



OCGG Government Section

Advice Program  
European Union

Governance Area  
The EU Constitution

Project  
Negotiation

# EU Constitution

Advice to the Governments  
of the Member States of the  
European Union

edited by Holger Osterrieder

## MAIN POINTS

The EU needs to use its unique opportunity for reform. Internally, it needs to strengthen both Parliament and the Commission, and must cement democratic foundations through better representation and human rights. Externally, it needs to increase defense capabilities to safeguard independence.

## ABOUT THE EDITOR

Holger Osterrieder is the Director of the OCGG Government Section and is working for the UNDP. He has studied at Bamberg, Sorbonne, Oxford, and Cambridge, and graduated as the best international student at ENA. He can be contacted at [holger.osterrieder@oxfordgovernance.org](mailto:holger.osterrieder@oxfordgovernance.org)

## ABOUT THE OCGG

The Oxford Council on Good Governance is an independent, non-partisan, and non-profit think tank based at Oxford and other world leading universities that gives actionable advice to high-level policy-makers based on cutting-edge research. For more information, please visit [www.oxfordgovernance.org](http://www.oxfordgovernance.org)

## INTRODUCTION A UNIQUE OPPORTUNITY

The making of a Constitution for Europe is a unique opportunity. We now have the chance to advance good governance both in Europe and beyond.

All the Governments participating in the IGC are shaping the future – our future!

As an independent think tank run by students at leading universities across Europe – Oxford, Cambridge, Ecole Nationale d'Administration, Berlin – we research and analyze both European and global governance on a daily basis.

We want a unified and strong Europe. This will promote human rights, the rule of law, democracy, international cooperation, and peace both in Europe and the world.

In order to make this future of Europe a reality, we have made a series of recommendations that we present in this document.

## RECOMMENDATIONS

The Oxford Council on Good Governance presents the following advice to the Governments of the Member States of the European Union in order to facilitate agreement in the current Intergovernmental Conference (IGC) on a Constitution for Europe that strengthens the effectiveness and legitimacy of the European Union (EU):

- R1    Equality for Citizens, not States  
*The IGC Should Adopt the Double Majority Voting System for the Council of the European Union*
- R2    Oiling the Engine of European Integration  
*The IGC Should Strengthen the European Commission*
- R3    We Only Need One President  
*The IGC Should Limit the Role of the Chair of the European Council*
- R4    Abolish the Veto  
*The IGC Should Apply QMV to All Policy Areas in the Council of the European Union*
- R5    A Vision of Peace  
*The IGC Should Increase Both the Independence and Capabilities of the EU in Security and Defence*
- R6    Government by the People  
*The IGC Should Strengthen the European Parliament*
- R7    Liberty and Equality for All the Citizens  
*The IGC Should Firmly Establish Fundamental Rights in the Constitution*

## PRIORITY 1 AGREEMENT

### RECOMMENDATION 1 EQUALITY FOR CITIZENS, NOT STATES

*The IGC Should Adopt the Double Majority Voting  
System for the Council of the European Union*

#### CHALLENGE

1. The complicated Nice voting system, which is the status quo, weakens both the legitimacy and effectiveness of the Council after enlargement. The transparent double majority voting system proposed by the Convention, which requires laws to be approved by a majority of EU countries – 13 out of 25 – representing 60% of the population, would both enhance representativeness and ease decision-making.
2. The issue of voting weights in the Council is a question where power clashes with principles. Spain and Poland are opposed to the Convention's double majority proposal and in favour of the Nice system since the latter gives them many more votes than warranted by their relative population size. Their demands are contrary to the spirit of democracy, cooperation, and European unification. Germany, supported by France and many of the smaller Member States, is defending the Convention's proposal.
3. This issue is so divisive that it has the potential to block agreement on a new Constitution. This is extremely serious since the EU after enlargement will grind to a halt without institutional reform.

## SOLUTION

1. The IGC should adopt the convention's proposal and move to the double majority procedure.
2. Germany should make it clear that it is not willing to accept a decision-making procedure that gives countries half its size almost the same voting power.
3. All Member States should support Germany on this issue and put pressure on Spain and Poland to back down from their unreasonable demands.

## ADVANTAGES

1. The double majority system would make the EU more democratic since it would require decisions to have majority support both among its states and its people, the two core constituencies of the EU.
2. The double majority system would increase the legitimacy of decision-making in the EU since it would give each citizen one vote regardless of which Member State they belong to.
3. The double majority system would make the EU more transparent since it is easier to understand for European citizens than the complicated Nice system.
4. The double majority system would increase the effectiveness of decision-making as it would facilitate the creation of working majorities. Both larger and small member states would lose some veto potential. This would make veto coalitions less likely and therefore strengthen the future workability of the EU.

