

12.10.2007

Decision
of the Bundesrat

Draft Treaty amending the Treaty on the European Union and the Treaty establishing the European Community – Draft Treaty for the Intergovernmental Conference IGC 1/07, IGC 2/07, IGC 3/07 and IGC 4/07

In its 837th meeting on 12th October 2007, the Bundesrat adopted the following Opinion pursuant to §§ 3 and 5 EUZBLG, (Act on Cooperation between the Federation and the Federal States in European Union Affairs):

1. The Bundesrat welcomes the fact that on 23rd July 2007 the Portuguese EU Council Presidency tabled a "Draft Treaty amending the Treaty on the European Union and the Treaty establishing the European Community" (= Reform Treaty) for the opening of the Intergovernmental Conference to continue reform of the EU treaties. The intention is to translate the mandate for the Intergovernmental Conference, adopted at the meeting of the European Council in June 2007, into an appropriate legal form. As the Bundesrat has already stated in its Resolution on the future of the EU, which was adopted on 6th July 2007 (BR Official Document 462/07 (Decision)), on the whole the IGC's mandate takes into account the Bundesrat's fundamental concerns, as expressed in the aforementioned Resolution.
2. The Bundesrat welcomes the adoption by the Federal Government of a number of the federal states' comments and concerns pertaining to the draft Reform Treaty and has on the whole been successful in integrating this into work by the group of legal experts overseeing appropriate execution of the IGC's mandate. This applies in particular to the call for the Committee of the Regions and the Economic and Social Committee to be mentioned in the EU Treaty and not only

in the Treaty on the Functioning of the Union. The new Article 9 of the EU Treaty addresses the institutions of the EU and in compliance with the mandate should provide an overview of the EU's institutional system. This also comprises the Committee of the Regions and the Economic and Social Committee as advisory bodies.

3. The Bundesrat recalls its request that a reference to God be included in the European treaties, which was already firmly stated in the context of the 2004 Intergovernmental Conference on a Constitutional Treaty for Europe and in the Convention engaged in the preparatory work for that IGC. The Bundesrat notes with regret that there appears to be no scope to succeed in integrating this point into the current Intergovernmental Conference's negotiations on reform of the EU treaties.
4. The Bundesrat regrets that the European Central Bank (ECB) is listed together with the other EU institutions in the first paragraph of the EU Treaty's new article 9. The Bundesrat draws attention to the explicit decision not to list the ECB in conjunction with the other institutions in the Constitutional Treaty for Europe, given the ECB's independent status. The Bundesrat requests the Federal Government to continue to advocate that the ECB be referred to separately from the other EU institutions under the heading "other institutions".
5. The Bundesrat encourages the submission of a German declaration on the symbols of the EU, stating that in the future too the European flag, anthem, motto, the Euro and Europe Day shall continue to be symbols of the common bond uniting the EU's citizens and conveying their allegiance to the EU. The aim is to make clear that Germany will continue to utilize these symbols, which are now no longer mentioned in the Treaty. The Bundesrat requests the Federal Government to support this initiative and to garner support with a view to ensuring that other Member States adhere to the proposed declaration.
6. The Bundesrat welcomes the current practice of direct involvement of national parliaments in shaping European policy as pursued by the Commission, which since September 2006 has transmitted all proposals and consultation papers to

national parliaments and given them an opportunity to submit an opinion. The Bundesrat has already made use of this possibility on a number of occasions and has transmitted Resolutions concerning various EU proposals to the Commission. In contrast to the subsidiarity early warning system, the Commission's current practice does not restrict scope to submit opinions to EU legislative acts and also extends beyond simply highlighting violations of the subsidiarity principle. In addition the system does not comprise any deadlines. The Bundesrat would therefore very much welcome maintenance of this possibility to submit an opinion, irrespective of the formal rights granted to national parliaments under the Reform Treaty.

The Bundesrat requests the Federal Government to urge the Commission to continue with its current practice concerning direct involvement of national parliaments in shaping European policy, also after entry into force of the Reform Treaty, and further requests that the Federal Government seek to glean support from other Member States in this matter.

The Bundesrat draws attention to the fact that COSAC (Conference of Community and European Affairs Committees of Parliaments of the European Union and the European Parliament) at its meeting in Berlin from 13th to 15th May 2007 called for the protocol to the Constitutional Treaty on Europe on the role of national parliaments in the EU and the protocol on application of the principles of subsidiarity and proportionality to be maintained, as well as calling for a continuation of the "new system" whereby the Commission transmits all proposals directly to national parliaments, invites national parliaments to comment in order to improve the process of shaping European policy, and provides a written response to these comments.

7. The Bundesrat hopes that it will be possible to achieve a political agreement on the Reform Treaty at the meeting of heads of state and government on 18th/19th October 2007. The reforms envisaged are necessary to enhance the EU's ability to take action and to make the EU more democratic, transparent and closer to its citizens.