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Has the European Convention United Europe in Security and Defence Policy Issues?

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1. Introduction

“There is no European foreign policy”, wrote the commentator of a North-West German newspaper after the Thessaloniki European Council in June 2003, “because foreign policy is regarded by the 15 Member States as an exclusively national concern. Besides there are major historical and cultural differences [...] which [result in] 15 different analyses [and] often make a uniform reaction impossible.”¹ He was criticising the uncoordinated, disjointed conduct of the present and future EU Member States with regard to security and defence policy, which had led to the division between “old” and “new” Europe, introduced by the Bush administration in the spring of 2003 to describe the European governments’ divergent attitudes towards the US intervention in Iraq. Against this background, it appears that Henry Kissinger’s famous question: “What is Europe’s telephone number?” is still a fitting description of the European Union’s clout in foreign policy. There are political analysts who believe that the question has been answered by institutionalising the High Representative for the Common Foreign and Security Policy (CFSP) (e.g. Schneckener 2001: 43). However, the EU’s inability to act in the face of the Iraq crisis leaves a lingering suspicion that the future EU “Minister for Foreign Affairs”, as suggested by the Convention on the Future of Europe, may only turn out to be a glorified “answering machine” after all.

This scepticism seems well founded because it is hard to imagine that the – soon to be – 25 Member States will be able to agree on common positions in a political field which involves core elements of national sovereignty. The intergovernmental orientation of the present CFSP, based on the principle of unanimity, reflects the will to retain the status quo in foreign policy. On the other hand, however, the expectations of CFSP might be

¹ Robers, Norbert: Langer Weg zur Weltmacht (commentary), in: Weser Kurier, No. 142, 21 June 2003: 2

exaggerated. At the moment it is completely open whether in the long term the EU should or even could be developed into a “world power” to counterbalance the present hegemonial power USA – an idea advocated by, e.g., the European Green politician Daniel Cohn-Bendit,² by the Youth Convention (cf. CONV 205/02: 11ff.) and by a demonstrating public.

During the Cold War, the political paradigm³ for the international role of the European Communities was characterised by the idea of a “European civil power”. After the fall of the Iron Curtain, this paradigm was extended to include a security and defence policy component. To be able to develop into a “peace power”, Europe had to be prepared, if need be, to apply sanctions in pursuit of its regulatory and civil aims (cf. Ehrhart 2001. 187). It was for this purpose that the CFSP was established under the Treaty of Maastricht in 1992 and extended by the European Security and Defence Policy (ESDP) at the 1999 Cologne Summit. CFSP is not, however, included in the first – i.e. Community – pillar, but is part of the second – i.e. intergovernmental – pillar. Contrary to agricultural or monetary policy, where the Member States have assigned all competencies to the European level, supranational EU institutions have limited competencies in foreign policy (foreign trade policy) and no competencies at all in defence policy. Communitising CFSP – by incorporating supranational elements – would therefore be tantamount to breaking up the EU pillar system and would require the Member States to waive some of their sovereignty rights.

The central issue with regard to the Convention’s aim to make CFSP and ESDP more efficient and effective is therefore a question of acceptance: are the Member States prepared to assign any (further) competencies to the European level, and if so, to what extent? There is disagreement not only on the definition of aims and interests, but also on the selection and application of certain foreign policy instruments, and industrial interests are also involved, in the form of government procurement of military equipment. Furthermore, there are questions concerning the institutionalisation of supranational elements in CFSP, e.g. “qualified majority voting” and an EU Minister for Foreign Affairs. But the fundamental question is whether the Convention has been able to formulate effective, legitimate and generally acceptable proposals to ensure that in future the EU

² Seidel, Eberhard: Mit einer neuen EU gegen die USA (interview), in: taz of 15 August 2001; <http://www.cohn-bendit.de/depot/standpunkte/eugegenusa0801.pdf>, 02.04.2002

Member States will present themselves, with regard to their aims, interests and instruments in foreign and defence policy, as a uniform and coherent actor in world politics.

In this paper, I seek to address the above questions by analysing the debates and results of the Convention Working Group VIII, “Defence Policy”, as well as subsequent contributions by different actors on the eight controversial issues dealt with by the Convention.

On the one hand, the aim is to show whether and how differing particularist interests and lines of conflict (section 2) have been forged into coalitions in the Convention (section 3). On the other hand, I will investigate which coalitions have prevailed in the final wording of the foreign and defence section of the conventional treaty. Finally, the treaty will be evaluated not only in terms of the real progress in integration made by ESDP, but also in terms of quality of the consensus it has achieved (section 4). That the idea of institutionalising Community action in foreign and security policy is nothing new and that its integration does not start at zero, has been amply expounded in the pertinent literature (cf., e.g., Algieri 2002), and there is no need to enlarge on this point in the present context. However, I will start by sketching some central problems and conflicts in foreign and defence policy which have, historically and recently, had a decisive influence on the Convention’s foreign and security policy debate.