5. The double majority system would promote the long term interests of all of Europe, whereas the Nice system is supported by short term national interests.

6. The double majority system would benefit Spain and Poland in absolute terms. In an EU of 27 they would represent more than 8% of the EU-population. However, their 27 votes would represent only 7.8% of the 345 future votes. So in absolute terms Spain and Poland would gain influence. This gain in influence is counter-balanced by a loss of influence vis-à-vis the bigger member states when it comes to blocking decisions.

#### A L T E R N A T I V E S

1. The threshold for the share of populations needed to pass might be increased to  $2/3$ . While this would not benefit the workability of the EU it might lead to a compromise.

2. In the regrettable event that the triple majority principle was to be kept the Nice agreement should be reformed in at least one respect: the quorum of weighted votes (currently 71 per cent) should be lowered to 60 per cent, or at least  $2/3$ . This would at least reduce the number of potential blocking coalitions in the Council and thus enhance the efficiency of the EU.

## PRIORITY 2 EFFECTIVENESS

### RECOMMENDATION 2 OILING THE ENGINE OF EUROPEAN INTEGRATION

*The IGC Should Strengthen the European Commission*

#### CHALLENGE

1. The European Commission in its present formation and with its present working rules cannot be maintained in the future institutional framework of the EU.
2. Effective governance requires a Commission which is an equal partner to the European Council and the Council of the European Union.
3. The strong national identification of some commissioners (especially by the small countries) must be overcome.

#### SOLUTION

1. The Commission should be established as a real executive by giving it more autonomy from the Member States and the Council of the European Union, greater agenda-setting and executive powers, and the organizational structure that enables it to work efficiently. This includes the sole right of initiative in areas of exclusive competence.
2. The one country one commissioner approach should be retained if a working arrangement can be found that prevents the increased size to lead to less efficiency.

3. The working rules and the distribution of dossiers should be put to the European Parliament to ensure it is based on the principle of efficiency and not on the influence of national governments.

4. The President of the Commission should remain in charge of everyday decision making and implementation of policy. He shall be elected by the European Parliament on a proposal by the European Council that takes into account the European election results.

5. The Foreign Minister should be a member of the Commission with the same rights and obligations as the other commissioners.

#### A D V A N T A G E S

1. A stronger Commission would maintain the balance among the EU institutions despite the strengthening of the European Council and the Council of the European Union that will follow the abolition of the rotating presidency.

2. A stronger Commission would retrieve a level of independence, which it could otherwise lose if the Foreign Minister was made dependent on the Council.

3. A stronger Commission that is legitimized by the European Parliament would strengthen the European Parliament.



### RECOMMENDATION 3

#### WE ONLY NEED ONE PRESIDENT

*The IGC Should Limit the Role of  
the Chair of the European Council*

#### CHALLENGE

1. A strong Chair of the European Council would weaken the President of the European Commission, thus weakening and dividing the EU.

#### SOLUTION

1. The President of the Commission should remain the chief executive of the EU after the new Chair of the European Council has been created. This means that the competencies and powers of the Commission President need to be extended.
2. The Chair of the European Council should be obliged to cooperate with the President of the Commission in the policy-making process.
3. The Chair of the European Council should be obliged to cooperate with the Foreign Minister in all aspects of the external relations of the EU, including CFSP.
4. The Foreign Minister should primarily report to the Commission President.

#### ADVANTAGES

1. Close cooperation among the heads of the central bodies of the EU would ensure consistency of approaches and increase efficiency.



2. A strong President of the Commission would remain the chief executive of the EU.

3. A weak Chair of the European Council would have to cooperate fully with both the President of the Commission and the Foreign Minister.

## RECOMMENDATION 4 ABOLISH THE VETO

*The IGC Should Apply QMV to All Policy  
Areas in the Council of the European Union*

### CHALLENGE

1. Decision-making in many policy areas is still based on unanimity rather than qualified majority voting.
2. The national veto obstructs effective policy-making and impedes European integration.

### SOLUTION

1. QMV should be the decision making procedure in all policy areas, including taxation and foreign, security, and defence policy.
2. QMV with a higher threshold for passing legislation could apply to particular policies, such as taxation and foreign, security, and defence policy.

### ADVANTAGES

1. QMV would reduce the blackmail potential of single obstructing governments.
2. QMV would transform the European Council from a negotiation and bargaining arena to a 'strategic element' setting the agenda, providing direction, and representing the EU externally.

