

## The culture of constitution-making? "Listening" at the Convention on the Future of Europe

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By Jesse Scott

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**I. Introduction** [1] Established in the wake of the Nice Treaty debacle by the December 2001 European Council Laeken Summit, the Convention on the future of Europe (1) is a radical political experiment. [2] The Convention has been meeting in Brussels under the chairmanship of ex-heads of state Valéry Giscard d'Estaing, Giuliano Amato and Jean-Luc Dehaene since February this year. It combines a novel political formula with an immense open-ended remit. Its 105 members represent the governments and parliaments of the EU15 and of the 13 candidate accession states, and the European Parliament. For the first time national parliaments and the European Parliament are sitting jointly with governments. This is also the first occasion on which the accession states have participated as equals in the EU (technically they are non-voting, but consensus is the aim). The Convention takes its mandate from the Laeken Declaration,(2) which proclaims that "the Union stands at a cross-roads." The complexity, juxtaposition and interrelation of the questions which the Declaration raises, and the urgent historic decisions which accompany these – as well as explicit expectations from many quarters – earn the Convention the label 'constitutional'. Media and academic comment alike favour comparisons with the 1787 Philadelphia constitutional convention – neither a recent nor a local precedent (but one with obvious additional appeal for the Euro-federalist tendency). A more empirical reference is the Convention that drafted the European Charter of Fundamental Rights. For a recent survey of the Convention's progress see *The Economist*. (3) **II. "Listening"** [3] The Future Convention's work is expected to conclude next spring/summer with proposals to be put before a 2004 intergovernmental conference. In answer to recent challenges that his backroom team have already drafted these conclusions, Giscard has insisted that the Convention is still, on the contrary, in its "listening phase."(4) [4] Inviting as many analytic questions as it is hoped it will provide robust answers, the Convention defeats brief summary. Nonetheless, it may be seen to have essentially two tasks, or two faces. On the one hand the project to agree institutional reform anticipates wider and deeper integration: enlargement, further EMU, and the extension of the EU's global role as a political (as well as trading) power. This is the Convention's internal task. On the other hand, this project, and especially its constitutional aspect, coincides with recognition of an existential doubt: of uncertain missions and a deficit of democratic participation and transparency in the EU. Here the Convention must look outward to an audience of millions: both the institutional project and the Convention process itself are intended to offer a redemptive/catalytic opportunity to inspire interest and confidence in integration beyond the confines of the EU elite. [5] "Listening" (for all that it perhaps lacks the immediate import, and fascination, of the competing reform schemes circulating from interested parties and experts, and of the increasingly busy politics of debate) is crucial. The Laeken Declaration is journalistically clear about this: "Within the Union, the European institutions must be brought closer to its citizens. Citizens [...] feel that deals are all too often cut out of their sight and they want better democratic scrutiny." On the Convention website, however, "listening" is given a somewhat different definition as "identification of the expectations and needs of the Member States, their Governments and Parliaments, and those of European society." (Where are the views of the EU institutions in this list?). [6] Amongst the social groups most strongly encouraged to be heard are academics and the young. In the last weeks before the summer break the Convention held its major consultative events: a plenary session with representatives of 'civil society'(5) and a 'Youth Convention.'(6) Observing these sessions gives rise to some reflections on the modality of "listening" – and of being listened to. Who participates, how this is organised, what impact has it? **III. Supply and demand** [7] The plenary meeting with civil society (including academe, NGOs, and – somewhat anomalously – local/regional government) received little, but strongly critical, press coverage. It was a gathering of the Commission's payroll of funded lobby groups, the usual suspects saying the usual things. Naturally these represented 'Euro' viewpoints rather than varied national voices. [8] Operationally also the civil society session was open to heavy criticism. Speakers nominated by preparatory group meetings were allotted a time slot each, controlled by stop-clock, in which to present a brief statement to the plenary. Speaking to 'representative' (read aggregate) texts, each formed part of a relentless but drifting roll-call of dense manifestos. Debate did not feature. – Nor, it has to be said, with a minority of Convention members present, did much "listening". [9] While determinedly positive about genuine intentions Euractiv and the European Policy Centre (7) admit "Reactions are mixed as to the [meeting's] significance - and indeed relevance. [...] Some sceptics wonder whether the Convention Presidium is genuinely involving the civil society or merely paying lip service to it. Others criticise the manner in which the session was prepared, and organised - at short notice and very formally. [...] There was no real interaction between civil society representatives and Convention members, and no 'excitement'." Indeed, very little can be said about the meeting. [10] Possible excitement, rather, is to be found in its documents.(8) Although unlikely to prove as classic as the Philadelphia papers, these yet indicate that civil society is eager to be heard. In them the Convention (Secretariat) identifies a set of broad themes. There is a "wish to see the Union operating more closely to those it seeks to serve" – giving citizens a greater stake in decisions and ensuring that those decision are taken at the appropriate level – which is "linked to" a "concern to improve the level of involvement of civil society, through its constituent organisations, in

