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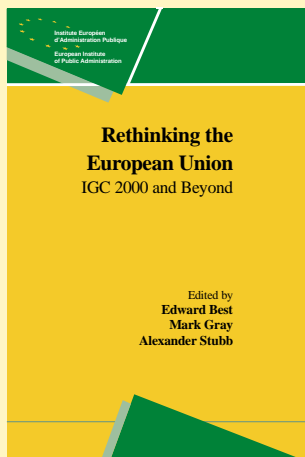
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# Going for Gold at Nice: Assessing the EU's Form



## Crossing the Bridge of Size: Reaching a Deal at Nice

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### *Abstract*

The Intergovernmental Conference which should conclude at Nice in December 2000 deals with issues of institutional reform which must be resolved before proceeding with enlargement. There are four main questions. Should all countries be able to name a Member of the European Commission, or should the number of Commissioners be 'capped' at a number lower than the number of Member States? How should the weighting of Member States' votes in the Council be adjusted to ensure that winning coalitions under qualified-majority voting represent an adequate proportion of the total EU population – as well as to 'compensate' those five Member States which lose their second Commissioner? How far should qualified-majority voting be extended? Should the conditions for 'closer cooperation' be relaxed to make it easier to press ahead with integration in particular areas without the participation of all Member States?

A deal must be reached at Nice, but the IGC has revealed serious differences between the Member States. There is likely to be an agreement: for one Commissioner per Member State, probably with an internal hierarchy; a significant re-weighting of votes in favour of the big Member States; a moderate extension of qualified-majority voting; and at least the removal of the veto regarding closer cooperation.

Yet relative size has emerged as a source of frictions and concerns about long-term solidarity. The big countries fear being tied down. The smaller ones have long-term concerns about being dominated or absorbed, as well as presentational problems. If all the results of the IGC are seen as concessions to the large countries, it will be hard to sell the Nice Treaty at home – and Denmark has again shown that people can say No.

Too much intergovernmentalism is not the answer. The Community institutions cannot do everything, but they have played an essential role in overcoming fears about relative power. They need to be renewed, not replaced.

A new Intergovernmental Conference (IGC) began on 14 February 2000 and is expected to end on 8 December 2000 in Nice. The reason behind this fresh round of treaty re-negotiation is that the last IGC, which ended in Amsterdam in the small hours of 18 June 1997, did not finish its business. Several key questions of institutional reform which are considered essential prerequisites for enlargement were simply put off.

Unless these "left-overs" are now resolved at Nice, the whole enlargement process will suffer a serious blow. There must not be any further postponement of preparatory steps. Yet the depth of the differences has raised questions as to whether a satisfactory deal (or any deal) can be reached, while the terms in which the debate is conducted have caused concern. Some fear there will be insufficient movement over fundamental issues of the extension of qualified-majority voting and the easing of "flexibility" provisions, without both of

which the European Union may face a threat of paralysis in the future. At the same time, the IGC arguments over the representation of different-sized states are taking place amid a more general "slide" towards intergovernmentalism. This has created concern among smaller states that the Community process is in danger of being replaced by pure inter-state bargaining on the basis of relative power. This trend should not be exaggerated in reality, but the fact remains that the spectre of a *directoire* of big states is now openly cited in public discourse.

This article first presents the background to the IGC 2000 and the scope of the agenda. It then outlines the principal options and arguments regarding each of the four main points under consideration, and looks at the prospects as of September 2000 for the results of the IGC. Finally it highlights some broader concerns about how the institutional debate has developed, concentrating of the question of size, and considers what might be the

most appropriate outcome of the IGC in the light of the need to ensure coherence and solidarity in an ever larger Union among the peoples of Europe.

### **The Background**

The unanswered questions in 1997 were clear. The Commission is presently composed of at least one national from each Member State, with the five most populous countries having two each. If this system were to be continued in an EU of 27, the Commission would have 33 members. There was a consensus that this number would be excessive. Yet if the five big countries were to “give up” their second Commissioner, they demanded to be “compensated” by more proportional representation in the Council, in which the weighting of votes is skewed in favour of the smaller states.<sup>1</sup> However, there was no agreement as to how this should be changed.

