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A Constitutional Treaty for an Enlarged Union: Are there Fundamental Changes for EMU?

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1. Introduction¹

On June 18, 2004, at the European Council meeting in Brussels the Intergovernmental Conference (IGC) reached an agreement on the Treaty establishing a Constitution for Europe². After the formal signature of the Constitutional Treaty (CT) by the Heads of State and Government in Rome on October 29, 2004, the final draft was submitted to the Member States for ratification, and shall – from the present point of view – enter into force at the earliest on November 1, 2006.

Even the way the CT was brought about – by calling a Convention to prepare a draft European constitution – meant a major departure from usual change processes in the EU. And, although, the final text is a compromise of compromises, for many observers the CT is a milestone in the European integration process. The Convention's draft text and the present CT reflect the unresolved and long-term issues of the nature and purpose of the EU as well as the conflict between the supranational and intergovernmental approach. In addition, many agreed that the Treaty of Nice, which had formally ensured that an EU- 27 would be able to function, had to undergo further adjustments in order to work well for an enlarged

¹ Helpful comments by Helene Schuberth (OeNB) and Christian Just (OeNB) are gratefully acknowledged.

² In the following, the Treaty establishing a Constitution for Europe will be referred to as Constitutional Treaty.

EU. The CT incorporates important amendments that in some areas will bring about more efficiency and also democratic legitimacy and will help to deliver public goods more effectively on a European level. With referenda pending in several Member States, the CT might never be ratified in its present form, but still merits a more in depth analysis, as ratification in an adjusted form could very well happen.

In this paper we, therefore, explore the further evolution of European economic and monetary integration under the framework of the CT, taking into consideration the likely effects on an enlarged EMU. The starting points for our evaluation are on how institutional balance, i.e. multilevel economic governance, effectiveness of implementation of economic policy measures and efficiency – primarily of decision-making – are affected by the CT.

The EU has no *division of powers* in the classical sense, but a *system of institutional balance* (Alesina et al., 2004) or *multilevel governance*³ (Aalberts, 2004, Swenden, 2004, Breuss et al., 2004), relying on a division of functions and based on overlapping authorities and competing competences among different levels of governments and the interaction of actors across those levels. This leads to conflicts and very often to confusion among institutions, notably the Council and the Commission and the Member States. We will look at the question in which direction the CT has moved multilateral governance of EMU and whether the CT has contributed to more transparency and legitimacy in EMU's institutional set up.

This issue is also linked to the question of effectiveness of implementation of economic policy measures. Instruments of EU economic policy range from a single monetary policy, coordination of joint economic policy measures, multilateral surveillance, ex post evaluation and recommendations, quantitative, but non-binding targets, peer pressure, best practice, open dialogue among policy makers to common positions in external representation. Successful implementation and impact of these measures depends also on the way multilevel governance works. As the sovereign power of EU institutions is limited, enforceability depends in most cases on Member States. Targets are very often not seen as a binding constraint by Member States. Which of the newly introduced provisions of the CT could enhance effectiveness in EMU?

For lack of other measurements we will try to evaluate efficiency of decision-making according to voting rules, the extension of qualified majority voting (QMV), thresholds for QMV compared to Nice and working methods of the Council. Many critics argue, not unjustified, that using voting rules as a measurement of efficiency is not entirely legitimate as votes are taken only for

³ The term multilevel governance is used to describe emerging structures and processes of policy-making in the EU, straddling the notions of intergovernmentalism and supranationalism on the one side as well as the traditional distinctions between domestic and international politics (Aalberts, 2004).

about 10% of decisions in the Council. However in an enlarged EU it may be expected that votes will be taken more often. Is the decision making system under the CT efficient enough for an enlarged Union? With the introduction of new functions, for example a longer term President of the Eurogroup, the CT has clearly set out on a path of *personalisation*. Does this bring about more leadership and continuity in multilevel economic governance and therefore more efficiency in EMU ?

The paper is organized as follows: in section 1 we describe the CT's architecture and how some of its aspects could affect EMU; in section 2 the new decision-making procedures and institutional working methods are analyzed and how they would drive efficiency in EMU; in section 3 we try to illustrate the nature of institutional balance and multilevel governance, efficiency and effectiveness with some policy examples, i.e. monetary policy, coordination of economic policies and external representation of the euro area.

2. The Architecture of the Constitutional Treaty and EMU

The CT establishes a consistent constitutional architecture taking the place of the three-pillar structure of the set of existing Treaties. A coherent legal framework with four main parts is introduced:

- Part I *Constitutional Provisions*,
- Part II *The Charter of Fundamental Rights of the Union*,
- Part III *The Policies and Functioning of the Union*,
- Part IV General and Final Provisions.

Part I, Part III, Part IV and the protocols on the ESCB/ECB Statutes, on the excessive deficit procedure (EDP), on the Eurogroup and on the Convergence Criteria as well as the Declaration on the Stability and Growth Pact (SGP)⁴ contain the specific legal and institutional underpinnings for EMU.

In this context, the question emerged whether the *constitutional provisions* of Part I are supreme over Part II, Part III and Part IV. So far, the European Court of Justice has considered all parts of the Treaty on European Union equal. However, the provisions in Part I of the CT, which, inter alia, specify the institutional framework, prevail over the provisions of the other parts in so far as their amendment requires convening an IGC. By contrast, *Internal Policies and Action* (Part III, Title III) and thus also the provisions on EMU are subject to a simplified revision procedure under which it is not necessary to call a Convention or an IGC. This may introduce an element of flexibility into the further development of EMU

⁴ This Declaration is part of the Treaty, see CIG 87/04 ADD 2, III/A/ No. 17, Declaration on Art. III-184.

governance. Some critics consider that this innovation falls largely short of what is required for ensuring some flexibility in the CT, but consider it to be a small step in the right direction (Grevi, 2004).

The economic objectives of the Treaty on European Union (TEU) are in principle reaffirmed. The CT defines also those relevant to EMU: "...sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress,...". The inclusion of price stability as an objective of the Union was heavily contested and only added to the text at a very late stage of IGC negotiations, to some degree due to the lobbying power of the ESCB. The application of the simplified revision procedure for Part III made it even more important that price stability had been integrated in the objectives laid down in Part I of the CT. This implies that price stability is not only an operational objective of the ESCB/Eurosystem but an objective that is binding for both the Union and its Member States. As a consequence, changes in fundamental values such as price stability are less likely to occur, because they are subject to the ordinary revision procedure.

