The Constitutional Convention as a Consensus-Building Formula for Institutional Reform Issues
An assessment

by

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<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
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<td>EP</td>
<td>European Parliament</td>
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<td>EU</td>
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<td>EU-15</td>
<td>European Union with 15 Member-States</td>
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<td>IGC</td>
<td>Intergovernmental Conference</td>
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<td>GR</td>
<td>Government Representative</td>
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<td>NP</td>
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<td>QMV</td>
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1 INTRODUCTION: TOWARDS A CONVENTION\(^1\) ON THE FUTURE OF EUROPE

It was due to the pressure of the upcoming enlargements and the subsequent need for institutional reform of the whole system that the EU-15 of the Maastricht Treaty started mediating upon ways of restructuring it in order to function properly. The size and composition of the Commission, the weighting of votes in the Council and the extension of QMV have always been extremely salient and highly contentious issues among the MS due to their importance with regard to power-sharing. They are considered to be key questions of power, often called zero-sum issues because they do not produce win-win outcomes. However, neither the Maastricht IGC nor the Amsterdam IGC was able to satisfactorily resolve them and that is why they were regarded as an ‘unfinished business’. In December 2000, the Nice IGC was convened in order to approve the Treaty of Nice. Although the summit’s host, Jacques Chirac predicted that “Nice would go down in the history books as one of the great summits because of the extent and complexity of the issues settled”, Tony Blair expressed the general view concerning the summit when he stated that “as far as Europe is concerned, we cannot do business like this in the future.”\(^2\)

All 15 governments of the MS being rather disappointed with the final outcome, managed to convince the IGC, to adopt a ‘Declaration on the Future of the Union’, a non-legally binding text, which is known as the ‘Nice Declaration’. The Declaration called “for a deeper and wider debate about the future development of the European Union”\(^3\) that would eventually lead to a new IGC on treaty revision in 2004. Even though the terms ‘constitution’ and ‘constitutional’ were skilfully not mentioned within the Nice Declaration, it is common truth that the debate was mainly focused upon the creation of a Constitution for Europe. The re-emergence of Europe’s constitutional debate incorporated both the federalist perspective of a more integrated and democratised Union as well as the intergovernmetalist one of a clearer definition of EU’s competences.\(^4\)

The debate on the Future of Europe, also known as the ‘Post-Nice process’, was initially launched by Joschka Fischer, Germany’s Foreign Minister, during his speech at the Humboldt University in Berlin on 12 May 2000. Fischer’s

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\(^1\) Within the present paper, the terms, ‘Convention’, ‘European Convention’, ‘Constitutional Convention’ and ‘Convention on the Future of Europe’ shall be used synonymously.


speech created a momentum by reintroducing the idea of a Constitution which generated a great number of responses. As Europe, he said, “would have to be established anew with a constitution.” As Magnette and Nikolaidis point out, “this idea was adopted by the Belgian government and became the top priority of its Presidency in the second half of 2001 leading to the Laeken Declaration.”

One year after the Nice Declaration, the European Council in Laeken adopted the so-called ’Laeken Declaration on the Future of the Union’, appended to the Treaty of Nice. According to the Declaration, Europe is “at a crossroads” in relation to the problems and the challenges it is currently facing, and should become “more democratic, more transparent and more efficient”. The Laeken Mandate gave birth to the Constitutional Convention whose main task would be to satisfy the subsequent IGC by presenting a document that “will consider the various issues and will draw up a final document which may comprise either different options, indicating the degree of support which they received, or recommendations if consensus is achieved.” However, this Convention would be nothing more than a preparatory body for the next IGC since “the final document will provide a starting point for discussions in the Intergovernmental Conference, which will take the ultimate decisions.”