2. Background of the Convention Debate on Security and Defence

The European process of integration was initiated after the end of World War II with the primary aim of guaranteeing peace and security.⁴ The Treaty on a European Defence Community (EDC), which was signed in 1952 by the six member states of the European Coal and Steel Community, made provisions for a European army, in reply to US demands for the West European integration of the Federal Republic of Germany in issues of security and defence policy (cf. White 2001: 145). The USA were very much in favour of a Europe that was also united in military terms because this would have saved them the great expense of deploying their own troops in Europe (cf. Lundestad 1999: 24).

³ A paradigm is a central idea which stakes out the leeway for action, facilitates and justifies strategies (cf. Ehrhart 2001: 186).

⁴ In this context, security only refers to protection against military threats; it does not comprise economic or ecological security (cf. White 2001: 142).

They wanted Europe to be strong enough to balance the Soviet threat on its own (cf. Sheetz 1999: 26). However, the EDC Treaty was rejected by the French parliament in 1954, and as a result Europe had to rely on the Atlantic Alliance (NATO) with the USA for its security.

When the West European Union (WEU) was set up as a defence alliance in 1954, this accommodated the national interests of the USA (rearmament of Germany), France (control of this rearmament), Great Britain (intergovernmental structures of the WEU, integration into NATO) and the Federal Republic of Germany (securing sovereignty) (cf. White 2001: 145). But it was only with the introduction of CFSP that the WEU became important (cf. Algieri 2002: 596). The Single European Act (SEA) of 1986 created the “European Political Co-operation” (EPC), which served as a platform for the exchange of national opinions and preferences, thus making it easier to co-ordinate foreign policy activities. The European Parliament (EP) was involved in the process, but the Member States continued to be the leading actors when it came to foreign policy decisions (cf. Piening 1997: 36).

After the end of the Cold War, the EC Member States withstood the temptation to re-nationalise their foreign and defence policies, deciding instead to continue and further develop their common foreign and defence policy. By establishing CFSP as the second, intergovernmental pillar in the Treaty of Maastricht, the Member States showed their commitment to further integration. France and Germany in particular took over the role of integration motor. In June 1992 the foreign and defence ministers of the WEU countries formulated the so-called “Petersberg tasks” which included peacekeeping and humanitarian tasks as well as tasks of combat forces in crisis management.

CFSP was put to the test for the first time during the armed conflict in the former Yugoslavia. Right on the very doorstep of the EU, military means had to be employed in conflict settlement. EU reactions were coherent to the extent that the members agreed to recognise the states of the former Yugoslavia under international law. EU negotiator David Owen, together with UN representatives made several proposals for an armistice, but they all failed because CFSP rules out military sanctions in case of non-compliance (cf. Krech 1997: 73). In the end, the war could only be stopped by the intervention of NATO under US leadership, and this openly exposed the problem of a “civil power without sanctioning

power” (ibid: 139). Consequently, after the end of the war in Bosnia, the British government promoted independent European conflict management. In the St. Malo agreement France, with its “European orientation”, and Great Britain, with its “Atlantic orientation”, committed themselves to the aim of providing the European Union with the capacity for autonomous action and the necessary military means. The foreign and defence profile of the EU was heightened by incorporating the Petersberg tasks into the EU Treaty and by conceptualising the European Security and Defence Policy (ESDP). After the shortcomings of CFSP and ESDP had once again been exposed in the Kosovo conflict, the Heads of State or Government of the Member States were able to agree in May 1999 on providing the EU with military institutions and on plans for a European rapid response force. At the Nice European Council in 2000 this decision was implemented on the institutional level by establishing the Political and Security Committee (PSC), the Military Committee (EUMC) and the Military Staff (EUMS) of the European Union.

The convergence of Member State preferences in questions of foreign and security policy was once again documented by the declaration of the French and German governments on the occasion of the 40th anniversary of the Elysée Treaty in January 2003. Regarding the legitimisation of military action in Iraq by the UN Security Council, Chancellor Schröder said that there would be no German support for the motion in the Security Council. French President Chirac agreed: “We have a common foreign policy”.⁵ With their declaration, Germany and France asserted their role of integration motor, which they had played before in the building of Europe, also with regard to European foreign and security policy. However, they had rushed ahead without consulting their EU partners, which provoked some of them, under the leadership of Great Britain, into forging a counter-coalition: Great Britain, Spain and Denmark gave military support to the USA; Portugal, Ireland, Italy and the Netherlands declared their approval of the war; among the accession candidates, Poland, the Czech Republic and Slovakia supported the intervention; Estonia, Latvia, Lithuania, Hungary and Slovenia declared their approval. In joint public statements, this “Coalition of the Willing” stressed its support for President Bush’s policy on Iraq, and by doing so revealed how polarised European foreign and security policy had become.

