



**From the European Convention to Public Discourse:
Debating on Common European Future**

**Istituto Affari Internazionali
in cooperation with
The Trans European Policy States Association**

convention watch

BELGIUM

1. Evaluation of the work and results of the European Convention

1.1 Overall assessment of the results of the Convention

What is your government's overall assessment of the results of the Convention? How have they been received by the other main political and social actors?

The Belgian government came quite late with its first assessment of the Convention. This was due to internal political reasons: there had been national elections on 18 May and the winning coalition's negotiations for a new government were, at the moment of the European Council in Thessaloniki, still well under way. It was only on the eve of the Thessaloniki European Council on 19 and 20 June, that the Ministry of Foreign Affairs issued a press release on the draft Constitution. At that time, the Convention's activities were not yet fully finished and the communiqué stated that the Government would only pass judgement on the draft Constitution in mid-July, after the complete conclusion of the Convention's work.

In its policy document about the European Convention¹, the Ministry of Foreign Affairs pointed out that several of the objectives pursued by Belgium "appear to have been secured".

They include:

- Integration of the Charter of fundamental rights into the Constitution
- Possibility of accession to the European Human Rights Convention
- Establishment of a single treaty incorporating the existing Treaties along with their achievements, providing greater coherence and legibility
- Single legal personality and merger of the various pillars
- Better definition of competencies, albeit without actually drawing up a list

¹ Policy document "The European Convention"

<http://www.diplomatie.be/en/policy/policynotedetail.asp?TEXTID=2011>. The rest of this paragraph is equally quoted from this document.

- Inclusion of the principle of the Union's respect for the national identities of the Member States and their constitutional structures, including with regard to regional autonomy
- A mechanism for monitoring subsidiarity that enhances the role played by the national parliaments, but without affecting the Commission's right to take initiatives
- Simplification of the legal instruments and of the hierarchy governing them.
- Extension of qualified majority voting and co-decision procedures
- Representation of the euro zone
- Better coordination of external action by setting up a "double-hatting" European Foreign Ministry
- Establishment of new forms of cooperation in the area of defence and of a European Agency for Military Capabilities
- Boosting the Union's ability to develop a space of freedom, security and justice and extending the powers of the European Court of Justice in this domain
- The chapter on participatory democracy and the prospect of a right of popular initiative

As for the institutional issues, the Belgian government is in favour of the following innovations: the reinforcement of the European Parliament's legislative and budgetary powers, a clearer distinction between the Council's legislative and executive functions, a simpler way of calculating the qualified majority, the reduction in the number of the Commissioners as of 2009, and the establishment of a European Foreign Minister who will be vice-president of the Commission and will preside over the Foreign Affairs Council.

On the other hand, Belgium finds it regrettable "that the European Council will become a distinct institution (albeit with no legislative authority), and that the European Parliament will not be given a greater role in electing the President of the Commission. Admittedly the European Parliament will elect the President of the Commission, but only on the basis of a candidate presented by the European Council. Moreover, with the exception of the arrangement made for the Foreign Affairs Council, the issue of presiding over Council formations has not been satisfactorily resolved. The President of the Commission will not be able to preside over the General Affairs Council. The organisation of the Presidency of the Council's specialised formations remains to be settled, with no guarantees regarding the efficiency of the system and institutional balance (possible shift towards team presidencies coordinated by the President of the European Council). Finally, the draft also provides for the creation of a more permanent job for the President of the European Council while at the same time specifying some limits"².

The three Belgian Trade Unions Confederations openly expressed their disapproval of the draft constitutional Treaty in a press statement of July 10, 2003. They asked that the principle of unanimity in the field of social, fiscal and environmental issues be abandoned. They argued for an extension of QMV to the social field, as is already the case for the deregulation and competition field. Though services of general interest will be withdrawn from competition rules, there has been too little improvement on the social plan. The trade unions will not support the draft Constitution and they urge the Belgian government to inform the people by means of a broad public debate.³

² Ibidem.

³ Les syndicats belges demandent un vaste débat public sur la future Constitution européenne http://www.fgtb.be/code/fr/ComPres/2003/c04_03axx.htm.

