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The CFSP/ESDP, Parliamentary Accountability, and the 'Future of Europe' Convention debate

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Introduction

This paper examines the importance that the current Convention on the Future of Europe is giving (or not) to the question of democratic accountability in European foreign and defence policy. As all European Union (EU) member states are parliamentary democracies¹, and as there is a European Parliament (EP) which also covers CFSP (Common Foreign and Security Policy) and ESDP (European Security and Defence Policy²) matters, I will concentrate on parliamentary accountability rather than democratic accountability more widely defined. Where appropriate, I will also refer to the work of other transnational parliamentary bodies such as the North Atlantic Assembly or NAA (NATO's Parliamentary Assembly) or the Western European Union (WEU) Parliamentary Assembly³. The article will consist of three sections. First, I will briefly put the question under study within its wider context (section 1). Then, I will examine the current level of parliamentary accountability in CFSP and defence matters (section 2). Finally, I will consider the current Convention debate and assess how much attention is being given to the question of accountability in foreign and defence policies (section 3). This study basically argues that, once again, there is very little interest in an issue that should be considered as vital for the future democratic development of a European foreign and defence policy. It is important to note however that this paper does not cover the wider debate about how to democratise and make the EU more transparent and closer to its citizens. It concentrates on its Second Pillar because its claim is that very little if any attention is being given to this question.

I. The wider context

In a recent article written by Prime Minister Costas Simitis to mark the beginning of the 2003 Greek Presidency of the Council of the European Union, the emphasis was on the fact that '[a] Bigger EU Must Be More Effective and More Democratic'⁴. Among other points, the Greek premier stressed that:

'[t]he composition of the Convention clearly embodies the principles of transparency and democratic participation - the underlying rationale being the need to obtain the consent not only of member governments but also of the peoples of the European Union'.

Thus, he concludes: 'The overall aim is to render the enlarged European Union more effective and more democratic'.

With regard to how best achieve those objectives, it is interesting to note Greece's clear preference for a federal model. To quote Simitis again:

'In this context it is vital to ensure that the "Community method" is strengthened and that its significance for European integration is fully recognized. The Community method is the decision-making process through which the European Union has achieved improved policy coherence, more transparency and better chances to debate policy ideas while taking national interests into account. It entails a system of checks and balances that will prove invaluable to the enlarged European Union'.

However, there immediately follow confederal connotations:

'The relationship between the European Union and the member states should, of course, be clarified. The Convention has been given the mandate to examine the notion of "subsidiarity," under which decisions are taken at the most appropriate institutional level, whether local, regional, national or EU-

wide, with the EU institutions responsible only for policies and actions that are best decided at EU level.

Greece believes that there is no substitute for trust among the institutions and among the member states if the European Union is to function properly. A strict division of competences between the member states and the European Union through the adoption of a fixed, exhaustive list of powers, as sought by some Convention participants, could deprive the European Union of its ability to evolve and respond to new challenges'.

The following necessary ingredients are needed (I leave aside at this stage whether they represent sufficient means):

'Involving national Parliaments directly in the European Union's decision-making procedures (...) to bring national Parliaments closer to the European Union's decision-making so as to enhance its democratic legitimacy'.

The Greek PM however does not favour:

'the creation of a new institution consisting of members of national Parliaments, as some have proposed. This could not be reconciled with the need to simplify the acts and procedures of the European Union and would upset the present institutional balance, which is based on the smooth operation of the "institutional triangle" composed of the Commission, the Council and the European Parliament'.

He then discusses a number of different options that have been proposed. I do not enter here in this particular discussion and how Greece sees it fit to modify the EU institutional structure. Nor do I discuss his claim that the institutional triangle is operating smoothly, especially in foreign, security and defence matters. What I intend to do in this piece is to assess how much attention is being given to an important development in European integration in recent years: its militarization. But this will not be done from the traditional institutional approach. Rather, I will discuss this question from the democratic accountability perspective. That is to say, how much emphasis is being given in the Convention debate on the need to exert democratic control over this nascent European defence policy. As the CESDP or ESDP (Common European Security and Defence Policy) forms part of the CFSP (Common Foreign and Security Policy), that is to say the second pillar of the EU, it is also necessary to study this question by covering both foreign policy and security/defence policy.

