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THE NEW GOVERNANCE OF EUROPE:  
PARLIAMENTARY OR PRESIDENTIAL?

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## **THE NEW GOVERNANCE OF EUROPE: PARLIAMENTARY OR PRESIDENTIAL?**

### **Abstract**

This paper discusses the main issues at stake in the Convention preparing a Constitutional Treaty for Europe. It builds on recent work in political economics to discuss the trade-offs between the parliamentary and the presidential model of democracy for legislative and executive activity in areas of competence of an enlarged EU. It argues in favor of a presidential model in the context of the EU with the president being elected by national parliaments.

**Keywords:** EU governance, parliamentary system, presidential system, Commission president, Convention for the Future of Europe

## **THE NEW GOVERNANCE OF EUROPE: PARLIAMENTARY OR PRESIDENTIAL?**

### **Introduction**

Research by economists on institutional aspects of the process of European integration has very much focused either on issues of fiscal federalism or on institutions for monetary policy. A huge literature has developed on these issues (see Baldwin-Wyplosz, forthcoming). This is not surprising since these are areas where the expertise of economists is quite developed. In those areas, economic analysis is a powerful tool that exerts a strong influence on policy debates.

Currently, the main topic of debate within European policy circles is the Convention for the Future of Europe that was set up by the Laeken summit of the European Council in December 2001. The Convention could play a historical role comparable to the Philadelphia convention of 1787 that drafted the famous US constitution. At the heart of the Convention is indeed work on a “Constitutional Treaty” that would merge existing Treaties but most importantly overhaul the institutional system for the governance of Europe. The Convention is reviewing and preparing proposals for improving the mechanisms by which legislative, executive and judicial decision-making takes place in Europe.

The need to reform the governance of Europe has been voiced repeatedly and with growing insistence in the last 10 years. The looming enlargement of Europe to 10 new member states by 2004 decided at the Copenhagen summit (Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic, Slovenia) has created a sense of urgency. There is a widespread consensus that the current institutions, initially created for a Europe of 6 member states, will no longer be adequate for a Union of 25 countries or more. The Nice Treaty made some changes to the number of commissioners, the number of Members of the European Parliament (MEPs) and the decision weights in the European Council. However, it was generally felt that Nice had postponed the more difficult but more substantial questions concerning the governance of Europe. Enlargement makes reform more urgent because of the danger that the inherent weaknesses of today’s EU will be powerfully magnified in a bigger Union of 25. There could be a substantial risk of institutional collapse of the whole European construction of the last 50 years. Despite the apprehension in many countries of the risks posed by the uncertain prospects for reform of Europe’s governance, the EU is seen as a major success story and apparently the time is ripe for such deep reforms.

What can economists say about the governance problem in Europe? Is this an area of expertise reserved exclusively for political scientists and scholars of constitutional law? In this paper, I build on the recent literature in political economics (for a survey, see Persson and Tabellini, 2000, 2003 forthcoming) that analyzes the economic effect of different political constitutions. That literature is still very new but it can shed light on the problems of the governance of Europe debated at the Convention.

In this paper, I will not focus at all on competences of the Union but on governance issues: for competences that are centralized at the European level, how should political decision-making (legislative and executive) be organized? What are the trade-offs between different forms of political governance and what would be the optimal solution for an enlarged Europe? The issue of governance itself cannot be completely separated from the competences that should be exercised at the Union level and the choice of the most suitable form of governance depends on the kinds of public goods that one expects will be delivered at the European level. My working assumption, which I will justify below, is that the enlarged EU will retain its current competences but will or should make significant progress in areas related to foreign policy, justice and home affairs.

In section 2, I go over the issues at stake in the drafting of the European Constitution. The Convention has already reached remarkable consensus on many points but the issues of how the European executive should be appointed and the necessary checks and balances between various European institutions is far from settled. In section 3, I review the relevant literature in political economics, analyzing in particular the trade-offs between parliamentary and presidential governance. In section 4, I argue in favor of presidential governance, with a president elected by an electoral college composed of national parliaments (1). I argue against the election of the president of the Commission by the EP but also against the setting up of a European Congress, as proposed by Valéry Giscard d'Estaing, the chairman of the Convention, and against a "double executive" with a president of the Council elected by heads of state and a Commission president. The executive powers of the Commission must be strengthened but so must its accountability, both to the member states and also to the citizens of Europe.

## **2. The issues at stake in the governance of Europe.**

The institutions created by the founding fathers of Europe have been the source of remarkable success in the last decades.

### ***2.1. The success of Europe.***

The Single Market has expanded since 1957 both geographically (from 6 to 15 and soon to 27 member states) and in depth via the 1985 program set in motion by Jacques Delors and the EMU. This has brought decades of relative prosperity compared to the previous decades characterized by the two most bloody wars in world history. The introduction of notes and coins in 2002 has generally been considered a success. Despite some localized

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(1) Many of the ideas in that section are borrowed from a joint CEPR report written with Erik Berglöf, Barry Eichengreen, Guido Tabellini and Charles Wyplosz (Berglöf et al. 2003). Many other ideas in this paper I owe to joint discussion with them.

price hikes, its introduction was very smooth and European citizens have adapted to it remarkably fast.

The EU has played a substantial role in stabilizing the macroeconomic situation in Europe, especially in the eighties and the nineties. After WWII, the main European economies, UK, France and Italy followed very divergent paths. The EU has counteracted important government failures in individual countries and helped to create convergence at low levels of inflation. Without the EU, Belgium and Italy, for example, may eventually have ended in Argentinian-type situations. This should be remembered in the context of the problems with the Stability Pact.

The cooperation of EU countries in EU integration has created a framework of peace within Europe after centuries of wars among the biggest European powers. Peace is one of the main objectives of the EU. Peace is achieved not only via more trade (the internal market) but EU members also increasingly share common goals and values. EU countries will not wage wars against each other. Moreover, conflicts between countries are managed within the EU institutions (“mad cow” disease, the dioxine crisis,...), which allow for dialogue and sometimes decisions by EU institutions that indicate an effective transfer of sovereignty to the EU. Enlargement holds the promise of peace on the broader European continent.

The EU has provided an institutional anchor that has allowed Greece, Spain and Portugal to achieve a successful transition from dictatorship to democracy. Participation in the EU has also been a very useful vehicle for modernization in these countries. A similar promise holds for potential new entrants who went through decades of Soviet occupation and economic stagnation in the socialist economic system. It is no exaggeration to say that the positive example of Europe has played a positive role in the third wave of democratization in the last 20 years of the twentieth century.

If we compare the EU to any other supranational institution such as the U.N. or the WTO we can only conclude that it has functioned more successfully than these other organizations. This is due to the “*méthode communautaire*” or Community method whereby the European Commission, responsible for promoting further economic integration, has had the responsibility (and also the exclusive right) to continuously initiate European legislative proposals, while the unanimity rule has allowed countries to preserve their sovereignty.