The CT also brings about some achievements with regard to more democracy and legitimacy. Co-decision as the standard legislative procedure will further enhance the position of the European Parliament (EP) and thus strengthen not only the representation of citizens on a Union level, but also the position of the EP itself in general economic governance. The Union will have a single legal personality and can thus act and be held accountable on the international scene. Legal instruments and procedures are simplified. The definition of Union competences and the clarification of the relation between the Union and the Member States, aiming at defining multilevel governance, mark some progress towards more transparent decision-making and division of tasks.

The Union competences are governed by the principle of deferral, i.e. the Union shall act within the competences conferred upon it by the Member States in the CT, of subsidiarity and of proportionality. The CT strengthens the procedures by which the principles of subsidiarity and proportionality are controlled. It will be possible for Member States to address the European Court of Justice in cases where subsidiarity might not have been observed. Additionally, there is an early-warning-mechanism concerning legal acts contradicting subsidiarity. The CT provides clarification by defining six areas of exclusive competence for the Union, areas of shared competences, coordination of economic and employment policies, special provisions for common foreign and security policy and areas of supporting, coordinating and complementary action.

The debate about subsidiarity has not produced a catalogue on which issues should be addressed at which levels. However, such a catalogue would be at odds with the design of current EU multilevel governance (Swenden, 2004) and would contradict increased heterogeneity of Member States after enlargement. However,

by smoothing the implementation of subsidiarity and clarifying the division of tasks – also for EMU – the CT improves legitimacy.

Competences regarding EMU fall into the following categories: Monetary Policy and the conclusion of international agreements (with regard to the euro) fall under the exclusive competence of the Union for the Member States, whose currency is the euro. While the Union may legislate and adopt legally binding acts under the exclusive competence, the Member States may do so only if so empowered by the Union or for the implementation of Union acts.

The CT lists economic policy coordination as a separate category of competences. With regard to economic governance member states shall coordinate their economic and employment policies within the Union, with specific provisions applying to those Member States, whose currency is the euro. The coordination shall take place within arrangements that are determined by Part III of the CT, which the Union shall have competence to provide. Here, the role of the Union is determined by the Member States, with the Member States clearly asserting their sovereignty in this area. These provisions fall short of the ambition of some to complement Monetary Union with an economic pole.

Furthermore, the CT knows a flexibility clause, under which the Council can unanimously extend the powers of the EU in the areas covered by Part III, i.e. thus also with regard to EMU, if action by the Union proves necessary to attain one of the objectives set out in the CT. With this provision the boundaries of multilevel governance in EMU could be moved more easily. In the Nice Treaty such a flexibility clause (Art. 308 TEU) applied only to provisions regarding the Common Market.

3. Decision-Making: Procedures and Institutions

Efficiency and effectiveness of decision-making shall be evaluated according to voting procedures and thresholds for QMV and the extension of qualified majority voting (QMV) compared to Nice as well as the working methods of the EU institutions. In future, efficiency may be improved with the introduction of new institutional functions, namely a President of the European Council and of the Eurogroup, as well as with a smaller Commission college and giving the Commission President more power within the Commission. The implementation of the CT will clearly lead to a certain *personalisation* of the European Union. Improved working methods and a clarification of competences between the Ecofin and the Eurogroup might bring more leadership and continuity into multilevel economic governance.

3.1 Voting and Extension of QMV

The CT brings about a radical change in the Council of Ministers' voting procedure. The main difference of the CT-voting system to the Nice Treaty-voting system⁵ is the abolition of the weighting of votes and the introduction of the *double majority system*.

Discussions on the voting system in the Council of Ministers accounted for the greater part of the negotiations in the Intergovernmental Conference (IGC) on the institutional chapter. Spain and Poland held out against the double majority principle introduced already by the Convention draft text, which recommended that qualified majority should consist of half the States representing three-fifths or 60% of the population. Spain and Poland objected: they wanted to keep the weighted votes of the Treaty of Nice, which strengthened the blocking capacity well beyond their real demographic weight (so-called "Aznar-bonus"). It was also this dispute that led to the adjournment of the IGC at the Brussels European Summit in December 2003.

The agreement finally reached by the IGC retained and incorporated the principle of double majority into the Constitutional Treaty abolishing the weighting system of Nice. The new system represents a radical change in the Council's voting procedures, but these new voting procedures will only apply from November 1, 2009 onwards.

Although both, the Convention and the IGC, aimed to clarify and simplify the decision-making systems, the new voting system presents itself – as many compromises especially with small Member States had to be taken into account – as complicated and doubts about efficiency have already arisen. Furthermore, the postponement of the new voting system until November 1, 2009 is regarded by some analysts as a failure to solve the enlarged EU's decision-making challenges. This failure will have important consequences as the next five years will – under the Nice Treaty rules – determine how efficiently the enlarged EU works and how it is perceived to function (Baldwin and Widgrén, 2004a).

Under the CT a qualified majority is defined as *at least* 55% of the members of the Council comprising at least 15 of them and representing Member States comprising at least 65% of the population of the Union (Article I-25 (1)). To get

⁵ According to the voting system of the Nice Treaty, which is in force since November 1, 2004, three criteria have to be met for decisions to be adopted:

1. A qualified majority threshold of 169 (EU-15) or 255 (EU-27) votes (71.31% and 73.91%, respectively, and a blocking minority of 69 or 91 votes).
2. A simple majority of Member States; if the Council does not act on the initiative of the European Commission, agreement by at least two thirds of Member States is mandatory.
3. The qualified majority must represent 62% of the entire EU population (this will be verified on request only).

the backing of the smaller Member States, which wanted to draw the two thresholds closer, the threshold for the number of Member States is expressed both as a percentage and as quantity; the qualified majority (i.e. the 55% threshold) must comprise at least 15 Member States (which in the EU-27 amounts to 55.56%). This initiative was mainly driven by Austria, Finland and the Czech Republic at the very end of negotiations.

The IGC finally gave up the idea of not taking abstentions into account when calculating the total number of Council members and the population. In that case the qualified majority would still have required 55% of the remaining Member States representing 65% of the population.

For a decision under *super-qualified-majority* 72% of the Member States representing 65% of the population of the Union will be required. This system applies when the Council is not acting on a proposal from the European Commission or the Union Foreign Minister, i.e. in cases of recommendations from the Commission or recommendations from the ECB on EMU matters.

