

Procedure file

Basic information	
CNS - Consultation procedure	2007/0808(CNS)
Procedure completed	
Convening of the Intergovernmental Conference IGC: Parliament's opinion (Article 48 TEC)	
Subject 8.10 Revision of the Treaties, intergovernmental conferences	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	AFCO Constitutional Affairs	PSE LEINEN Jo	07/06/2007
Council of the European Union	Council configuration	Meeting	Date
	General Affairs	2808	18/06/2007
European Commission	Commission DG	Commissioner	
	Secretariat-General	BARROSO José Manuel	

Key events			
18/06/2007	Debate in Council	2808	Summary
26/06/2007	Legislative proposal published	11222/2007	Summary
09/07/2007	Committee referral announced in Parliament		
09/07/2007	Vote in committee		Summary
10/07/2007	Committee report tabled for plenary, 1st reading/single reading	A6-0279/2007	
11/07/2007	Results of vote in Parliament		
11/07/2007	Debate in Parliament		
11/07/2007	Decision by Parliament	T6-0328/2007	Summary
23/07/2007	Act adopted by Council after consultation of Parliament		
23/07/2007	End of procedure in Parliament		

Technical information	
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Documentation gateway

Legislative proposal	11222/2007	26/06/2007	CSL	Summary
Committee draft report	PE390.639	26/06/2007	EP	
Amendments tabled in committee	PE391.996	29/06/2007	EP	
Document attached to the procedure	COM(2007)0412	10/07/2007	EC	Summary
Committee report tabled for plenary, 1st reading/single reading	A6-0279/2007	10/07/2007	EP	
Text adopted by Parliament, 1st reading/single reading	T6-0328/2007	11/07/2007	EP	Summary
Commission response to text adopted in plenary	SP(2007)4170	29/08/2007	EC	

Convening of the Intergovernmental Conference IGC: Parliament's opinion (Article 48 TEC)

The Council discussed reform of the EU treaties, on the basis of a report from the Presidency (10659/07), in preparation for the European Council's meeting on 21 and 22 June. The Presidency's report comes in response to a request from the European Council in June 2006, in the light of consultations held with the Member States following the difficulties encountered in the ratification of the constitutional treaty. It provides an assessment of thinking on the treaty reform process and explores possible ways forward, with a view to enabling the European Council to settle the matter.

The Council's discussion focused on the following issues:

- methodology (returning to the traditional method of treaty changes through an amending treaty);
- changes in terminology;
- a single legal personality for the EU;
- the Charter of Fundamental Rights and a reference thereto in the treaty;
- overcoming the existing "pillar" structure.

Convening of the Intergovernmental Conference IGC: Parliament's opinion (Article 48 TEC)

The European Council agrees that, after two years of uncertainty over the Union's treaty reform process, the time has come to resolve the issue and for the Union to move on. It welcomes the report drawn up by the German Presidency following the mandate given to it in June 2006. To this end the European Council agrees to convene an Intergovernmental Conference and invites the Presidency without delay to take the necessary steps in accordance with Article 48 of the TUE, with the objective of opening the IGC before the end of July as soon as the legal requirements have been met.

The IGC will be conducted under the overall responsibility of the Heads of State or Government, assisted by the members of the General Affairs and External Relations Council. The Representative of the Commission will participate in the Conference. The European Parliament will be closely associated with and involved in the work of the Conference with 3 representatives. The General Secretariat of the Council will provide the secretariat support for the Conference.

The European Council invites the incoming Presidency to draw up a draft Treaty text in line with the terms of the mandate and to submit this to the IGC as soon as it opens. The IGC will complete its work as quickly as possible, and in any case before the end of 2007, so as to allow for sufficient time to ratify the resulting Treaty before the European Parliament elections in June 2009.

The IGC is asked to draw up a Treaty (the Reform Treaty) amending the existing Treaties with a view to enhancing the efficiency and democratic legitimacy of the enlarged Union, as well as the coherence of its external action. The Reform Treaty will contain two substantive clauses amending respectively the Treaty on the European Union (TEU) and the Treaty establishing the European Community. (TEC). The TEU will keep its present name and the TEC will be called Treaty on the Functioning of the Union, the Union having a single legal personality. The word "Community" will throughout be replaced by the word "Union".