The Convention held its inaugural meeting on 1 March 2002 and completed its work in 18 July 2003 by presenting a draft Treaty establishing a Constitution for Europe to the European Council Meeting in Thessaloniki. This draft Treaty served as the default document that provided the basis for the work of the following IGC which was convened by the Italian Presidency and was successfully brought to an end by the Irish one. It has been argued that about 90% of the Convention text was not challenged by the subsequent IGC in the meaning that the “IGC did not fundamentally modify the essential features of the draft proposed by the Convention.”

In this sense, the text agreed upon by the 2004 IGC did not make any substantial changes with regard to the highly technical issues of low political saliency such as simplification, juridical personality, role of national parliaments and Charter of Fundamental Rights, where a stable consensus was easily reached inside the Convention. However, controversial issues such

5 NORMAN, op.cit., p. 13.
9 Ibid., p. 7.
10 Ibid.
11 PIRIS, op.cit., p. 50.
as institutional architecture, QMV, budget, revision, enhanced cooperation and foreign policy, were the issues on which the IGC mainly focused due to their high political saliency. In this context, it has been widely suggested that the consensus achieved, was not stable but fragile, even though it provided a good basis for further deliberations.\textsuperscript{12}

In the light of the above, the first chapter of the current paper will give a short analysis of the reasons for convening the Convention on the Future of Europe and will argue that the logic of bargaining was still present inside the Convention, since it took place under the shadow of the subsequent IGC. The critical research question would be whether the Convention was successful as a consensus-building formula between the MS, with regard to the key institutional questions of shares of power and votes. The analysis will only focus upon the institutional questions, since they are regarded as the most controversial issues of the institutional architecture of the EU as well as the main reason for the failure of the Nice negotiations. The main hypothesis would be that the consensus reached within the Convention was rather unstable regarding institutional questions, whereas its mechanisms were not purely deliberative. In order for this study to be coherent and consistent, its second chapter will examine two institutional issues which are considered to be the most highly debated: the composition of the Commission and the weighting of votes in the Council. Moreover, it will shed light upon the negotiating positions of four specific countries with regard to these two issues, during the Nice IGC, the Convention and the 2004 IGC. These countries shall be Germany, France, Spain and Belgium. In this way, the paper will provide a more balanced analysis of the negotiating positions between federalists and intergovernmentalists countries on the one hand and between large and small-medium sized countries on the other.

\textsuperscript{12} MARCHI, op. cit., p. 15.
2 THE CHOICE OF A CONVENTION

2.1 The Shortcomings of the IGC-model

According to Closa, “constitutional politics are the process of creation and modification of the fundamental norms, rules and institutions of the polity.” However, the evolution of constitutional politics from the Treaty of Rome to the Nice Treaty emerged mainly through the mechanism of IGCs. However, following the logic of Hoffmann, this institutional method for treaty reform has proved to be problematic, in terms of effectiveness, due to four main reasons:

a) The increasing complexity of the issues at stake which can bring the negotiations to a standstill: none of the MS’ government is willing to give up its national negotiating positions and thus compromise on issues of high political saliency, in order to make sure that its influence will not be diminished within the EU. Nowadays, the negotiations do not produce win-win outcomes for all the participants, especially with regard to ‘zero-sum issues’, such as the institutional ones. In this context, compromises are becoming more and more difficult to reach, whereas IGCs are facing a stalemate. The ‘Amsterdam leftovers’ and the ‘Nice leftovers’ are the immediate consequence of this stalemate.

b) The rising list of ‘leftovers’ and the rather inflexible positions of the MS: the ‘Nice leftovers’ added more issues to the agenda of the unresolved problems vis-à-vis the enlargement process. In this way, the positions of the MS became even more inflexible with regard to these issues which meant that negotiations took longer, compromises were highly unlikely to occur and “deadlock was inevitable”.

c) The increasing splits between the MS: the divisions between the MS increased in depth as the issues at stake augmented in number and in importance. Traditional alliances such as the Franco-German axis were not able to reserve the EU out of the dead-end of the Nice negotiations whereas the divisions between large and small MS on the one hand and poor and rich on the other, were becoming stronger.

d) The limited influence of the European institutions: that means that neither the Commission nor the EP are considered to be crucial actors during the IGCs negotiations, even though they could be seen as excellent mediators due to their increased impartiality in relation to highly contested issues.

