



CONVENTION LATEST DEVELOPMENTS AND AER POSITION

Draft Constitutional Treaty

The draft Constitutional Treaty consists of the Preamble and four parts:

Part I – Definition and objectives of the Union; fundamental rights and citizenship of the Union; Union competences and actions; Union institutions; exercise of Union competence; the democratic life of the Union; the Union's finances; the Union and its immediate environment; Union membership; Protocol on the role of National Parliaments in the European Union; Protocol on the application of the principles of subsidiarity and proportionality; Protocol on the representation of citizens in the European Parliament and the weighting of votes in the Council

Part II – Charter of Fundamental Rights

Part III – The Policies and Functioning of the Union

Part IV – General and Final Provisions

Context

The Convention on the Future of Europe has adopted Parts I and II of the Constitutional Treaty at the plenary session of 11th-13th June 2003. The President of the Convention, Mr. Valéry Giscard d'Estaing, presented these two drafts to the European Council in Thessaloniki (Greece) on 20th June 2003.

The Convention is expected to hold further sessions on the 4th and 9th-11th July 2003 in order to adopt the draft texts of Parts III and IV.

The entire draft Constitutional Treaty will be sent to the Intergovernmental Conference (IGC), which is expected to start in October 2003. The Heads of State and National Governments will adopt the final Constitutional Treaty.

At present, there is uncertainty as to the length of the proceedings of the IGC and the methods which will be applied for the ratification of the adopted Constitutional Treaty. The opinions voiced to date support the holding of national referenda or the holding of a European-wide referendum, although not all Member States are in agreement with all of these proposals.

The debate on Parts I and II of the draft Constitution within the Convention concluded on 13th June 2003.

The key demands of the AER

Part I

Committee 'Institutional Affairs' of the AER adopted proposals for amendment relating to Part I of the draft Constitution. These proposals were sent to the members of the Convention Presidium:

- Within the principle of respect for national identities, explicit reference should be made to the need to respect the internal organisation of Member States, in particular their internal division of competence, the regional structures and municipal self-government.
- The definition of the subsidiarity principle to include the regions and the granting of the right to appeal to the European Court of Justice (ECJ) by the regions on the grounds of infringement of the principles of subsidiarity and proportionality.
- In the case of bicameral parliamentary systems, each chamber of a national parliament should have the right to trigger the 'early warning system'. Moreover, each chamber should be granted the right of access to the ECJ.
- Explicit acknowledgement of the role of the regions in implementing Union law.
- Cultural diversity should be a key value of the Union and, consequently, the requirement of unanimous voting should be maintained in the area of culture.
- Public health should remain an area for Union supporting, complementary or coordinating action.

The revised draft text of Part I has responded to significant extent to the demands of the AER. However, the following key positions have not been incorporated in the final draft text:

- Regions should be granted the right to bring actions before the ECJ on the grounds of infringement of the subsidiarity and proportionality principles.
- The principle of 'loyal cooperation' should refer to a mutual relationship which is not limited to the Union and Member States, but also includes the regions. This would be in accordance with the principle of the respect of the internal organisation of Member States and would acknowledge the role of the regions within the EU.

These positions will be promoted in the context of the AER strategy for the IGC.

The Convention has not, to date, debated Parts III and IV of the draft Constitutional Treaty. It is expected that the mandate of the Convention will be extended and additional sessions will be held in early July.



Part III

Part III of the Constitutional Treaty, which contains draft provisions relating to the specific policy areas, is of particular relevance to the AER. The draft provisions, as they currently stand, affect the AER position in relation to the areas of public health, social policy, economic and social cohesion and culture and education.

The July session of the Convention provides an opportunity to promote the AER position in these areas, as the provisions of Part III have not been debated to date.

- **Public Health**

The AER supports the heterogeneity of health care systems across Europe.

We acknowledge that Union action is necessary for the Europe-wide prevention of or response to diseases.

However, Union action should respect the particularities of each national health system. Therefore, Union action should be secondary to action within the Member States and should not be aimed at harmonisation of the various national systems.

The AER proposes that the public health remain an area for Union supporting, complementary or coordinating action.

The AER proposes that the Convention further elaborates, under the relevant provisions in Part III of the draft Constitutional Treaty, on the distinction between those areas of public health falling under the shared competence of the Union and Member States and those where the Union can only take supporting, complementary or supporting action.

- **Social Policy**

The AER acknowledges that a common economic area should be accompanied by the objective of providing equal social rights and social security to all.

However, the particularities of national systems must be respected. The alignment of national social policies must be based on the exchange of knowledge and experience with the aim of providing an equivalent level of social protection, without leading to harmonisation of the diverse policies across Europe.

The AER proposes that social policy remain an area for supporting, complementary or coordinating action.

It further proposes that the requirement for unanimous decision-making be maintained in specific areas of social policy, in accordance with the Treaty provisions currently in application.

- **Regional Policy**

Explicit reference should be made to the role of the regions as co-liable partners in the conception and management of the future European cohesion and regional policy.

Within the context of the European cohesion policy, cooperation between the regions should be explicitly referred to and encouraged. Furthermore, the relevant provisions should contain a requirement of coordination with other Union policies.

In the context of trans-European networks, specific provisions should be made for the formation of public-private partnerships.

The Union should expressly support small regional transport infrastructures.

- **Culture, Education and Youth**

Unanimous voting should remain a requirement within the policy domain of culture.

In the context of the EU common commercial policy, international agreements relating to trade in cultural, audiovisual, educational and social and human health service should fall within the shared competence of the Union and the member states. Such agreements should be negotiated jointly and their conclusion should require the unanimous approval of all Member States.