The two questions remained linked, it being somehow overlooked in the struggle that the Commission is supposed to be independent. The result was a “Protocol on the institutions with the prospect of enlargement of the European Union” which states in its first article that: “At the date of entry into force of the first enlargement of the Union ... the Commission shall comprise one national of each of the Member states, provided that, by that date, the weighting of votes in the Council has been modified, whether by re-weighting or by dual majority, in a manner acceptable to all Member States...” The second article provides that “At least one year before the membership of the European Union exceeds twenty a new Intergovernmental Conference shall be convened to carry out a comprehensive review of the provisions of the Treaties on the composition and functioning of the institutions.” Belgium, France and Italy also insisted on the Conference taking note

of their Declaration to the effect that reinforcement of the institutions was “an indispensable condition for the conclusion of the first accession negotiations”, in particular a “significant extension of recourse to qualified-majority voting”.

Why were the decisions put off? The institutional questions had been left to the end and there had been little time to prepare a compromise. As the IGC ran into the early hours, some issues of particular sensitivity came up. For example, Belgium had reacted badly to the suggestion that The Netherlands, with nearly 16 million people, should receive one more vote than Belgium, which has around 10 million but has traditionally had equal voting weight. One reason for putting off a decision appears to have been the possibility of now also discussing differentiation between France and Germany, given the latter’s increase in population to over 80 million compared to France’s 59 million.

It seems to have been considered better just to drop the matter than to press on. On the one hand it did not seem sufficiently urgent to take a decision. Enlargement was over the horizon, and at that time only five new members were ostensibly expected in the first wave. On the other hand, difficult issues had to be resolved without delay, which could be affected by additional problems over institutional matters. The decision as to which countries would join the single currency had to be taken in the first half of 1998. Delicate discussions were also imminent over the financial implications of enlargement, particularly reform of the common agricultural policy and of the structural funds.

### **The Agenda**

Only after the launch of the single currency in January 1999 and the completion of the Agenda 2000 negotiations in Berlin in March 1999 was there any movement even in agreeing the agenda for the new IGC.

Proposals for a broad agenda, including strong pressure from the European Parliament, having been repeatedly rejected, there are four main points under consideration. The Cologne European Council of June 1999 decided that the IGC should examine the size and composition of the Commission, the weighting of votes in the Council and the possible extension of qualified-majority voting (QMV) in the Council, as well as “other necessary amendments to the Treaties arising as regards the European institutions in connection with the above issues and in implementing the Treaty of Amsterdam”.

This was confirmed by the Helsinki European Council of 10-11 December 1999, although it was agreed that the Portuguese Presidency “may propose additional issues to be taken on the agenda of the Conference”. The European Council in

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Feira on 19-20 June 2000 duly agreed that the new provisions on closer cooperation should also be considered “while respecting the need for coherence and solidarity in an enlarged Union”.

The “other” institutional issues which could be covered at Nice include implementation of the ceiling of 700 Members of the European Parliament introduced by the Amsterdam Treaty, as well as the possible extension of co-decision (for some delegations as a necessary corollary of QMV); amendments concerning the competences and procedures of the Court of Justice and Court of First Instance; the numbers of members of the Economic and Social Committee and the Committee of the Regions; and a variety of other articles which different delegations consider “necessary”.

The two parallel processes taking place concerning a Charter of Fundamental Rights and the European Security and Defence Policy may also converge with the IGC if any treaty amendments are proposed.<sup>2</sup>

## The Arguments

### *The Size and Composition of the Commission*

If maintenance of the present system is discarded, there are two options.

The first is to have one national from each Member State. In favour of this it is argued that all countries would permanently have a visible link with the Commission, which would help boost popular identification with the institution. Also, smaller countries – which continue to believe that a strong and independent Commission is an essential guarantee of their interests in the face of the larger countries – would feel assured that their positions will be taken equally into account in defining policies and controlling implementation, and that the Commission does play an independent role. Against, it is stressed that a Commission of this nature would have greater problems of internal coordination, because of the greater division of responsibilities, and face difficulties and sensitivities over the distribution of portfolios. Some internal hierarchy would appear inevitable, but the smaller countries in September reacted strongly against proposals to increase the number of Vice-Presidents from two to perhaps six and strengthen their powers, suspecting that by one means or another these positions would be dominated by the larger countries. From another point of view, such a Commission would tend to be another intergovernmental assembly rather than an independent college, which would actually weaken its ability to act autonomously in defence of smaller countries' interests.

The second option is to “cap” the Commission at a figure lower than the number of Member States, perhaps at the present 20 Members. Proponents of this option argue that the Commission would thus be more efficient, which would boost its legitimacy. It would also be visibly de-nationalised, which would strengthen its credibility as an impartial European body. National equality could be assured if the system of rotation by which the Member States would nominate the Commissions were strictly “size-neutral”. Acceptance of such a system by some larger states, however, has seemed difficult. There have been clear signs that some would not be willing to renounce having one Commissioner on a permanent basis.

