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SEMDOC

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LIMITE

CAB 12

REPORT

from : The Presidency
to : Permanent Representatives Committee

Subject : *Composition, method of work and practical arrangements for the Body to elaborate a draft EU Charter of Fundamental rights*

1. In order for the General Affairs Council to take the necessary steps prior to the Tampere European Council in October to implement the Cologne European Council decision on the creation of the Body the *ad hoc* Working Group mandated by COREPER has examined a Presidency options paper dealing with the composition, method of work and practical arrangements for that Body.
2. This *ad hoc* Group held two meetings in July at which good progress was achieved on various questions it addressed concerning the composition, method of work and practical arrangements for the Body. The attached paper reflects the outcome of the Group's work.
3. The Presidency considers that it will be essential to ensure in advance of the Tampere European Council that agreement exists on the composition and procedure of the Body among all its component parts. The Presidency will undertake the necessary contacts with the European Parliament. Each delegation has been invited to establish its own informal contacts with its Parliaments. Initial contacts will take place before COREPER on 8 September.

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4. COREPER is invited to consider the following outstanding issues in order to finalise the attached text:

(a) Composition of the Body (point A. (i) of the attachment)

Agreement has been noted on the participation of fifteen representatives of Heads of State or Government and one representative of the President of the Commission. While some delegations noted that a link existed between the number of members to be fixed respectively for the European Parliament and national Parliaments, the overwhelming majority of delegations considered that there was no justification for parity of numbers. Since a number of Member States indicated that a minimum of two members of national Parliaments would be required in order to satisfy domestic constitutional requirements, a general orientation emerged in the Group in favour of accepting a figure of 30 for members of national Parliaments, provided a maximum of 7 or 8 members were designated by the European Parliament, allowing the latter the possibility to designate one member from each of the political groups if it so wishes.

The Presidency indicated that it would undertake initial informal contacts with the European Parliament on this basis prior to the COREPER meeting on 8 September and would report to delegations as soon as possible on the outcome of these consultations.

As far as national Parliaments are concerned, each delegation is invited to establish its own informal contacts with its national Parliament in advance of the COREPER meeting on 8 September.

COREPER is invited to confirm the general orientation emerged on the composition of the Body.

(b) Chair (point A. (ii) of the attachment)

While consensus appeared to exist on the fact that each of the three component parts of the Body (the representatives of the Heads of State or Government, a member of the European Parliament and a member of a national Parliament) should be represented on a "bureau" consisting of the Chairperson and Vice-Chairpersons, opinion is still divided on how the Body's chair should be selected.

A large majority of delegations supported Option 1, with the Body being chaired by the representative of the Presidency of the Council, given the clear link which existed between the Body and the European Council and the responsibility of the Presidency to lead the work to a successful conclusion.

Some delegations and the Commission preferred a permanent Chairperson to be designated for the duration of the Body's work, in order to ensure efficiency and continuity of proceedings. If Option 2 were to be followed, the question of how to designate the Chair would need to be considered (i.e. a permanent Chair selected from among the representatives of Heads of State or Government or elected by the Body from among its members).

COREPER is invited to consider this question.

(c) **Observers (point A. (iii) of the attachment)**

Agreement exists on inviting two representatives of the Court of Justice of the European Communities as observers. An overwhelming majority of delegations are also in favour of inviting the Council of Europe / European Court of Human Rights as an observer given its particular experience in the field of fundamental rights. The view was expressed, however, that the European Court of Human Rights should participate as an observer, with the Council of Europe being invited to give its views as an interested body.

COREPER is invited to:

- indicate whether observer status should be extended to the Council of Europe as such or be limited to the European Court of Human Rights;
- and confirm that the Tampere European Council should be invited to endorse this approach.

(d) **Drafting of the Charter (point B. (iii) of the attachment)**

All delegations recognise the need for the Chair to take a lead in the process of drafting the Charter. The Presidency has endeavoured in its proposal under point B. (iii) to emphasise the lead the Chair will take in this process, assisted by a Drafting Committee, and to indicate that account will be taken of drafting proposals submitted by any Member of the Body.

The main open issues for COREPER are:

- whether, in the process of drafting the Charter, there should be any Drafting Committee to assist the Chair;

- and, if so, whether it is sufficient for the Chair to be assisted by a small group composed of the "bureau" of Vice-Chairpersons, plus the representative of the President of the Commission, or whether, in order to take due account of the different legal and constitutional traditions in the Member States, all representatives of Heads of State or Government should be involved in this process, as a number of delegations have called for;
- or whether any decision to constitute a Drafting Committee should be left to the Body itself to decide, as some delegations have indicated.

In addition, certain Member States have expressed a wish to see representatives of all Heads of State or Government also involved in any *ad hoc* working groups which the Body may decide to set up.

(e) **Adoption of the Draft Charter by the Body (point B. (iv) of the attachment)**

There are three stages in the procedure for the proclamation of the Charter set out in the Cologne European Council conclusions, namely the establishment of the Draft Charter by the Body, the subsequent endorsement of the Charter by the European Council (via the normal channels), and the final joint solemn proclamation of the Charter by the European Parliament, the Commission and the Council. The attachment only deals with the first of these three stages.

