

EU Civil Society Contact Group

Briefing

Mandate for the Inter-Governmental Conference 2007 to negotiate a Reform Treaty

16.07.2007

1. Background

More than two years after the French and Dutch 'no' votes to the constitutional treaty, EU leaders gathered in Brussels on the 21-22 June to re-launch the debate on the future of Europe. European leaders were faced with a fine balance: on the one hand preserving as much of the original text as possible (the Constitution being already ratified by 18 countries), on the other hand making enough changes to break the deadlock in France and the Netherlands.

The Heads of State and government agreed on the mandate for the Inter-Governmental conference (IGC) – and not yet on the treaty itself. However, given that the issues are very sensitive, the mandate is extremely detailed. The IGC will bring together representatives of the member states, the Commission and to a lesser degree the European Parliament.

Find the Council conclusions on http://www.consilium.europa.eu/cms3_applications/Applications/newsRoom/related.asp?BID=76&GRP=12055&LANG=1&cmsId=339

Find the draft constitution on http://europa.eu/scadplus/constitution/index_en.htm

2. Main outcomes of the summit

The Civil Society Contact Group in early June sent a call (<http://act4europe.horus.be/module/FileLib/CSCG%20call%20new%20treaty%20and%20IGC%20final.pdf>) for an effective treaty and a transparent and accessible IGC to all 27 EU heads of state and government. The Civil Society Contact Group urged EU leaders to ensure that the following points will be included in the new treaty for the EU:

- Charter of Fundamental Rights
- Key components of part III of the draft Constitution including policies on environment (III-233), the new energy chapter (III-256), the horizontal social clauses (article III 116,117,118,122) as well as the strengthening of Europe's development policy (III 316,317,318,319) and its ability to play a responsible role in world (III-292) need to be retained in a new treaty.
- The principle of participatory democracy (I-47)
- The extension of qualified majority voting

Find below the outcomes of the June summit regarding these claims as well as other important changes to the constitutional treaty and the treaties in force.

2.1. Civil Society Contact Groups claims and the June summit outcomes

Charter of Fundamental Rights

The United Kingdom opposed the Charter of Fundamental Rights to be included in the new treaty and to be legally binding. It argued that the Charter would have impinged on its sovereignty because it guarantees social rights (e.g. the right to strike). It was decided not to include the entire charter in the Reform treaty. An article making reference to the Charter (Council Conclusions: p. 17, pt 9) and giving it a legally binding status will be introduced. The United Kingdom will benefit from an 'opt-out' clause which signifies that the Charter will not be applied in the UK (Council Conclusions, p.25-26, Title 1 pt 5 (and footnote)). Ireland and Poland consider asking for the same provision to apply to them.

Qualified Majority Voting

The extension of the qualified majority voting in the Council is postponed to November 2014. A new blocking minority system is put in place so that a group of member states can ask for further negotiations on a draft. (Council Conclusions, p.18 pt 13)

Participatory Democracy

The article I-47 on participatory democracy is included in the 'Reform Treaty'. It recognises the importance of the participation of civil society organisations and introduces the right to petition. One million citizens coming from a significant number of member states will be able to invite the Commission to submit a legal proposal on a specific issue (Council Conclusions, p.17, pt 11).

Key elements of Part III

Key components of part III of the draft Constitution including the reconfirmed policies on environment (III-233), the new energy chapter (III-256), the horizontal social clauses (article III 116,117,118,122) as well as the strengthening of Europe's development policy (III 316,317,318,319) and its ability to play a responsible role in world (III-292) remain in the new treaty. (Council Conclusions, p.20, pt 18)

2.2 Other important changes

Status of the new treaty

The idea of a European Constitution is abandoned. The future text will be called "Reform Treaty" and will amend existing Treaties. It aims to include most of the provisions of the Constitution into the current framework.

No state-like symbols and terminology

Furthermore there will be no mention of symbols of the EU (anthem, flag or the motto) in the Reform Treaty. Although the main institutional innovations of the Constitution remain in the Reform Treaty, all the symbols that aimed at reinforcing European identity are removed: the term Constitution, the reference to symbols, the renewed wording on laws, the Minister of Foreign Affairs. (Council Conclusions, p.16, pt 3, p. 22, pt 19v)

Primacy of EU Law

The IGC will adopt a declaration recalling that treaties and legal provisions adopted at EU level have primacy over the laws of Member States under the conditions laid down by the European Court of Justice's case law.

