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Against the backdrop of discussions on the future of the EU, an EU constitution is being prepared.

The preparations are formally taking place in the Convention, in which the governments and parliaments of Member States and candidate countries, the European Parliament and the Commission are represented.

The Convention is, however, non-representative, as the vast majority of its members want the EU to become a federal state.

EU critics, sceptics and realists have established a "Forum for Democracy" that transcends national and party boundaries. The forum is preparing an initiative to keep the EU as a federation of independent states and not to create a federal state as such. Of the 105 members of the Convention only 6, and a slightly larger number of alternate members, are participating in this work.

There is no other opposition.

The Nice Treaty favours the big countries

Although outwardly it may look as though the Convention is preparing a draft constitution and that its members are free to mould it as they please, this is actually an illusion.

There are good grounds for believing that the large Member States are concurrently carrying

out their own preparations. The Nice Treaty, at least, was prepared by the large Member States, and it guaranteed increased powers for them. Now the intention is for this to be institutionalised as a constitution.

The *right of veto based on population numbers*, provided for at Nice, is of particular importance, because it enables the members of three large (or if Germany is included, then two large and one small) Member States to prevent the formulation of any qualified majority decision whatsoever.

Given that EU decisions are rarely prepared where they are claimed to have been prepared, it is hard to believe that a constitutional convention could be free to propose a more democratic distribution of power in the EU. It is inconceivable that the large countries will give up what they gained at Nice.

The draft constitution will be compatible with the Nice Treaty.

Community method and intergovernmental method

The constitution under preparation concerns the EU's jurisdiction and its tasks.

On the one hand there is the jurisdiction of the central power and, on the other, the jurisdiction of the Member States.

When the Member States and their democratic decision-making bodies no longer have all the power within the Community, a decision will have to be made on whether the distribution of power within the Union will be developed according to the Community method or the intergovernmental method.

The *Community method* means that decisions on the future of the EU are made within the EU institutions. This is the federal state method.

The *intergovernmental method* means that decisions are ultimately made within member countries.

This, too, can be considered a federal method inasmuch as the large countries can use their size to pressurise the small countries, as happened at Nice.

Clearly, the EU will not develop into a federal state in the short term through one method or the other, but through both methods. When just one country can prevent legal amendments to treaties, it is impossible to fully predict the outcome of any process. It is, however, certain that a small country will not be able to stop the large countries from doing as they please. This was illustrated by the case of Ireland where the other countries dismissed the “wrong” result of the *Irish national referendum*.

Development towards a federal state is also taking place via the formation of groups of states which are taking the Union in a particular direction even though not all the countries are involved. Proof of this is the introduction of the federal state currency. Not all countries have the euro, and neither are all countries part of the common monetary policy of Euroland.

There is *constructive abstention* whereby decisions are made in the EU but those in disagreement do not exercise their right of veto.

There is *enhanced cooperation* whereby a particular country group creates its own insider group; i.e. a kind of avant-garde group with its own decision-making bodies. EMU is an example of this, and this approach to cooperation has also infiltrated defence questions.

The Convention has its own insider group

The Convention represents the power of large countries and their ability to dictate. Its working method is from the top down.

Who is at the top?

Formally speaking, the Presidium is at the top, and it has not representatives from all member countries. It holds closed meetings which can have a major influence on policy.

On May 10, 2002, El País, the most authoritative daily Spanish newspaper, wrote that the Presidium had, that particular week, discussed reducing the power of the Commission and placing Justice and Home Affairs under the authority of the Council. The Council is composed of ministers from Member States.

The European Parliament's representatives on the Presidium deny that such discussions took place, but the newspaper asserts that its sources are reliable.

Subordinate to the Presidium is the Secretariat, which has not representatives from all countries, and which is said to be the place where the drafts of the constitution are written. It is unclear where the actual draft constitution will ultimately come from. It is possible that the large countries have committees of officials who will prepare a draft among themselves and then introduce it, in the name of their representatives, into the Convention.