The Commission, despite its very small size (an administration of less than 20,000 civil servants), has also played a very useful role in its competition policy, forcing national governments to undo decisions that went against the Treaty of Rome. National governments have tended to abide by the decisions of the Commission. Decisions by the Court of Justice in the same direction have also played a positive role. The precedence of European Law in these matters has been more and more recognized and decisions of the Court and the Commission have generally been enforced. This is surprising given the fact that the EU lacks any enforcement agencies and relies on national governments and bureaucracies for enforcement of its decisions.

## ***2.2. Challenges ahead***

In a way, the European Union is the victim of its own success. The last 10 years have not only seen the number of member states and candidates to accession increase dramatically but there has also been a dramatic expansion of new areas of integration such as Common Foreign and Security Policy and Justice and Home Affairs. There is, however, also

the clear perception that European institutions are not prepared to face the new and important challenges in those areas.

Suppose the EU were to be hit by a shock like September 11, say a bombing of EU buildings in Brussels, of the ECB buildings in Germany, or coordinated terrorist attacks in several major European cities. If the EU is unable to react swiftly, gets bogged down in endless negotiations between countries and reveals to the outside world its failure to solve its collective action problem, the ensuing loss in legitimacy could be lethal for the whole project of European integration. The comparison with the decisive reaction of the US in the weeks after the September 11 attack could deeply discredit the EU institutions. The EU survived its inability to deal appropriately with the Yugoslavia crisis. What would happen in case of a severe crisis, say between Slovakia and Hungary? If the EU is not ready and able to deal with important foreign policy or security shocks, the result of 45 years of patient work of European integration could be lost for a very long time. There is, in particular, the need for a strong but legitimate and accountable executive at the EU level. This should clearly be one of the most important goals for the Convention, but it is also one of the most difficult to achieve.

Apart from such extreme though not unlikely scenarios, Europe also needs to have its voice heard in the world. A set of common European values are slowly emerging. While most of these values are common with the rest of the Western world (freedom and democracy), specific values are developing throughout Europe such as the opposition to the death penalty, and a greater sense of solidarity inspired both by social democracy and Christian conservatism. The need for Europe's voice to be heard in the world also points to the necessity of a legitimate and accountable executive.

These are obviously not the only challenges but they are, in my view, the most important ones. While progress is still needed on the economic integration front, it is fair to say that the most important legislative work lies behind us rather than ahead. Enforcement of the Single Market will obviously remain important and that also is a matter of executive power. These remarks are important. They imply that in the design of the new European governance one must pay special attention to the executive aspects.

### ***2.3 The Laeken Declaration and the Convention***

The Laeken Declaration of December 2001 decided the establishment of a convention to prepare the next intergovernmental conference in 2004. In addition to its Chairman and two Vice-Chairmen, the Convention is composed of:

- 5 representatives of the Governments of the Member States,
- 13 representatives of Governments of countries that are candidates for accession,
- 30 representatives of the national parliaments,
- 26 representatives of the national parliaments of accession candidates,
- 16 members of the European Parliament,
- 2 representatives of the European Commission.

The Laeken Declaration raised a number of questions for the Convention to answer. The main questions raised by the Laeken Declaration are:

- clarify the Competences of the Union and the member states;
- how to ensure that the principle of subsidiarity is enforced and that creeping centralization of the competences of the Union is avoided;

- simplify the Union’s instruments and reduce their number;
- increase democratic legitimacy and transparency. Issues raised in that context are the most important ones:
  - How to appoint the Commission president,
  - The extension of powers of the European Parliament,
  - A review of the electoral rules for the European Parliament,
  - Clarify the legislative and executive role of the Council,
  - Assure transparency of Council meetings,
  - How to ensure a balance between the various European institutions,
  - How to better involve national parliaments in the European decision-making process,
  - How to have more effective decision-making (extent of qualified majority voting, simplification of the co-decision procedure, what to do with the rotating 6-month presidency);
  - have a constitution for European citizens.

At the end of 2002, the Convention has been at work for more than 6 months and many of these questions have already been clarified and are the object of consensus.

On the issue of competences, an agreement has emerged rather quickly within the Convention against the idea of trying to write down an exhaustive catalogue of competences. Indeed, such a task would be nearly insurmountable. In economic terms, this would be tantamount to trying to write a complete contract. Indeed, areas of competence are always aggregate objects and they often overlap with each other. The Convention has understood very quickly that what matters is to ensure that there are good institutional mechanisms both to allow further integration in certain areas if needed and also to ensure the enforcement of subsidiarity.

There is nevertheless a broad consensus to keep exclusive competence of the Union in areas such as trade policy, competition policy and monetary policy. There is a broad consensus on the need to strengthen Europe’s foreign policy and have Europe speak with one voice. Similarly, there is agreement in the Convention on the need to have European cross-border action, especially in the areas of asylum and migration, to give operational powers to Europol and to establish a democratic scrutiny of the latter.

There is also a large consensus on very important topics such as the insertion of the charter of fundamental rights in the Constitutional Treaty, the adoption of a Single Legal Personality for the EU (2), the merger of the Treaties and the need for a European Constitution.

There is broad agreement on the need for transparency in the legislative proceedings of Council meetings. Qualified majority voting should be extended to all areas where the co-decision procedure applies (3). The cooperation procedure should be abolished.

The Convention has endorsed the conclusions of the working group on subsidiarity, which proposed the establishment of an early warning system whereby the Commission would have to inform the national parliaments, together with the Council and the European

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(1) Currently, international agreements between the EU and third countries must be signed by legal authorities of all member states.  
 (2) These are essentially the internal market, social policy, consumer protection and the environment.



Parliament, of its legislative proposals. National parliaments would have 6 weeks to evaluate whether or not the proposals violate the principle of subsidiarity. If a sufficient number of national parliaments express such a judgement, the Commission would have to reconsider its proposals. This is seen as an “ex ante” political judgement on subsidiarity taking the form of a “yellow card”.

On the issue of legal instruments, the Convention’s working group on simplification of the instruments has proposed to reduce the number of legal instruments from 15 to 5. They propose that the current “regulations” be called “laws”. These are legislative decisions that are binding on all member states and directly applicable. The current category of European “directive” should be renamed “framework law”. These legislative decisions are also binding, but the choice of the form of implementation is left to the member states. The working group proposes to introduce the category of “decision”, which would be binding but would not necessarily have an addressee. It is seen as a very flexible instrument as it need not be applicable to all countries. The non-binding instruments (“recommendations” and “opinions”) would remain as they are now.