The Federation of Enterprises in Belgium (FEB), Belgium's largest employers' organisation, is satisfied with the outcome of the Convention, in particular with the simplification of the treaties and the higher efficiency of the Union due to the extension of the system of qualified majority voting. Other positive points are the reinforcement of the role of the Commission with regard to the Stability Pact's rules, the establishment of competition as one of the goals of the Union and the acknowledgement of and support for the role of the social partners. The FEB pleads for a further strengthening of the central role of the Commission in the institutional structure, an extension of qualified majority voting in the field of trade and more flexible mechanisms for co- and self-regulation.⁴

1.2 Convention method

Is there the perception in your country that the Convention has contributed substantially to making the process of constitutional reform of the EU more transparent and democratic? What are considered to be the main positive elements of the Convention method? And those that, on the contrary, have drawn the most widespread criticism?

It is generally accepted that this European Convention has reached results that could have never been reached by a traditional IGC.

The results of the Convention go well beyond the lowest common denominator. In a speech before the Interparliamentary Assembly of the Benelux⁵, Minister of Foreign Affairs Louis Michel summed up the merits of the Convention method: the new debating culture through which the Convention has brought about a wide range of actors in the debate, the public nature of the Convention, the participation of the new members and the fact that the Convention considered the question about the nature and finality of the European project.

During an interview on May 7, 2003, Pierre Chevalier, representative for the Belgian government in the Convention, expressed the view that the time is too short. Maybe the Convention could be interrupted for the IGC, and continue its work afterwards. Anyhow, Belgium supports the idea of giving the Convention a permanent character, for instance for institutional affairs.

1.3 Performance of national representatives

How do you judge the performance of the representative of your government in the Convention? Do you think that he/she played a proactive and dynamic role? What are the Convention issues on which he/she concentrated his/her interventions and proposals? Did your government work actively to adopt common positions or establish a unity of action with other governments? Did the representatives from your country at the Convention take similar stances on the most important issues, or did their different

⁴ Goedkeuring ontwerp van grondwettelijk Verdrag moet Europa behoeden voor verlamming.
[<http://www.vbo.be/>]

⁵ Michel, Louis, La Cooperation des pays du Bénélux dans le domaine de la Politique extérieure et débat d'actualité sur la Convention européenne et la Constitution européenne. Conseil interparlementaire consultatif du Bénélux, 27 juin 2003.

political affiliations and ideological convictions reflect in substantially different positions?

The representatives for the Belgian government at the Convention were Minister of Foreign Affairs Louis Michel, a member of the working group on national parliaments, and Pierre Chevalier, a member of the working group on subsidiarity. As Minister of Foreign Affairs, Louis Michel mostly stressed the importance of the Convention in general and not specific topics.

During the Convention, Belgium collaborated with the other Benelux countries to adopt common positions on issues debated at the Convention.⁶ However, during the last weeks of the Convention, some differences arose about the institutional aspects: Belgium could endorse the proposals by Valéry Giscard d'Estaing about the permanent Presidency of the European Council and the end of the rotating presidencies, whereas the Netherlands and Luxembourg continued to criticise these plans. In the running up to the IGC, Belgian Ministers stressed the importance of the partnership with the other Benelux countries. The Benelux countries already made it clear that they would not participate in an "alliance of small countries" that wants to reopen the debates at the IGC.⁷

Meetings with the founding members of the EU (Benelux, France, Germany, and Italy) ended with few results. It was impossible to reach a compromise on the reinforcement of the powers of the Commission's President as a counterweight to the full-time president of the Council.

Belgian Prime Minister Guy Verhofstadt also met on April 29, 2003 with his colleagues from France, Germany and Luxembourg in the so-called mini-summit on European Defence. They approved a joint document on the strengthening of the EU defence dimension, and namely on the creation of a EU separate military headquarters.

With former Prime Minister Jean-Luc Dehaene, still one of the most popular politicians in Belgium⁸, as vice-president, the media paid a lot of attention to the work of the Convention.⁹

2. National debate and public opinion trends

2.1 Public opinion trends

How have the attitudes of public opinion towards the EU evolved in your country in the last months of the Convention's work? Can it be argued that the completion of the Convention's activities, and the presentation of the draft constitutional treaty have had a substantial impact on public opinion trends?

⁶ 5 December 2002, Benelux Memorandum on the institutional framework; 5 June 2002, Benelux Memorandum on the reform of the Council, 20 June 2001, Benelux Memorandum on the Future of Europe

⁷ The Benelux countries declined an invitation of the Czech Minister of Foreign Affairs to a "discussion forum" in Prague at which 18 smaller countries (current and future members states) were supposed to reach a common position to adopt at the IGC.