the European decision-making process". Civil society emphasises respect for fundamental rights and supports incorporating the Charter in the EU Treaties. The sectoral interest groups seek legitimate and effective decision making, "often calling for a move to decision-making by QMV coupled with co-decision". According to this summary academic and think-tank inputs have focussed on institutional arrangements. At the meeting many referred to the 'Florence'(9) report on reorganisation of the Treaties. [11] In this case "listening" is a question of reading – by the Convention (it is rumoured that Giscard reads little), especially by its working groups, within academe, and by a wider public. Two observations follow. First, it is noticeable that civil society's voices are authoritative regarding reforms, plans and policies, but about the role and impact of their opinions as contributions to the Convention process the tone is less certain – a mixture of petitioning and puzzlement. Of the major academic/thinktank groups at the meeting EPIN (10) (European Policy Institutes Network) blandly aims "to make a major contribution". The Centre for Applied Policy Research (11) and Bertelsmann Foundation's (12) *Convention Spotlight* recognises "this unique process of discussion and reform" as "a new challenge for us". How will "listening" link to the Convention's "deliberating phase" of "comparison of the various opinions put forward and assessment of their implications and consequences" and to the "proposing phase: synthesis and drafting of proposals"? Aside from drawing the conclusion that network politics and papers are arguably more functional than plenary assemblies, no-one knows. [12] Second, the fact is that the Convention's consultative "listening" is demand-led. Supply is plentiful, but the resources to digest the enthusiastic (in some cases carpet-selling) wave of material and ideas are few. Faced with civil society's friendly onslaught, instinctively the Secretariat's pose is defensive. In practice, working under tight time constraints, the Convention seeks advice, but not really *participation*. Ultimately the role open to civil society is that suggested by the European Policy Centre's aspiration to be "a communication multiplier for the public": that of providing building blocks to a (parallel? contributory? "multiplicatory?") public debate in the member-state and candidate countries. A role in which academe, like much of the EU, is less than confident. It waits to be seen how this aspiration can be substantiated. **IV. Going through the motions** [13] And what of the Youth Convention? The origin of the idea to hold it is mysterious. Generic precedents for interesting 'youth' events paralleling 'senior' politics are plentiful. Youth organisations, (13) both party-political and issue-oriented, are an established feature of the Brussels landscape (although there is no formal provision for their role such as some seek). However, Giscard's surprise announcement of a Youth Convention in his inaugural speech was widely interpreted as opportunist, based not on precedents or structures but a desire to counter media criticism about a 76-year-old *future*: the old-guard had in mind a photo-opportunity, VIP-experience surrounded by bright young faces. Only much later did substantial expectations arise (notably from Convention members Íñigo Méndez de Vigo and Olivier Duhamel). [14] Uncertain in concept, the Youth Convention has been almost universally judged a messy disappointment. It had a catalogue of elementary problems: 4 days "to imagine, encounter and propose" (of which perhaps 1½ scheduled for real discussions) was too little time to hope to deliver a meaningful result. The excited participants, aged 18-25 and somewhat accidentally chosen according to the national/personal invention of the members of the (senior) Convention, were in many cases too inexperienced in debate and debating procedure to function as an assembly. (In proportionate frustration observers joked that crucial hours passed in "deciding whether to vote with the right hand or the left" and "kicking in open doors"). Amidst rhetoric and repetition, few knew how to *listen*. [15] Many participants, moreover, were only patchily informed about the substantive issues. There was no serious briefing. The agenda (set by the Secretariat) was at once too encompassing, so that a single working-group on institutional reform had 100 participants, and too limited, in that it specified only certain questions as suitable material ("What institutional framework for a Europe in touch with its citizens? Does Europe need a Constitution?"). Finally, as "spokespersons" the Youth Convention were overwhelmingly white, middle-class students, in no way (as they acknowledged) representative of the spectrum of European youth: *Le Monde* (14) dismissed the meeting as "les eurocrates en herbe". [16] It is difficult to refute the (Euro-sceptic) response to the Youth Convention's final document (15) that "it contains nothing new". Why? If new ideas about Europe are needed not only from the Convention, but also from beyond, then the challenge of political "listening" at the EU-level is exemplified by this question – to which the Convention must seek constructive answers. [17] One part of an answer is *Le Monde*'s; another is that bad planning exacerbates old patterns. – The Youth Convention ended amidst deserved accusations that the 'eurocrat' youth organisations had monopolised the leadership and drafting, pushing through narrow votes. This dynamic was unfortunate, but under the circumstances it cannot be surprising that the established groups agreed in advance to work together for common goals. Short time, many unprepared participants, the presence of a known and organised Euro-sceptic element, shambolic and heavy-handed management by the Secretariat (inexperienced as chairmen and event-organisers, and thought to oppose a 'strong' result), rendered it unavoidable that those who came to the meeting with rehearsed ambitions should collaborate with one another. [18] To condemn "party-politics", as did the marginalised and bewildered non-partisan participants, is beside the point. Rather, two serious critiques must be made about what party-politics offered. First, the purpose of party initiative and procedural expertise should not be exclusive monopoly but *leadership*, which organises the participation and contributions of as many as possible. For all their professionalism the youth organisations did not have the courage to attempt incorporation (and, in fairness, the circumstances did not facilitate an attempt). Second, in their anxiety to maintain a common front the youth organisations agreed a common platform notable for its lack of substantive content: a weak compromise which contributed much to the 'candy-floss' character of the Youth Convention's final document. The young socialists ('Stand Up for Another Europe') claim to have done well in the Youth Convention, but in the document the reference to social Europe is slight. [19] From this, hardly bright