There also seems to be general agreement that the “open method of coordination”, i.e. concerted action by member states outside the defined competences of the EU, should be defined in the Constitutional Treaty.

It should be stressed that these changes in themselves will represent a fundamental milestone in the history of the European Union and are very likely to go through. Nevertheless, there is still no consensus on some quite fundamental aspects of the future governance of Europe. Prime Minister Blair (U.K.) and President Chirac (France) have proposed that the six-month rotating presidency be replaced by a five-year president elected by the European Council. The proposal has been backed by Prime Minister Aznar of Spain. Giscard, the convention chair, has also expressed support for this measure and proposed the creation of a European Congress that would meet once a year to discuss the Commission’s legislative agenda. These proposals are seen as an offensive to make Europe more intergovernmentalist and to weaken the Commission and the European Parliament, the two most “federalist” institutions. The federalist camp, composed mostly of the smaller countries, Germany and the main European parties represented in the European Parliament, consider that the election of a European president would create a power structure parallel to the European Commission. Also, the creation of a new institution, the European Congress, is seen as dangerous because it would destroy the existing balance between the institutions. The federalists have recommended that the current institutions be maintained and that the president of the Commission be elected by the European Parliament in order to increase the accountability of the Commission. They propose that a “two hat” system be established in which the president of the Commission would also act as chair of the Council. Belgian prime minister Verhofstadt has made this idea more precise by stating that executive Councils should be chaired by the Commission and that legislative Councils should elect their own chair, just like in all legislative assemblies.

The ideas of the “federalist” camp are criticized, in turn, by the intergovernmentalists, who argue that the president of the Commission cannot be elected by the European Parliament because the latter does not have sufficient legitimacy. Voter turnout for the European Parliament is much lower than for national elections and has not increased despite the stronger powers allocated to the European Parliament. This is something of a chicken-and-egg problem. Lack of interest by the general public in the European Parliament is very much related to the Parliament’s lack of powers. At the same time, reluctance to give more power to the European Parliament is usually justified by citing the low public interest in its activities.

Another argument is that European parties are not yet strong enough and cannot impose discipline on their members. This argument is often overstated. Econometric analysis of voting in the European Parliament shows that MEPs vote mainly along European party lines and that European party cohesion has been increasing over time as the European Parliament received more powers while country cohesion was low and decreasing (Noury and Roland, 2002; Hix, Noury and Roland, 2002). Nevertheless, national parliaments and governments are still clearly seen as the main source of legitimacy for the European electorates.

The above points need to be settled in a satisfactory way. Neither the “intergovernmentalist” nor the “federalist” position is likely to prevail as such. A good constitution should attempt to balance the concerns expressed on either side. On the other hand, there is a big danger of a compromise emerging that “satisfies” concerns on both sides but produces a flawed institutional setup. This will most likely be the biggest danger to be avoided.

#### ***2.4. The fundamental trade-off in European governance.***

The fundamental trade-off within European institutions has always been, on the one hand, to avoid the collective action problem or free-riding of national governments in the provision of Europe-wide public goods while, on the other hand, respecting the national sovereignty of member states.

This has been achieved in an ingenious way in the past decades with the Community method. The basic principles of this method are as follows. The European Commission is the agenda-setter for legislative proposals, i.e. the Commission has the sole right of initiative to make proposals that are submitted to the Council and voted upon in the Council. Traditionally, until the eighties at least, most voting in the Council was by unanimity. Even when voting by majority was introduced, individual countries could always invoke the Luxembourg compromise allowing individual countries to block a decision if they felt it threatened their national sovereignty. Though there have been major extensions of majority voting, major decisions in the EU are still taken by unanimity and consensus is generally sought even when unanimity is not required.

The main advantages of the Community method is that the Commission, as Guardian of the Treaty, has the task of constantly generating legislative proposals for further European integration. The resources necessary to generate legislative proposals are not huge. However, such proposals require technical expertise (at the level of ministerial cabinets), which is a scarce resource. Cabinet staff in national governments are generally overworked and jump from one issue to the other depending on the political situation. The European Commission, seen as a legislative proposal-making institution, gathers strong (legal, economic, political and technical) expertise from all European countries. The quality of higher level Commission staff is certainly comparable if not higher than that of the cabinets of individual country governments. This small body of high level technocrats has accumulated expertise and knowledge, allowing it to constantly generate proposals for further European integration. The existence of the Commission, having as task to protect the Treaties and to foster European integration, has thus served very usefully as an instrument to prevent the pitfall of free-riding in generating proposals. When the Second (Common Security and Foreign Policy) and Third (Justice and Home Affairs) Pillars were introduced in the Amsterdam Treaty but excluded from the Community method reserved for the First pillar (the Single Market and economic integration), the member states did not take a very active role in generating legislative proposals in those areas. This failure has led to demands to

abandon the pillar system. The Commission has proved to be an efficient instrument for generating legislative proposals, as the successes of European integration so far are mostly due to the Commission's efforts.

Not only has the Commission helped to prevent free-riding in generating proposals but it has also managed to establish, in general, a relationship of trust with governments of member states. This is because the Commission has acted as a technocratic body with no political bias either to the left or to the right. Its only bias was supposed to be pro-European. This is very important. If legislative proposals had come from member countries or from European political parties, they would have been greeted with suspicion and met with much more opposition. Since the only bias of the Commission was pro-European, governments of member states needed only to check whether the Commission's proposals were congruent with or opposed to their national interest.

Simultaneously, the strong veto powers of the Council have always served as a powerful counterbalance to ensure that national interests were not hurt by European legislation. The Community method has worked well because the veto powers of the Council allow, as in the intergovernmental method, to make sure that country interests are not hurt while preventing free-riding in generating proposals, the major drawback of the intergovernmental method.

While the fundamental trade-off between free-riding and the preservation of national interests has been managed rather efficiently by the Community method in the past decades, the method has developed non-negligible drawbacks.

The most important one is the so-called democratic deficit. The Commission is currently appointed by the European Council. Voters thus have no real influence on the nomination of the Commission. Compared to presidential systems, the Commission is not directly elected by voters. Compared to parliamentary systems, the Commission is not formed by a majority coalition by parties having won an election in the European Parliament. There is no link at all between the results of the election in the European Parliament and the formation of the Commission, which is decided entirely by the Council.

European citizens thus do not have any direct influence on decision-making in the EU, except for the election of the European Parliament. However, the latter has fewer powers than normal legislatures in either a presidential or a parliamentary system. The democratic deficit is related to the fact that the Community method of legislative decision-making has so far relied on the political neutrality of the Commission. This neutrality is consistent with a weak legitimacy of the Commission. The body the EU countries choose to initiate legislative proposals needs to be consensual and not to be biased either to the left or to the right, so that Council members (either left or right) do not feel any bias against their own government. This neutrality, however, conflicts with demands of normal democratic institutions, whereby elections serve to indicate shifts in the preferences of the electorate. Such shifts are represented in the EP and in national governments following national elections but not in the Commission. Moreover, the Commission is not directly accountable to citizens. The Commission cannot be punished in elections. The EP can oust the Commission but does not have the power of investiture in forming the Commission.