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14 Ibid.
16 Ibid., p. 76.
17 Ibid., pp. 76-77.
Closa emphasizes that “the shortcomings of this method are two-fold”. Apart from the problems related to the effectiveness of this method, a major shortcoming relates to its “legitimation of outcomes”. This shortcoming is primarily linked to the democratic deficit that the EU is perceived to have due to the non-engagement of the EU citizens in and with the European polity. What is being implied is the fact that the European civil society is excluded from the IGC process which is carried out only by national ministers and government representatives behind closed doors and not in public.

To sum up, the major shortcomings of the IGC-model derive from its inability to work as an effective and efficient mechanism for treaty reform which produces legitimate outcomes. Thus, the Convention method was considered as a more efficient and legitimate device for subsequent treaty reforms, capable of adequately tackling the challenges that the EU is facing nowadays.

2.2 The Charter Convention: a Luring Alternative

The first Convention ever held within the EU (originally called ‘body’), has been used in 2000 to draw up a European Charter of Fundamental Rights. It comprised of 62 Members which represented the Heads of State and Government (15), the President of the Commission, the EP (16) and the national parliaments (30). The final text of the Convention did not include any formal voting but was agreed upon by consensus, among its different Members.

The shortcomings of the IGC-model were compared to the outcome of this Convention that in general terms was viewed as a successful experiment and consequently, this comparison favoured the use of the Convention-method since it was more open, representative and transparent, whereas it did not take decisions by unanimity but via the use of consensus. “The experience with the Convention on the Charter made it a paradigm of an efficient - and legitimate - mechanism to deal with preparation of constitutional issues.”

The non-reluctant governments of the MS, which were seeking for a new device for treaty revision, “soon presented the Convention as a ‘model’.” Thus, they accepted the adoption of a Convention on the Future of Europe, “because of its ability to perform efficiently in conjunction with their final capability to decide on the outcome.” In other words, many of the MS agreed on the Convention on the Future of Europe not only because it was

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18 CLOSA, op. cit., p. 184.
19 CLOSA, op. cit., p. 185.
21 CLOSA, op. cit., p. 185.
seen as more efficient and legitimate compared to the IGC method but mainly because they would still have the ability to exert influence over the final outcomes, as has been the case with the Charter Convention. “For one, like many Summits in the history of the EU, the Laeken Summit was a typical case of an ‘ambivalent agreement’”.\(^\text{22}\) Elster’s definition of an ‘ambivalent agreement’ is “an agreement based on preference differences and belief differences that cancel each other”.\(^\text{23}\) In other words, the MS agreed because they were primarily driven by their national interests. “Thus, the creation of the Convention is not the result of a sudden democratic conversion of the European leaders.”\(^\text{24}\) In particular, only the small countries lent their full support to the process since they believed that “the influence of the large states could be diluted in such a hybrid organ”.\(^\text{25}\)

Conclusively, the Belgian Presidency pushed strongly in favour of the Convention method due to two main reasons with regard to the previous Charter Convention. Firstly because it produced in a short period of time, despite its fixed deadline, a single coherent text and secondly because it involved a wide range of actors that were excluded so far from the decision-making process of the Union.\(^\text{26}\) Therefore, the stalemate of the IGC-model and in particular the deadlocks produced during the Nice negotiations with regard to questions of institutional reform as well as the “blueprint of an alternative”\(^\text{27}\), offered by the first EU Convention that drafted the Charter of Fundamental Rights, were the main reasons for the selection of a Convention by the Belgian Presidency.