A *blocking minority* must include at least four Council members, failing which the qualified majority shall be deemed attained. This means that the second threshold, based on demography, is accompanied by a quantitative criterion: the 35.01% of the population forming a blocking minority will have to come from at least four Member States. This would prevent the large countries (e.g. Germany, France and Italy) from blocking the adoption of a legal act. On the other hand, no minimum demographic threshold was adopted for the coalition of the 15 (or more) Member States needed to block a decision. This compromise maintains the double majority principle, reassures the small Member States about their potential influence, and addresses the concerns of Spain and Poland.

To further complicate the new voting system, the Constitutional Treaty – in particular on Poland's insistence – reintroduces a formula inspired by the wording of the Ioannina compromise of March 1994, on the eve of enlargement to fifteen Member States. This appeal clause states, that if three-quarters of Member States or three-quarters of the population required to block a decision have been placed in a minority position, they may request suspension of the decision to debate it in the European Council. This Ioannina-compromise will take effect – as part of the new voting system – on November 1, 2009 and will no longer apply after 2014, unless the Council extends it by qualified majority. This provision is an additional complicating factor, which seems to counteract the intended efficiency (Grevi, 2004).

Measuring the efficiency of the voting system and its impact on the influence of groups of Member States is very difficult. First analyses differ in their outcomes. According to mathematical simulations of Baldwin and Widgrén (2004), this new double-majority voting system offers the possibility of 12% of *winning coalitions*, i.e. coalitions capable of approving an issue, compared to 2% with the Treaty of Nice voting system (Baldwin and Widgrén, 2004a). As Kurpas and Crum (2004)

point out, this system ensures that *constructive majorities* can be organised more easily and it limits the scope for taking certain policies *hostage* in order to get better benefits in other, not related areas. On the other hand, the last-minute adaptations to the double majority voting system ensure that at least four countries have to reject a decision, thus avoiding dominance of large member states. The double majority voting system will also be more adaptable to future enlargements by not having to negotiate weighted votes for new member states on an ad hoc basis. However, adaptations to the CT's voting rules regarding future enlargements might be politically unavoidable.

Others are more critical. Grevi (2004) points out that the new voting rules are more complicated and that higher thresholds make decision-making less efficient. Vaubel (2004) argues that the new voting system will increase the danger that those Member States, which are more strongly regulated, will force their higher level of regulation upon the more liberal ones in order to deprive them of competitive advantages. This would in turn lead to an even further increased level of regulation.

However, as the Nice Treaty voting system has been in force since November 1, 2004, the *real* (in-)efficiency of these rules can be measured only in a few months time. Only then an assessment and a comparison with the Constitutional Treaty voting rules can seriously be undertaken.

The biggest progress concerning *efficiency* may be the agreement that except when the CT provides otherwise, the Council will reach decisions by qualified majority vote. Thus, the Luxembourg Compromise, i.e. a Member State's right to prevent a decision from being taken in the Council, is scrapped entirely.

In EMU current practice already requires a qualified majority in the Council for a large part of decisions. The CT does therefore not provide for a significant extension of the scope of qualified majority voting in EMU: So far, the Council has been able to amend the ESCB/ECB Statutes on a recommendation from the ECB and by qualified majority. An amendment proposed by the European Commission would have required unanimity in the Council. The Constitutional Treaty lays down that the Council decides on a proposal from the European Commission by qualified majority and on a recommendation from the ECB by super-qualified majority. This slightly strengthens the position of the European Commission vis-à-vis the ECB. The President, the Vice-President and the other members of the Executive Board of the ECB are appointed by the European Council, now acting by a qualified majority.

The IGC reintroduced the *passerelle mechanism*. This clause provides for movement from unanimity to QMV and from the special legislative procedures to the ordinary legislative procedure for areas covered by Part III on the basis of a unanimous decision of the European Council with the consent of the European Parliament. However, the objection of one national parliament will be sufficient to

block such a move. Thus, the possibility to move further toward qualified majority voting seems to be somewhat restricted.

3.2 Improved Working Methods

3.2.1 Ecofin Council and Eurogroup

The Council of Economic and Finance Ministers (Ecofin Council) has been convening since the late 1950s, but its status was greatly enhanced with the onset of EMU.

The CT introduces two changes for the Ecofin of the enlarged Union:

With regard to improved working methods of Council formations the Convention originally intended a system of *Team Presidencies*, which the CT has only preserved nominally. Therefore, the Ecofin Council will in principle be presided over by groups of Member States. Three Member States in rotation will chair the Ecofin – as well as the other Council configurations – for a period of 18 months. In fact, the system of rotation every six months is preserved; the country holding the presidency will be assisted by the other two of the team on the basis of a common programme. The CT has thus included the outcome of the Seville European Council in June 2002, which sought better coordination and mutual support over a longer period of time in managing Council proceedings by preparing a joint programme by the current, past and future presidencies of the Council. As there is in fact no change in working procedures, efficiency gains are negligible in this context.

With regard to institutional balance, the Ecofin loses several decision-making competences to the Eurogroup. The Eurogroup, has been gathering since June 1998 in addition to the Ecofin Council as an informal body composed by the Ministers of Member States whose currency is the euro. The Eurogroup discusses about fiscal policy, the common currency and the external representation of the euro area.

Even before the CT, discussion about an upgrading of the Eurogroup's status was present at the academic as well as at the political level. Already in the beginning of the 1990s France had called for a *gouvernement économique* as a counterweight to the ECB. At this time, especially Germany opposed this plan. In spring of 2001, France repeated the call for an economic government. Commission President Romano Prodi also spoke out in favour of establishing a *genuine economic governance*. According to the 12 finance ministers of the Eurogroup at this time, economic policy coordination should be intensified further, but there was no need for an official economic government and a harmonized economic policy. But there was a common understanding among the euro area Ministers, that in an enlarged Union the Eurogroup would gain a higher profile, as the Ecofin Council

would be less suited to take decisions on the euro area given the increase in member states with a derogation.

However, the Amsterdam and Nice treaty revisions did not come up with any initiative to formalize the Eurogroup, because at that time – with a Union of 15 Member States – there was practically no need for change. In the course of the Convention, it was again France, this time supported by Germany, which came up with the initiative of *formalizing* the informal Eurogroup. The proposals of the Convention to introduce a specific regime for Euro area Member States were enhanced by the IGC, as a result of strong pressure from group Member States, motivated by enlargement and the wish to discuss euro area matters more in depth among the *Club Members*.