The problem of the democratic deficit will only get worse with enlargement. Brussels will seem even farther away to EU citizens than it is right now. It will also get worse with the necessary integration of foreign policy, defense and internal security in the executive powers of the EU. It is unthinkable to vest executive powers in the Commission in those

areas so long as there are no strong mechanisms of accountability both to European citizens and to European governments. This is certainly one of the main reasons why Common Foreign and Security Policy and Justice and Home Affairs were not subject to the Community method when they were inserted in the Amsterdam Treaty as “additional pillars”. Similarly, the nomination of a Higher Representative for Foreign and Security Policy under the authority of the Council was also a departure from the traditional Community method. These developments of recent years show a contradictory trend. On the one hand, there is a clear need for further integration but the lack of legitimacy of existing institutions has led to anarchic institutional developments that are not sustainable in the long run.

In the debates on the Constitutional Treaty, the democratic deficit very much drives proposals both from the “intergovernmentalist” and from the “federalist” camp. The intergovernmentalists want to take power away from the Commission because it lacks democratic legitimacy and put it in the hands of the Council. In contrast, the federalists want to remedy the democratic deficit by having the Commission President elected by the European Parliament.

The proposals from both sides threaten to upset the institutional balance between pan-European and national interests that was behind the success of European integration so far. Weakening the Commission could stall the engine of European integration at a critical moment, when it is important to make enlargement work and when there is an acute need for a European exterior and interior security policy. On the other hand, “forcing” European integration against national sovereignties could lead to a loss of legitimacy that could severely damage the credibility of European institutions as a whole.

The challenge facing the Convention is thus to find a more democratic and accountable set of institutions while keeping an adequate balance between pan-European interests and national sovereignties.

### **3. Comparative politics and Economic Analysis.**

There are two main forms of democratic regimes: presidential and parliamentary regimes. Recent research in political economics has highlighted the effect of the main characteristic distinctions between these two types of political regime.

The main difference between presidential and parliamentary regimes is that under the former, the executive is elected independently from the legislature (usually by universal suffrage) and cannot be brought down by a vote of confidence. Under a parliamentary regime, the executive is chosen by the legislature where it usually enjoys a majority support. The executive is not always formed by parties having a majority of seats in the parliament since it is possible to have minority governments, as is often the case in Scandinavian countries, but the parliament has the power to bring down the executive by a vote of confidence.

This distinction leads to two important characteristics that have an effect on policy-making. First of all, under a presidential regime, one can have stronger separation of powers between the legislative and executive branch of government compared to a parliamentary regime. This is indeed the case in the world’s best known presidential regime, the US. Executive powers are vested in the President’s office. Many of the executive’s powers are however subject to checks by the legislature such as the signing of international treaties,

executive appointments, etc. Moreover, in legislative matters, agenda-setting powers reside with the legislative branch of government, not the executive branch, and the latter can exercise certain veto rights. Agenda-setting powers are thus decentralized to legislative committees. This institutional setup makes it possible, among other things to have “divided government”, with the executive being controlled by one party and the legislature being controlled by another party, as has often been the case in the US in the last 20 years. Obviously, the degree of separation of powers in presidential systems depends on the constitution itself, and many presidential regimes feature very little separation of powers (see Shugart and Carey (1992) for the most complete analysis of presidential democracies to date). Such a separation of powers cannot take place in a parliamentary system. Indeed, the powers of the executive emanate from the legislature and not from an independent source. This implies that executives necessarily control the legislature since otherwise they could not stay in power. The executive thus controls a majority of votes and therefore also has de facto enormous agenda-setting powers. Moreover, it can use the cabinet resources to generate legislative proposals.

This distinction between presidential and parliamentary systems also has another implication, which is legislative cohesion of the majority in power in parliamentary systems. In other words, the majority in the parliament approves in a very disciplined way the legislative proposals emanating from the government, while the opposition generally votes against. Such legislative cohesion is less strong in presidential systems. There, voting majorities form more on a case-by-case basis. The reason for the strong legislative cohesion in parliamentary regimes, put forward using game-theoretic tools by Huber (1996) and Diermeier and Feddersen (1998), lies precisely in the existence of the vote of confidence in that regime. Indeed, the government can always associate a vote of confidence with a legislative bill so that if the bill is defeated, the government is censured. This threat allows to discipline the parties of the government coalition. Indeed, since a deviation from coalition discipline can be punished by a vote of confidence as a result of which the incumbent coalition would lose its agenda-setting powers and be replaced by another coalition, coalition partners have an incentive to vote together with their coalition partners. In a presidential system, the absence of a vote of confidence removes this disciplining device. Therefore, voting behavior by individual representatives tends to be less disciplined and based more on the perception of the interests of their local constituencies.

These two important characteristics of political regimes have an impact on policy-making and economic outcomes, as shown by Persson, Tabellini and Roland (2000), and these give rise to interesting trade-offs.

In a parliamentary regime, the existence of legislative cohesion favors the funding of broad expenditure programs for public goods or transfer programs that benefit large majorities. On the other hand, it is also a machine for collusion that allows politicians jointly to reap rents using their privileged position in power. This should lead to more public good provision but also to more corruption and to a bigger size of government.

Presidential systems that lack such legislative cohesion tend to produce legislation that favors more narrowly targeted expenditure programs benefiting local constituencies of particular representatives. On the other hand, it is possible to have budgetary procedures that create conflicts of interests between different political agents. For example, the president or a legislative committee may use powers to propose a small budget knowing that the budget process will be diverted towards specific local interests and rents to politicians. This separation of powers allows to keep the size of the government budget down as well as rents to politicians. The prediction is thus that presidential systems with separation of powers



should have less public goods and more particularistic local goods but the total size of the budget should be smaller and there should be less corruption.

Empirical research on the difference between parliamentary and presidential regimes (Persson and Tabellini, 2003 forthcoming) has confirmed that presidential regimes have a smaller size of government, smaller by at least 5% of GDP, a non-negligible number. Government spending in presidential democracies is also less persistent and is less responsive to unexpected shocks. Parliamentary democracies, especially those with proportional electoral rules, tend to have an increasing trend in budgetary expenditures and larger welfare programs.

This research is only in its initial phases. One aspect that can be important in the European context is that in presidential regimes, voting on a case-by-case basis makes it less likely for the government to be systematically in the minority. Other aspects that are important and have not been the object of study are: Is the executive likely to be of higher quality under a presidential regime or not? How well do presidential regimes and parliamentary regimes deal with ethnic and linguistic heterogeneity? Some answers to those questions will obviously be necessary in the European context.