### 2.3 An Ideal ‘Deliberative Setting’?

The major difference between an IGC and a Convention is best illustrated as a difference between bargaining and deliberation respectively. Borrowing Magnette’s definitions: “bargaining is usually defined as a process between (a) actors with stable interests who try to maximize their benefits (b) though promises and threats, leading to exchanges of concessions.”\(^\text{28}\) Deliberation is usually defined as a “process [that] takes place among (a) actors who are ready to change their preferences in order to reach ‘common interests’ (b) through the exchange of rational arguments and mutual listening.”\(^\text{29}\)

\(^{22}\) MAGNETTE / NICOLAÍDIS, op. cit., p. 9.
\(^{24}\) MAGNETTE, op. cit., p. 212.
\(^{25}\) Ibid.
\(^{26}\) MARCHI, op. cit., p. 4.
\(^{28}\) Ibid., p. 207.
\(^{29}\) Ibid.
The Convention’s mandate, despite being the result of a compromise between the various MS, incorporated some of the elements of a deliberative setting. More specifically, its mixed composition, its broad mandate, the publicity of its works, the early decision to try and reach a broad consensus on a single proposal, the decision-making by consensus and the ‘Convention Spirit’, apply to a great extent to the ideal type definition of deliberation.

However, there are considerable limitations to the Convention’s deliberations that did not permit it to function as a purely deliberative body. These limitations are primarily consisting of bargaining elements which typically characterise a traditional IGC. During its last phase, the drafting stage, it became clearer that deliberation was being conducted “under the shadow of veto”\(^{30}\) and that intergovernmental bargaining was at its very heart. The deliberative style of the Convention during the two first stages was transformed into an intergovernmental bargaining. “Not surprisingly, negotiation and bargaining, gained preeminence, at the drafting stage.”\(^{31}\) The GRs were no longer deliberating ‘under the shadow of rhetoric’ but under the name of their national interests and under the weight of their respective vetoes. Therefore, traditional intergovernmental mechanisms such as the set-up of large coalitions between the MS or the conduct of “bilateral top-level meetings”\(^{32}\), made their appearance.

To sum up, it is true that the Convention incorporated some elements of a deliberative setting. However, important limitations existed with the most important being that the Convention would be followed by an IGC while its works would be influenced internally by its GRs and externally by the European Council. In this respect, the “praxis of bargaining remained crucial”\(^{33}\) within the Convention and thus, its institutional setting cannot be regarded as an ideal deliberative setting.

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\(^{30}\) Ibid., p. 218.

\(^{31}\) CLOSA, op. cit., p. 201.

\(^{32}\) Ibid.

3 INSTITUTIONAL ISSUES: A FRAGILE CONSENSUS

3.1 Political Saliency versus Complexity/Technicality

Following Beach’s analytical approach: “There are two dimensions to the nature of an issue: political saliency and complexity/technicality.” He argues that MS’ governments are keeping a close eye on issues of high political saliency and exert great control over them whereas less salient issues are easier to be dealt with by institutional actors. According to him, in complex and/or technical issues, institutional actors like the Commission, have “comparative informational advantages” in contrast to the delegates. This is due to the fact that they possess the required knowledge in order to satisfactorily address the debated issues. Therefore, he concludes, “we should expect that the ability of EU institutional actors to translate their bargaining resources into influence varies inversely with the level of political salience of the issue, and that levels of influence would increase the higher the technicality and complexity of the issue-area.”

The analytical approach of Beach fits perfectly with the Convention experience. Examples of high saliency issues in the Convention, are, the redefinition of the power structure and institutional architecture of the EU, the definition of the budget and the economic coordination, the reinforced cooperation, the revision procedure of the treaty and the CFSP. These issues became the object of hard intergovernmental bargaining whereas their most influential resource was power itself. “They were characterised by a clear redistributive effect that could lead to a zero-sum-game.” The consensus achieved in these areas, was perceived to be rather unstable since the 2004 IGC revisited the Convention’s draft in a number of important issues and above all, in institutional reform. In overall, “the negotiations of these issues were keen to reveal asymmetrical relation of power and the fixed interests prevailed on the discursive force of the rationale arguments, thus giving the pace to the horse-trading and the classic scheme of concessions.”