The TEU and the Treaty on the Functioning of the Union will not have a constitutional character. The terminology used throughout the Treaties will reflect this change: the term "Constitution" will not be used, the "Union Minister for Foreign Affairs" will be called High Representative of the Union for Foreign Affairs and Security Policy and the denominations "law" and "framework law" will be abandoned, the existing denominations

"regulations", "directives" and "decisions" being retained.

Likewise, there will be no article in the amended Treaties mentioning the symbols of the EU such as the flag, the anthem or the motto. Concerning the primacy of EU law, the IGC will adopt a Declaration recalling the existing case law of the EU Court of Justice.

There will in particular be an Article on the legal personality of the Union, an Article on voluntary withdrawal from the Union and Article 48 will be amended so as to bring together the procedures for revising the Treaties (the ordinary and the two simplified procedures). This Article, in its paragraph on the ordinary revision procedure, will make it clear that the Treaties can be revised to increase or reduce the competences conferred upon the Union. In Article 49, on conditions of eligibility and the procedure for accession to the Union, the reference to the principles will be replaced by a reference to the Union's values and the addition of a commitment to promoting such values, an obligation to notify the European Parliament and national parliaments of an application for accession to the Union and a reference to take into account the conditions of eligibility agreed upon by the European Council.

As regards the details of the amendments made to the existing treaty, they concern the following issues:

The respective competences of the EU and the Member States and their delimitation: the Article on categories of competences, placed at the beginning of the TEC, it will be clearly specified that the Member States will exercise again their competence to the extent that the Union has decided to cease exercising its competence.

A permanent Council presidency: a president of the European Council, to be elected by EU leaders for a two-and-a-half-year term, will replace the current system in which EU leaders rotate into the president's post every six months.

High Representative of the EU for Foreign Affairs and Security Policy: replacing the current EU High Representative for Foreign Affairs Javier Solana and the external relations commissioner. The Minister would also be a Vice-President in the Commission and chair the ?General Affairs? Council. The Common Foreign and Security Policy shall be subject to specific procedures and rules. There will also be a specific legal basis on personal data protection in the CFSP area.

Charter on Fundamental Rights: the full text of the Charter of Fundamental Rights was replaced by a short cross-reference with the same legal value. However, due to strong British opposition, the Charter will not be legally binding in the UK.

Concerning national parliaments, their role will be further enhanced compared to the provisions agreed in the 2004 IGC: (a) the period given to national parliaments to examine draft legislative texts and to give a reasoned opinion on subsidiarity will be extended from 6 to 8 weeks (the Protocols on national Parliaments and on subsidiarity and proportionality will be modified accordingly; (b) there will be a reinforced control mechanism of subsidiarity in the sense that if a draft legislative act is contested by a simple majority of the votes allocated to national parliaments, the Commission will re-examine the draft act, which it may decide to maintain, amend or withdraw. If it chooses to maintain the draft, the Commission will have, in a reasoned opinion, to justify why it considers that the draft complies with the principle of subsidiarity.

New voting system: a double majority rule for Council decisions (55% of member states and 65% of the EU's population need to support a proposed EU legislation to pass by qualified majority). The new voting system will only apply from 2014 and will replace the system in force since the Nice Treaty of 26 February 2001. An extra transition period until 31 March 2017 when additional provisions making it easier to block a decision will apply.

Extending qualified majority voting: to 40 policy areas, especially those relating to as asylum, immigration, police cooperation and judicial co-operation in criminal matters. The common foreign and security policy is subject to specific procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. In the area of police and judicial cooperation in criminal matters, a new mechanism shall be inserted enabling Member States to go forward on a given act while allowing others not to participate.