As Simitis himself acknowledges, it is not easy to define what is Europe's foreign policy, let alone its defence one.

'Until now the European Union's trade relations and development cooperation with third countries have been conducted on the basis of the Community method, while in other policy areas, such as the Common Foreign and Security Policy (CFSP), member governments have played the predominant role.

This means that in the areas of trade and aid, and in some specific international bodies, the 15 member states operate with a single representative, but in all other areas of international relations the European Union has lacked the benefits of a legal personality. We must remedy this shortcoming'.

He continues:

'A single voice abroad entails a single framework within the European Union. This does not, of course, imply an instant "communitarization" of the whole gamut of EU actions. It simply means leaving behind a theoretical construction that may have proven helpful in better defining the European Union's functioning, but has also become restrictive on the European Union's potential'.

He fully acknowledges that there still are a number of difficulties with a decision-making model that would not be based on consensus:

‘We should also examine the possibility of complementing this measure with a wider use of Qualified Majority Voting (QMV), instead of consensus, in reaching jointly agreed viewpoints. The merits of this move are obvious: it would give the CFSP the added speed, efficiency and coherence that it needs. On the other hand, member states may be wary of a procedure that would give priority to efficiency over their own national interests. We could examine ways of assuaging these apprehensions’.

What is also important for this paper is the fact that Simitis differentiates between CFSP decisions that have a direct impact on military questions and those that do not. Thus, he argues:

‘For instance, a decision to take external action with no military implications could be adopted by QMV on a proposal from the Commission. Opt-out clauses could also be provided for specific cases. The idea hinges on the member states being willing and able to separate core national interests from areas of foreign policy where they could accept a more inclusive approach’.

A first conclusion that can be drawn from the above is that the debate on how to improve EU decision-making in foreign, security and defence matters is raging. The second conclusion is that defence is seen as a special area of public policy.

II. The current level of parliamentary accountability in CFSP/CESDP: still wanting

A brief review of CFSP accountability mechanisms⁵ would point to the fact that the European Parliament possesses powers of information but no real power of control, i.e. of adequate control. This is not unique to the EP, as many national parliamentary mechanisms also suffer from democratic deficits. Traditionally, foreign policy has been regarded as an executive prerogative. As for defence, the situation is all the more so. Both foreign and defence policies often require speed, efficiency, coherence, and secrecy. Difficult choices need to be made. All these elements represent characteristics that do not fit well with slow and open parliamentary deliberations. However, this only reflects part of the reality. Indeed, this so-called ‘Realist’ approach to foreign policy has been challenged by other, more sophisticated, analyses. Be it as a result of the so-called ‘Foreign Policy Analysis’ approach (which acknowledges the role of domestic sources of foreign policy), or because of the need to question why democratic rules should stop at the borders of a state (the ‘International Democratic Theory’ approach), there is some parliamentary accountability in practice, even if it remains extremely underdeveloped. The EP is only allowed to play a marginal role in the formulation, let alone, in the implementation of the CFSP. The Parliament in Brussels/Strasbourg does however possess some traditional means of control in international trade, commerce, and aid policies (mainly budgetary powers), even if this is not the case in foreign policy *per se*. Still, the EP does:

- debate foreign policy matters,
- issue declarations, reports and other rhetorical statements on international relations,
- organise ‘hearings’ of EU figures and other experts,
- pass ‘resolutions’ and ‘recommendations’ on almost any international issue.

But the European Council and the Council of foreign ministers decide, and the EP usually reacts *post facto* with very little chance (or hope) to modify any CFSP decision that has already been taken.

The national parliaments do have more powers than the EP, and in some cases there is a sense of accountability especially on issues dealing with internal EU matters (the ‘model’ here is the Danish *Folketing*). But in CFSP matters, again it is the national governments that have the final say, be it because of a traditional executive dominance or because of the existence of a

clear majority in Parliament. One should note that even if the individual national parliaments were to possess more powers, there would still be a democratic deficit at the EU level if the EP was not given more powers as well, because the individual need for ministers (or heads of state/government) to be accountable does not automatically make them collectively accountable to a transnational Parliament.