At the other end of the spectrum, there are the less salient issues of the Convention, also called “Convention friendly”, which consist of regulatory or juridical issues such as, “the juridical personality, the complementary competences, the simplification of the legal instruments, and the role of

35 Ibid.
36 Ibid.
37 Ibid.
38 Ibid.
39 Ibid., op. cit., p. 8.
40 Ibid.
national parliaments.” These type of issues are more likely to produce win-win outcomes for all the participating actors whereas they foster deliberation based on rational arguments, “with symmetrical relation of power”.

These areas were characterised by a stable consensus that was able to survive the IGC in relation to the fact that a previous consensus already existed.

In the light of the above, it becomes clear why the GRs were negotiating the high salient issues, through bargaining, whereas the supranational institutions like the Commission and the EP along with the NPs were negotiating the less salient issues, through deliberation. In fact, the autonomy of the assembly, which was based upon the formal equality of all the actors and favoured deliberation, was relevant only with regard to less salient issues, whereas the governments were heavily depended upon the knowledge of the supranational institutions, due to their own lack of expertise.

3.2 The Principal Issues

The Treaty of Rome established a system of qualified majority voting due to the demographic differences between the MS, “by allocating votes on the basis of the population, weighted in favour of the less-populated countries.” This system permitted Germany, France and Italy to outvote together the Benelux countries, which on the contrary, did not have the ability to do the same. However, this “relative weakness of the smaller MS was regarded by them as compensated for, by the direct and indirect powers which the Treaty gave to the Commission.”

This situation remained unchanged until the first enlargement in 1973. Because of the accession of new MS, the big countries of the original Community of Six could no longer outvote the other ones. From that point on, the system was being modified at each successive enlargement and the only thing that was in constant erosion ever since, was the share of the total votes that were given to the larger MS. Furthermore, Germany demanded after its reunification, during the Amsterdam IGC, that the increase in its population had to be reflected in its weight in the institutions. This factor together with the constant erosion of the share of the total votes given to the larger MS, constitute the main reasons why the population criterion was of great importance and thus, became highly debated among the MS.

41 Ibid.
42 Ibid.
43 Ibid., p. 15.
45 PIRIS, op.cit., p. 97.
The counter-balancing powers of the Commission aimed at creating a balance between the smaller and the larger MS, since the smaller ones, had only one commissioner each in contrast to the larger ones that had two. In other words, since the Commission decided by a simple majority, it was possible for the Commissioners of the larger MS to outvote together the Commissioners from the smaller MS but only until the 1995 enlargement. After this enlargement the five larger MS were not able any more to outvote the Commissioners of the other ten.\textsuperscript{46} In view of the enlargement process, the composition of the Commission has been passionately debated between MS requesting for a reduction of the number of the Commissioners and MS requesting for maintenance of the status quo.

Due to the population criterion, the issue of the weighting of votes in the Council as well as the issue of the composition of the Commission, turned to be closely linked vis-à-vis the next rounds of enlargement.\textsuperscript{47} The link between these two issues is apparent, in the meaning that if the larger MS have to relinquish one of their two Commissioners, they would want to be compensated for this reduction, via an increase in their voting weight within the Council.

3.3 The Negotiations Regarding the Principal Issues

3.3.1 The Negotiating Positions in the Nice IGC

Two important observations can be made in relation to the positions of Germany, France, Spain and Belgium before the opening of the Nice negotiations which indicate “a shift in the traditional coalitions within the EU.”\textsuperscript{48} First, the Franco-German axis that was not working effectively during the Amsterdam negotiations, now is not working at all. Additionally, there seems to be a major division between the two driving forces of Europe. “The Germans are trying to assert their hegemony, having failed to do so at the outset”. The French, by contrast, are desperately trying to preserve an at least equal role in this new balance of power.”\textsuperscript{49} Secondly, two new opposing axes have emerged. On the one hand, there is “a new pro-Community axis, prompted by Germany”\textsuperscript{50} and supported by Belgium and a number of other countries. On the other hand, there is an “anti-Community front, led by the UK”\textsuperscript{51} and supported by Spain and the vast majority of the Scandinavian countries. France, “seems to be playing the role of intermediary”\textsuperscript{52} mainly due to the fact that it will hold the Presidency of the Union during the Nice