The following modifications will be introduced compared to the results of the 2004 IGC:

- a new article will state the purpose of the Treaty on the functioning of the Union and its relation with the EU Treaty. It will state that the two Treaties have the same legal value;
- the minimum number of Member States required for launching an enhanced cooperation will be nine;
- a Protocol will be annexed to the Treaties on the issue of services of general economic interest;
- in the Chapter on general provisions applying to the area of freedom, security and justice, insertion of a provision about cooperation and coordination by Member States in the field of national security;
- in the Chapter on judicial cooperation in civil matters, a paragraph will be modified so as to give a role to national parliaments in the "passerelle" clause on family law;
- in the Articles on mutual recognition of judgments, minimum rules on definition of criminal offences and sanctions, the European Public Prosecutor, and police cooperation, a new mechanism will be inserted enabling Member States to go forward with adopting measures in this field while allowing others not to participate. Moreover, the scope of the Protocol on the position of the United Kingdom and Ireland (1997) will be extended so as to include, in relation to the UK, and on the same terms, the Chapters on judicial cooperation in criminal matters and on police cooperation. It may also address the application of the Protocol in relation to Schengen building measures and amendments to existing measures. This extension will take account of the UK's position under the previously existing Union acquis in these areas. Ireland will determine in due course its position with regard to that extension;
- a reference to the spirit of solidarity between Member States and to the particular case of energy as regards difficulties in the supply of certain product will be inserted;
- as regards energy, a reference to the spirit of solidarity between Member States will be inserted as well as a new point on the promotion of interconnection of energy networks;
- the particular need to combat climate change in measures at international level will be specified.

After having consulted the President of the European Parliament, the European Council invited the European Parliament, in order to pave the way for settling the issue of the future composition of the European Parliament in good time before the 2009 elections, to put forward by October 2007 a draft of the initiative foreseen in Protocol 34 as agreed in the 2004 IGC.

Convening of the Intergovernmental Conference IGC: Parliament's opinion (Article 48 TEC)

The Committee on Constitutional Affairs adopted the report by Jo LEINEN (PES, DE) on the convening of the Intergovernmental Conference (IGC).

The committee welcomes the efforts deployed by the German Presidency of the Council to achieve a unanimous agreement at the Summit of 21-22 June 2007. It expresses a favourable opinion on the convening of the IGC and invites Member States not to retreat from the commitments to which they subscribed in the European Council.

As regards the mandate, the committee welcomes its elaborate precision and the tight timetable for the conclusion of the IGC. It also welcomes the fact that the mandate safeguards much of the substance of the Constitutional Treaty, notably the single legal personality of the Union and the suppression of the pillars structure, the extension of qualified majority voting in the Council and co-decision by Parliament and the Council, the elements of participatory democracy, the legally binding status of the Charter of Fundamental Rights, the enhancement of the coherence of the external action of the Union and the balanced institutional package. It welcomes the fact that the mandate provides for the introduction of certain new elements in the treaties, such as the explicit mention of climate change and solidarity in the field of energy.

On the other hand, MEPs regret that this mandate implies the loss of some important elements that had been agreed during the 2004 IGC, such as the definition of the EU as a Union of the citizens and the States of Europe; as well as a long delay in the introduction of others. They express their concern about the fact that the mandate allows for an increasing number of derogations granted to certain Member States from the implementation of major provisions of the envisaged Treaties that could lead to a weakening of the cohesion of the Union.

The committee considers, therefore, that if one or more Member States now claim an opt-out from the Charter of Fundamental Rights, this would represent a dramatic setback and cause serious damage to the EU's innermost sense of identity. It is for this reason that the committee urgently appeals to all the Member States once again to make every effort to overcome this internal division and reach a consensus after all on the unrestricted validity of this Charter.

The IGC is invited to conclude its work before the end of 2007, so as to allow the new Treaty to enter into force in good time before the 2009 European elections. Member States and its representatives are asked to ensure full transparency of the work done by the IGC, notably by publishing all the documents submitted to it for discussion.

Lastly, the committee calls on the IGC to ensure, for reasons of transparency, that the results of its work will also be published in the form of a draft consolidated version of the Treaties and announces its firm resolve to put forward, after the 2009 elections, new proposals on a further constitutional settlement for the Union, in accordance with the clause on treaty revision.

Convening of the Intergovernmental Conference IGC: Parliament's opinion (Article 48 TEC)

This document gives the Commission's Opinion, pursuant to Article 48 of the Treaty on European

Union, on the Conference of representatives of the governments of the Member States convened to revise the Treaties. With ratification of the Constitutional Treaty at a standstill, the Berlin Declaration in March 2007 made a commitment to putting the Union on a new common basis before the European Parliament elections of 2009. The European Council of June 2007 agreed to convene an Inter-Governmental Conference (IGC) in July 2007. The task of the IGC is to agree the text of a Reform Treaty to "amend the existing Treaties with a view to enhancing the efficiency and democratic legitimacy of the enlarged Union, as well as the coherence of its external action".