As far as defence is concerned, although there has been recently progress in European integration in that particular policy area following the 1998 Franco-British Saint-Malo Declaration⁶, there is very little, if any, parliamentary accountability. One of the reasons is that so far there have only been informal Defence Ministers Council meetings as they do not formally exist yet. A treaty change is not necessary but to date these new meetings have not been formalised. There is a practical problem with such a move as the ESDP is formally part of the CFSP but there already are bodies within the EU Council dealing with defence exclusively and not all CFSP issues cover defence matters. Thus the EP has repeatedly: 'demand[ed] that a separate Council of Ministers for Defence (...) be created for ESDP matters'⁷.

There is in addition very little accountability at the national level where in most cases the Executive retains almost absolute control, especially over issues of arms exports, intelligence or nuclear policy. Furthermore because of the existence of NATO, there is also a parliamentary assembly (NAA) dealing with Trans-atlantic security issues but one that does not possess any real power⁸. Now that the WEU has been 'disbanded' (except for its article 5), its Assembly has been re-named the Interim European Security and Defence Assembly, but its influence remains very limited.

All of the above does not mean there is no democratic control at all. But it does raise important problems of democracy, legitimacy and accountability. As Christopher Hill correctly points out:

'the problem of democracy affects the substance as well as the procedures of the CFSP. The voice of the people needs to be heard, and the executive made subject to checks and balances, by a rather more extensive and transparent combination of national and European parliamentary measures than is currently the case'⁹.

There are definitely many democratic deficits that need to be addressed¹⁰. I now turn to the Convention debate and try and assess whether the question of parliamentary accountability in CFSP and ESDP has been present on its agenda.

III. The question of accountability in foreign/defence policy within the Convention debate: no real attention

In the Convention¹¹, two working groups have been dealing with foreign and defence matters: a working group on the external relations of the EU (Number VII) and one on defence (Number VIII). Both working groups issued reports at the end of 2002 and it is therefore possible to assess their respective work with regard to the question of democratic accountability.

Both working groups mention parliamentary scrutiny as one of the issues to be addressed but they only deal with it *en passant*. The Final Report of the Working Group on External Action¹² refers to the fact that consultation of the EP is already possible. It however calls for:

'regular exchange of views between the EP and national parliaments on CFSP issues'.

It also suggests enhancing the EP's involvement in commercial policy (and refers to the work of another Working Group, No. III on Legal Personality [of the Union]), and 'to make the person holding the function of HR [High Representative] formally involved in these tasks 'of informing the EP'¹³.

As for the Final Report of the Defence Working Group¹⁴, it:

'underline[s] the importance of ensuring suitable political scrutiny of security and defence policy, taking account of the specific nature of this field'.

Thus, it is interesting to note that some reference is made to the need for accountability but that the 'special nature' of defence policy is also highlighted. The Report goes on to mention that there are currently two ways of scrutinizing the ESDP: the EP level and that of national parliaments. The Report stresses the right of information that the EP possesses, as well as its right to submit resolutions (known as 'recommendations') to the Council. As for national parliaments, the emphasis is on the constitutional requirement of parliamentary assent to military operations abroad. The final point on this issue raised in this report is worth quoting fully:

'regular meetings of the relevant committees of the national parliaments should be organised so as to ensure better exchanges of information and more effective parliamentary scrutiny. Some members of the Group wanted Members of the European Parliament to be associated with these meetings'.

Thus, some form of improved EU-wide, together with national-level, scrutiny would be a positive development as it recognises that the ESDP is more than the sum of national defence policies (and therefore that the EP should be involved) but that, at the same time, the national dimension remains extremely important. This is particularly due to the fact that there is still no European *demos*.