\textsuperscript{46} Ibid., p. 98.
\textsuperscript{47} Ibid., p. 99.
\textsuperscript{48} YATAGANAS, op.cit., p. 33.
\textsuperscript{49} Ibid.
\textsuperscript{50} Ibid.
\textsuperscript{51} Ibid.
\textsuperscript{52} Ibid.
Summit but its views seem to be more supportive of the UK position that the German one. In overall, this situation characterises the background prior and during the Nice Summit.

### 3.3.2 The outcomes of the Nice IGC

Despite Chirac’s tour of the capitals and his extensive bilateral meetings, there was no improvement with regard to the two issues at stake. There were two options regarding the resolution of the composition of the Commission that had been proposed since the beginning of the Summit. Either a system of one Commissioner per MS, supported by Belgium and the other small countries or a Commission with less members, supported by Germany, France, Spain and the other large countries. After the failure of the bilateral diplomacy and the rejection of three successive Presidency papers, a proposal emerged, suggesting that the composition of the Commission should be dealt with, after the accession of the new MS while retaining the status quo up to 2005. In other words, from 2005 and onwards, the larger MS would loose their second Commissioner whereas all the MS including the new ones would have one Commissioner respectively, until their number reaches 27.

Furthermore, the negotiations on the weighting of votes in the Council had come to a complete standstill, with “France having thwarted Germany’s goal of a dominant position, and the smaller countries having openly denounced their larger counterparts as seeking to form a leading cartel and reduce the smaller countries’ role in the decision-making process.” Eventually, an agreement was reached which consisted of a “kind of triple majority: for a decision to be adopted it must have the agreement of the majority of the total number of the MS, between 71 and 74% of weighted votes and, if a MS so requests, 62% of the total EU population” which is known as the population ‘safety net’. As a result of this compromise, Belgium and the other small countries had a reduction in the weight of their relative voting but they managed to retain in this way, their right to one Commissioner per each. Spain got 27 votes which was regarded a fair compensation for the loss of its one Commissioner. Finally, “Germany and France still had the same number of votes each but only in appearance because due to the population ‘safety net’, Germany had obtained in effect more weight as compared with the other large MS.”

### 3.3.3 The Negotiating Positions in the Convention

Less than two years after the end of the Nice Summit, the institutional reform issues were again under discussion. As Norman notes, “Giscard and Sir John Kerr had decided that the power questions facing the Convention could only

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53 Ibid., p. 35.
54 Ibid., pp. 41-42.
55 PIRIS, op.cit., p. 99.
be solved if they were left towards its end.” VGE, within the framework of his ‘bilateral diplomacy’, met all the leaders who had raised serious concerns about these issues, during the post-Nice debate, in order to have a better understanding of their respective positions.

According to Norman, “although the outline of a future reduction was set at Nice, the issue of the Commission’s composition shot up the Convention agenda, partly because of the impeding unprecedented ‘big bang’ enlargement and partly because Nice niggled with Giscard.” VGE’s revised draft article was strongly in favour of a reduced Commission of a maximum of 15 members whereas he did not make any reference to the rotation system of equal footing, which was specified in the Treaty of Nice. There was a great dissatisfaction among the smaller MS that perceived this article as being largely in favour of the big MS. However, their coalition proved to be rather unstable and in mid-May the Benelux countries were no longer aligned with the ‘Friends of the Community method’. They drafted their own proposals concerning the composition of the Commission where they denounced their right to one commissioner per MS and supported the Preasidium’s draft. In the light of the above, Germany, France, Spain and Belgium were all agreeing on the proposal of a reduced Commission in order to work more effectively vis-à-vis an enlarged Union.

