will hold its inaugural meeting on 1 March 2002, when it will appoint its Praesidium and adopt its rules of procedure. Proceedings will be completed after a year, that is to say in time for the Chairman of the Convention to present its outcome to the European Council.

### **Working methods**

The Chairman will pave the way for the opening of the Convention's proceedings by drawing conclusions from the public debate. The Praesidium will serve to lend impetus and will provide the Convention with an initial working basis.

The Praesidium may consult Commission officials and experts of its choice on any technical aspect which it sees fit to look into. It may set up ad hoc working parties.

The Council will be kept informed of the progress of the Convention's proceedings. The Convention Chairman will give an oral progress report at each European Council meeting, thus enabling Heads of State or Government to give their views at the same time.

The Convention will meet in Brussels. The Convention's discussions and all official documents will be in the public domain. The Convention will work in the Union's eleven working languages.

### **Final document**

The Convention will consider the various issues. It will draw up a final document which may comprise either different options, indicating the degree of support which they received, or recommendations if consensus is achieved.

Together with the outcome of national debates on the future of the Union, the final document will provide a starting point for discussions in the Intergovernmental Conference, which will take the ultimate decisions.

### **Forum**

**In order for the debate to be broadly based and involve all citizens, a Forum will be opened for organisations representing civil society (the social partners, the business world, non-governmental organisations, academia, etc.).** It will take the form of a structured network of organisations receiving regular information on the Convention's proceedings. Their contributions will serve as input into the debate. Such organisations may be heard or consulted on specific topics in accordance with arrangements to be established by the Praesidium.

### **Secretariat**

The Praesidium will be assisted by a Convention Secretariat, to be provided by the General Secretariat of the Council, which may incorporate Commission and European Parliament experts.

*Edited by Michael Strangholt*