### *The Weighting of Votes*

The first question here is whether the share of votes<sup>3</sup> should be made more directly proportional to Member States' populations at all.

Those in favour imply that, at the present stage of institutional development of the Union, it is inappropriate

to argue simply that Parliament should represent the citizens while the Council represents the states. Even if this were not the case, moreover, there is no *a priori* reason to prefer the American model of equal representation of States to the German system of weighted bloc votes for *Länder* governments. Efficiency would not be served if decisions could be blocked by votes representing too small a minority of the overall population: in an EU of 27 this could drop to 10% if nothing is done.<sup>4</sup> Legitimacy requires that decisions should not be adopted by coalitions representing barely a simple majority of the total population: at present the minimum share of population which can be represented in a winning coalition has dropped to around 58%, and this figure should not, it is said, be lowered.

Those arguing against greater proportionality tend not only to cite the different representational functions of Council and Parliament; they argue also that the Community, as an exceptionally strong union between states of very different size and between very heterogeneous societies, must give an unusually high priority to the protection of minorities, rather than the rule of majorities. Some would add that it may be no bad thing for decision-making to be a bit more complicated if this would increase both consensus and effective implementation of what is adopted.<sup>5</sup>

The second question is how any changes should be made.

One option is a re-weighting of votes in favour of the larger countries. In its favour, this would raise the population share of a minimum winning coalition in a

way which is easy to manage and to understand. It is also argued that it would be the clearest means to “compensate” those States which lose their second Commissioner.<sup>6</sup> Against, it is pointed out that the stronger the re-weighting of votes towards direct proportionality, the more

likely it is that winning coalitions would not represent a majority of states; and that to accentuate the formal differentiation between states *qua* states would weaken solidarity. Also, unless some fairly artificial clusters were maintained, this would open up sensitive questions of differentiation between traditionally equal pairs of countries.

The second option is a dual majority. In this case, decisions would require both that a majority of votes should be cast in favour (either left at the current weighting or, in a more radical approach, reduced to one vote for each state) and that these votes represented a majority of the population (either a special majority of perhaps 60% or, in the more radical approach, a simple majority). Those in favour argue that this system would

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reflect more accurately the double legitimacy of the EU as a union of states and a union of peoples. It would be more likely to produce legitimacy of the system as a whole, as opposed to individual countries' assessments of their relative representation. Those opposed assert that it would be more difficult to manage and understand.

#### *Qualified-Majority Voting*

The perspective of enlargement has somewhat eased acceptance of extending QMV, since a unanimity requirement in a Union of 27 or more countries clearly threatens to paralyse decision-making. However, deep differences have remained. There was consensus by June that "a number of constitutional and quasi-constitutional issues intrinsically call for unanimity".<sup>7</sup> These included four categories: provisions expressly to be adopted by the Member States in accordance with their respective constitutional rules (e.g. treaty revision, new accessions etc.); "quasi-constitutional" provisions (e.g. number of Commissioners, Judges and Advocates-General; amendment of Commission proposals; committee procedure etc.); "provisions allowing derogations from normal Treaty rules" (e.g. measures constituting a step back in movement of capital or in transport); and "provisions in respect of which the rule of unanimity ensures consistency between internal and external decisions".

The Portuguese Presidency also proposed to the Feira European Council a list of 39 provisions to be examined for straightforward transition to QMV on the grounds that they had a close link to the internal market or with other areas already under QMV, and a series of provisions for which a move to QMV could only be considered for specific aspects.<sup>8</sup> However, countries differed strongly as to which areas should remain under unanimity. The most sensitive fields under discussion were taxation and social security.

#### *Closer Cooperation*

Several Member States urged changes in the provisions on closer cooperation, to facilitate the adoption of future "flexibility" arrangements by which deeper integration can be pursued in particular areas without the participation of all countries.

The proposals mainly aim at relaxing the "enabling clauses" introduced at Amsterdam – that is, the general conditions and procedures contained in the Treaty of European Union, and the specific provisions included for the European Community and in Police and Judicial Cooperation in Criminal Matters. First, the right of veto should be removed. At present the Council may decide

by qualified majority to authorise closer cooperation. However, if any Member State declares that it opposes the authorisation "for important and stated reasons of national policy", the Council may by qualified majority refer the proposal to the European Council for a unanimous decision. This "emergency brake", it is argued, should go. Second, the minimum number of States participating in a proposed arrangement should be reduced from the majority now stipulated, perhaps to one-third. Proposals have also been made regarding the Second Pillar.