⁵ Contrary to Germany, France as a permanent member of the Security Council can veto any resolution brought before the Council, so that the French declaration met with fierce reactions from the USA, eventually causing them to drop their plan of legitimising military intervention in Iraq through a UN resolution.

Against this background of historical and recent developments, the next section will be concerned with how the Convention members approached the delicate issues in this policy field, which positions they took in the various disputed issues, what kinds of coalitions were formed, whether and to what degree it was possible to reach consensus.

3. The Convention Debate on Reforming ESDP

In its “Laeken Declaration” of December 2001, the Heads of State or Government had formulated a set of questions on CFSP/ESDP for which they expected the Convention to propose solutions. They were guided by the postulate that European citizens wanted “greater and better co-ordinated action to deal with trouble spots in and around Europe and in the rest of the world.” The ensuing central questions were: “How [...] should a more coherent common foreign policy and defence policy be developed? Should the Petersberg tasks be updated? [...] How is synergy between the High Representative and the competent Commissioner to be reinforced? Should the external representations of the Union in international fora be extended further?”

As has been shown above, there is great inherent tension in CFSP between supranationalism – i.e. communitisation – and intergovernmentalism – i.e. actions between states. But the work of the Convention was made even more difficult by the international situation which put EU Member States and candidates for accession under great pressure to act: on the international stage, the EU displayed operational capability through ESDP activities in Macedonia (CONCORDIA) and the Democratic Republic of Congo (ARTEMIS) – with regard to the war in Iraq, however, the picture was one of great disunity.

Like all Convention working groups, group VIII “Defence” adhered to a three-stage procedure: first, the various points of view were presented, second, a consensus proposal was formulated which, third, was then incorporated into the draft constitutional treaty. The central objective was to expand the military capabilities of the EU, specifically to find solutions which would enable the EU to overcome the manifold differences between Member States and accession states in the area of defence policy. For instance, there is the difference of status: while eleven EU states are members of the North Atlantic Alliance (NATO), four define themselves as neutral, viz. Finland, Ireland, Austria and Sweden.

Moreover, military budgets and standards of military equipment vary greatly, and finally there is the question of whether or not the country participates nationally in UN missions.

I will explore eight individual issues to find out whether and to what extent the Convention was able to formulate an effective consensus proposal that would enable the European Union to present itself as a united and coherent actor in foreign and defence policy. These issues concern the reform of institutional structures as well as supranational EU competences (CONV 202/02; WG VIII, WD 10), viz.:

1. Attributing legal personality to the EU and enabling membership in international organisations;
2. Institutionalising a European Minister for Foreign Affairs who would be accountable to both Commission and Council, the so-called “double hat”;
3. Introducing qualified majority voting in CFSP/ESDP vs. retaining the unanimity principle;
4. Using the instruments of “enhanced co-operation” in CFSP/ESDP;
5. Constructive abstention vs. reservation of national parliaments;
6. Incorporating a mutual assistance clause or recognising NATO;
7. Expanding the Petersberg tasks;
8. Establishing new institutions: armaments agency, external action service, security and defence research agency.

(1) The first question to be addressed was whether the EU should in future become a member of international organisations, an issue which is closely related to the constitutionalisation of legal personality. So far, only the EC has legal personality.

(2) Second, the debate focussed on the office of “Union Minister for Foreign Affairs” who would – unlike the present “High Representative” for CFSP who is only answerable to the Council – act under the so-called “double hat”, being accountable to the President of the Commission as well as to the Council.

(3) WG VIII then turned to the question of whether qualified majority voting should be used in foreign policy matters (cf. CONV 202/02) – a particularly controversial issue considering the recent division among European Union members and accession countries

on the question of war in Iraq which clearly revealed the problems connected with qualified majority voting in foreign and security policy. It would have resulted in France and Germany being defeated by a majority of 15– out of 25 – present and future members who took the side of the USA.

(4) The fourth issue on the agenda concerned the question of how the instrument of “enhanced co-operation”, which has so far not been used, could be made more effective. Countries which are traditionally reserved in foreign policy, like Ireland, Sweden and Denmark, spoke against enhanced co-operation to avoid being passed over in foreign and defence policy by the bigger and pro-integrationist countries like Germany, France, Italy and the Benelux countries (cf. Regelsberger 2001: 160).

(5) In this context, it became necessary to incorporate into the constitutional treaty the reservation clause of national parliaments in case of military deployment.