It is also possible that the draft constitution will be prepared within pro-Europe conservative and social democratic parties and presented to the Convention in the name of the representatives of those parties. This would mean that the final result of the Convention would be a compromise between these stances, and there would be no ambiguity about the direction of the draft constitution; i.e., the conservatives have openly stated their aim of a federal state with its own constitution, whereas the European social democrats are – less openly – the most federal party group in the EU, with tight European party discipline.

The members of the Convention look like decision makers, but it would be far too great a risk for the large countries to put power into the hands of such an unpredictable group. Because of this, the constitution may well be drafted within various interconnected insider groups, out of the public eye.

Governments, too, are preparing their own constraints for the Convention. This is being done in a working group headed by Javier Solana, the EU foreign policy spokesperson, who was nominated by the governments. The item was already included on the agenda of the Seville summit.

Speculative conjecture

The Nice Treaty ensured that large countries could keep their power. They will not surrender it.

The members of the Convention know this.

Given that the final result of the Convention will be sent to the intergovernmental conference, where each Member State will have the right to veto the draft constitution, it goes without saying that the members of the Convention are not going to prepare something that will be immediately rejected.

Giscard's speaks for the heavyweights

It is worth paying special attention to what **Valéry Giscard d'Estaing**, the president of the Convention, has to say. He is the spokesperson of the large countries.

From his speeches one can draw conclusions regarding what is planned for the Convention. He represents an unspecified body, but with his 1,000 euro per diems, he certainly doesn't only represent his own interests.

In Giscard's words, *the Convention shall not vote on the final result*.

In other words, whatever is prepared will be something that will be approved by the vast

majority of those on the Convention, the unanimity of the Member States and the federalist minded representatives of the all-European parties. If the draft constitution turns out not to be like this it would represent a Big Failure and a momentous defeat for the EU federalists.

Finnish Prime Minister on the losing side

It looks as though the solutions in preparation will *reduce the power of the Commission*.

The proponents of the Community method are in favour of a strong Commission, which, the Finnish Prime Minister Paavo Lipponen says, is allegedly “in the interests of the small Member State”. In the EU, Lipponen is one of the few who defend the retention of power by the Commission. In this respect he represents an important cooperation partner for the Commission, because it is sufficient for the Commission for one country to oppose the removal of power from the Commission and its becoming a mere bureaucracy.

When Giscard says that, in the future, the Commission will not vote, this might mean that there is some kind of political institution in the pipeline, which will vote – according to the qualified majority procedure which favours the large countries – and which will relegate the Commission to being a subordinate executive institution made up of civil servants. In that case, the fact that after enlargement even small countries will have their own Commissioner will be meaningless in terms of power politics.

What will replace the Commission?

One can deduce from the speeches given by representatives of some large countries that the EU's new executive and high political decision-making institution will be the standing meeting of the European ministers, which would operate from the seat of European power in Brussels.

In the same spirit it has been suggested that a legislative system based on a two-chamber parliament be established. This approach to legislating is unfamiliar to many, though it is used in a number of federal states; i.e., there is a lower chamber elected by the people and a higher chamber for regional representatives (which, in the EU, would be made up of representatives

from national parliaments).

The Commission, which has two representatives in the Presidium of the Convention, will no doubt have to start fighting to retain its power. Its allies of those who are in power seem to be Benelux (i.e. the Benelux countries and Lipponen's Finland) - and then of course the less powerful majority of the members of the convention.

The fact that Belgium wants to turn the Commission into the EU's parliamentary government does not accurately represent the power relations within the EU, because it would represent too great a risk to the power of larger countries.

More common foreign and security policy in the pipeline

It may be that the entire Presidium, which also contains representatives from the Commission and from small countries, will not ultimately write the draft constitution.

Instead, it may be written by a group whose most visible representative is Giscard d'Estaing.

Giscard, as the chairman of the Convention, is pushing for the Convention to produce a proposal on common foreign and security policy, so that the EU "will speak with a single voice to the outside world."