The need for change has been questioned on three basic grounds. The provisions have not been used since the Treaty of Amsterdam came into force, so it is hard

to see how changes should be evaluated. The conditions should be kept strict to avoid future fragmentation, while the progressive extension of QMV should make it possible to advance in integration without closer cooperation arrangements. And the wrong message would be sent

to the applicant states.

Defenders of flexibility respond that the aim is precisely to avoid separate arrangements being reached outside the Treaty and that, in the words of the Report to Feira, "closer cooperation must not be seen as a factor of fragmentation or dilution but, on the contrary, as a factor of integration insofar as it sets more ambitious objectives to be shared by all members".<sup>9</sup> The negative result in the Danish referendum on entry into the single currency on 28 September will probably intensify pressure for greater flexibility.

#### **The Prospects**

As of September 2000, it seemed most probable that the principle of one Commissioner per Member State would be confirmed, due to the firm defence of this position by the smaller Member States. There could be new provisions regarding hierarchy within the Commission, as part of proposals to ensure coordination, despite the smaller countries' concerns. The issue remained open as to how far the five countries which lost their second Commissioner would have to be "compensated" in the Council. With regard to the weighting of votes, the re-weighting option appeared to have more support than a dual majority, but agreement on numbers remained elusive. It also seemed likely that there would be some extension of QMV, although it remained unclear how many cases would concern major policy areas in the end, rather than relatively minor questions of procedure. In the case of closer cooperation the outcome promised to be an end to the veto and possibly some easing of conditions regarding the number of Member States

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which had to be party to proposed flexibility arrangements. Other issues would be included and could prove important elements in reaching an overall deal at Nice.

Yet the difficulties have not seemed to lessen. Moreover, the possibility that a fresh IGC would be convoked after Nice – in order to tackle broader constitutional questions such as treaty reorganisation and clarification of competences – could reduce the pressure to find compromises.

### **The Concerns**

Many of the concerns expressed around Europe about the IGC have related to what is *not* on the agenda. Yet there are also various reasons to be concerned about what *is* being discussed and how it is being treated.

#### *Are These the Right Problems?*

The extension of qualified-majority voting and the issue of closer cooperation are clearly central and urgent issues for the future of European integration. There has been some questioning, however, as to whether the issues concerning representation in the institutions are the most important, or even the real, problems to be addressed?

Relative size is not a determining factor in day-to-day European decision-making. More or less stable coalitions are formed on a variety of issues – trade policy, agriculture, budget, environment – but not by size. Small countries simply do not gang up against big countries (or vice versa) on any substantive issue. The impact of different voting weights is far from clear. The Commission has carried out a study in which the alternative systems of re-weighting and dual majority were applied to Council legislative decisions in the three years before the Amsterdam Treaty, only to discover that not one of those decisions would have been altered.<sup>10</sup> Even the importance of voting itself can be exaggerated. Governments are outvoted, but much less than the formal provisions might suggest. Although unanimity is not the rule, the search for consensus is still the norm.

In addition, the fuss about majority voting and relative weighting comes at a time when decisions are increasingly taken by means other than the classic Community, or “Monnet”, method even within the Community system. New instruments of “open coordination”, such as guidelines, benchmarking and peer review, are increasingly being favoured in place of

legislation. New patterns of execution through independent bodies and non-hierarchical networks are common in policy management. Is not managing these new forms of European governance more important than retouching Monnet?

Moreover, it is often pointed out that the major advances in the European Union in the 1990s have come from intergovernmental initiatives (such as the UK-French proposals since 1998 in the field of security and defence), and that the European Council has become the motor of integration rather than the Commission, or the Parliament.

Finally, it is not clear either that the main problems of institutional reform are due to enlargement or that the main challenges of enlargement are to do with the institutions.

#### *Size Does Seem to Matter*

Yet the question of size does seem to have become an issue of principle, and even of emotion, affecting the broader debate over the future of European integration.

It is not a matter of questioning the importance of leadership by larger Member States. This has always been an essential element in the process of integration and will remain so in the future. And the “big-small” question has certainly not been absent in the past. Since

the 1950s the distribution of votes has always been based on explicit equations about the relative ability of different combinations of larger and smaller states to out-vote each other.<sup>11</sup> Until the 1980s the situation could be well summed-up as being that “no more than one big Member State could be out-voted, but that the big Member States could not by themselves out-vote the smaller Member States.”<sup>12</sup> However, following the 1966

Luxembourg compromise, majority voting did not in fact take place until the 1980s, which made the whole thing rather academic. When voting did become an accepted practice, national governments and parliaments quickly (albeit belatedly) began to focus on the implications of weighting and to find some problematic aspects.