(6) The central points of the debate on reforming supranational responsibilities concerned the question of whether the EU should, at least optionally, be transformed into a defence alliance with mutual assistance requirement – which would be tantamount to a revival of the EDC – and

(7) to what extent the Petersberg tasks needed to be extended.

(8) The last issue concerned the establishment of a European armaments agency under the Commission’s authority, and the founding of a joint military academy and a security and defence research agency. These new institutions were deemed necessary in order to overcome the heterogeneous nature of Member State foreign and security policies, to achieve harmonisation of training, material and strategies – and thus to improve operational capabilities (see WG VIII, WD 10).⁶

While some questions on the reform list – e.g. the constitutionalisation of legal personality – were relatively undisputed among Convention members, others were extremely controversial. With regard to these controversial issues, three coalitions of actors

⁶ These reform issues specifically concern the following articles: 11, 12-16, 17, 18&26, 19-28 TEU; also 296 ECT

took shape within the Convention, each favouring a different approach to the CFSP/ESDP complex:

- (a) The coalition in favour of integration strove to develop the European Union into a global actor and wanted to furnish it with increased community competences and resources to safeguard European interests in security and defence policy (e.g. COM 2002.728 final: 11ff.);
- (b) the coalition of Euro-sceptics rejected the further integration of this policy field as a whole or at least in certain central areas, wanting to maintain national sovereignty in matters of security and defence policy;
- (c) the pacifist coalition promoted a model of the European Union as a power which would achieve its objectives without recourse to military force, solely by using civil instruments.

These three coalitions and their respective positions in the disputed issues will now be looked at more closely.

a) Pro-integrationist positions

The main representative of the coalition in favour of integration was the European Commission, whose conventional draft, presented by Commission President Romano Prodi, described the European Union as the guarantor of peace and security in Europe who therefore had to take on the responsibilities of a world power and fulfil global peacemaking functions (COM 2002.728: 4). Within the working group, pro-integrationist positions were held, among others, by the Austrian Convention members Einem, Farnleitner and Tusek, by the Dutch parliamentary representative and former Secretary General of the WEU, van Eekelen, by the Greek deputy government representative Ioakimidis, the Italian parliamentary representative Dini and the German Foreign Minister Fischer. These Convention members advocated the introduction of “double hat” and majority voting in foreign policy. However, Einem was the only one advocating qualified majority voting also in decisions on military issues while this was rejected by Farnleitner, Tusek, Ioakimidis and Dini. The Austrian government representatives were, in view of “everlasting Austrian neutrality” (cf. Luif 2002: 230), more cautious than their fellow countryman Einem. Together with Einem, Ioakimidis demanded legal personality for the

EU, and furthermore he advocated an optional mutual assistance clause. Van Eekelen supported the establishment of an armaments agency. Intensified co-operation in development policy and integration of the development fund into the Community budget was promoted by the Austrian government representatives, who also wanted to link development co-operation with instruments of EU foreign trade (cf. CONV 224/02).

The pro-integrationists wanted to communitise CFSP to a high degree. However, matters of common defence were to be excluded from this process for the time being. Taking into account the respective national commitments to international organisations, CFSP was to be further developed so as to be able to defend EU aims and objectives on the international level and to protect Europe from danger.

The Commission demanded, in the interest of communitisation, more extensive competencies in the field of foreign and security policy. It suggested institutionalising a “double hat” with special modalities, which was to become effective in stages, as it had been proposed by the French EP member Alain Lamassoure (CONV 46/02). The holder of the office would be appointed by the European Council and the designated President of the Commission by mutual consent, he would be answerable to both bodies and both could relieve him of his functions. In the transitional period, he would not be authorised to exercise the Commission’s right of initiative independent of Council decisions. Only during the last phase would the Council determine, with a qualified majority, the final framework within which the holder of the office would be authorised to autonomously exercise the Commission’s right of initiative, to implement CFSP and to represent the European Union in foreign policy vis-à-vis third parties.

The “Franco-German contribution to the institutional architecture of the European Union”, published on 15 January 2003, was in favour of overcoming the EU’s present pillar structure, but at the same time it wanted certain areas to remain under intergovernmental responsibility. For instance, the European Council should continue to determine the paradigms and principles of CFSP and ESDP – but this would not result in the EU having exclusive competence to act. Nevertheless, the proposal of the German and French Foreign Ministers, Fischer and Villepin, wanted to push the integration of CFSP by proposing that decisions in the Council should be taken by qualified majority. Subsequently, each Member State could, as before, raise objections on the grounds of

national interests, and in this situation it would be the task of the European Minister for Foreign Affairs – equipped with “double hat” and right of initiative – to find a mutually acceptable solution. Failing this, the European Council could override the objections by qualified majority. But the Franco-German proposal ruled out qualified majority voting for ESDP. In this sector, the capacity to act should be ensured by means of changing coalitions. This suggestion acknowledges that it will be virtually impossible for the E-25 to reach common positions in issues of military deployment. National differences in defence policy interests and capabilities would make the participation of all Member States highly unlikely; therefore ESDP should at least serve those countries that are in favour of closer co-operation in this sector. “Germany and France suggest that countries wishing to do so transfer their WEU commitments to the European Union by means of enhanced co-operation.” (CONV 422/02: 3).