The Reform Treaty: the European Council of June 2007 agreed a precise mandate for the IGC. The mandate was the fruit of a carefully crafted compromise. Together with many positive elements, which are to be welcomed, this compromise meant that some of the changes agreed in the 2004 IGC were not retained, and a number of derogations were granted to individual Member States. The proposed Reform Treaty will amend the EU's two core treaties.

A more democratic Europe: the Commission outlines the following proposals:

- the increase of co-decision in around 50 areas will see the European Parliament placed on an equal footing with the Council for the vast bulk of EU legislation, including freedom, security and justice. The Parliament will also see important new powers over the budget and international agreements;
- national parliaments will have greater opportunities to be involved in the work of the EU. This includes a two-stage procedure to monitor subsidiarity which will allow national parliaments to draw concerns to the attention of the Commission: if a majority share the same concerns about a particular proposal, the Commission, as well as the option to withdraw or amend, may choose to maintain its draft and explain its reasoning for final decision by the European Parliament and the Council of Ministers;
- citizens and national parliaments will see the decisions taken by their governments at first hand through opening the legislative discussions in the Council of Ministers to the public;
- the Citizens' Initiative will enable a million citizens from different Member States to trigger an invitation to the Commission to bring forward a new proposal;
- the relationship between the Member States and the EU will become clearer with the clear categorisation of competences;
- the Reform Treaty will make clear that Member States remain inside the Union by their own choosing, with a provision recognising that withdrawal from the EU is an option;

Institutional reform: the Commission outlines the following:

- swifter and more consistent decisions to the policy areas of freedom, security and justice. This will mean a step change in Europe's ability to combat terrorism, to tackle crime and human trafficking, and to manage migratory flows;
- new and reinforced legal bases in energy policy, public health and civil protection, and new provisions on climate change, services of general interest, research and technological development, territorial cohesion, commercial policy, space, humanitarian aid, sport, tourism, and administrative cooperation;
- streamlined procedures for economic governance will enhance coordination and facilitate decision-taking in the euro area;

- qualified majority voting in the Council of Ministers, fairly reflecting the varying sizes of the EU's Member States, and the extension of qualified majority voting to more than 40 new cases;
- a simplified way of calculating qualified majority voting will provide a clear balance between the number of Member States and the size of their population, once applied in November 2014;
- where at least nine Member States would like to take collective action inside the Union framework, they will be able to use enhanced cooperation procedures. In particular, the path to enhanced cooperation is smoothed in the areas of judicial cooperation in criminal matters and police cooperation; - the permanent President of the European Council will, in cooperation with the President of the Commission, ensure a better preparation and continuity in the work of the European Council;
- a streamlined Commission, with reinforced authority for its President, will continue to reflect different parts of the Union through a system of equal rotation;
- a ceiling on the number of MEPs, with a lower and upper limit for any one Member State, will stabilise citizens' representation in the European Parliament;
- introducing qualified majority voting and co-decision for future reforms to the Union's judicial system will help this system to adapt to the challenges of the future;
- arrangements for conducting external policy will reflect the existing balance between the Member States and the institutions;
- future changes to policies within existing competences, extensions to qualified majority voting and use of co-decision can be agreed without needing to call a new IGC, while preserving the need for unanimous agreement;
- the confusing distinction between the "European Community" and the "European Union" will be brought to an end.

A Europe of rights and values: the Commission outlines the following proposals:

- practical steps will be taken in the new Treaty to develop EU action in climate change and health;
- the Charter of Fundamental Rights will offer Europeans guarantees with the same legal status as the treaties themselves. Its provisions will also apply in full to acts of implementation of Union law, even if not in all Member States. Gaps in judicial protection ensured by the European Court of Justice will be filled to ensure jurisdiction in freedom, security and justice and to improve the individuals' rights of recourse to the Court;
- the new solidarity clause will give force to the obligation of Member States to support each other in the event of terrorist attack, natural or man-made disaster;
- the need for solidarity in the area of energy is given special prominence in the Union's powers to help in case of shortage of supply, as well as emphasising that solidarity is an important aspect of new provisions on energy;
- new provisions on civil protection, humanitarian aid and public health all aim at boosting the Union's ability to respond to threats to the security of European citizens;
- the new horizontal social clause will give prominence to the Union's commitment to employment and social protection, and the role of the regions and the social partners will be confirmed as part of the political, economic and social fabric of the Union.