For a while, however, it was still felt that the “big-small” question would largely be diluted by a system in which the Commission and the Court would protect the interests of the weak. The Union was only beginning to become involved in sensitive areas of politics and security. And the kind of massive enlargement agreed at

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Helsinki in December 1999 was still unthinkable. By 2000 things had come together in a way which qualitatively changed the terms of the debate.

First, this Intergovernmental Conference is taking place in the context, and somewhat in the spirit, of a “slide towards intergovernmentalism”. This is not the same as the trend towards new forms of governance mentioned above. It is a principled belief that major decisions should be reached by agreement between the Member States, whether this is preferred in a loose association or a tighter confederation of nation-states.

The current drift in this direction is partly a reflection of the low credibility of the Community institutions (although the Court has escaped the public eye in most countries), which hit bottom in 1999. The Commission has received most of the criticism, with the resignation of the Santer Commission providing a focal point for public attention. Yet the Parliament is also challenged. Average turnout at European elections has fallen in each of the five direct elections held since 1979, reaching a low of 49% in 1999. The Parliament showed some institutional muscle to the public in the confrontation with the Santer Commission, perhaps to some short-term advantage. Yet, because people do not appear to discriminate between the institutions and because the Commission remains the Parliament’s long-term ally in the Community process, Commission-bashing is not in the Parliament’s interests – and the Parliament could also do more to improve its own image.

Second, the larger Member States have simultaneously manifested a sort of “Lilliput complex” – a fear of being tied down by a host of small states. No sooner had the Helsinki European Council agreed in December 1999 that negotiations should be conducted with 12 applicant states and that Turkey was now recognised as a candidate country, than a fresh burst of political anxiety was heard among the Member States about the need to ensure the possibility of flexibility in the future.

The consequence has been an increasingly open interest among some larger states in a more intergovernmental kind of Union in which they would be in control. The idea of institutionalising a special role for the larger states is not new even within the Community. Five of the eight Advocates-General of the Court, for example, are reserved for the Big Five while the others are rotated. It is even clearer in the area of foreign policy and security, most notably with the

“Contact Group” for former Yugoslavia in which European participation was limited to France, Germany, Italy and the UK.

Yet the idea becomes worrying to many people concerned about the future solidarity and coherence of the Union when it is linked more systematically to intergovernmentalism (as in the UK proposals in the autumn of 2000 for a radical reform involving a much-strengthened European Council) or to both intergovernmentalism and flexibility. This could be noted in the reactions to the varying expressions of the idea heard so far during 2000. German Foreign Minister Joschka Fischer on 12 May thus proposed that an “avant-garde” group of states should conclude a new framework treaty. He explicitly argued that “Initially, enhanced

cooperation means nothing more than increased intergovernmentalization under pressure from the facts and the shortcomings of the ‘Monnet method’.” French President Jacques Chirac made his own offering on 27 June, proposing closer cooperation between a “pioneer group” of states around the Franco-German tandem, which would have its own small secretariat, apart from the Community institutions.

**The European Union will remain a union of states as well as of peoples, in which intergovernmental bargaining must be diluted and checked by strong European institutions, and minority protection must take precedence over simple majority rule.**

These ideas have, not surprisingly, provoked fears of a de facto *directoire* of the larger Member States, in particular of Germany, France and the United Kingdom – a sort of new Concert of Europe. And all of this has coincided with the sanctions on Austria, which were widely seen (independently of feelings about the Freedom Party) as the Member States pushing a small country around.

In this context it is not hard to see why there is unease about the insistence by larger Member States on having a strong re-weighting of votes in their favour in the Council in addition to the proportional representation in the Parliament, while the Commission’s role is questioned.

**Conclusions**

Views as to what precisely should be done in the IGC depend crucially on what kind of European Union one wants (and/or believes is likely). Here differences are inevitable and, let it be emphasised, desirable. My own proposal and preference for the institutional points under consideration at the IGC would be a package deal consisting of the following basic elements:

- a Commission “capped” permanently at 20 Members

with a rotation system not defined according to size – not because of the supposed problem of finding work for more than 20 people but because the Commission would thus finally be denationalised, which is a vital element in the whole European construction;

- a “stand-still” in real terms on the weighting of votes in the Council, meaning that the current system should be “stretched” only so far as is needed to ensure that the minimum share of total population represented by a possible winning coalition under QMV should be around 60%, taking EU 27<sup>13</sup> as a reference population, and with the minimum possible extra differentiation being introduced in the visible relation between States (i.e. the degree to which the public will perceive non-equality);
- the establishment of QMV and co-decision as the basic rule for all legislative acts, but the retention of unanimity for all constitutional and “quasi-constitutional” provisions; and
- an increase in the proportionality of representation in the European Parliament in the context of implementing the 700-MEP ceiling.