#### **4. Tradeoffs between a presidential and a parliamentary regime in Europe.**

Most European countries are parliamentary democracies. Even the semi-presidential European countries (France and Finland) are much more similar to the parliamentary model than to a fully presidential democracy like the US. In the current debate in the Convention, it seems that the most likely direction is a parliamentary model. Indeed, as seen above, the main debate on the appointment of the European executive is between intergovernmentalists, who wish to have a president of the Council elected by the European Council, and the federalists, who generally wish to have the president of the Commission elected by the European Parliament. Various proposals routinely include the right of the Parliament (and sometimes also of the Council) to censure the Commission. These are thus proposals to adopt the parliamentary model. The debates are, however, not couched in terms of choice between the presidential and the parliamentary model but in terms of “federalist” versus “intergovernmentalist” institutions.

A move towards a parliamentary system would be very simple to organize. All that is needed is to give the Parliament instead of the Council the right of initiative in forming the Commission. The most complete form of parliamentary control over the Commission would be to give the European Parliament the power to appoint the whole Commission. The political composition of the Commission would then reflect proportionally the party groups making up the coalition that holds a majority in the EP. This would definitely “politicize” the Commission along the left-right dimension. According to the parliamentary logic, a “Commission coalition” could also be brought down by a vote of no confidence in the Parliament between two elections and replaced by another coalition.

##### ***4.1. A parliamentary model for Europe.***

What would be the benefits and drawbacks of a parliamentary form of governance in the specific context of the European Union?

Among the benefits, accountability would certainly improve. Elections to the European Parliament would be elections to the Commission, just as parliamentary elections in member states are elections to the government. Elections to the Parliament would thus be less “national protest votes” than today, since the electorate would have the power to determine the political orientation of the coalition. The electorate would also have the power to punish Europarties that misbehaved in power.

Giving more power to the European Parliament should have the effect of increasing the cohesion of “Europarties” inside the parliament, as suggested by the econometric evidence (Noury and Roland, 2002). Representation of European socio-economic groups, capital, labor, middle class, would thus be better assured. Electoral campaigns would put forward EU-wide issues of interest to the broadest categories of voters. Representation of countries would still be assured in two ways: a) the veto power in the Council with supermajority thresholds; b) country representation in the Commission as decided in Nice. Such country representation in the Commission, with one representative per country, is clearly inefficient, but because in the parliamentary model the Commission would be elected indirectly by the European Parliament, pressures for representatives from each country in the Commission (or for some form of rigid rotation) would be nearly irresistible.

A parliamentary model would also carry many obvious disadvantages in the context of Europe. Even if the Commission had increased powers, the constraint of having one Commissioner per country, which would be difficult to avoid in the absence of direct elections, would possibly have a negative impact on efficiency. The inefficiency is not so much related to the number of Commissioners. The Commission would be a very “proportional” government. Even more importantly, given the heterogeneity of voter preferences across countries, any coalition in the Commission would require more than two parties, possibly three or four. Smaller parties would carry considerable holdup power within the Commission, as would country representatives threatening to resign. Such threats could be effective because they would jeopardize the survival of the incumbent coalition and lead to a government crisis similar to those observed in the past in parliamentary governments based on large coalitions (the French fourth republic, the Italian first republic and post-war Belgium). One Commissioner from a small party in a small country could thus hold up the Commission. A resignation would necessarily (unless the Commission gave in) lead to multiple cabinet reshuffles in order to maintain the fragile balances, undermining any executive powers the Commission may be given in areas such as foreign and internal policy, where the ability to respond swiftly in crisis situations is critical. The lack of efficiency might be harmful for legitimacy.

Of course, the situation would be different if the Commission were a single-party government, as in the U.K., for example. In that case, a single-party government would be possible. However, any parliamentary governance of Europe is unlikely to resemble the UK Westminster model. A first reason is that the first-past-the-post system does not necessarily lead to broad representation of constituencies within the government. A second, and more important reason is that majoritarian elections are not likely to lead to single majority government (Persson, Roland and Tabellini, in progress). Indeed, given the political heterogeneity in Europe, the first-past-the-post system is quite likely to lead to a dominance of single parties at the level of countries or regions but not at the level of Europe. Indeed, if voters in various countries and regions of Europe have diverse loyalties to the different European parties, a first-past-the-post system will mainly lead to the election of the party that commands the most loyalty in each electoral constituency. Majoritarian elections would then not necessarily lead to a two-party system (“Duverger’s law”) but in all likelihood still lead to coalition governments. These would, however, function even less well than coalition

governments elected under proportional rules. Indeed, the core constituencies of various parties would be well defined geographical rather than socio-economic constituencies. Conflicts inside the coalition would then probably turn around geographical interests, as is already the case in the Council. One may then end up without any EU institutions catering to pan-European interests. The point of this argument is mainly that majoritarian electoral rule is neither likely nor desirable for elections to the European Parliament. A parliamentary system would thus in all likelihood be based on proportional representation and the Commission would in all likelihood be a form of coalition government.

To summarize the discussion, the parliamentary model described above would thus be good to obtain European-wide public good provision; but the likelihood of coalition governments has disadvantages in terms of efficiency of executive tasks, which may be an important problem in external and internal security. These two basic properties will be present in any parliamentary model. However, the basic institutional details may move things in the right or in the wrong direction.

First of all, the likelihood of a crisis depends to a certain extent on the rules for the vote of no confidence. Here, research tends to show that the German style “constructive vote of no confidence” is more desirable (Diermeier, Eraslan and Merlo, 2002). Indeed, the specificity of that rule is that a government can only be brought down if there is an alternative majority coalition available to govern. This has two advantages. First of all, it avoids the protracted periods of government crisis (and lengthy negotiations for government formation with caretaker governments) which are often observed in countries with coalition government. Second, it makes it less easy to bring down a government, since agreeing on an alternative majority is often very difficult. Germany has had few government crises thanks to this mechanism. Belgium, traditionally known for the short duration of its governments, has had no government crisis since this rule was introduced in the early nineties.

Second, the disadvantage of potential conflicts within a coalition government and its negative effects on executive tasks could be mitigated by insulating the president of the Commission (and possibly vice-presidents with important executive tasks in trade, CSFP and JHIA) from a vote of no confidence. This would be a version of the current Israeli political model, where the prime minister is elected for the whole legislature and cannot be voted down by the Knesset but where his coalition can be voted down. In effect, this would be a form of presidential model. We now turn the discussion to the latter.