performance, it is to be hoped that the youth participants at least learned that politics is hard work – demanding of both commitment and planning. That said, the problems of exclusive politics and compromise politics ring familiar about the EU in general. Only on the looming language issue of an EU of 20+ tongues was a different story clear: the Youth Convention overwhelmingly abandoned translation to speak English (Italian ran second). [20] Dismay at the Youth Convention need not, however, be the end of the story of "listening" to youth. Better examples of youth interest (as *Le Monde* pointed out, this engagement does not solve the problem of mass youth *uninterest*) include the Danish Presidency's 'Youth 2002 Draft European Constitution'(17) and the Convention Européenne des Etudiantes de Sciences-Po. (18) Duhamel places hopes (writing to the Youth Convention "You need us: We need you") on the 21 March 2003 'Printemps européen des Jeunes'. **V. Silence is not golden** [21] Writing of the Convention in the *International Herald Tribune*,(19) Denis Howell (UK House of Lords Conservative) argues that "The thread of connection, of sympathetic hearing, of patient explanation has to run downward to the street level, not from one lofty authority to another." Even if the *IHT* and a UK Lord are hardly mainstream to the EU, the point stands: the elite civil society and Youth Convention meetings do not address the fundamental democratic deficit. [22] The argument made that the Charter Convention worked well because spared the glare of publicity cannot apply to the Future Convention's duty to inspire interest. What the Convention is and what it does needs to be publicised if mass debate is to be stimulated: official diffusion and the press are key. Hence the cheerful but imprecise insistence from Dehaene (who has overall responsibility for civil society) at both the recent events that the internet and the Convention website will facilitate wondrously the furtherance of debate and the extension of networks. Actually, the Convention website, more a notice-board than a forum, is not admired by users. Nor is the Commission's Futurum (20) website a convincing hub of discussion. Some of the elegant national Convention websites, do, however, present viable attempts to assemble reader-friendly information about the EU, eg. the German Auswärtiges Amt.(21) Internet democracy is unproven. [23] More promising is the mainstream press (*Süddeutsche Zeitung* and *Gazeta Wyborcza* rather than *European Voice*). The Convention ought to be extraordinary news, high drama about the balance of power within Europe, a better story than the mechanics of the Euro launch. Giscard's recent *Le Monde* (22) piece indeed opens on this point: "La presse écrite en rend compte dans ses pages spécialisées. Mais les grands médias audiovisuels lui font peu de place, car il ne s'y est pas produit – moins jusqu'ici – d'affrontement violent ou de scandale public. Il me semble pourtant que les citoyennes et les citoyens de l'Europe ne devraient pas se désintéresser de ce qui se passe à la Convention. C'est leur avenir personnel qui s'y joue." But *Le Monde* has by far the best coverage of the Convention. In Italy, likely hosts of the IGC and a 'Rome II' Treaty, the Convention is barely a press footnote (is this *ozio*, Machiavelli's political apathy of a population in times of peace and plenty, or is it rejectionist politics?). The democratic deficit problem is also one of attention deficit. [24] Worse still for the Convention's existential task of fostering a pan-European public sphere, the press coverage is nationally parochial. In the UK the Convention elides with the Euro-or-not question, in Germany subsidiarity and competences dominate, in Poland Christian values, in Malta government and opposition. In the accession states overall the Convention is a negotiation, in Bulgaria nothing more than a children's concert to the Convention. The French and German press comment on one another but no-one else, the UK's EU stops at France and – of late – Aznar. Thus the debate on the Future of Europe is not one but many fractured parts, each confined to a national/language media community (for press cuttings see Conventionwatch (23) ). The problem of national spheres highlighted by the Bundesverfassungsgericht's Maastricht ("*Brunner*") judgement remains. **VI. Lessons?** [25] Amid the criticisms what lessons are learned? No-one queries that it is beneficial and appropriate to incorporate as many voices as possible into the Convention's work and to accrue representivity to its authority. But the evidence is not good for how, functionally, this is to be achieved. If the Convention is a dry-run for a 'new feel' transparent and participatory EU, this is a space to watch over the next year.