Although the Eurogroup continues to meet informally, the Constitutional Treaty defines a number of new provisions which only apply to euro area Member States and areas of responsibility in which only euro area Member States have the right to vote.

- In order to ensure the proper functioning of EMU the Eurogroup can decide with qualified majority on measures to strengthen the coordination and surveillance of budgetary discipline within the euro area and set out specific economic policy guidelines for the euro area provided they are compatible with the Broad Economic Policy Guidelines (BEPG) of the Union.
- In order to secure the euro's place in the international monetary system the Eurogroup can decide by qualified majority on common positions to be taken within institutions and international financial conferences, as well as take steps to ensure unified representation within these institutions and conferences.
- Furthermore, it is the exclusive responsibility of the Eurogroup to conclude agreements on an exchange rate system for the euro or general orientations for the exchange rate policy vis-à-vis non-euro area currencies. The same holds for decisions on the euro central rates within the exchange rate mechanism (ERM II). The Eurogroup shall also decide the arrangements for the negotiations and for the conclusion of such agreements on exchange-rate matters with countries or international organizations.
- With regard to the abrogation of derogations after the convergence assessment the Council decides by qualified majority, after consulting the European Parliament, after discussion in the European Council and on a proposal from the European Commission. New is that this decision is to be based on a recommendation from the euro area Member States, acting by qualified majority. The Eurogroup has the first *say* on the accession of new countries to EMU. The final decision on the irrevocable fixing of the euro rate is taken by unanimous decision of the Eurogroup and the Member State concerned.

- Provisions on EMU that do not apply to Member States with a derogation include furthermore the objectives and tasks of the ESCB/Eurosystem, issue of the euro, the legal acts of the ECB, measures governing the use of the euro and the appointment of members of the Executive Board of the ECB.

With regard to institutional balance the CT gives a higher profile to the euro area by introducing a neater distinction between members of the euro area and the Ecofin, whose influence in euro area matters becomes more marginal. These provisions confirm the evolution of an integration core group in EU economic governance (*centre of gravity*). On the one hand continuity and leadership in policy making will be enhanced and efficient working methods may be developed by a more permanent president of the Eurogroup, who very likely may become a trusted and esteemed dialogue partner for the ECB Governing Council. This *personalisation* will also lead to a strengthened role of the Eurogroup compared to the Ecofin Council, but probably also vis-à-vis the ECB/Eurosystem and its Governing Council. On the other hand institutional competition and a reinterpretation as well as a search for new roles of different policy actors may also increase with the higher profile given to the Eurogroup. In general, economic governance will become more complex chiefly by strengthening the Eurogroup.

3.2.2 The European Council

The CT establishes the European Council as an institution that is separate from the Council of Ministers; the European Council is to meet quarterly to provide impetus to the Union's development and to set political directions and priorities. The European Council will be headed by an appointed President as soon as the CT enters into force. The introduction of a non-rotating Presidency of the European Council was the main institutional demand of France and the United Kingdom. The President will be appointed for a term of two and half years, renewable once. He or she may not hold a national mandate and the Convention's idea of allowing scope for a merger of the posts of President of the European Council and of the Commission has been maintained (Barbier, 2004). The President will have limited powers with regard to coordination of work among the EU institutions and shall be in charge of the Union's external representation, in particular. Pursuant to the CT he or she would have hardly any internal competences, but could gain considerable influence indirectly, via the circle of Heads of State and Government (Di Fabio, 2004). In general, the success or failure of this important new function will largely depend on personalities (Grevi, 2004).

With regard to EMU, the European Council plays an important role in economic policy coordination. Inter alia, the European Summits decide on the Broad Economic Policy Guidelines (BEPG), structural labour market reforms according

to the Employment Guidelines (EG), the implementation of a balanced macroeconomic policy mix, the improvement of the Single Market and the implementation of the Lisbon Agenda. The CT reaffirms the framework of economic policy coordination and also the role of the European Council.

3.2.3 The European Commission

As regards the size and composition of the European Commission, the IGC substantially altered the Convention's draft text. The Convention provided for just 15 full Commissioners, assisted by non-voting Commissioners. This ambition to limit the number of Commissioners in the interest of efficiency and effectiveness was vigorously opposed by the smaller Member States, each of which wanted to ensure it could nominate a Commissioner. The compromise provides for the continuation of the current system of one Commissioner per Member State until 2014. Then the number of Commissioners should be limited to two thirds of Member States, with representation on the principle of a strictly equal rotation, unless the European Council decides otherwise, acting unanimously. A declaration annexed to the Constitutional Treaty, at the request of Sweden, insists that this restricted composition must guarantee that Member States not represented in the Commission must be kept fully informed.

The President of the European Commission will in future be proposed by the European Council to the European Parliament acting by a qualified majority and taking into account the result of the elections to the European Parliament. This candidate shall then be elected by the European Parliament by a majority of its component members. The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be chosen on the ground of their general competence and European commitment and their independence shall be beyond doubt. The President, the Union Minister for Foreign Affairs – also Vice President of the Commission – and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

The Constitutional Treaty strengthens the role of the President of the European Commission: it underscores his or her authority to determine policy guidelines, it strengthens his or her right to dismiss Commissioners, and it emphasises his or her accountability vis-à-vis the European Parliament (Di Fabio, 2004).

As regards its role in EMU, the CT did not strengthen the Commission. As compared to the Convention's draft text, the Commission's role with regard to the Excessive Deficit Procedure has even been diminished. Council decisions on recommendations with regard to excessive deficits will be based on a Commission

recommendation and not – as the Convention had proposed – on a proposal from the Commission.

3.2.4 European Parliament

During the Convention, but especially during the IGC, there was a long dispute among the EU Member States over the future size of the European Parliament. Finally, its size was fixed at 750 members, slightly higher than the 736 seats envisaged by the Convention.⁶ A minimum and maximum number of seats for each member state is also identified – respectively 6 and 96. Within these limits, a unanimous decision of the European Council will establish – based on a proposal of the European Parliament – before 2009 the actual distribution of seats by country, taking into account those countries that will have joined the Union at that point (that is expected to be at least Romania and Bulgaria).