#### ***4.2. A presidential model for Europe.***

In a fully-fledged presidential model, the Commission president, or part of the Commission (the president and a certain number of vice-presidents), would be directly elected by European citizens. Such a Commission would have well-defined executive powers in a limited number of areas to be specified, but they would have to include foreign policy representation, policing powers within the EU and some (obviously very limited) military powers. In the most complete version of presidential democracy, the President of the Commission would have full power over the appointment and removal of individual Commissioners, possibly subject to specific rules of representation of countries or general guidelines over appointment criteria. Any realistic scenario of an elected Commission president implies that his powers would necessarily be limited.

There would be several advantages to such “presidential” governance. First, accountability would be very strong. European voters would have direct power over the



election and reelection of that constrained executive, drastically reducing the democratic deficit. Europe and its policies would be “the” salient issue when voters appoint him. The strength of the US constitution is that legitimacy of the executive derives from the voters. “We the people...” were the most controversial words in the draft American constitution because they meant that the executive was to be directly elected by the people and not by the state legislatures. The direct competition of potential leaders for Europe would certainly give parties a stronger incentive to choose candidates with great leadership potential. Accountability would be stronger in the presidential than in the parliamentary model. Indeed, incumbents would have to directly face voters to seek reelection. In the parliamentary model, this mechanism is indirect. It is weakened by the list system which is generally associated with parliamentary systems. It is further weakened by the fact that centrist parties in coalition governments are often needed to form a majority. Even if these parties are punished by voters and lose seats, they are nevertheless greatly insulated from sanctions by the electorate.

A big advantage of the presidential model is that the executive would be better able to react swiftly in times of crisis without facing the danger of a government crisis or inefficient wars of attrition within the executive (see Alesina and Drazen, 2000). Checks of the executive by the Council and the Parliament also ensure representation indirectly via these bodies’ veto powers.

One big problem with presidential governance might be related to representation. Assume that each of the most relevant parties within the EU (the EPP (conservatives), the Socialists, the Liberals, the Greens) put forward a candidate for president. It is quite possible that the winner (most likely a socialist or a conservative) would be elected despite representing only around 30% of voters. In other words, the elected representative would represent too few interests. This is however easy to remedy by having a runoff system as in the French presidential elections. A runoff allows only two candidates to go to the second round and ensures that at least 50% of voters are represented by the winning candidate. On the other hand, the first round reveals information about changes in the preferences of the electorate and helps to reveal the relative strength of various europarties (Piketty, 2000; Castanheira, 1998). The French system could be improved in the European context by having each of the two top candidates from the first round come up with their team for vice-presidents (say 4 vice-presidents: defense, foreign policy, justice and home affairs and trade). Having two teams competing directly in front of the electorate would have several advantages. First, each candidate would be careful to have an adequate geographical representation in his team. Second, and this is probably a big advantage over a parliamentary model, parties would have incentives to choose strong personalities recognized by the electorate and not tarnished by previous experience of incompetence or mismanagement. The direct election of the Commission presidents and vice-presidents in a runoff system could be positive for representation. The fear is often expressed, especially in small countries, that with direct presidential elections, only candidates from big countries would have a chance of becoming president. However, this idea is completely unfounded. In a Europe of 25, there is no clear arithmetical advantage to being a politician in a big country. What matters much more is a strong personality and an ability to show leadership.

There are, however, also disadvantages to a presidential model of governance. As seen above, coalitions in the legislature form on a vote-by-vote basis and are less likely to internalize the broad interests of the population, which leads to underprovision of public goods. This is a first drawback. There is indeed a risk that legislative activity will revolve around pork barrel politics, as in the US Congress. One may then end up with more programs like the Common Agricultural Policy, targeted at narrow interests that may be pivotal in legislative votes. This is probably the most serious problem with presidential governance. It

can be mitigated by introducing measures that strengthen the European party system. An easy solution is to give Europarties power in the drawing up of electoral lists. This is not without cost since the list system reduces accountability. Indeed, since parties choose the list, voters cannot vote down a politician who has misbehaved if his party puts him high up on the list. Very often, the interests of parties and voters will be congruent and parties will not want to place unpopular politicians at the top of their list. However, some incompetent politicians may manoeuvre their way to a high place on the list and not have to fear voters. Despite this drawback, giving Europarties power over the list of candidates for the European Parliament is a powerful instrument to achieve party discipline. Having a strong party system within the EP would not eliminate vote-by-vote coalitions, but they would be coalitions based on Europarties rather than on narrow constituencies of pivotal MEPs, as is the case in the US Congress. This would thus bode better for public good provision at the European level and would probably be enough to avoid the pitfalls of pork barrel politics that threaten presidential systems.

Another potential problem with the presidential model of governance has to do with the heterogeneity of languages within the EU. No EU politician knows the languages of all EU countries. This situation will become even worse after enlargement. A candidate will be able to campaign effectively in those countries or regions whose language he or she masters but not in others, i.e., most of the others. This important communication barrier between politicians and the population would make electoral campaigns very different from what they normally are. This problem will be present in the parliamentary model, too, but in presidential campaigns the personality of the candidates and their direct contact with the public is important. This problem is not insurmountable, however. First of all, the electorate will have followed the track record of the incumbent and be able to vote to punish or reward it. One can also argue that track records of incumbents matter more than campaign promises, as campaign promises are often not kept anyway. Nevertheless, given the communication problem, for the presidential model to work well, pan-European parties should have a more prominent role. Candidates for the job of president should be chosen from within Europarties. In the scenario of a presidential “team” outlined above, each of the two presidential candidates would choose the members of his or her team from among a coalition of Europarties, seeking the best possible geographical balance. Parties would thus play an important role in the selection of executive candidates, and their local representation in the various countries would have a crucial role to play in the communication between voters and candidates. Note that in India, which is a multicultural country where English is the communication language of the elite (but not of the population at large), party organization plays a crucial role in this task of communication and representation.

#### ***4.3. Comparing the parliamentary and the presidential models***

Comparing the advantages and drawbacks of the parliamentary and the presidential modes of governance, which would be the best suited for Europe?

The parliamentary model would produce strong legislative cohesion in the European Parliament. This would be propitious for legislating on the provision of broad public programs that benefit a majority. On the other hand, strong legislative cohesion may lead to patterns of majority coalition where certain countries and parties are systematically in the minority. The presidential system is less likely to suffer from the danger of oppression of minorities since votes will be issued by issue. Moreover, the European Parliament will have the power to make real legislative choices, which may help to enhance its public image. The separation of powers that exists in the presidential system may thus be better suited for

Europe. The disadvantage of the presidential system in terms of providing large public programs like the welfare system is not likely to be that important in the European context because welfare systems are strong in most European countries and there is no real evidence that they are being eroded by globalization or European integration. The presidential system will also be better from the point of view of accountability since the executive can be directly voted down, whereas in the parliamentary system this is only indirect via coalition formation in the legislature emerging from the elections. Moreover, under proportional electoral rule, centrist parties tend to be in most coalitions, even when voters punish them in the ballot box. Finally, executive effectiveness is clearly better under the presidential system than under a parliamentary system with coalition government. Executive effectiveness will be very important in areas of foreign policy and justice and home affairs. We thus conclude that a presidential form of governance would be more suitable for Europe.