VGE’s revised article about the reweighing of votes in the Council of Ministers and the European Council turned to be the thorniest article of his drafts. He, thus, revised the simpler system of the dual majority, by proposing the calculation of the QMV on the basis of the majority of the MS and of the three-fifths of the Union’s population, making in this way the population criterion, a dominant feature within the Council of Ministers, but to the detriment of the small and medium-sized countries. As it was expected, a great opposition was raised in particular by Spain which wanted to stick to the Nice formula since its Prime Minister, Aznar, did not want “a decision in the Convention that would undermine his success in Nice of securing Spain’s position as one of the Union’s big powers.” Germany, France and Belgium were more supportive of the Preasidium’s draft and therefore of this specific article even though there was great opposition floating in the air, regarding the re-opening of the Nice provisions.

3.3.4 The outcomes of the Convention

A compromise was finally reached and on 18 July 2003, the Convention submitted its draft text to the President of the European Council, Kostas Simitis. The reduced system that was proposed for the composition of the Commission was a rather complicated formula, which proposed “the solution of a two tire commission with a representative for each MS but just 13

56 NORMAN, op.cit., p. 108.
57 Ibid., p. 119.
58 Ibid., p. 225.
Commissioners plus the Minister of Foreign Affair with a right to vote and being part of the College."\textsuperscript{59}

With regard to the weighting of votes, “the proposed system of the 50% of the States and the 60% of the population was the result of the forcing of VGE, supported from the coalition of the bigger states that ignored in the end of the Convention the clear opposition of the small and middle size opposition.”\textsuperscript{60} “QMV would be the general rule for decisions in the Council of Ministers, except where specified in the CT and it would take effect on 1 November 2009.”\textsuperscript{61}

\textbf{3.3.5 The Negotiating Positions in the 2004 IGC}

VGE hoped that the governments would not substantially modify the Convention’s text. But as Norman notes, “that proved a vain hope”.\textsuperscript{62} The 2003-2004 IGC was divided into two parts. The first part consisted of the Italian Presidency, that conducted the negotiations in the second half of 2003 and the second part consisted of the Irish Presidency that was in charge of the negotiations in the first half of 2004. On 13 December, the Brussels Summit failed, mainly due to the Spanish and Polish opposition to the double majority voting and thus, it was the task of the Irish Presidency to successfully conclude the negotiations.

Regarding the composition of the Commission, when the IGC started its work, Belgium was regrouped together with the other smaller countries in a coalition called ‘the like-minded countries’ and was in favour of the system of one commissioner per MS.\textsuperscript{63} Their basic arguments were that in this way the Commission would be more legitimate and that “if one of the largest MS did not have one of its nationals as a member of the Commission, its interests could not and would not be ignored, but the same would not be true for the smaller MS.”\textsuperscript{64} On the other side of the spectrum, Germany, France and Spain insisted that the size of the Commission should be reduced in order to function properly on the basis that “its members are not there to represent the interests of the MS and that a Commission reduced in size would be more collegial.”\textsuperscript{65}

The crucial element regarding the reweighing of votes in the 2003-2004 IGC, was the increase in the persistence of Spain and Poland to oppose the double majority system. However, the situation changed dramatically after Aznar lost

\begin{footnotes}
\item[59] MARCHI, op. cit., p. 17.
\item[60] Ibid., p. 16.
\item[61] NORMAN, op.cit., p. 244.
\item[62] Ibid., p. 283.
\item[63] Ibid.
\item[64] PIRIS, op.cit., p. 112.
\item[65] Ibid.
\end{footnotes}
the Spanish general elections and the new integrationist Prime Minister, Zapatero, came into power. “Zapatero lost no time in aligning Spain foreign and EU policies with France and Germany.”\textsuperscript{66} Thus, Poland, after the change of the government in Spain, not wanting to be isolated, had to compromise and tried to achieve a solution like the Ioannina compromise. Finally, Belgium along with other smaller countries, wanted the MS and the population thresholds to remain the same.