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(1) <http://european-convention.eu.int/>

(2) [http://europa.eu.int/futurum/documents/offtext/doc151201\\_en.htm](http://europa.eu.int/futurum/documents/offtext/doc151201_en.htm)

(3) [http://www.economist.com/world/europe/displayStory.cfm?story\\_id=1237373](http://www.economist.com/world/europe/displayStory.cfm?story_id=1237373)

(4) <http://european-convention.eu.int/travaux.asp?lang=EN>

(5) <http://european-convention.eu.int/forum.asp?lang=EN>

(6) <http://european-convention.eu.int/youth.asp?lang=EN&content=intro>

(7) <http://www.euractiv.com/cgi-bin/cgint.exe/1392529-728?target=1&204&OIDN=250491>

(8) <http://register.consilium.eu.int/pdf/en/02/cv00/00117en2.pdf>

- (9) <http://www.youthforum.org/>
- (10) <http://www.epin.org/>
- (11) <http://www.cap.uni-muenchen.de/konvent/>
- (12) <http://www.bertelsmann-stiftung.de/>
- (13) <http://www.youthforum.org/>
- (14) <http://www.lemonde.fr/article/0,5987,3210--284744-,00.html>
- (15) <http://register.consilium.eu.int/pdf/en/02/cv00/00205en2.pdf>
- (16) <http://www.ecosy.org/>
- (17) [http://www.eu2002.dk/news/news\\_read.asp?iInformationID=20698](http://www.eu2002.dk/news/news_read.asp?iInformationID=20698)
- (18) <http://www.ceesp.fr.st/>
- (19) [http://www.iht.com/ihtsearch.php?id=56336&owner=\(International%20Herald%20Tribune\)&date=20020503152734](http://www.iht.com/ihtsearch.php?id=56336&owner=(International%20Herald%20Tribune)&date=20020503152734)
- (20) [http://www.europa.eu.int/futurum/index\\_en.htm](http://www.europa.eu.int/futurum/index_en.htm)
- (21) [http://www.auswaertiges-amt.de/www/de/eu\\_politik/aktuelles/zukunft/index](http://www.auswaertiges-amt.de/www/de/eu_politik/aktuelles/zukunft/index)
- (22) <http://ue.eu.int/pressdata/FR/conveur/71672.PDF>
- (23) <http://conventionwatch.iue.it>