Note, however, that in both the presidential and the parliamentary scenario, it will be necessary to strengthen the European party system by at least giving the leaders of Europarties power in the establishment of electoral lists. However, we do not yet know how effective such change will be. We can only rely on the predictions of theory (and empirics) but cannot be certain Europarties will discipline their representatives as well as one would expect. In a parliamentary system, voting discipline is crucial for political stability since the survival of the executive depends on it. In a presidential system, it is less important. This is an additional argument in favor of a presidential system. As shown in Noury and Roland (2002) and in Hix, Noury and Roland (2002), voting discipline in the European Parliament is currently already comparable to that in the US Congress but is still significantly below that in parliamentary democracies.

In a presidential system, the European party system will have to be improved, mainly for the selection of presidential candidates every 5 years (to be in line with elections in the European Parliament). Indeed, it will be important to prevent presidential races becoming races between representatives of countries or groups of countries and instead ensure that they are races between parties that are well represented in all European countries. For that reason, it would be useful to introduce a rule stating that presidential candidates need, for example, the signature of a legislator in two thirds of EU member states in order to compete. This means that the presidential race will be mainly between candidates chosen by Europarties that are well represented in member states. The choice of a candidate by parties itself may require a system of primaries like in the US, but this is probably best left to the parties themselves. A great advantage of primaries is that they reveal the extent of public support for various candidates, a variable about which there is sure to be considerable uncertainty in the European context

The European party system can also be improved by correct timing of the elections. Simultaneous elections of the second round for the presidency and the European Parliament, or elections to the Parliament posterior to the presidential elections (like in France), will help to transform legislative elections into elections of support or opposition to the European president.

A final observation is that, in any event, an elected European executive will need to be strongly constrained and subject to checks and balances from the European Parliament and from the Council. Checks by the Council will be especially important. Given that Europe is still, and will be for a long time, a supranational construction, the fundamental trade-off between free-riding and respect of national sovereignty must be solved in such a way that a desirable increase in the powers of the European executive goes hand in hand with reassuring checks from national governments on the action of the executive. The model for a European

president, a European foreign minister and other executive functions should be that of current relations between the Council and the Trade Commissioner. Indeed, trade is an exclusive competence of the Union and this is not disputed by anybody. Nevertheless, the Trade Commissioner, who has executive responsibility over European trade policy, constantly goes to the Council to get the green light for the actions he proposes, be it negotiations with the US or with other groups of countries. Any action taken by the Trade Commissioner is thus subject to *ex ante* scrutiny by the Council. This does not mean that there is paralysis of decision-making. Rather, the Trade Commissioner, who has an accurate idea of the actions he wants to undertake, is checked by the Council in case one or several member states strongly disagree with the proposed action. This is a good system of checks and balances that should be replicated with the other executive functions of the Commission.

#### ***4.4. A president elected by national parliaments.***

It is too soon to imagine the election of the president of the Commission by universal suffrage. It is not even considered as part of the options in the Convention. However, a flexible path towards a presidential system would be to have the president elected by an electoral college, as suggested by Hix (2002). How would that work? Each country would have the right to a certain number of “electoral college votes” that are proportional to its population. Each country would be able to determine how to allocate its electoral college votes. The idea would be that, in a first stage, electoral college votes in a country would be obtained by a vote in the national parliament. The electoral college votes would thus be proportional to the votes for the candidates in the national parliament. Election of the president of the Commission by national parliaments is a very attractive solution. One of the themes of the Convention is to increase the role of national parliaments. The convention has so far not come up with important ideas in that area. What better role to give to national parliaments than to vote for the president of the Commission? This would give the president both more legitimacy and make him also more accountable, since he would have to seek reelection. This solution also seems like a good compromise between the two currently most popular proposals, i.e. election of the Commission president by the European Parliament, supported by Germany and the smaller countries; and election of a Council president by the Council, supported by Blair, Aznar and Chirac. Note that this would be an efficient rather than a flawed compromise. A big danger with the Blair, Chirac, Aznar proposal is that the Council presidency would be a rival source of power to the Commission and that this would create unnecessary clashes between the two that could weaken the EU institutions as a whole. We will come back to this issue below.

On the other hand, the election of the president of the Commission by the European Parliament would be a step in the direction of a parliamentary model which, as seen above, is not the best for Europe. Election of the president by an electoral college initially formed by national parliaments would give democratic legitimacy and accountability to the European executive.

This proposal is, by the way, not too different from the proposal to elect the Commission president by a European Congress made up of representatives from national parliaments and from the European Parliament. It has, however, a big advantage of flexibility over the latter. There is no actual need to have all parliamentarians in the same place when voting for the president. Moreover, the electoral college option allows for an evolution of the system towards universal suffrage. This is exactly what happened in the US, where state legislators initially elected the president. In the early 1800s, over 60 per cent of the electoral

college was chosen by state legislators. Only after 1824 did the role of state legislature in presidential elections wane (cf. McCarty, 2002) in favor of direct suffrage.

#### 4.5. Results from a counterfactual exercise

To put some data in the analysis, Simon Hix, Abdul Noury and I have done a counterfactual exercise to ask what the political composition of the Commission would have looked like compared to its actual composition in the last 20 years. We used roll call data in the European Parliament to calculate NOMINATE scores (Poole and Rosenthal, 1993) and estimate each MEP's ideal point on a two-dimensional space in which the first dimension represents the left-right dimension and the second represents the pro-anti European dimension. We explored different scenarios explained more in detail in Hix-Noury-Roland (2003). The most important ones are the following three :

- 1) In the first scenario, we asked what would have been the political color of the Commission president if he or she had been elected by the Parliament. We assumed a multiple-round election where the weakest candidate is eliminated at each round until a candidate has a majority of votes, a procedure that is much used in the EP. We assumed party discipline on voting.
- 2) In the second scenario, we wondered what would be the most likely coalition government in the Commission, assuming that each party is chosen as formateur with probability equal to its share of seats in the EP, that a formateur picks as first partner the party that is closest to itself but assuming a minimum winning coalition, i.e. smaller parties that are not necessary to have 50% can be dropped from the coalition.
- 3) The third scenario assumes a two-round election for president in the national parliaments.

Table 1 gives the results of this exercise.