## RECOMMENDATION 5 A VISION OF PEACE

*The IGC Should Increase Both the Independence  
and Capabilities of the EU in Security and Defence*

### CHALLENGE

1. There is evidence of transatlantic drift between the USA and Europe. The USA is willing to act unilaterally in defiance of international law whereas Europe supports the United Nations and international law.
2. It is therefore rational for Europe to move towards greater independence in security and defence.
3. Since the end of the Cold War, Europe is facing radically new security challenges. Europe today is neither threatened by an intra-state war nor an invasion, but by different kinds of non-state actors waging sub-state level wars, terror and crime.
4. Europe has taken steps to react to these new challenges by creating a rapid reaction force. However, greater capabilities in security and defence are needed to effectively respond to current threats and emerging challenges.

### SOLUTION

1. The EU should establish its own military planning structures at all levels, including the operational level. These should be fully independent of Nato.
2. The EU should adopt a mutual defence clause.

3. The Foreign Minister should be the single spokesperson for European security and defence.

4. All Member States should increase their defence budgets.

#### A D V A N T A G E S

1. Increased independence and capabilities in security and defence would enable the Europe to contribute effectively to upholding human rights, rule of law, democracy, international stability, and peace all over the world in support of the United Nations, in particular peace-keeping.

2. Increased independence and capabilities in security and defence would forever cement peace and prosperity among the states on the European continent.

3. Increased independence and capabilities in security and defence would enable Europe to maintain its own territorial integrity and political independence.

4. Increased independence and capabilities in security and defence would enable Europe to become an equal partner with the USA.

5. Increased independence and capabilities in security and defence would enable Europe to develop, manage, and deploy security and defence resources with greater economies of scale and scope.

## PRIORITY 3 LEGITIMACY

### RECOMMENDATION 6 GOVERNMENT BY THE PEOPLE

*The IGC Should Strengthen the European Parliament*

#### CHALLENGE

1. The evolution of the EU through closed diplomatic negotiation instead of open parliamentary deliberation has led to a deficit of democratic legitimacy and the estrangement of citizens from the EU.
2. The turnout of voters at elections to the European Parliament is steadily declining, threatening to undermine the democratic legitimacy of the EU.

#### SOLUTION

1. The European Parliament should be empowered in order to reduce the closed and diplomatic character of decisions, thus enhancing transparency and attracting public support.
2. The right to elect and dismiss the European Commission on its own initiative should be established.
3. The President of the European Commission should be elected from among the Members of the European Parliament.
4. Co-decision should be the decision making procedure in all policy areas, including taxation and foreign, security, and defence policy.

5. The position of the European Parliament should be strengthened relative to the position of national parliaments.
6. Procedures for European elections should be uniform across all Member States.
7. Incentives for the creation of a political party system at the European level should be created.

#### A D V A N T A G E S

1. A stronger European Parliament would make the EU more democratic.
2. A stronger European Parliament would increase the legitimacy of decision making in the EU.
3. A stronger European Parliament would stimulate greater transparency and mobilization of the electorate since the voters would have a greater incentive to hold their representatives accountable.

**R E C O M M E N D A T I O N 7**  
**L I B E R T Y A N D E Q U A L I T Y**  
**F O R A L L T H E C I T I Z E N S**

*The IGC Should Firmly Establish Fundamental Rights in the Constitution*

**C H A L L E N G E**

1. There is currently no catalogue of rights in the treaties of the EU.
2. Fears of the emergence of a dominant EU superstate, especially in the new states in Eastern Europe, could prevent an efficient centralization of influence in desirable policy areas.
3. Growing threats of terrorism and security efforts to counter possible attacks against endanger the liberty and fundamental rights of EU citizens.
4. The low degree of identification among citizens with the EU supports euroskeptical forces and undermines the prospect of further progress in European integration.

**S O L U T I O N**

1. The Charter of Fundamental Rights should be incorporated into the constitution.
2. The Charter of Fundamental Rights should be given full legal force, capable of being enforced by citizens both against the EU and the Member States.



## A D V A N T A G E S

1. Giving the Charter of Fundamental Rights a prominent position in the Constitution would reduce the fears of a dominant EU superstate.
2. Giving the Charter of Fundamental Rights a prominent position in the Constitution would send a clear message to terrorists as well as citizens that the EU will not sacrifice the fundamental rights of its citizens, even in the face of internationally organized terrorism.
3. Giving the Charter of Fundamental Rights a prominent position in the Constitution would promote the development of a European “sense of belonging” (Dahrendorf).

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Registered Address:  
141 Rampart Rd  
Salisbury SP1 1JA  
United Kingdom

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