The “Joint Statement of Germany, France, Luxembourg and Belgium on the European Security and Defence Policy” went even further on the road towards communitisation, with the four participating Member States agreeing to set up a “European Security and Defence Union” (ESDU).⁷

b) Euro-sceptical positions

Characteristic of the Euro-sceptical position was the rejection of any form of communitisation of CFSP and ESDP. In October 2002, the British foreign secretary Jack Straw, not a member of the Convention, had publicly expressed his views about a European constitution (Straw 2002),⁸ and these were carried unaltered into the Convention by Peter Hain, the British Minister for Europe (cf. CONV 345/1/02). Straw, too, believed that the pillar structure needed to be overcome, but contrary to the Franco-German proposal he wanted national parliaments to retain unrestricted final responsibility. He did not consider a European Minister for Foreign Affairs necessary; instead, co-operation

⁷ In the ESDU, the participating countries agreed: to co-ordinate their efforts in the defence sector; to strengthen their military capabilities; to step up their security and defence efforts, particularly with regard to investing in military equipment; to assist one another in the face of risks of all nature, and to systematically aim at harmonising their positions in security and defence issues. Participation in ESDU also implies participation in major European equipment programmes like A400M, increasing the efficiency of European military capabilities, increasing the pooling of means in the areas of officer training, exercises, engagement and logistics, as well as the readiness to participate under the European flag in United Nations peacekeeping operations (cf. Joint Statement of Germany, France, Luxembourg and Belgium on the European Security and Defence Policy, http://europa.eu.int/futurum/documents/other/oth290403_de.pdf, 04.05.2003)

should be intensified between the Council's CFSP representative and the External Affairs Commissioner, and they should assist in formulating Community interests. He rejected qualified majority voting on the grounds that foreign and security policy was, without reservations, an area of Member State responsibility. A common defence policy was not even mentioned – obviously the British government refused to accept this as part of the EU's scope of responsibility.

In the Convention, the coalition's main champions were Peter Hain, the British Minister for Europe, and the Polish government representative Danuta Hübner. Peter Hain expressed the position of his government as follows:

“The credibility of the European Union in foreign policy depends on the national assets and the diplomatic forces of its governments, its military assets and its diplomats, but not on Community rules or the legislative powers that come from the Commission. If foreign policy is to enjoy legitimacy, there must be accountability through elected governments to national parliaments.”⁹

He plainly rejected the Commission proposal made by Romano Prodi: “There is no prospect of the Commission agenda being accepted by the British Government or, from what they have said, by the Governments of France, Spain, Italy, Sweden and Ireland, at least not in this respect.”¹⁰

He was also critical of the idea of a European Minister for Foreign Affairs, which he saw as problematic with regard to the separation of powers and lack of transparency.

“I do not see how doubling up the High Representative and the External Affairs Commissioner jobs could work either. Mr. Solana has made clear his opposition to it. My questions are as follows. If this figure is accountable to both the Council and the Commission, who is the boss? Who would mediate when there is a disagreement?”¹¹

⁸ Straw, Jack (2002): A Constitution for Europe, <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029392547&aid=1034270166922>, 15.10.2002

⁹ Minutes of the Convention meeting of 11 July 2002, to be accessed under: <http://www.europarl.eu.int/europe2004/comptereendu/comptereendu.de.htm>

¹⁰ Minutes of the Convention meeting of 5 December 2002, *ibid*

¹¹ Minutes of the Convention meeting of 6 December 2002, *ibid*

Unexpectedly, and in deviation from the Commission proposal (see above), the current European External Affairs Commissioner Chris Patten spoke out against merging the institutional structures and decision-making regulations of CFSP and ESDP. During a meeting of the WG “External Action” in October 2002, Patten rejected the “double hat” and suggested instead that new regulations and institutions should be established in order to achieve synergy between the High Representative for CFSP and the External Affairs Commissioner. To this end, a joint political staff, joint press service and joint strategy planning unit should be set up. Although he opposed the “double hat”, Patten took a more pro-integrationist stance on other issues. For instance, he was in favour of EU membership in international organisations and legal personality (cf. CONV 324/02).