**Table 1. Counterfactual scenarios for the selection of the European executive.**

	<b>EP1-1979</b>	<b>EP2-1984</b>	<b>EP3-1989</b>	<b>EP4-1994</b>	<b>EP5-1999</b>
<b>Real World</b>	(Jenkins+Thorn)	(Delors I)	(Delors II+III)	(Santer)	(Prodi)
Commission majority	Right	Right	Right	Right	Left
<b>Counterfactual Analysis</b>					
<i>Election by EP of ...</i>					
(1) Com. President (EP group voting)	Right (EPP)	Right (EPP)	Right (EPP)	Left (SOC)	Right (EPP)
(2) Coalition Government (50%)	Grand Coalition (SOC-EPP)	Left (SOC-LIB-LEFT)	Grand Coalition (SOC-EPP)	Grand Coalition (SOC-EPP)	Right (EPP-LIB-GAU)
<i>Election by National Parliament of ...</i>					
(2) Commission President Right (EPP)	Right (EPP)	Right (EPP)	Right (EPP)	Left (SOC)	

Source: Hix-Noury-Roland (2003).



Several things are striking when looking at the table. First of all, one sees that only when the president of the Commission is elected by the national parliaments does one replicate the actual composition of the Commission over the last 20 years. This can be explained by the fact that elections in the European Parliament are often protest votes against the incumbents. Thus while most governments in Europe were to the left in the late nineties, the elections to the EP in 1999 gave a clear majority to the right. This means that if EP elections continue to be second-order contests and the president of the Commission is elected by the EP, he will start his mandate with a Council of a different political color. This is likely to create unnecessary clashes between the Commission and the Council. However, as discussed above, this effect is likely to be mitigated because voter behavior should change if the European Parliament acquires more power. Second, a grand coalition government including the two big parties, the Socialists and the Conservatives (EPP), is quite likely, as it would have emerged in three out of five legislatures. In 1984, one would have had a left-wing government including the radical left (mostly former communist parties). The Single Market Program would probably not have passed under such circumstances. Any right or left-wing government also will be formed by at least three parties, as indicated in Table 1. This counterfactual exercise makes the scenario of election of the president by the national parliaments even more attractive.

#### ***4.6. A comparison with existing proposals.***

The most prominent proposal is the one to replace the six-month rotating presidency by a president of the European Council elected every five years by the European Council, as proposed by Prime Minister Blair backed by Jacques Chirac and other European leaders (in particular, Giscard d'Estaing, the chairman of the Convention). He would be the "president" of Europe and Europe's face to the outside world. He would also chair the biannual summits of the European Council. The High Representative for Foreign and Security Policy would act as the Foreign Minister of the Union. He also would be chosen by the European Council. In legislative matters, the current system would stay in place. The Commission would keep its right of initiative and propose legislation that should increasingly be approved by the co-decision procedure between the European Parliament and the Council.

Seen in isolation, the proposal sounds good. Indeed, replacing the six-month presidency by a five-year presidency would create more continuity in the agenda of the European Council. However, this proposal strengthens the power of the Council to the detriment of the Commission and the European Parliament, the only two institutions that are "advocates for Europe". The election of an EU president in the Council, especially if the president's powers go beyond chairing the Council meetings, would create overlap and rivalry with the post of the president of the Commission and risk an institutional clash between the Council president and the Commission president. The confusion between the jurisdiction of the Council presidency and that of the Commission would possibly indeed lead to severe conflicts of competences. More importantly, it would lead to a general weakening of the European executive and, *mutatis mutandis*, of EU institutions as a whole. A dynamic of further weakening the Commission could destroy all the wealth of expertise that has built up over the decades in that institution.

To some extent, the Blair-Chirac proposal reflects the concern that the Commission lacks democratic legitimacy. Ironically, one should not forget that the Commission is set up by the Council! Legitimacy of the Commission is nevertheless a genuine concern. The obvious solution is to make the Commission more accountable to Europe's citizenry rather than undermining it in favor of a "new" form of European executive that would seriously alter the balance of the European institutions, with unpredictable consequences.

On the other hand, it is quite understandable that the heads of state would want to have closer control over new executive powers given to the Commission. As stated above, ex ante monitoring of executive action by the Council is an adequate solution. Checks and balances are the solution, not duplication of powers.

Similarly, the idea of a European Congress that would elect the president of the Commission and review the legislative plans and strategic orientations of the Commission's action on an annual basis seems like a good idea in isolation. However, there is a severe danger that its functions will clash with the current functions of the European Parliament. This institution would purely have a function of rubber-stamping and general discussion if its role is as Giscard has defined it. It is not difficult to see that, once put in place, this institution would try to increase its powers. This can only happen to the detriment of the European Parliament, which has developed more than 20 years of expertise in European legislation. Moreover, MEPs are elected by universal suffrage. Many of them have been in national parliaments. Many are well-known political figures in their own country. It is not clear why they lack legitimacy and why the Congress would have more legitimacy. Moreover, as stated above, this Congress is not needed to elect the president of the Commission by the national parliaments.

## 5. Conclusion

In any event, whatever the outcome of the Convention there are reasons to be optimistic about the institutional future of Europe. The Convention is an extremely useful institution that will be able to make a proposal for a constitution for Europe that should serve Europe's best interests for the future. It goes much further than the previous intergovernmental conferences, which were mainly a form of bargaining between countries where the higher interests of Europe were not the primary concern. The Convention also comes at a good time. After the successful Copenhagen summit at the end of 2002 which decided the historical enlargement of Europe to 25 by 2004, it is clear that Europe's institutions must change for the better to cope with a Europe of 25 or more member states.

In concluding, it is important to stress the importance of an evolutionary approach to the constitution (on this, see Berglof et al.). Things can go wrong, of course, but they can also evolve in the right direction, provided the constitution is not too much of a straitjacket. The writers of the Constitutional Treaty must distinguish between what is to last and what should evolve. What should last should be written clearly. What should evolve should not be written down in the constitution. For example, majority rules on legislation are likely to evolve over time. One should therefore not write down specific majority rules for specific domains in the constitution. On the contrary, the constitution should state that the Council should decide on any change in the majority rule, any change being subject to unanimity.

In any event, the strengthening of EU institutions will take time. Even under the best scenario, the EU executive will remain weak for decades. It will take a lot of practice and learning by doing, seizing new opportunities to strengthen the legitimacy of the European executive. Even in the US it took more than half a century, after the constitution was adopted, before the executive played any significant role.

However, compared to the historical past of Europe, the current changes are a quantum leap. Seen in historical perspective, the pace of progress of European integration is quite dazzling. It is very encouraging. European construction remains a challenge because of

its rich multicultural diversity. The European Union is a most successful example of a supranational organization that may be a role model for more ambitious projects of supranational organizations. Success in its current institutional change will hopefully have an emulation effect and lead to improvements in multinational governance in other domains of our planet. □

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