⁸ However, his party, the Christian-democrats are in the opposition

⁹ Interviews with Jean-Luc Dehaene in a.o. De Standaard 31/05/2003, Libération 05/06/2003, Le Vif-L'express 13/06/2003, La Libre Belgique 14/06/2003, De Standaard 19/06/2003, De Morgen 20/06/2003.

Public awareness about the Convention has risen during the last months of the Convention. According to the Flash Eurobarometer 142, dedicated to the Convention on the Future of Europe, Belgians are better informed about the European Convention than the average EU citizen. Fifty-five percent of the people asked whether they had heard of the Convention on the future of Europe answered “yes”, and 45% answered “no”. This is a significant progress in comparison to the results of Eurobarometer 59 (Spring 2003), where only 39% of the respondents had heard of the Convention. Still, the percentage of Belgian respondents that answered "Don't know" to questions about the Convention was pretty high (though lower than the EU average).

In the Flash EB 142, the Belgians also turned out to be the most satisfied with the results of the Convention: 48% of them considered themselves satisfied with the results, whereas the European average was only 30%. A remarkable outcome was that 70% of the Belgian respondents declared themselves to be in favour of a permanent president of the European Council: this is much higher than the European average, which was 58%, and also different from the position that the Belgian government defended initially in the Convention.

2.2 The role of parliament

Was the draft constitutional treaty approved by the Convention discussed in your national parliament? Did the committees of your parliament working on EU issues address and examine, on a more or less regular basis, the work of the Convention? How did the government inform parliament about its initiatives and positions concerning the constitutional reform of the EU?

During the last months of the Convention, the Belgian parliament was not very active. Due to the national elections, the parliament was dissolved on April 8, 2003. During the summer, the new parliament was in recess so no special attention was given to the results of the Convention.

Within the Belgian parliament, a special "Federal Advisory Committee for European Affairs" exists, which is composed of ten members of the Belgian Chamber of representatives, ten members of the Belgian Senate and ten members of the European Parliament. This committee draws up information reports on important European issues, after which a proposal of resolution can be submitted to vote. Before each European Council there is an exchange of views between the Federal Advisory Committee and the Prime Minister.

A special procedure allows Belgian members of the European Parliament to ask written questions to the federal government. These questions and answers are published in the "Bulletin of questions and answers" of the Chamber.

2.3 Other relevant initiatives

Do you think that the many initiatives undertaken by the EU to promote a public debate on European constitutional issues, notably by involving civil society, have had an impact in your country? Has your government played an effective role in raising the knowledge and awareness of public opinion concerning the Convention's goals and activities?

The Belgian Ministry of Foreign Affairs created a website entitled "Belgium at the EU Convention - Debating the future of Europe." This site was intended to serve as an interface between the Minister and the Belgian population. The site contains a list of Belgian participants in the Convention and their contributions, a list of frequently asked questions about the Convention, a questionnaire and a discussion forum. After 16 months of Convention, the results are rather poor: 313 people responded to the questionnaire and 31 messages were posted on the forum.

The Eurobarometer 59 (Spring 2003) found that written media, television and radio were the most durable information sources through which Belgian people obtained information on European Affairs, so the lack of response on the website is understandable.

The debate on the Future of Europe did not deeply involve the Belgian public opinion, as it took place mostly within academic and political circles.

2.4 Media coverage

How was the media coverage of the final, crucial phase of the Convention's work? How extensive has information on the content of the draft constitutional treaty been? Has it been presented in a positive or negative light? Which issues have been covered the most?

During the last weeks of the Convention, the media paid a lot of attention to its work. In the period from June 11 to June 23, 2003, each day one or several articles on the Convention appeared in the newspapers. There was a peak around June 19-20 due to the Thessaloniki European Council. The final presentation of the draft Constitution to the Italian presidency didn't get much attention.

The headlines tended to be rather negative: "La Convention va mal" (Le Soir, June 6), "L'Europe cherche muscles et souffle" (Le Soir, June 19), "Belgium also marks text of Convention as 'insufficient' "¹⁰ (De Standaard, June 19), "Le gouvernement belge rallié au projet, sans enthousiasme" (L'Echo, June 23). In interviews¹¹, things were put more positively. An oft-quoted comment by Jean-Luc Dehaene was "The glass is more than half-full".