**3.3.6 The Outcomes of the 2004 IGC**

The IGC had to renegotiate the outcomes of the two principal issues because the consensus achieved during the Convention was rather fragile since all the previous tensions still remained. On the one hand, the rather complicated formula that the Convention suggested regarding the composition of the Commission was rejected by all the MS. After lengthy negotiations the compromise that was finally reached was regarded as better in comparison to the Convention’s one. According to the final compromise, “the number of commissioners will correspond to two-thirds of the number of MS from 1 November 2014, following a principle of equal rotation, unless the European Council decided to overturn this solution by unanimity. The compromise retains one commissioner per MS for the first Commission appointed under the CT – in other words, until 2014.”\textsuperscript{67} On the other hand, the double majority, envisaged by the Convention, remains into the Treaty. “It will take effect on 1 November 2009 and it will require minimum thresholds of 55\% of MS and 65\% of the Union’s population. In cases where the Council will not act on a proposal of the Commission or the Union’s foreign minister, the minimum qualified majority will be 72\% of MS representing at least 65\% of Union population.”\textsuperscript{68}

\textsuperscript{66} NORMAN, op.cit., p. 287.
\textsuperscript{67} Ibid., pp. 295-296.
\textsuperscript{68} Ibid., pp. 294-295.
4 CONCLUSIONS

The current study has tried to evaluate the Convention method as a consensus-building formula with regard to key institutional questions of shares of power and votes. For this purpose, it examined in particular the issues of the composition of the Commission and the reweighing of votes in the Council of Ministers by conducting a comparative analysis between the negotiating positions of Germany, France, Spain and Belgium during the Nice IGC, the Convention and the 2003-2004 IGC. As it has been illustrated by the various outcomes, the Convention’s consensus was apparent and fragile since the discussions on these two issues were re-opened by the subsequent IGC. This was due to their high political saliency and to their redistributive effects in contrast to issues of low political saliency, where a consensus was more easily reached.

It is true that the Convention was a unique body in terms of its composition and performance whereas it was inspired by a deliberative ideal and thus it incorporated several elements of a deliberative setting, which influenced its work. However, the most important boundary of the Convention method was the fact that its members were negotiating ‘under the shadow of veto’, in the light of the following IGC. This resulted in the strengthening of the role of the GRs inside the Convention and permitted a number of MS to easily compromise in the end, knowing that the final result would be revisited.

The last stage of the Convention was the stage where the principal institutional issues were discussed and thus a division between the MS emerged due to their vested interests. Each MS wanted to maximise its gains by minimising its costs with regard to the issues at the very heart of the institutional architecture of the EU. Within this context, bargaining replaced deliberation and the deliberative setting seemed to be more like a traditional IGC setting.

In view of the above, the current study elaborated its hypothesis that the Convention method was not successful or revolutionary in achieving a stable consensus on high political saliency issues that could survive the next IGC. The modifications that were made to the Convention’s proposals on the institutional issues, by the 2003-2004 IGC, reveal the great boundary of the Convention method.

Instead of wondering if the Convention method was more successful as an institutional device for treaty reform compared to the previous IGC-model, we should carefully examine its major shortcomings and its great accomplishments. There is no need to deny past achievements; rather we must ask anew how the two shall meet in order to form an efficient and effective mechanism for institutional reform vis-à-vis the needs of a new reality.
There are undoubtedly a lot of lessons to be drawn by this unprecedented experience and a lot of shortcomings to be further ameliorated. It is clear that when national interests are involved, the deliberative mandates cannot function. My estimation for the future is that as long as national interests prevail, the IGC-model would continue to exist, perhaps in a slightly altered form.

In the light of what has been stated so far, I would like to conclude with a hypothetical research question that might constitute the topic of another paper: In what way is it possible that the deliberative elements of the Convention method can be successfully linked with the intergovernmental elements of the IGC-model in order to produce an effective constitutional device for future treaty reforms?
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