A broad orientation exists in favour of the Chair leading discussions in the Body to a result which the Chair deems as meeting consensus within the Body. Some delegations have expressed doubts about this approach, and consider that further clarification is required on the procedure to be followed if any one member of the Body insists on amendments being made to the draft. It was also suggested that it should be left up to the Body to determine how the Charter should be adopted.

COREPER is invited to indicate whether the suggested approach is acceptable.

(f) **Venue for the Body (point C. (i) of the attachment)**

COREPER is invited to consider this point in the light of the Presidency's initial contacts with the European Parliament. In the event of meetings taking place alternately in the Council and European Parliament buildings, the cost of interpreting should be borne by the institution hosting the meeting.

(g) **Travel expenses for representatives of the Heads of State or Government**

This question is under examination by the General Secretariat of the Council.

**COMPOSITION, METHOD OF WORK AND PRACTICAL ARRANGEMENTS
FOR THE BODY TO ELABORATE
A DRAFT EU CHARTER OF FUNDAMENTAL RIGHTS**

A. COMPOSITION OF THE BODY

(i) Members

(a) Heads of State or Government of Member States

Fifteen representatives of the Heads of State or Government of Member States.

(b) Commission

One representative of the President of the European Commission.

(c) European Parliament

Seven or eight members of the European Parliament to be designated by itself.

(d) National Parliaments

Thirty members of national Parliaments (two from each national Parliament) to be designated by national Parliaments themselves.

Members of the European Parliament and national Parliaments may be replaced by alternates in the event of being unable to attend meetings of the Body.

(ii) Chair

Option 1

The Body shall be presided by the representative of the Presidency of the Council.

The representative of the incoming Presidency of the Council, a member of the European Parliament and a member of a national Parliament shall act as Vice-Chairpersons of the Body.

Option 2

Alternative A

The Body shall be presided by a permanent Chairperson who shall be selected from among the representatives of the Heads of State or Government by the European Council.

The representative of the incoming Presidency of the Council, a member of the European Parliament as well as a member of a national Parliament shall act as Vice-Chairpersons of the Body.

Alternative B

The Body shall be presided by a permanent Chairperson who shall be elected from among its members by the Body itself.

If the Chairperson is elected from among the representatives of the Heads of State or Government, the representative of the incoming Presidency of the Council, a member of the European Parliament and a member of a national Parliament shall act as Vice-Chairpersons of the Body.

If the Chairperson is elected from among the members of the European Parliament, the representative of the Presidency of the Council and the representative of the incoming Presidency of the Council as well as a member of a national Parliament shall act as Vice-Chairpersons of the Body.

If the Chairperson is elected from among the members of the national Parliaments, the representative of the Presidency of the Council, the representative of the incoming Presidency of the Council and a member of the European Parliament shall act as Vice-Chairpersons of the Body.

(iii) Observers

Two representatives of the Court of Justice of the European Communities to be designated by the Court.

Two representatives of the Council of Europe, including one from the European Court of Human Rights.

(iv) Bodies of the European Union to be invited to give their views

The Economic and Social Committee

The Committee of the Regions

The Ombudsman

(v) Exchange of views with the applicant States

An appropriate exchange of views should be held by the Body with the applicant States.

(vi) Other bodies, social groups or experts to be invited to give their views

Other bodies, social groups and experts may be invited by the Body to give their views.

(vii) Secretariat

The General Secretariat of the Council shall provide the Body with secretariat services.

B. WORKING METHODS OF THE BODY

(i) Preparation

The Chair of the Body shall propose a work plan for the Body and perform other appropriate preparatory work.

(ii) Transparency of the proceedings

In principle, hearings held by the Body and documents submitted in such hearings should be made public. More detailed rules on transparency should be established by the Body itself.

(iii) Drafting of the Charter

On the basis of the work plan agreed on by the Body, its Chair, assisted by the Secretariat and taking account of drafting proposals submitted by any member of the Body, shall elaborate a preliminary Draft Charter or parts of it.

Option 1

In this task, the Chair shall also be assisted by a Drafting Committee composed of the Vice-Chairpersons and the representative of the President of the Commission [as well as the representatives of Heads of State or Government]. This preliminary draft, or parts of it, shall be presented to the Body. The Chair may convene this Committee as necessary between the sessions of the Body.

Option 2

The Body shall decide on whether to constitute a Drafting Committee and on its composition.

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The Body may establish *ad hoc* working groups to deal with different aspects of the Charter.

(iv) Adoption of the Draft Charter by the Body

A final Draft Charter is established when the Chair deems that there is consensus within the Body.

C. PRACTICAL ARRANGEMENTS

(i) **Venue**

The Body shall hold its meetings in Brussels:

Option 1

In the Council building

Option 2

Alternately in the Council and the European Parliament buildings

(ii) **Language regime**

A complete language regime shall be applicable for sessions of the Body.

(iii) **Cost of interpreting**

The question of who should pay for interpreting services is linked to the outcome of the examination under (iv) below and to the venue selected for the Body.

(iv) **Travel expenses for members of the Body**

All of the participants shall bear their own travel expenses. The question of whether representatives of the Heads of State or Government should be reimbursed by the Council requires further examination.

The question of who should pay for travel expenses of those invited to attend sessions of the Body will require further examination.