The CT strengthens the role of the European Parliament by establishing the co-decision procedure as the standard legislative procedure of the Union. Furthermore, the standard legislative procedure is greatly simplified: references to Commission proposals and the co-decision procedure are replaced by simply mentioning the law or framework law in Part III, which provides for the Policies and Functioning of the Union.

Furthermore, the European Parliament has attained a stronger position in appointing the European Commission: in future the European Parliament has the right to elect the President of the European Commission instead of just voting in consent on a proposal by the European Council. In general, this provision fosters democratic legitimacy in the Union. It strengthens both, the European Parliament within the EU institutional set-up, but also the President of the European Commission, vis-à-vis the EU Member States as well as vis-à-vis his/her cabinet of Commissioners.

Under current provisions the role of the European Parliament in EMU is a very limited one. At most, the European Parliament's scrutiny of the macroeconomic co-ordination mechanism serves a function of *publicity* in its literal sense: the European Parliament provides a public place where the different processes of warning, recommending and reviewing can be collated and compared, with the possibility of awkward questions being asked about equality of treatment and diligence of follow-through (Hodson and Maher, 2001). Monetary policy is still more exogenous to the politics and powers of the European Parliament than the trans-governmental economic co-ordination mechanism (Lord, 2003). The European Parliament's role under the present treaties is confined to reporting rights. However, the European Parliament decided to put a maximal interpretation on its treaty rights and to deploy them cumulatively. Thus it billed consultations on

⁶ At present, the EP has 732 seats.

the appointment of the first executive board of the ECB as *confirmation proceedings* (European Parliament, 1998). Each nominee was required to return written answers to a standard questionnaire and appear in person before the Economic and Monetary Affairs Committee (EMAC) of the European Parliament. During the *confirmation hearing* the European Parliament reached successfully an agreement with the then incoming ECB President, Wim Duisenberg, that regular hearings before the EMAC would be held every three months. Thus, the European Parliament, successfully established a monetary dialogue with the ECB, by means of *intelligent* interpretation of the treaties. For instance, there is no change in the legal provisions with regard to accountability. Moreover, the ECB's relationship with the European Parliament is regarded as more than just a matter of policy efficiency and public relations. The ECB's own pronouncements suggest it sees important legitimation benefits out of the working procedures with the European Parliament (Lord, 2003).

The CT, in principle, confirms the working procedures and rights of the European Parliament under the present treaties and does not fundamentally change its role in EMU. However, the European Parliament will be able to influence multilateral surveillance more strongly, as this procedure will have to be set down as a European Law, where co-decision will apply.

4. Economic Policies in Operation: Institutional Balance, Efficiency and Effectiveness

4.1 Monetary Policy under the Constitutional Treaty

The Convention barely touched upon monetary policy issues and the Constitutional Treaty does not entail any changes in substance in this area compared to the current legislation; most amendments were of a technical nature only and involved mainly a reorganization of chapters in the Treaty. Monetary policy provisions come under the constitutional Part I as well as under the more operative Part III, which can be amended by a simplified revision procedure.

With regard to the euro area the CT brings about several important innovations. First and foremost, the CT recognizes the *Eurosystem* as well as the Eurogroup, introduces a longer-term chairman of the Eurogroup (Protocol) and incorporates the definition of the euro as the currency unit of the Union.

The Constitutional Treaty lists the ECB as *an other Union institution*. When the institutional structure of the ESCB had been defined by the Treaty on European Union, the ECB had deliberately not been classified as an institution of the Community. As the CT does not list the ECB among the political institutions, such as the Council, the European Commission or the European Parliament, the

ESCB/Eurosystem presumes that the ECB is an institution *sui generis* and that the new institutional classification of the ECB does not imply any substantial change.

The CT⁷ defines the concept *ESCB* and, for the first time, also the concept *Eurosystem*⁷. The Eurosystem comprises the ECB and the national central banks (NCBs) of the Member States which have adopted the euro. The ESCB is governed by the decision-making bodies of the ECB (the Governing Council and the Executive Board) and pursues the primary objective of maintaining price stability. Without prejudice to this objective, it supports the general economic policies of the Union to contribute to the realization of the Union's objectives. The ECB has the exclusive right to authorize the issuance of banknotes. Primary legislation now stipulates that the currency of the Union is the euro, which is also listed under the symbols of the Union.

While the Treaty on European Union emphasizes the independence of both the NCBs and the ECB⁸, the CT only refers to the independence of the ECB: in exercising its functions and in administering its funds the ECB is independent. The Community institutions, bodies and other agencies as well as the governments of the Member States respect this principle of independence. The independence of the NCBs is only stipulated in Part III.

All other tasks of the ESCB are defined in Part III of the Constitutional Treaty and in the ESCB/ECB Statute. The Constitutional Treaty also states that the ECB has legal personality. The section on *monetary policy* describes the objectives and tasks of the ESCB and stipulates the ESCB's primary objective of maintaining price stability.

Furthermore, the sections on monetary policy and the ESCB/Eurosystem have been reorganized, i.e. the transitional provisions no longer include the provisions that referred to the European Monetary Institute (EMI), the second stage of EMU and the beginning of the third stage of EMU. And, as mentioned before, the specific provisions for the euro area countries are summarized in a separate section. The general institutional provisions on the Governing Council and the Executive Board of the ECB as well as on the participation of the President of the Council of Ministers, i.e. Eurogroup President, in Governing Council meetings, the participation of the ECB President in Ecofin Council/Eurogroup meetings and the relations between the ECB and the European Parliament have been moved to Title VI, "The Functioning of the Union".

The institutional framework of monetary union as embodied in the Treaty on European Union has been reaffirmed; it works along lines of distinct allocation of powers and in the absence of conflicts over sovereignty. Here, the Maastricht Treaty created a supranational structure, i.e. the ECB and the ESCB, with clear

⁷ The Governing Council of the ECB has used the term Eurosystem in its external communication since 1998.

⁸ Article 108, Treaty on European Union.

competencies and objectives. The tasks, mandate, status and legal and institutional framework of the ECB, Eurosystem and the ESCB remain, therefore, practically unchanged. Thus, as regards the monetary constitution of the CT, an enlarged Union is well prepared to act in a transparent way with a clear attribution of competencies and objectives.