This would be, in my view, the most appropriate solution for a European Union which will remain a union of states as well as of peoples, in which inter-governmental bargaining must be diluted and checked by strong European institutions, and minority protection must take precedence over simple majority rule.

At the same time, closer cooperation should be eased in order to ensure that it takes place within the Union structures.

The experience of the IGC so far has illustrated the continuing difficulties in overcoming the problem of size, which make it all the harder to reach agreement over the fundamental issues at stake.

The big countries’ apparent interest in simultaneously ending the smaller countries’ right to have a national permanently in the Commission (or at least “fixing” their own dominance in an internal hierarchy) and in having a major increase in their own relative weight in the Council, seems guaranteed to provoke deep opposition from the smaller countries.

It is partly a question of substance. There is a genuine and understandable fear in smaller countries of being dominated as states by an intergovernmental *directoire*, or absorbed as populations into a European polity in which they would be permanently marginalised.

It is also a problem of presentation. The governments of the big countries may feel obliged partly for domestic reasons to insist on “compensation” and “restoration” of their relative weight – particularly France, Germany and the United Kingdom, in all three of which less than 50% of the population now supports membership of the EU.<sup>14</sup> Yet the governments of the small countries have public opinions and concerned parliaments too. If the results of the IGC are all seen as concessions to the larger countries the governments may have great difficulty in selling them at home. As the Danish referendum of 28 September has again shown, people can say “No”.

It is vital not to give the peoples of Europe – both in the present Member States and, even more so, in the applicant countries – the feeling that relative size is the only thing that matters. At a time of low public support for European integration and of delicate feelings surrounding the “negotiations” with the applicants, it seems all the more essential to insist that the underlying principles of European (re-) unification are still less to do with relative power and much more to do with overall solidarity. The European Community was created to overcome the power-balancing systems of the past. A renewal of Community institutions is certainly needed. A return to Congress diplomacy is not.

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**NOTES**

<sup>1</sup> At present France, Germany, Italy and the UK each have 10 votes; Spain has 8; Belgium, Greece, Netherlands and Portugal 5; Austria and Sweden 4; Denmark, Finland and Ireland 3; and Luxembourg 2.

<sup>2</sup> See the articles by Laura Carrasco and Simon Duke respectively in this number.

<sup>3</sup> It is beyond the scope of this paper to address the relevance of voting power analyses which, in different ways, set out to demonstrate the undeniable point that real voting power, which derives mainly from the ability to shape the formation of winning coalitions, is not the same as relative voting share.

<sup>4</sup> The French Presidency’s first Note on the subject stresses with precision that the current minimum population share which could be represented by a blocking minority is 12.83%; and that this could fall to 10.50% in a Union of 27 if nothing is done and to 11.62% in a dual-majority system. One of the starting points, it argues, is that this percentage must on no account be allowed to fall.



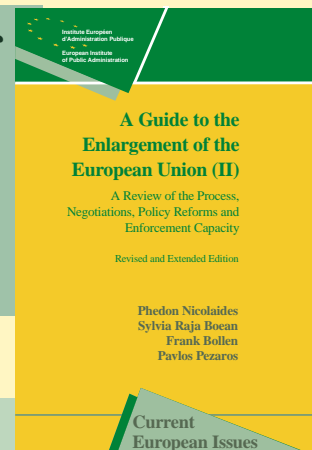
- (Presidency Note, *IGC 2000 – Weighting of Votes*, CONFER 4754/00. Brussels, 3 July 2000 p. 2)
- <sup>5</sup> As Madison observed when defending the equality of State representation in the US Senate: “as the larger States will always be able, by their power over the supplies, to defeat unreasonable exertions of this prerogative of the lesser States, and as the facility and excess of lawmaking seem to be the diseases to which our governments are most liable, it is not impossible that this part of the Constitution may be more convenient in practice than it appears to many in contemplation”. James Madison, Alexander Hamilton and John Jay, *The Federalist Papers*. (Harmondsworth: Penguin, 1788/1987) No. LXII p. 366.
- <sup>6</sup> The Presidency Note of 3 July 2000 stresses this distinction, emphasising that, in the second case “the correction must be limited to only those Member States referred to in the Protocol” – i.e. those which give up a second Commissioner.
- <sup>7</sup> See Annex 3.7 to the Portuguese Presidency’s Report to the Feira European Council, CONFER 4750/00, 14 June 2000.