The Polish government representative Danuta Hübner, on the other hand, advocated the “double hat” as an instrument to increase the EU’s influence in international politics. But contrary to Peter Hain she stressed what she saw as possible negative effects of the double accountability on the EU’s institutional balance. She therefore advocated providing the bearer of the “double hat” with two deputies, one responsible for political, the other for military issues. She was strictly opposed to developing structures parallel to NATO, and she rejected a mutual assistance clause, even an optional one, as well as enhanced co-operation. In return, she was prepared to accept the model of constructive abstention. With reference to the Internal Market principle, she supported co-operation in armament issues. In her opinion, ESDP should not be more than a complementary instrument to NATO.

c) Pacifist Positions

Consistently pacifist positions were only advocated by a minority of Convention members, most distinctly by EP member Sylvie Yvonne Kaufmann (Germany) and by Kimmo Kiljunen, member of the Finnish parliament who represented the positions of a neutral Member State of the European Union (cf. Forsberg 2002: 12). Both rejected the idea of expanding the Petersberg tasks and demanded that military crisis intervention should be the sole responsibility of the United Nations. Kaufmann spoke out against a European army and also against the mutual assistance clause, suggesting instead that a European “disarmament agency” be set up. In this point she differed from Kiljunen, who supported the establishment of an armaments agency. Kiljunen unreservedly advocated

preventive conflict settlement as an alternative to military crisis management (cf. CONV 328/02).

4. Reforms of CFSP and ESDP in the Convention's Draft Constitution

The Draft Treaty establishing a Constitution for Europe¹², which was formally presented by Convention President Valerie Giscard d'Estaing at the Thessaloniki Council in summer 2003, proposes significant reform measures for CFSP and ESDP, collectively termed "Common Security and Defence Policy" (Article I-40).

In the draft constitution, the objectives of the Union's international relations are defined as upholding its values and interests, contributing to peace, security and free trade, the eradication of poverty and protection of human rights, in accordance with the principles of the United Nations Charter (Article I-3 para 4). To achieve these aims, the constitution attributes legal personality to the Union (Article I-6). Also new is the EU competence to progressively define a common security strategy, within the framework of CFSP and ESDP. (Article I-11 para 4). Exclusive EU competence is, however, restricted to the areas customs union and common commercial policy (Article I-12 para 1), but the EU is competent in matters of common foreign policy and also with regard to a possible common defence policy (Article I-15 para 1). To avoid incoherence in the individual foreign policies, the Member States are called upon to show loyalty to EU foreign policy and to refrain from pursuing different policies which may result in damage to the Union (Article I-15 para 2).

Institutional regulations for CFSP/ESDP are addressed in Article I-21 para 2 where it says that the President of the European Council shall ensure "the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the responsibilities of the Union Minister for Foreign Affairs". Overall responsibility for CFSP is given to the Union Minister for Foreign Affairs, elected by the Council with a qualified majority and appointed with the agreement of the Commission President (Article I-27 para 1). The Minister for Foreign Affairs, who simultaneously is one of the Vice-Presidents of the Commission, formulates European foreign policy with the

¹² European Convention (The Secretariat): Draft Treaty establishing a Constitution for Europe of 18 July 2003, CONV 850/03: 35

help of the Member States and their individual foreign policies (Article 39) on behalf of the Council of Ministers (Article I-27 para 2). The European Council defines the foreign and strategic interests of the EU, with unanimous decisions in those areas that are not under exclusive or shared responsibility of the EU (Article I-39). To assist the European Minister for Foreign Affairs, a common European External Action Service is to be set up, answerable to him, consisting of officials of the Commission and the Secretariat of the Council of Ministers as well as personnel delegated by the individual Member States' diplomatic services (Article III-197 para 3). The involvement of the European Parliament in CFSP is limited to consultations on the main aspects of foreign policy and to constant information on their development (Article I-39 para 6).

ESDP, as an integral part of CFSP, is meant to enable the Union to become involved outside the European Union in peace-keeping or peace-restoring measures under UN Charter. The necessary means and resources are to be provided by the Member States (Article I-40 para 3). To increase efficiency in joint operations, the Member States are obliged to improve their resources and a European Agency for Armament, Research and Military Capabilities is to be set up (*ibid.*) Subject to possible contrary decisions by the European Council, ESDP provides for a mutual assistance clause in case of an external or terrorist attack. In view of the high percentage of NATO members in the EU, NATO membership is to be taken into account and NATO is to be involved (Article I-40 para 7). In all areas of ESDP, the European Council must make its decisions unanimously, but it may authorise individual countries to agree on closer co-operation within the Union framework (Article I-40 para 5). As in CFSP, the European Parliament is involved in ESDP through consultations and constant information.