4.2 Coordination of Economic Policies under the Constitutional Treaty

4.2.1 Economic Governance and Coordination

The Convention's Working Group on Economic Governance failed to come out with a progressive approach to strengthen or *communitarise* economic governance. The idea of granting additional powers to the Commission and involving the European Parliament more closely in the decision-making process did not reach a consensus within the Convention. Only few modifications were made by the Convention, e.g. giving more weight to the Commission in implementing the Broad Economic Policy Guidelines and in the Excessive Deficit procedure. These provisions had been challenged in September 2003 by the Informal Ecofin Council in Stresa, as the demands of several Member States were taken into account by the IGC.

As a consequence, EU/euro area economic governance as provided for by the CT remains based on three elements, entailing minimal harmonisation of *public policy requirements* (Micossi, 2002):

- A single monetary policy conducted by the ECB/Eurosystem, whose primary objective is to maintain price stability. Without prejudice to this objective the ESCB shall support the general economic policies in the Union in order to contribute to the achievement of the Union's objectives. (*Supranational Institution*)
- Decentralised budgetary policies guided by the provisions for an Excessive Deficit Procedure and – outside of the Treaty – the Stability and Growth Pact. (*Hard Coordination*).
- Multilateral surveillance of economic policies, which Member States shall regard as a matter of common interest entrusted to the Ecofin and the European Council. (*Soft coordination*); The Broad Economic Policy Guidelines remain the main instrument of economic policy coordination.

A fourth element, that of the *open method of coordination* for structural policies remains outside the CT.

The CT provisions for multilateral surveillance and the Broad Economic Policy Guidelines (BEPG) remain largely unchanged in comparison to the Treaty of Nice. The only innovations are, that the vote of the Member State, whose economic policy is not consistent with the Broad Economic Policy Guidelines, is not taken into account and the Commission may in this context address a warning directly to the Member States. Member States shall regard their economic policies as a matter of common concern and shall coordinate them within the Council. However, as already mentioned, the Eurogroup is given the competence to adopt specific measures to strengthen the coordination in order to ensure the proper functioning of EMU.

Stability is reaffirmed as the overall principle for economic governance activities of the Member States under EMU shall entail compliance with stable prices, sound public finance and monetary conditions and a stable balance of payments.

This development is not surprising. The issue of strengthening economic policy coordination within the euro area is one of the most politically contested and sensitive issues in EMU (Dyson, 2002). In the past, discussions of economic policy coordination involved mostly budgetary policies of Member States and their consistency with the Stability and Growth Pact as well as the Broad Economic Policy Guidelines and the contested issue of “macro economic policy coordination”. Institutional competition happened vertically between Member States and the Commission and horizontally between the ECB/Eurosystem and the Eurogroup. These debates mirrored very clearly unresolved questions of sovereignty and institutional balance.

Two main reasons may be identified, why there was no movement to deepen economic policy coordination in the CT: first, six years of EMU have shown that the present ex post approach to macro economic policy coordination works rather well and second, different normative approaches to EU/euro area economic governance exist among Member States, which have been, in addition, sharpened by enlargement.

On average, since the start of EMU, both, monetary and fiscal policies followed a neutral path, fostering growth in an environment of low inflation. Some critics blame the Stability and Growth Pact and a monetary policy too much focused on the goal of price stability as having had a key role in limiting growth in aggregate demand. This critique does not hold up with the facts. First, between 2000 and 2003 euro area nominal public sector deficits deteriorated by close to 2% of GDP, mostly reflecting the cushioning impact of automatic stabilisers and with that helped to stabilise the business cycle. Monetary policy generated interest rates at unprecedented low levels, with short term real interest rates averaging 1.1 % compared to 3.3 % in the previous decade. Second, constrained private demand throughout the last few years, both in private consumption and investment, is not

related to macroeconomic policies but reflects uncertainties about the sustainability of fiscal policies and the way structural policy reforms are implemented.

Furthermore, critics of ex post coordination hold that ex ante policy coordination at a euro area level could improve a sustained commitment to national reform policies and relieve the ECB from the excessive burden of being viewed as the sole policy actor within the area (Jacquet, Pisany-Ferry, 2001). Indeed, the heavy process of coordination in comparison to the very efficient decision-making in the ECB Governing Council could translate into greater institutional pressure for monetary adjustment (Lindner, Olechowski, 2002); but there have been no incidents in the past six years to prove such a hypothesis so far and the CT provides for a much clearer perception of the responsibilities of the euro area and the Eurogroup.

Different normative and causal beliefs, about how EU/euro economic governance are based on differences in size, economic structure, level of economic development and political preferences of Member States. The French are prone to stress the role of interventionist states in shaping markets through stronger and formal economic policy coordination; others are more likely to stress the role of social partners (Dyson, 2002). Enlargement is likely to deepen this heterogeneous approach in the EU-25.

On the other hand reduced heterogeneity in the Eurogroup may make innovations in euro area economic policy easier. For the relationship between fiscal and economic policies on the one hand and monetary policy on the other this could translate into less pressure for monetary adjustment.

EU economic policy coordination among member states will continue to take different forms, involving shared goals, but no vertical coordination among different macro economic policy areas. In the areas of hard and soft coordination rules and procedures are subject to erosion and reinterpretation according to developments in economic policy, the bargaining power of policy actors (Micossi, 2002) and increasing ambitions to extend coordination to all aspects of economic and social policies via the Open Method of Coordination. Though, some critics hold that the costs of such an extended and complex coordination may be higher than its gains (Breuss, 2002).

From a Union point of view developing EU/euro area economic governance is not a stand-alone project. Many political and academic observers hold, that it requires strong political fundamentals in the sense of a closer political union. Indirectly, it is therefore important for economic governance that the CT leads to significant progress in the general governance of the Union, with for example integrating the areas of freedom, security and justice as well as the Common Foreign and Security Policy (CFSP) into the Treaty.

4.2.2 Coordination of Fiscal Policies

Neither the Convention nor the IGC touched upon a reform of the policy framework concerning the coordination of budgetary policies. The budgetary policy framework remains almost unchanged in the CT.

As compared to the Convention's draft text, the Commission's role with regard to excessive deficit procedures has been diminished. Council decisions on excessive deficit reports, along with the related recommendations, will be based on a Commission recommendation. The Council will be able to adopt this recommendation according to *super-qualified majority* voting, without unanimity being required to amend it.