- <sup>8</sup> In August, the French Presidency proposed a total list of 43 points, of which 35 could be considered for transition in their entirety. Note de la Présidence, *CIG 2000 – Extension du vote à la majorité qualifiée*. CONFER 4767/00 Bruxelles, le 29 août 2000.
- <sup>9</sup> Presidency’s Report, Feira, pp. 52-53.
- <sup>10</sup> Michel Petite, “The IGC and the European Commission” in Edward Best, Mark Gray and Alexander Stubb (eds.), *Rethinking the European Union. IGC 2000 and Beyond*. (Maastricht: EIPA, 2000) p.64.
- <sup>11</sup> See Edward Best, “The Debate over the Weighting of Votes” in Best et al. *Rethinking the European Union*.
- <sup>12</sup> John A. Usher, *EC Institutions and Legislation*. (London & New York: Longman: 1998) p.23.
- <sup>13</sup> EU 27 = the present 15 plus the 12 applicants recognised at Helsinki in December 1999.
- <sup>14</sup> According to *Eurobarometer 53* published on 24 July 2000, and based on surveys in April and May, the EU average of respondents saying that membership of the EU was a “good thing” was 49%. The figure for France was also 49%; for Germany 41%; and for the UK only 25%. □

## The Feira European Council and the Process of Enlargement of the European Union<sup>1</sup>

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### Abstract

Although one of the main issues which is being discussed by the EU and the candidate countries is the request of the latter for a date for their accession to the Union, this article argues that, in a rather paradoxical way, the process of enlargement would be facilitated if the EU and the candidates were less concerned about the date itself and more keen to focus their efforts on identifying arrangements that would ensure that the benefits of enlargement are spread widely so that all Member States support the accession of new members.

It is also argued in this article that there are other issues which can have a significant impact on the process of enlargement. The candidates should decide what they want fixed above all: the date of entry, the derogations they wish to have at the negotiations or the entry criteria? The analysis in this article suggests that they should aim for the latter because vague criteria have a much greater potential to stall the enlargement process on both sides. For its part, the EU should begin identifying the pre-commitments that can be made by the Member States now in order to smooth the process of enlargement later on. The Feira European Council, therefore, has served to reveal where the problem really lies in that process.

### The request to fix the date of the next enlargement

Unlike several of its recent predecessors, the Feira European Council of June 2000 appeared to be of little significance to the process of enlargement of the European Union because it did not resolve a key issue in that process. For several months before the Feira Council, the countries that had applied for membership of the Union asked EU leaders to fix a date for their accession to the EU. In the end, no such date was fixed at Feira. The response of the EU was terse. It was not possible to fix a date before the candidate countries

could demonstrate that they were fully prepared to assume all the obligations of membership.<sup>3</sup>

The purpose of this article is to explain why, in a rather paradoxical way, the process of enlargement would be facilitated if the EU and the candidates were less concerned about the date itself and more keen to focus their efforts on identifying arrangements that would ensure that the benefits of enlargement are spread so that all Member States support it. The preoccupation with the date of the next enlargement has diverted attention from other, potentially more serious problems.

In order to understand those problems, it is instructive to begin by examining why the candidates asked for a date.

There are apparently four reasons for that request. First, the candidates (mostly through statements made by their Ministers of Foreign Affairs and the Chief Negotiators) seem to believe that the EU is deliberately slowing down the process of the accession negotiations because it is assigning higher priority to other issues. It is indeed true that the EU is currently preoccupied with the intergovernmental conference for reform of the Union institutions and their decision-making procedures. But, of course, it was already well known that enlargement could not proceed before the IGC has been concluded.

Second, the negotiations have allegedly been conducted at a slower pace because, according to some of the candidates, the EU is getting cold on the idea of admitting new members in the near future. In its opinions on the membership applications and in other related documents published in July 1997 (i.e. the "Agenda 2000"), the Commission assumed that the first enlargement would take place in 2002. When the negotiations started in March 1998, the "working hypothesis" was that the first new members would accede in 2003. The Helsinki European Council in December 1999 concluded that the Union ought to be ready to make the necessary decisions to accept new members in 2002, which means that because of the delay introduced by the ratification process of the accession treaties, entry into the EU would not be feasible before 2004. Now, in the margins of the negotiating conferences, 2005 is mentioned as a more "realistic" date.