The articles published mostly dealt with the draft Constitutional Treaty in general and the institutional changes it brings.

3. Prospects for the Intergovernmental Conference

3.1 Link between the Convention and the IGC

The Thessaloniki Council did not go beyond defining the text of the draft constitutional treaty "a good basis for starting the Intergovernmental Conference". In your government's view, should the IGC limit itself to endorsing the results of the Convention, concentrating only on the few issues that still remain controversial, or engage in a more comprehensive review of the draft constitutional treaty?

¹⁰ Original title: "Ook België geeft tekst van Conventie onvoldoende"

¹¹ Most frequently interviewed were Jean-Luc Dehaene, vice-president of the Convention and Franklin Dehousse, Director of the Institut Royal des Relations Internationales

The Belgian government hopes that the progress achieved at the Convention will not be harmed during the IGC. The IGC should not reopen the debate on questions on which consensus had already been reached at the Convention. The result of the Convention is a Pareto-like optimal but delicate balance and adjusting this could jeopardise the construction as a whole.

The Belgian Minister of Foreign Affairs does not want to re-discuss the achievements that have been made so far to make progress on other points.

However, "si certains rouvrent ...au sein de la CIG des questions ayant fait l'objet d'un consensus au sein de la Convention, la Belgique ne saurait être privée de la possibilité de faire de même."¹²

3.2 Organisation of the IGC

To prevent the upcoming Intergovernmental Conference (IGC) from bogging down in obscure and prolonged negotiations, as in the previous IGCs, the Italian government, which will hold the EU's presidency until December 2003, proposes that the IGC be held mostly at top-level, i.e. at the level of the Heads of State and Government and the Ministers of Foreign Affairs. Does your government agree with this approach?

It was the opinion of the Belgian government that the IGC should start at the latest in October. Since the IGC can build on the work of the Convention, this should be a short IGC.

As to the composition of the IGC, Belgium feels that the IGC should be composed, as usual, of Representatives of the governments, since the preparatory body was the Convention. Belgium wants the IGC to be finished under the Italian Presidency.

3.3 Controversial issues

3.3.1 Elected President of the Council

While there is general agreement concerning the establishment of a permanent and elected President of the Council, there are still different ideas on his/her functions, especially on whether or not he/she should play a co-ordinating role with regard to the presidencies of the other Council formations.

The Belgian government regrets that the European Council has become a separate institution.

At the start of the Convention, Belgium was against a single President of the European Council and was in favour of keeping the rotating presidency. They defended this point of view together with the other Benelux countries. During the course of the Convention, Belgium gradually changed its opinion.

In the new governmental declaration, the question about the presidency of the Council was not mentioned.

The president of the European Council should be elected from amongst his/her members and not enter into competition with the European Commission. It is also essential that the President of the Council not impinge on the competencies of the Commission.

¹² Press release issued by the Ministry of Foreign Affairs after the European Council of Thessaloniki, <http://www.diplomatie.be/nl/policy/policynotedetail.asp?TEXTID=7631>

There is no satisfactory solution for the presidency of different Council formations, except for those of External Affairs. Even more, there are no guarantees to protect the efficiency of the system and the institutional balance.

3.3.2 Composition of the Commission

The debate in the Convention concerning the European Commission eventually concentrated on its composition. The Convention approved the following proposal: "The Commission shall consist of a College comprising its President, the Union Minister of Foreign Affairs/Vice-President, and thirteen European Commissioners selected on the basis of a system of equal rotation between the Member States." In addition, "the Commission President shall appoint non-voting Commissioners, chosen according to the same criteria". Does your government back this proposal or is it in favour of a different solution?

The Belgian government regrets that the European Parliament has no real power to designate the Commission president (it can only approve or reject the proposition of the European Council). It also deplores that the Commission president will not preside over the General Affairs Council. In a communiqué issued by the Ministry of Foreign Affairs on the eve of the Thessaloniki European Council, the composition of the Commission as a college of 15 Commissioners and some non-voting Commissioners, with a strict application of the equality principle, was considered to be a positive point. This implies that each Member State should have one voting or non-voting Commissioner and that no Member State should have more than one Commissioner.

3.3.3 Definition of qualified majority voting

The Convention has proposed abolishing the current weighting system for qualified majority voting (QMV), by defining QMV as the majority of the member states representing at least 60% of the European population. Is your government satisfied with this provision, or would it rather change it?

