

# TOWARDS EFFECTIVE AND ACCOUNTABLE LEADERSHIP OF THE UNION

## OPTIONS AND GUIDELINES FOR REFORM

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### EXECUTIVE SUMMARY

#### Reforming EU leadership: A triple challenge

The success of the Convention on the future of the EU will to a great extent depend upon on its answers to the institutional questions. Among these questions, *the issue of EU leadership* plays a crucial role. In this paper, we identify *three challenges* for the re-organisation of leadership in the Union:

1. Union leadership has to be more *effective*. The Union's growing responsibility for truly governmental tasks (e.g. EMU, CFSP, JHA) makes this an imperative. Enlargement will further add to this necessity.
2. Leadership in the Union should contribute to the *democratic* character of the Union. Indeed, leadership reform may offer an opportunity to increase the engagement of the people and the visibility of the Union.
3. Leadership reform should not fundamentally distort the Union's *institutional balance*. The Union is no longer a normal international organisation but neither is it a sovereign political system. Leadership reform must maintain the precarious balance between on the one hand the European general interest and on the other the diversity of national interests.

In view of these three challenges, we consider the *two main strands of debate* that touch upon the issue of leadership in the EU: first, the debate on the election of the Commission President and, secondly, the different proposals for reforming the Council Presidency.

#### 1. Electing the Commission President

The *current (Amsterdam) provisions* for selecting the Commission President are no longer tenable. The requirement of consensus in the European Council implies that the eventual nominee may be selected mainly on the merit of not provoking a veto of any head of state, rather than for being the best person for the job. Moreover, the current provisions fail to provide for electoral choice, which in turns means that the democratic accountability of the Commission remains marginal at most.

Remarkably, we found that the *Nice provisions* come a long way towards satisfying the three criteria of democracy, efficacy and institutional balance. The move to qualified majority voting (qmv) may make the appointment procedure more efficacious. Moreover, it may boost the role the European Parliament can play in the appointment procedure, thereby rendering the appointment more

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democratic. Qmv in the European Council inevitably means that the appointment of the President will be more politicised.

Therefore, the difference between the Nice provisions and *European Parliament (EP) election* may not be all that big. From a democratic point of view, however, having the Commission President elected by the European Parliament is preferable as it makes the process more comprehensible and turns the EP elections into the core political event of the EU. Contrary to what is often heard, it is unlikely that the Commission will develop into a 'dominating executive', given the heterogeneity of the Union, the under-development of party groups and the central role of the Council. In order to keep all member states on board, some balancing measures can moreover be envisaged, such as granting them the right to approve the EP's nominee and to decide on the composition of the entire college, and possibly even a right to censure the Commission.

Taking the analysis further, we found that a *direct election* also has some promising aspects. It would give the President a very strong democratic mandate. He/she would be able to draw upon a legitimacy that is separate from that of the European Parliament or the Council, providing for 'divided government'. Still, doubts can be raised, given the as yet nascent European public space, whether the electorate is really ready for such an election. Also, this option may severely shake up the institutional balance, exposing the Union on the one hand to the risk of too strong a Commission President and, on the other, to a structural deadlock between the Commission, Council and European Parliament.

Finally, we addressed two other alternatives involving the national parliaments. In the first of these, the *national parliaments* would actually act as an electoral college. This option was found to be problematic on all accounts: offering few democratic merits, distorting the institutional balance and contributing little to greater Union efficacy. In the second, we addressed the possibility of having the President elected by a *congress* of European and national parliamentarians. The democratic credentials of having the Commission President elected by a congress eventually appear rather spurious. Compared to the alternative of election by national parliaments, the establishment of a congress would better preserve the institutional balance. Still, the option creates a potential tension between the congress and the European Parliament and leaves clear problems of accountability that may well impede its efficacy.

## 2. Reforming the Presidency

Lately, the Presidency of the Council has become the subject of ever more debate. The *current organisation* of the Council Presidency is firmly embedded in the Union's institutional balance. The system has become increasingly inefficient, however, especially in terms of external presence. The rotating Presidency has become too much of a burden to bear for national governments and its discontinuity gives rise to serious problems. It is not without democratic merit, but this remains rather limited and indirect. Enlargement will increase the current inefficacy, whilst reducing the advantages in terms of institutional balance and democracy. Reform is therefore required.

