

**EPC/IRRI-KIIB Joint Conference**  
***Will the IGC deliver the Europe we need?***

*Legitimacy: Bringing the institutions closer to the citizens*

**Background Paper**

18 September

The Convention was created primarily to bring Europe closer to its citizens. In this perspective, the Convention has pursued four priorities, and has delivered a significant package of reforms. First, the overall institutional framework has been simplified and the so-called pillar structure has been abandoned. Previous treaties have been consolidated in one Constitutional Treaty, divided into four parts. This makes key provisions more accessible. Moreover, the variety of instruments and procedures available to the Union has been drastically reduced.

Second, in response to the ‘Who does what?’ question, the distribution of powers between the Union and Member States has been outlined in the new text. Competences are divided into three categories: exclusive competences of the EU, competences shared between the Union and the Member States, and areas of supporting, coordinating or complementary action. Delimitation is, however, less than satisfactory, because all competences are actually shared, and important policy areas, such as economic policy coordination or CFSP, do not fall into these categories.

Third, national parliaments have been given an important role in scrutinising EU law-making, and overseeing the implementation of the principle of subsidiarity. This should allow for more effective cooperation between European and national authorities, thereby enhancing the transparency and accountability of EU decision-making.

Fourth, the Charter of Rights has been enshrined in the Constitutional Treaty with binding legal force. European citizens will be able to hold EU bodies (and national authorities when applying EU law) responsible for breaches of the rights foreseen in the Charter.

The Convention was also mandated with an in-depth review of the inter-institutional balance, to enhance coordination, continuity and leadership in EU policy-making. From this standpoint, the record of the Convention is mixed. The powers of the European Parliament are enhanced by making the co-decision procedure – now called the ordinary legislative procedure – the rule for law-making. The executive power is, however, still divided between the Commission and the Council of Ministers. Moreover, the creation of a long-term, full-time President of the European Council raises a number of questions about the division of powers between this new post and the President of the Commission. The relationship between the President of the European Council and the new double-hatted Foreign Minister is also unclear. No clear rule is envisaged to determine who will chair separate Council formations.

At the same time, the new procedure for appointing the President of the Commission does not add much legitimacy to the process, since the European Council still puts forward the name of the candidate for President to the European Parliament. The formula chosen to determine the size and composition of the Commission has left many dissatisfied. It is to be seen whether the division between voting and non-voting Commissioners will survive the Inter-governmental Conference.

The most remarkable success of the Convention is probably the extension of qualified majority voting to a number of new policy areas, and the introduction of a new mechanism to calculate a majority. This will make the adoption of decisions by the Council of Ministers much easier in the enlarged Union. Also, a clause has been included in the Constitutional Treaty, whereby the European Council could decide unanimously to extend majority voting to new provisions. Future amendments of the Constitutional Treaty, however, will still require unanimity and unanimous ratification.

Finally, conditions for enhanced cooperation have been relaxed further, and a new form of 'structured cooperation' has been introduced to enable Member States to enter into closer cooperation in defence matters.