The only change to the present situation is, as was proposed by the Convention, that the Commission addresses an opinion to a Member State where an excessive deficit exists or may occur. At the next stage, as is currently the case, the Commission will only have right of recommendation (and not as proposed by the Convention, a right of proposal, which would in effect necessitate a unanimous vote in the Council to alter the content of a Commission proposal). As it is already the case in the current Treaty, the Council will be composed by all the Member States but at this stage the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned. Coercive means of remedying excessive deficits will as at present be adopted by the Ecofin Council comprising only those Member States, whose currency is the euro; the Member State concerned will not take part in the voting.

Against the background of the Ruling of the European Court of Justice on the suspension of the Stability and Growth Pact on July 13, 2004 the IGC decided that the jurisdiction of the European Court of Justice in excessive deficit procedures are now explicitly limited in the Constitutional Treaty to procedural rather than funding aspects. In the IGC, especially the Netherlands has sought to re-establish full powers for the Court, but Germany was opposed to full reinstatement. By way of compensation, a declaration was annexed to the Constitutional Treaty stressing the importance of strict respect of the Stability and Growth Pact and inviting Member States to consolidate budgetary reserves during periods of growth.

The Eurogroup has recently improved its own working methods, this may in turn lead to more efficient fiscal policy coordination within the Eurogroup and indirectly to further improvement in the ex post outcome of the macro economic policy mix. Moreover, as already mentioned, the CT may strengthen the core role of the Eurogroup also in fiscal policy coordination.

Although – or perhaps because of - there are only minor changes in the CT, discussions about the fiscal framework in the Union and the strengthening of economic governance, in particular the Stability and Growth Pact (SGP), continue. The EU coordination framework for economic policy has been perceived as focusing predominantly on budgetary balances and fiscal discipline, while the link

between guidelines on economic policies and recommendations for fiscal policies has been weak. In the opinion of the European Commission, this has led to a loss of credibility and ownership and, ultimately, to institutional uncertainty at the European level. Since then several ideas have been tabled to improve the implementation of the SGP (European Commission, 2004), which are currently under discussion and may lead – what the CT did not achieve – to an enhancement of fiscal policy coordination. The current President of the Eurogroup and the Ecofin Council, Juncker, plans to present an SGP reform proposal to the European Council in March 2005.

4.2.3 Open Method of Coordination

The Lisbon European Summit in March 2000 introduced a new Open Method of Coordination (OMC), which was intended to support the implementation of the Lisbon strategy and its objectives. Since that the OMC has been extended to cover an enormous range of policy fields, e.g. taxation and pensions. Beyond the Broad Economic Policy Guidelines (BEPG) introduced by the Maastricht Treaty in 1992, and the European Employment Strategy (EES) introduced by the Amsterdam Treaty in 1997, the OMC has been intended to become a central tool of EU policymaking. As part of the *Lisbon Strategy* the Lisbon European Council authorized the extension of the OMC to a host of other policy areas, namely also structural economic reform. OMC is controversially assessed: on the one side it is seen as a new mode of EU governance (Héritier, 2001) suitable for addressing common European concerns while respecting national diversity, which pushes Member States to exchange information and compare themselves to one another. On the other side, OMC has been criticized as a vehicle for the EU to encroach illegitimately into policy domains reserved entirely to Member States, but conversely also as a threat to European integration through binding legislation; above all, the most widespread criticism of OMC concerns its lack of impact on Member States, with regard to the implementation of the Lisbon Agenda.

Thus, not surprisingly, although on the agenda of different Convention Working Groups⁹, none of them came out with the proposal to incorporate the OMC into the CT. Instead, the CT gives the Union general powers to coordinate the economic, employment and social policies of the Member States and allows the EU to take *supporting, coordinating or complementary action* in other areas without harmonizing Member States' laws or regulations. Part III of the CT then sets out specific procedures for the coordination of national policies in different areas, incorporating the existing treaty provisions for the BEPG and the EES.

⁹ E.g. the Working Groups on Economic Governance, Simplification, Complementary Competencies (renamed supporting measures) and Social Europe.

The CT confirms, what some academics forecast, namely that there is an overall bias against conferring more powers to Community institutions in economic policy coordination and against a *hardening* of coordination and in favour of the open coordination method (*soft* coordination) emerging as a policy mode in its own right (Dyson, 2002).

Thus, the CT put its stamp of approval on the present coordination framework, by adopting most of its parameters. However, it is not unlikely that political imperatives and institutional adaptation may in the future allow for progress in making the EU policy coordination system more efficient and less cumbersome and costly. In this sense, deeper political integration may hold the key to improve EU policy coordination and also better economic performance (Ioannou et al., 2004).

4.3 External Representation of the Euro Area

At present, the international financial community does not regard the euro area as a single actor in international financial institutions and conferences to, such as IMF, World Bank, G7, G10 or G20.

Within the IMF, numerically speaking, the EU or the euro area could dominate decision-making¹⁰; in practice, this is frequently foiled as Member States fail to coordinate a common position to be held in the Executive Board. There is no clear perception of a euro area responsibility and the euro area had only a minimal influence on the debate on international financial architecture within the IMF; financial rescue packages of the IMF were heavily contributed to by the EU/euro area, but the field of operational influence was left to the U.S.A. (Bini-Smaghi, 2004; Portes, 2004).

In the absence of a single EU/euro area constituency, the EU has set up a typical system of multilevel governance where EU/euro area member states, the ECB and to a small extent also the European Commission coordinate action within the IMF. The principal elements of common actions are an IMFC statement by the Ecofin President, the adoption of EU common understandings on IMF policy issues, coordination of action by the EU representatives in the IMF and the organization of Art. IV surveillance over the euro area's monetary and exchange rate policy (Kiekens, 2003). However, there are many shortcomings: commitment to common

¹⁰ The members' or constituencies' quotas (capital subscriptions) determine their voting powers in the IMF Executive Board. At present, the U.S.A holds the largest capital subscription, namely some 17.50%, and thus also has a blocking minority for decisions taken by the Executive Board of the IMF. The EU does not have a country member status; however, the combined calculated quota of euro area Member States: amounts to 23.30%. The combined quota of an EU-25 would edge up to about 32.40% (EU-27: 33.20%).

positions is sometimes only weak; coordination among G7 is often more effective and far-reaching than among EU countries, interaction between G7 and EU coordination efforts may create confusion. On the other hand, on matters of private sector involvement and a Sovereign Debt Restructuring Mechanism the EU adopted quite different positions from those of the U.S.A.

In fact, in the run up to the Constitutional Treaty debates in Convention working groups reflected the dissatisfaction with current informal arrangements for representing the euro area in international organizations like the IMF. However, discussions in the Convention were inconclusive.