How are these results to be judged in the light of more than one and a half years of conventional debate on the “Common Security and Defence Policy” – the former ESDP?

5. Conclusion

In this final chapter I will explore whether and to what extent the draft constitution, in addressing the above-mentioned critical issues, has opted in favour of progressive integration towards a more effective foreign and security policy, or in favour of continued Member State sovereignty. There were two opposing groups in the Convention: Pro-

Integrationists and Intergovernmentalists. Both positions had a similarly large number of advocates, and the question arises whether the draft constitution might be the result of a compromise. In fact, however, six of the eight critical issues show a distinct tendency towards further communitisation:

- The successful institutionalisation of legal personality, enabling the Union to become a member of international organisations – which had initially been rejected by Great Britain, among others – represents a milestone for pro-integrationists.
- The inclusion of “combat operations in crisis management, including peacemaking and *post-conflict stabilisation* (Article III-210, author’s *italics*) in the Petersberg tasks signifies an increase in EU competencies, which makes it reasonable to describe the Union as, indeed, a “peace power with means of enforcement”.
- The conventional process has furthered the establishment of a European External Action Service¹³ and of an Armaments Agency (Article III-212). However, neither of these has a pronounced supranational character. The External Action Service, although a genuinely European institution, has to fall back on the national diplomatic services. The Armaments Agency, on the other hand, is organised on an intergovernmental, voluntary basis. The European Council had already anticipated these conventional ideas, thereby underlining its claim to leadership in this field. In the conclusions of the Thessaloniki Council in summer 2003, the High Representative is instructed, with view to CFSP and ESDP, to prepare the establishment of an “agency in the field of defence capabilities” by spring 2004 and to develop an “EU security strategy”. These “general guidelines [...] on issues relating to defence policy”, as it says in the Convention’s draft constitution, are drawn up by the European Council.
- Also new is the incorporation of an EU mutual assistance clause. While accommodating the wishes of the integration motor Germany/France, this clause was also acceptable to EU sceptics because the mention of NATO in the draft constitution confirms their position that the Union should not be developed into a defence alliance.

¹³ See „Declaration on the creation of a European External Action Service“ (CONV 850/03: 39)

- Two further conflict-laden issues were the institutionalisation of the office of European Union Minister for Foreign Affairs and the introduction of qualified majority voting in CFSP. In the opinion of German Foreign Minister Joschka Fischer, the choice was not between unanimity and majority voting, but between majority voting and insignificance of the European Union. In the end, unanimity was retained, but it was accompanied by the introduction of the “double hat”, personified by the EU Minister for Foreign Affairs – a compromise between the German position, which had been co-ordinated with France, and the British position, which was supported by many of the smaller countries, e.g. Sweden. The European Minister for Foreign Affairs is to be responsible for the Common Foreign and Security Policy, while the Commission remains competent for other areas of external activity. Although the pro-integrationists failed in their efforts to introduce majority voting, by institutionalising the EU Minister for Foreign Affairs with right of initiative they still accomplished a further important step towards integration.

Thus, the general formula for compromise that was acceptable to both advocates and sceptics of integration, was found by equipping the “Common Security and Defence Policy” (CSDP) with intergovernmental as well as supranational procedures. This attempt at squaring the circle tries to take into account the Member States’ differing capacities, interests, ideas and degrees of trust. For instance, after the US intervention in Iraq, the Greek Council Presidency advocated the strengthening of CSDP,¹⁴ while other EU countries and accession states favoured NATO as the guarantor of their military security. For one, NATO does not demand direct military assistance, and secondly, should military defence be necessary, each government retains command of its own troops. Other countries feel that for comprehensive security they need to be members of both NATO and EU: the Union protects them against attacks from their immediate vicinity, while within NATO they can, together with the USA, make a contribution to global security, which does not, however, require them to give up sovereign rights.

¹⁴ Katsiforis, George (2002): “Europe has the potential to become a strong economic giant and needs a military structure [... and] that the US would not favour the creation of this structure that would allow Europe to have initiatives”, in: Hellenic Centre for European Studies – Newsletter No 3 (June 2002): 4, http://www.ekem.gr/ezone/deltio_032002en.pdf, 23.6.2003

It appears that the EU Member States are willing to extend their co-operation. However, resources of co-operation and mutual trust are as yet too limited to allow further steps towards the communitisation of security and defence policies for the time being – the more so since military interventions carry the risk of high costs and, possibly, low benefits. It is precisely the high risk involved in the costs/benefit analysis which makes some Member States insist on retaining unrestricted national sovereignty in matters of security and defence policy, thereby blocking the further development of joint European approaches.