The Belgian government considers the simplification of the way in which QMV is calculated as a positive thing. However, the definition of qualified majority as a majority of member states, representing 60 percent of the population, in case of a Commission proposal, means that the smaller states in Europe can never reach a majority without the support of at least one large country. In case the Council decides without a proposal from the Commission, qualified majority voting means two thirds of Member States representing 60 percent of the population. This makes it even more difficult for small Member States to count.

3.3.4 Extension of qualified majority voting

Does your government support an extension of QMV to policy fields other than those indicated in the draft constitutional treaty, such as taxation and CFSP?

Belgium feels that more efforts should be made to establish a general application of the qualified majority voting system. There has been great progress in the area of freedom,

Supported by the European Commission

security and justice. However, The Belgian government is disappointed that the system of QMV is not extended to other areas such as the social and fiscal policy and in the field of foreign policy and security. Though the social objectives of the Union are reinforced, the text of the Convention does not sufficiently foresee the instruments and competencies to reach these goals. Belgian socialist MEP Anne Van Lancker and Minister Frank Vandenbroucke announced before the summit of Thessaloniki that they would find it hard to support the constitutional Treaty if the social dimension were not reinforced.

The draft Constitution foresees the possibility to change the decision-making method from unanimity to QMV, but this decision itself should be made by unanimity, which limits its use.

3.3.5 Minister of Foreign Affairs and EU diplomatic service

While there is a consensus on the creation of a EU Minister of Foreign Affairs, different views exist concerning the executive structure he/she should rely upon. What is your national government's position on this issue? Should the structure be placed within the Commission or the Council?

Belgium is very pleased with the creation of an EU Minister of Foreign Affairs, who will also be vice-president of the Commission. Louis Michel believes that this institutional novelty will increase the visibility and actual impact the Union has on the international level. On the matter of whether his/her executive service should be placed within the Commission or within the Council, Belgium has taken no stance.

4. The ratification process

4.1 Eventual obstacles

Do you think that the process of ratification of the new constitutional treaty may encounter difficulties or major political opposition in your country? If so, which?

The Flemish socialist party found it difficult, at the moment of the Thessaloniki European Council, to defend the draft Constitutional Treaty during a parliamentary ratification procedure, due to the lack of advancement in the social field. However, the socialist party took note of some progress, *inter alia* concerning the services of general interest and the open method of co-ordination, made by the Convention after the European Council of Thessaloniki.

4.2 European Parliament elections

According to the conclusions of the Thessaloniki Council, the Intergovernmental Conference should "complete its work and agree the Constitutional Treaty as soon as possible and in time for it to become known to European citizens before the June 2004 elections for the European Parliament". Do you expect the constitutional issues to become a central matter of debate during the electoral campaign in your country? Or do you think that the European Parliament elections are more likely to be dominated by national issues?

Supported by the European Commission

In 2004, there are also elections at the regional level, and probably these will receive a lot more attention than the European elections. However, if there is a "consultative" referendum about the text of the draft constitution (see below), it can be expected that constitutional issues will be an issue during the European political elections.

4.3 Referendums

For constitutional reasons, some countries need to submit the EU Constitutional Treaty to a national referendum before it can enter into force. Others may decide to hold a referendum in order to give the national ratification more legitimacy. Is a referendum foreseen in your country? If so, do you expect this to be a factor that will complicate or facilitate the ratification process?

A legally binding referendum is impossible, unless the Belgian constitution is changed. Though, more and more voices in public opinion and also from within the government are urging that the Constitutional Treaty be submitted to a "consultative" referendum¹³. The governing liberal party (VLD) thinks a referendum would be good for democracy. Another idea would be to hold a European-wide referendum with no binding results.

4.4 What to do in case of failed ratification

Has your government expressed any preference on the eventual initiatives to be undertaken in case one or more countries should fail to ratify the new treaty?

The Belgian government has never addressed the problem of what to do if the ratification process fails.

¹³ On the website of the Belgian action group for a European referendum (WIT) (<http://www.wit-be.org/>), it is mentioned that Karel de Gucht (chairman of the governing liberal party VLD), Pierre Chevalier (liberal representative of the government at the European Convention), Mary Nagy (MP for Green Party Ecolo) and Anne Van Lancker (MEP for also governing socialist party) have signed the petition of the European Referendum Campaign to submit the draft Constitution to a referendum.