It is therefore clear from the above that the Convention has not really entered the debate over how to deal with the democratic deficits that exist in the CFSP and in the ESDP in any substantial manner. There are a number of practical suggestions for improving the current democratic deficits in EU foreign and defence policy that I have presented elsewhere¹⁵. I will not repeat them here but it is however useful to refer to some additional proposals that have been made in different recent WEU Parliamentary Assembly reports¹⁶. Some of them come very close to some of the ideas presented by the Convention Chair Valéry Giscard d'Estaing¹⁷. The WEU Assembly proposals mainly refer to the idea of a second EP Chamber which might include some of the characteristics of COSAC (specialised parliamentary committees on EU affairs), but which will be clearly biased towards the committees on foreign policy and defence matters. The WEU parliamentarians see a more constant institution that would combine the advantages of the pre-1979 EP (national representation) with those of the post-1979 (and current) EP structure (direct elections). On the contrary, Giscard favours a less institutionalised *Congress of Peoples*. In my view, it is clear that a combination of national and European parliamentary accountability mechanisms are required because both the CFSP and the ESDP represent more than a combination of national policies. Moreover, I think that a dose of democracy would not only be welcome for its own sake, but also because it will help create a European consensus. On the contrary, an easy option would be to argue that, especially after the recent developments over Iraq in early 2003, there is very little need to even debate those issues because there is no common European foreign policy, let alone a common defence one. In other words, let us not discuss this question until there is a common European foreign and defence policy. This in my view represents an easy way out. It does also fail to take into consideration the other side of the same coin. Indeed, such an approach ignores the fact that the lack of democracy also hinders the emergence of such a policy. Democracy is not a luxury in international affairs. In the case of the EU, it is a necessity because the Europeans need to have clear principles, both in terms of decision-making and in terms of values projection if all member states are to agree to a given policy¹⁸.

IV. Conclusions

It is therefore possible to conclude that very little attention has been paid to the question of democratic accountability of the CFSP and the ESDP. It is clear that another missed opportunity is being added to the many more that have occurred in the past. Each time there has been a treaty revision (or a new treaty), at least ever since the 1986 Single European Act, which codified European Political Cooperation (the predecessor to the CFSP¹⁹), there has been no real interest in the question of democracy and EU foreign policy. Ever since the 'militarization' of the EU (post-Amsterdam) there does not appear to be any interest in how to control democratically European defence either. The range of activities that the EU is starting to cover in this field is expanding rapidly from the so-called 'Petersberg Tasks' (rescue, humanitarian

and peace-keeping or making operations) to the possibility of a collective security clause in the proposed Constitutional Treaty draft that is expected to come out of the Convention debate.

I have not covered in this paper the problematic question of public opinion. First, there is the more general concern about how important public opinion is (or should be) in foreign and defence policy. Second, there is little doubt that there is, to use the academic parlance, no European-wide *demos*, especially in foreign and defence matters²⁰. Third, the current overwhelming consensus against a war on Iraq should not be seen as clear evidence of the emergence (at long last) of such a *demos*²¹. The real concerns are numerous:

- why is there such a discrepancy between governments and public opinions in some EU states?
- why is the EP split in half about this issue?
- how does one address the volatility of public opinions?

In particular, one should not forget that, to use Glucksmann's own words:

'in a proper democracy, decisions are made not by polling institutes, or at the stock market, or in the streets, but in the voting booth'²².

It is hoped that this paper has highlighted the need for more debate about some vital issues for the future of an enlarged and enlarging EU (at the time of writing in late February 2003, Croatia had just applied to join the Union). Otherwise, I am afraid we will be talking once more of another failed opportunity to democratise the Union. Something, which, it is worth repeating, is a *sine qua non* for the survival of an integration process that is based on a voluntary coming together of European democratic states, peoples and nations.

¹ France is a semi-presidential system and some other EU states are parliamentary monarchies but this does not affect their democratic nature, as the role of the monarchs is basically one of a figurehead.

² Sometimes also referred to as CESDP with 'C' standing for 'Common'.

³ Other transnational parliaments dealing with European or international affairs are the parliamentary assemblies of the OSCE and of the Council of Europe.

⁴ *European Affairs*, Winter 2003, Volume 4, Number 1, as reproduced on the EKEM website: www.ekem.gr.

⁵ For more details, see Stelios Stavridis, 'The "second" democratic deficit in the European Community: the process of European Political Cooperation', in Frank Pfetsch (ed), *International Relations and Pan Europe*, Lit Verlag, Münster, 1993, pages 173-194; 'The Democratic Control of the CFSP', in Martin Holland (ed), *Common Foreign and Security Policy: the record and reform*, Pinter/Cassells, London, 1997, pages 136-147; and 'The democratic control of the EU's foreign and security policy after Amsterdam and Nice', *Current Politics and Economics of Europe*, Volume 10, Number 3, 2001, Special Issue on 'Democracy in the three pillars of the EU' edited by Stelios Stavridis and Amy Verdun, pages 289-311.