On the whole, the conventional constitution leaves the Member States of the European Council in charge of CFSP and “Common Security and Defence Policy” – an approach which is not without risk for the Union: the instruments of “constructive abstention” and “enhanced cooperation” bear the danger of creating a “Core Europe” in questions of security and defence policy, which would have negative consequences for the continued existence of the “Acquis politique”. This concern is substantiated by the fact that the Franco-German demand for action “under the European flag” failed. As a result, the entire constitutional draft contains – as a pre-emptive measure – not a single reference to the European flag.

There is another drawback of the formula for compromise that was underwritten by both pro-integrationists and integration sceptics: this compromise will definitely not help to increase the transparency and lucidity of the – already extremely complex – EU system. It appears that in respect of democratic control and opinion formation, the Convention’s solution may not be the optimal choice.

However, to conclude that there is no common foreign policy would be too harsh a judgement. The institutionalisation of an EU Minister for Foreign Affairs with a supranational profile must certainly be regarded as an important innovation. It shows that common objectives and values in CFSP and “CSDP” have been constitutionalised while solution methods in relevant issues have been jointly institutionalised. At least Europe’s telephone number has been confirmed. Whether the future “EU Minister for Foreign Affairs” will be allowed to pick up the receiver or whether for the time being he will remain confined to the role of answering machine – this is for the European Council to decide. On the whole, the Convention has not been able to completely unite Europe in questions of

security and defence policy, but without a doubt it has made it considerably more united than before.

Literature

- Algieri, Franco (2002): Die Europäische Sicherheits- und Verteidigungspolitik, in: Weidenfeld, Werner (ed.): Europa Handbuch, Bundeszentrale für politische Bildung, vol. 373: 585-602
- Ehrhart, Hans-Georg (2001): Friedensmacht Europa? Die EU auf der Suche nach einem außen- und sicherheitspolitischen Leitbild, in: Mutz, Reinhard/Schoch, Bruno/Ratsch, Ulrich (eds.): Friedensgutachten 2001, LIT Verlag, Münster, Hamburg: 186-196
- EU-Kommission(2002): Für die Europäische Union Frieden, Freiheit, Solidarität – Mitteilung der Kommission zur institutionellen Architektur (KOM 2002.728 endg.)
- Forsberg, Tuomas (2002): Finnland, in: Weidenfeld, Werner (ed.): Europa Handbuch, Bundeszentrale für politische Bildung, vol. 373: 121-135
- Glöckler-Fuchs, Juliane; 1997: Institutionalisierung der europäischen Außenpolitik; Oldenbourg; Munich
- Jopp, Mathias/Reckmann, Jan/Regelsberger, Elfriede (2002): Ansatzpunkte und Optionen zur institutionellen Weiterbildung von GASP und ESVP, in: integration, vol. 25; 3/02: 230-237
- Krech, Hans (1997): Der Bürgerkrieg in Bosnien-Herzegowina 1992 – 1997. Ein Handbuch, Köster, Berlin
- Luif, Paul (2002): Österreich, in: Weidenfeld, Werner (ed.): Europa Handbuch, Bundeszentrale für politische Bildung, vol. 373, Bonn
- Lundestad, Geir (1998): „Empire“ by Integration. The United States and European Integration, 1945 – 1997, Oxford University Press, Oxford
- Piening, Christopher (1997): Global Europe. The European Union in World Affairs, Boulder, London
- Regelsberger, Elfriede (2001): Die Gemeinsame Außen- und Sicherheitspolitik nach ‚Nizza‘ – begrenzter Reformeifer und außervertragliche Dynamik, in: Jopp, Mathias/ Lippert, Barbara/Schneider, Heinrich (eds.): Das Vertragswerk von Nizza und die Zukunft der Europäischen Union, Berlin: 112-122
- Robers, Norbert (2003): Langer Weg zur Weltmacht (commentary), in: Weser Kurier, No. 142, 21 June: 2
- Schneckener, Ulrich (2001): Die EU als Krisenmanager. Der Testfall Mazedonien, in: Internationale Politik, vol. 56, 5: 43-49

- Sheetz, Mark S. (1999): American Grand Designs for Postwar European Security; in: Security Studies, Vol. 8, No. 4: 1-43.
- Siedschlag, Alexander (1997): Neorealismus, Neoliberalismus und postinternationale Politik, Opladen, Westdeutscher Verlag.
- Varwick, Johannes (1998): Sicherheit und Integration in Europa: Zur Renaissance der Westeuropäischen Union, Opladen, Leske + Budrich.
- White, Brian (2001): Understanding European Foreign Policy, Palgrave, Basingstoke
- Winter, Martin (2002): Die NATO bleibt in Mazedonien, damit die Europäer nicht kommen, in: Frankfurter Rundschau of 8.11.