The Constitutional Treaty now provides for the Eurogroup to establish common positions on matters of particular interest for EMU within the competent international financial institutions and conferences and to adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Eurogroup takes votes with and acts upon a proposal from the Commission after consulting the ECB. Furthermore, monetary agreements, other measures and general orientations with regard to exchange rate policy for the euro in relation to third countries may be agreed upon by the Eurogroup. In these cases the Eurogroup acts unanimously and consistently with the objective of price stability. The Eurogroup may act on a recommendation from the ECB or the European Commission after consulting the ECB.

The only new feature of these provisions is, that they shift decision-making on common positions, unified representation and exchange rate agreements from the Ecofin to the Eurogroup. On the one hand unified representation of the EU within the IMF is now likely to arise out of the euro area and by common action of the euro area Member States and not the Union itself. On the other hand the concept of unified representation is left vague and will only happen, when the political will of the Eurogroup emerges.

What could be the motivation behind putting the Eurogroup into the driving seat of improved external representation? One reason might be that only euro area Member States have effectively transferred monetary sovereignty to the Union level, thereby making the euro area responsible for complying with the most important commitments of its member states under the IMF's Articles of Agreement. Another reason might be, that the prevailing opinion is, that only *countries* can become members of the IMF (Kiekens, 2003) and that an appropriate reinterpretation of the term *country* within the IMF Articles of Agreement would be too difficult to achieve, anyway. (Although the EU has now a single legal personality under the CT and could thus act and be held accountable on the international scene).

As a consequence, in the area of external representation the Constitutional Treaty shifts the institutional balance from the EU-25 to the Euro-12. On a technical and coordination level the allocation of competences and influence stays intransparent and will continue to lead to confusion and shortcomings. It remains to

be seen, whether efficiency and effectiveness of external representation may increase, because of improved working methods of the Eurogroup itself. The longer-term Eurogroup chairmanship might, indeed, increase efficiency of decision-making and effectiveness of implementation beyond the area of euro area Article IV consultations. With regard to institutional balance, efficiency and effectiveness the Constitutional Treaty made only marginal progress in giving the Union and its Member States a clear and solid framework for its role in international economic and monetary governance.

5. Conclusions

The debate about an effective and enlarged Europe within the Convention and also within the IGC was focussed on values, efficiency, effectiveness and legitimacy of the institutional architecture. Representing a new and consistent legal architecture, the Constitutional Treaty is also intended to enhance and streamline decision-making in an enlarged Union, both at the European and the international level. However, changes fall short of really enhancing the EU's role as a global economic player.

EMU is an integral part of EU and one of the most integrated poles and developing euro economic governance is not a stand-alone project. It also requires strong political fundamentals in the sense of a closer political union; indirectly, it is essential for economic governance that significant progress is made in the general political governance of the Union. With integrating into the CT the areas of freedom, security and justice as well as the Common Foreign and Security Policy (CFSP) an important step has been taken into the right direction.

With regard to EMU, the most important institutional innovations are brought about in the euro area, whose profile reflects that of a *centre of gravity* of integration. First and foremost, the Constitutional Treaty recognizes the *Eurosystem* as well as the *Eurogroup*. With regard to institutional balance the CT gives a higher profile to the euro area by introducing a neater distinction between members of the euro area and the Ecofin. Within the euro area the balance in multilevel governance might be shifted slightly by a more permanent president of the Eurogroup.

The institutional framework of monetary union as embodied in the Treaty on Europe has been reaffirmed; it works along lines of distinct allocation of powers and in the absence of conflicts over sovereignty. Here, the Maastricht Treaty created a super national structure, i.e. the ECB and the ESCB with clear competencies and objectives. The CT does not entail any changes in substance in the field of monetary union compared to the current legislation; most amendments were of a technical nature only.

Furthermore, in future, continuity and leadership in multilateral economic governance may be improved with the introduction of new institutional functions,

namely a President of the European Council and the Eurogroup, as well as with a smaller Commission college and giving the Commission President more power within the Commission. The implementation of the CT will clearly lead to a certain *personalisation* of the Union.

The CT approved the present economic policy coordination framework. The budgetary surveillance framework remains almost unchanged. And as the Open Method of Coordination (OMC) is confronted with contradictory assessments since its formal introduction as working method in the EU at the Lisbon European Summit, it was not surprising, that neither the Convention nor the IGC put forward new proposals for a more effective implementation of measures under OMC. There is only a very limited strengthening of the role of the Commission in economic coordination, falling short of the Commission's ambitions. However, it is not unlikely that political imperatives and institutional adaptations may in future allow for progress in EU policy coordination. In this sense, deeper political integration may hold the key to improve EU policy coordination and also better economic performance.

At present it is difficult to gauge whether the CT has improved the efficiency of the decision-making process of the Council, and thus of the Ecofin Council. Arguments pro and contra are inconclusive. On the one hand first evaluations hold that under the new system "constructive majorities" are more probable, the scope for national vetoes is limited, in general the QMV rule applies and the new voting system is adaptable to further enlargement without negotiations. On the other hand critics hold that due to the many compromises made, the new voting rules have become more complex and therefore less efficient. The introduction of the *double majority system* represents a radical change in the Ecofin Council's voting procedures, but an assessment – with regard to sufficient efficiency for an enlarged EU – in comparison to the Nice Treaty provisions can only be seriously undertaken once the rules have been in operation for some time.

Also with regard to efficiency and effectiveness of multilevel governance, the CT introduces a potential degree of flexibility into EMU provisions: with the introduction of the simplified amendment procedure it slightly relaxes the rigidity of the present Treaty amendment process for EMU provisions, on the basis of a flexibility clause the Council can unanimously extend the powers of the EU also with regard to EMU. Finally, it remains to be seen to what extent the European Council will make use of the newly created possibility of widening the scope for majority decisions in the Council in cases where the Treaty provides for unanimity, although this possibility seems somewhat restricted by the procedures (*passerelle mechanism*) involved.

The CT reflects the Union of today and represents the maximum that could have been achieved politically. However, it will still face hurdles on the road to ratification. Implementation of the CT is very desirable, as it will contribute to better leadership and continuity in the EU. Although complexity of multilevel

(economic) governance is hardly reduced, a more coherent architecture and improved political fundamentals may enhance overall efficiency and effectiveness.

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