From the point of view of a non-aligned small country this would mean the disappearance of the last important mark of independence and, potentially, forced membership of NATO. The commander of the Finnish defence forces **Juhani Kaskeala** says: "At this rate it looks to be that a common EU defence can only be a reality if all Member States become members of NATO." There is a pressure to join the Nato club against the will of the peoples of the non-aligned countries.

If the Convention is able to reach any conclusions, one of the most likely is that foreign policy

will be communauterised. The process is, however, complicated. Not a single one of the large countries that want to speak on behalf of the EU as a whole seems ready to relinquish control of its own foreign policy. Instead, these large countries want to coordinate EU foreign policy amongst themselves, without the smaller countries.

The draft constitution of the Convention is unlikely to be able to specify clear lists of tasks for the central power, or to categorise the tasks that will remain under the jurisdiction of Member States. The EU will still be governed by diversity for a long time to come, and this Convention is unlikely to convert it into the United States of Europe just yet.

The Commission's Christmas list

On May 22, the Commission presented its views on the kind of final result that it hoped from the Convention. It was the Commission's Christmas list.

The Commission represents the spirit of the Community in the EU and, with that, the Community's federal line. It wants to turn the EU into a world power, which – according to **Tony Blair**

– would be a superpower but not a superstate. Being a world power comes with “responsibilities” that it needs to be able to fulfil, above all in the area of foreign and security policy. And for that, the Commission wants more resources in the form of money and foreign representation.

The Commission wants the EU to speak with *one voice* in global political matters. This is also the stance of the large Member States. The Commission considers that this “one voice” should be the Commission's voice. The Member States, on the other hand, have, in the Council, appointed their own spokesperson (Javier Solana) as the high representative for foreign policy. He represents the governments, and the Commission wants to combine his post with the office of commissioner for foreign affairs. The Commission knows that the Council will not agree to that, but will rather work to strengthen the structures of the Council.

The demand that the right of veto be removed in foreign, security and defence policy issues may be supported by the Council, as it knows that it uses that very power itself.

The Community method

According to the Commission, the Community method involves 1) the exclusive right to initiate legislation, 2) codecision procedure for all legislation, 3) qualified majority decisions in all matters and 4) monitoring and interpretation powers for the European Court of Justice. The Member States' right of veto in legislation and important decisions is in complete contradiction with the Community method, and people want it removed from all decision making.

The Commission wants its own position strengthened. If it obtained extra powers they would come from the Council and from national parliaments.

Community decision-making would be represented by the aim outlined at the Tampere Summit for a "European" area of freedom, security and justice. The Commission wants common laws (that would be set by the Community method: by qualified majority without the Member States' right of veto). When the Commission talks about "a more direct and open link between European citizens and the Community budget" it wants to fund its activity by means of Euro taxes that increase its independence; up until now the EU has not had the right to tax, rather it is dependant on remittances from the Member States.

The alternative to the Commission's Community power is the intergovernmental method.

It is becoming clear from the Convention that this method, too, is being used to turn the EU into a federal state. The aim is, after enlargement, to make a global and political super state controlled by the large Member States, and not to compromise when using powers: the Convention could turn into the kind of proposal that guarantees the large countries the additional powers that they bestowed upon themselves at Nice.

National Referendum?

It is possible that a national referendum will be the desired way to decide on the EU constitution during the final stages.

The possibilities are as follows: 1) EU-wide national referendum and 2) national referendum in each Member State.

Federalists want a single vote because this would favour the countries with large populations. Eurosceptics, however, want a national referendum separately in each country as this enables small countries to mobilise the people to defend their interests by opposing a draft constitution approved by the elite.

The goal has nevertheless been set

Federalists have set the goal for the kind of federalisation in the EU that, in all its forms, enshrines the power of the large countries.

This prospect also involves the militarisation of the EU. In the short term this will take place in cooperation with NATO. If the EU were to become a European super state at some later stage, the Americans would then have to be driven out of Europe. Europe and America nonetheless share a common concern of ensuring the sufficiency and availability of the world's raw materials. This is the military fate that binds them together.