The global stage: the Reform Treaty will bring more coherence between the different strands of EU external policy ? such as diplomacy, security, trade, development, humanitarian aid, and international negotiations on a range of global issues. The Commission outlines the following:

- establishing a single legal personality of the Union will strengthen the Union's negotiating power; The the new High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission will increase the impact, the coherence and the visibility of the EU's external action;
- the European External Action Service will provide a structure to support European external policies ? as well as the external dimension of internal policies ? in a more effective and coherent way;
- this new architecture will be married with a respect for the particular interests of Member States by retaining specific decision-making procedures in the area of Common Foreign and Security Policy;
- the European Security and Defence Policy will be brought more clearly into the Union, preserving special decision-making arrangements but also paving the way towards reinforced cooperation amongst a smaller group of Member States.

Opinion in accordance with Article 48 of the TEU: the European Commission considers that the decisions of the European Council will provide a Reform Treaty to adapt the EU to the needs of the 21st century. The Commission welcomes the convocation of the Inter-Governmental Conference, and gives its full support to the mandate as agreed by the European Council.

Convening of the Intergovernmental Conference IGC: Parliament's opinion (Article 48 TEC)

The European Parliament adopted the consultation report by Jo LEINEN (PES, DE) on the convening of the Intergovernmental Conference (IGC) on EU treaty reform. The Reform Treaty will contain two substantive clauses, respectively amending the Treaty on the European Union (TEU) and the Treaty establishing the European Community (TEC). The TEU will keep its present name and the TEC will be called Treaty on the Functioning of the Union. EU Treaty Article 48 stipulates that Parliament must be consulted before an IGC is convened. The resolution was approved by 526 votes for, 138 against and 26 abstentions.

The Parliament welcomes the efforts deployed by the German Presidency of the Council to achieve a unanimous agreement at the Summit of 21-22 June 2007. It expresses a favourable opinion on the convening of the IGC and invites Member States not to retreat from the commitments to which they subscribed in the European Council.

MEPs welcome the fact that the mandate safeguards much of the substance of the Constitutional Treaty, notably the single legal personality of the Union and the suppression of the pillars structure, the extension of qualified majority voting in the Council and co-decision by Parliament and the Council, the elements of participatory democracy, the legally binding status of the Charter of Fundamental Rights, the enhancement of the coherence of the external action of the Union and the balanced institutional package. They welcome the fact that the mandate provides for the introduction of certain new elements in the treaties, such as the explicit mention of climate change and solidarity in the field of energy.

On the other hand, MEPs regret that this mandate implies the loss of some important elements that had been agreed during the 2004 IGC, such as the definition of the EU as a Union of the citizens and the States of Europe; as well as a long delay in the introduction of others. They express their concern about the fact that the mandate allows for an increasing number of derogations granted to certain Member States from the implementation of major provisions of the envisaged Treaties that could lead to a weakening of the cohesion of the Union.

The Parliament considers, therefore, that if one or more Member States now claim an opt-out from the Charter of Fundamental Rights, this would represent a dramatic setback and cause serious damage to the EU's innermost sense of identity. It is for this reason that the Parliament urgently appeals to all the Member States once again to make every effort to overcome this internal division and reach a consensus after all on the unrestricted validity of this Charter.

The IGC is invited to conclude its work before the end of 2007, so as to allow the new Treaty to enter into force in good time before the 2009 European elections. Member States and its representatives are asked to ensure full transparency of the work done by the IGC, notably by publishing all the documents submitted to it for discussion.

It should be stressed that the European Parliament aims to be fully involved in the IGC. It reserves its right to make concrete proposals to the IGC on specific items within the scope of the mandate. It calls on the IGC to ensure, for reasons of transparency, that the results of its work will also be published in the form of a draft consolidated version of the Treaties. Lastly, Parliament announces its firm resolve to put forward, after the 2009 elections, new proposals for a further constitutional settlement for the Union, in accordance with the clause on treaty revision, since the European Union is a common project that is constantly being renewed.