One possible solution has been the proposal launched by Chirac, Blair and Aznar to *replace the rotating Council Presidency by a permanent President of the EU*, chosen by the European Council from among its former members. Besides chairing the European Council, such a President would play a key role in the development of the Union's foreign and defence policies and represent the Union at the highest international level. Not every one is convinced of the merits of this proposal, however. It is feared that such a President might strengthen the Council over the communitarian institutions, and the big member states over the small ones. Its merits in terms of external representation may eventually appear rather spurious as well. Finally, it adds nothing in terms of democracy.

Another option would be to *retain the rotating Presidency by re-centring it on its procedural responsibilities*, while transferring most of its executive tasks to the Commission. The Commission's authority would be enhanced by having the Commission President elected by the European Parliament. This would have notable advantages in terms of democracy and may also increase the Union's efficacy by fostering a greater synergy between the Council and the Commission. Still, in order to preserve the institutional balance, precautions are needed to preclude the Union from

developing into an outright parliamentary system and to ensure that the strengthened Commission will retain the confidence of the member states.

Both of these models remain caught in the opposition between more intergovernmental and more supranational elements in the Union. Since both retain the distinction between the Council Presidency and the Commission President but strengthen one side over the other, they risk undermining the institutional balance in the EU. Any successful reorganisation of executive leadership in the Union needs to *overcome the gap between intergovernmental and supranational conceptions*. More concretely, it has to prevent the emergence of a 'parallel Europe' around the Commission and the Council, with two competing administrative structures, both with their own President competing for Union leadership. Notably, the recent Franco-German proposal for a reformed dual Presidency (Chirac and Schröder, 2003) seems to set the course for exactly such a parallel Europe and therefore looks like the perfect recipe for conflict and even deadlock.

The solution to the current dual presidency dilemma can be found by *unifying the Presidency* of the European Council and the Commission. Outfitted with a double hat, the new President could restore confidence in the relationship between the Council and the Commission. A unified Presidency could also increase the effectiveness of executive leadership in the Union and enhance its visibility, both at home and in the world. For this, a unified Presidency should be accompanied by a clearer location of agenda-setting powers, a coherent organisation of external responsibilities and a fusion of administrative structures.

Still, there are some serious *risks in a unified Presidency*, especially if the President would only be elected by and accountable to the (European) Council. In this case, once enjoying a secure support in the European Council, the President's powers would be subject to few checks and balances. The role of the European Parliament might well be reduced to that of a critical bystander unable to make an effective fist, and the Commission may lose much of its independence.

Thus, if this model is to be put in place, it is crucial that the President's powers be subject to *effective political constraints*. Both the European Council and the European Parliament should be able to hold the President and the Commission accountable. The Union's balance would still be distorted if the President would command a stable majority in either house, leaving the remaining minority alienated from executive power. This consideration combines with democratic considerations to argue that the President should be endowed with a separate legitimacy, distinct from that of either the European Parliament or the Council. We thus suggest having the future Union President *directly elected by the citizenry or*, during a transitory period, *by a Congress*.

Further accompanying reforms are needed to ensure the full involvement of the member states. The President should be bound to maintain a *privileged relationship with the member states*, especially through the European Council. In particular, one can imagine granting the member states the exclusive right to nominate candidates for the President. Also the Council and the European Parliament might be given the power to veto (individually) any nominee put forward by the President for the College of Commissioners.

In order to assuage fears that the Union would turn into the much-dreaded superstate, the ability of the member states to control its political course could be assured by the following measures:

- Member states in the Council could retain a primary say on all purely 'governmental matters' (CFSP, EMU, police and judicial cooperation), although the involvement of the reformed Commission should be beefed up.
- The President would be assisted by a double-hatted Foreign Secretary appointed by and directly accountable to the member states.
- The member states could be granted a right of initiative for some matters (CFSP), possibly with a right of assent for the Commission and the Foreign Secretary.
- The multi-annual legislative agenda could be based on an inter-institutional agreement between the European Parliament, the Commission and the European Council.