A reinforced role for National Parliaments

National parliaments are given a period of eight weeks to examine draft EU legislative text. In the draft constitution the period foreseen was six weeks. (Council Conclusions, p.17 pt 11 and 26, title II pt 7)

Common Foreign and Security Policy

There will be no European Minister of Foreign Affairs. Instead the reform treaty foresees a "High Representative of the Union for Foreign Affairs and Security Policy". However, the scope of activities remains the same. Decisions on foreign and security policy are to be taken unanimously by the Council. The European Court of Justice has no jurisdiction in the area. (Council Conclusions, p.19, pt 15, p.26, title V)

Enlargement criteria

Conditions to access the EU are stated and will include a reference to the Union's values and the addition of a commitment to promoting these values. It also includes a reference to the predominance of the Council on the matter. (Council Conclusions, p.19, pt 16, p 27, title VI)

Free and undistorted competition

The reference to free and undistorted competition as a goal for the EU is abandoned. This means that while "full employment and social progress" remains a key objective, free competition is seen as a tool to attain a free internal market. However, free competition still remains in the legal basis. (Council Conclusions, p.27)

You can find the likely text of the treaty of the European Union (TEU) (one of the two treaties that will be revised by the new Reform treaty) as it will be amended by the Reform treaty on <http://www.statewatch.org/news/2007/jul/eu-reform-treaty-teu-clean.pdf>

3. First Reactions

The Civil Society Contact Groups acknowledges that many key elements of the draft convention remain in the mandate for the Intergovernmental Conference (IGC). The June summit only agreed on the mandate for the IGC. This implies that even if NGOs demands were acknowledged and included in the mandate, details will be negotiate until October. Civil society organisations will have to closely scrutinize the negotiations to make sure that this is reflected in the final text.

The Civil Society Contact Group in early June challenged the Council to open up the inter-governmental approach. A coherent and effective strategy of involving civil society is urgently needed to engage European citizens in the process and inform its outcomes. The Civil Society Contact Group in mid-July sent a letter to the Portuguese presidency reiterating its call. The emphasis of the letter is the rapid publication of the first consolidated version of the new treaty in order to allow civil society organisations to follow and input in the process.

Find the letter to the Portuguese presidency on <http://act4europe.horus.be/module/FileLib/letter%20to%20Portugues%20presidency%20-%20IGC%20and%20civil%20society.pdf>

Find the Civil Society Contact Groups call to heads of state and governments concerning the June summit and IGC on <http://act4europe.horus.be/module/FileLib/CSCG%20call%20new%20treaty%20and%20IGC%20final.pdf>

The **European Movement** also called on the Portuguese presidency to open up the ministerial part of the IGC and to organize regular consultation meetings in order to allow civil society to follow the debates.

Find the European Movements' full statement concerning the Reform treaty on <http://www.europeanmovement.org/emailing/storage/2007.06.resolution.on.the.reform.treaty.forpublishing.pdf>

The European Parliament (EP) on Wednesday July 11 adopted its opinion backing the mandate for the IGC, a legal prerequisite to start an IGC. The EP welcomes that most of the content of the draft constitution will also be included in the Reform Treaty. A large majority of MEPs also support the tight timetable of the IGC and the ratification. The opinion regrets the increased number of exemptions to be included in the Reform Treaty. The EP also underlined that it will keep an open dialogue with national parliaments and civil society throughout the IGC and the ratification procedure.

The three members of the European Parliament (EP) that will represent the EP in the IGC were chosen on July 12. They are Elmar Brok (EPP-ED), Enrique Baron Crespo (PES) and Andrew Duff (ALDE).

Find the EP opinion on <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0328+0+DOC+XML+V0//EN&language=EN>

4. Next steps

An Inter-governmental Conference (IGC) will be convened by the Portuguese presidency on July 23. The IGC will negotiate over the technical details of the agreement reached during the June summit. The first month and half will be dedicated to translation the Council conclusion into legal text. After that there will be another political phase when EU foreign ministers discuss the document on early September. The Portuguese presidency aims at having only three months of negotiations and to have the treaty signed off by EU leaders on October 18-19

After the IGC, the treaty will have to be ratified by each of the 27 Member States. The Council wants the new treaty to be adopted by all Member States by spring 2009 (elections of the European Parliament and renewal of the European Commission). Irish Taoiseach Bertie Ahern announced that Ireland would hold a referendum on the Reform Treaty. Referenda are also possible in Denmark and the Netherlands, where a decision still has to be taken. French president Nicolas Sarkozy does intend to ratify the Reform Treaty in parliament.

July 23 2007	Portuguese presidency will convene the IGC
July 23 to mid October	Negotiations in the IGC
July 23 to end of August	Translation of IGC mandate in legal text
Early September	Another political phase: EU foreign ministers discuss the document in early September.
October 18-19	Tentative date for the closing of the IGC at the informal meeting of heads of state and government in Lisbon
November 2007 to June 2009	Ratification in member states