⁶ For details, see Stelios Stavridis, 'European Security and Defence after Nice', *The European Union Review*, Volume 6, Number 3, October 2001, pages 97-118. See also Jolyon Howorth, 'Britain, France and the European Defence Initiative', *Survival*, Volume 42, Number 2, 2000, pages 33-55 and his 'Britain, NATO and CESDP: Fixed Strategy, Changing Tactics', *European Foreign Affairs Review*, Volume 5, 2000, pages 377-396.

⁷ Most recently in its Brok report of September 2002 (*Report on the progress achieved in the implementation of the common foreign and security policy*, Committee on Foreign Affairs,

Human Rights, Common Security and Defence Policy, A5-0296/2002 of 11 September 2002, PE 309.702 (Rapporteur: Elmar Brok), page 6.

⁸ It is interesting to note that the NAA was set up in the mid-1950s at the own initiative of several parliamentarians from both sides of the Atlantic and that it does not belong to the NATO treaty itself.

⁹ Christopher Hill, *The Common Foreign and Security Policy of the European Union: Conventions, Constitutions and Consequentiality*, 7 November 2002, LSE European Foreign Policy Unit (EFPU) Paper, www.lse.ac.uk/Depts/intrel/EuroFPUnit.html#workingpapers .

¹⁰ I do not enter here the wider 'democratic deficit' debate of the EU. For details, see *Current Politics and Economics of Europe*, Volume 10, Number 3, 2001, Special Issue on 'Democracy in the three pillars of the EU', edited by Stelios Stavridis and Amy Verdun, pages 213-349.

¹¹ The website of the Convention is as follows: http://www.europa.eu.int/futurum/index_en.htm .

¹² *Final Report of Working Group VII on External Action*, CONV 459/02, 16 December 2002.

¹³ *Ibid.*, points 10 and 60-61.

¹⁴ *Final Report of Working Group VIII- Defence*, CONV 461/02, 16 December 2002, points 73 and 73.

¹⁵ see Stavridis, 'The democratic control of ...', *op.cit.*, pages 301-305.

¹⁶ Report by Mr Eyskens: *The role of national parliaments in the European Union and more specifically in the ESDP – a contribution from the Assembly to the Convention*, Document A/1778, 4 June 2002, Assembly of Western European Union/ The interim European Security and Defence Assembly, Paris (www.weu.int/assembly). See especially pages 15 and 18. See also the Report by Mr Arnau Navarro: *The parliamentary dimension in the new European security and defence architecture – replies to parliamentary questions tabled in WEU countries*, Document A/1780, 5 June 2002, and the Report by Mrs Agudo Cadarso: *The parliamentary dimension in the new European security and defence architecture – debates and replies to parliamentary questions tabled in WEU countries*, Document A/1802, 4 December 2002.

¹⁷ For a good presentation of Giscard's views see his *Audition* (Hearing) to the *French Assemblée Nationale's* Committee on Foreign Affairs on 27 November 2002, www.assemblee-nationale.fr/12/cr-cafe/02-03/c0203017.asp as printed on 22 January 2003, especially pages 3 and 5.

¹⁸ For an early discussion along those lines, see Christopher Hill, 'The European Community: towards a common foreign and security policy?', *The World Today*, November 1991, pages 189-193.

¹⁹ For details see Simon Nuttall, *European Political Cooperation*, Clarendon Press, Oxford, 1992 and his *European Foreign Policy*, Oxford University Press, Oxford, 2000.

²⁰ See Stavridis, 'The democratic control of ...', *op.cit.*, pages 298-299.

²¹ For a different view, see Emilio Menéndez del Valle, 'EEUU: ¿qué valores comunes?', *El País*, 22 February 2003 where the Spanish MEP and diplomat argues that a Common European Public Opinion has just been created with the mass public protests against a war in Iraq throughout the world on 15 February 2003.

²² André Glucksmann, 'France's five cardinal sins over Iraq', *International Herald Tribune*, 22 February 2003, as printed on the same day from: www.ihf.com.