The date has been slipping farther into the future partly because, according to the EU, the candidates have not been making sufficient progress in tackling old problems and partly because they have been discovering new problems in the process of adopting and implementing EU rules. But the candidates also argue that no country has ever been 100% ready before acceding to the EU and that it is probably impossible to be 100% ready before being immersed fully into the EU system. Naturally, the candidates focus less on their weaknesses and more on the perceived slowness of the EU to move the negotiations forward.

Third, the success of the front-running candidates in persuading the EU at the Helsinki European Council in December 1999 to adopt the "principle of differentiation" has not proved to be the panacea they expected.

Differentiation means that those countries that are capable of moving faster in the negotiations will be allowed to do so and to complete them in less time than the rest. With the benefit of hindsight, what appeared in December to be a concession, now seems to have been a brilliant, even if unintentional, move by the EU. It diffused the complaints of the candidates that their progress was not rewarded while making them "work harder". The front runners are now under more pressure not to take any tough negotiating stance. In fact they

have realised that not only they have not moved faster, but even worse, their completion of the negotiations and their acceptance to close all the chapters without any requests for derogations does not guarantee faster entry into the EU. This is because no date for the next enlargement has been set.

The fourth reason is that public opinion appears to be turning against enlargement both within the EU and

the candidates themselves.<sup>4</sup> Even when discounting the rising anti-enlargement feeling within the EU (the "Haider" factor), the candidates are worried that for the past five or so years they have been "selling" painful reforms to their domestic audience on the promise that they are necessary for their entry into the "promised land" of the EU. That land, however, seems now more distant than ever. They need a date to keep public opinion on their side.

#### **Collective versus individual interests**

Assuming that the EU Member States have not hatched a secret plan to postpone enlargement (which is rather unlikely, despite the various conspiracy theories that appear regularly on the conference circuit), how valid are those four reasons outlined above? They probably do have some validity. But they cannot be the whole story. If the problem, for example, is the current IGC, why has the EU not stated that the date of the next enlargement will take place, say, a year or two after the ratification of the results of the IGC? It did something similar in 1995 when it promised Cyprus that it would launch accession negotiations six months after the completion of the 1996 IGC that led to the Treaty of Amsterdam. In addition, during the negotiations with Austria, Finland, Norway and Sweden, the EU did indeed fix a date before talks were concluded. If, on the other hand, the problem is the readiness of the candidates, why has the EU not specified that candidates could accede, for example, one year after they complete the negotiations and fulfil all criteria of membership?

### **Bargaining among the Member States**

**is hardly avoidable because any concessions that are made to the candidates or any derogations that are granted to them are likely to affect Member States in very different ways.**

Therefore, one is led to the conclusion that the reason why the EU has not yet fixed a date reflects other concerns and deeper problems. To unravel this conundrum let us begin with the assumption that enlargement will benefit the EU as a whole. Both politically and economically, this is not an unreasonable assumption. Enlargement will bring stability, consolidate democracy in most of the continent of Europe and will create the largest single market the world has ever known. This does not mean that there will be no costs. It only means that overall the benefits will outweigh the costs.

So why are the Member States not more enthusiastic about enlargement? Just because enlargement will take place in the future does not mean that Member States are myopic about the benefits it will bring. They simply know that the net benefits are not evenly distributed. The crux of the issue here is not, as has often been claimed in the popular press, that some Member States stand to lose more than others (or gain less than others). If those who would gain more (or less), also bore a proportionate larger (or smaller) share of the costs, there would be no problem. Rather, the issue is that the benefits are distributed differently from the costs across Member States.<sup>5</sup>

But even if we acknowledge that some of them stand to be net losers, this cannot be the end of the story. As long as the EU as a whole gains, then it is, at least in theory, possible for the winners to compensate the losers. The sum of the net national gains must exceed the sum of the net national costs. Member States have not yet agreed on a date for the next enlargement because they still have to negotiate the size of those compensatory "side payments" among themselves.

#### **Negotiations among Member States are unavoidable**

Both the total costs of enlargement and their distribution will partly be determined by the demands that the candidates make in the accession negotiations. So far, they have not made any, but so far they have been dealing with relatively easy chapters. The tough bargaining is expected to start in the autumn or early next year when the negotiations on more problematic issues such as agriculture and the Structural Funds start. The compromises reached, or not reached, on those issues will determine the outcome of the negotiations, which in turn will partly determine the internal bargaining in the EU that is most likely to ensue among the Member States. Bargaining among the Member States is hardly avoidable because any concessions that are made to the candidates or any derogations that are granted to them are likely to affect Member States in very different ways. If, for example, candidates are integrated immediately into the milk regime of the common agricultural policy the main impact will be felt mostly by northern dairy producers. If, by contrast, the candidates succeed in obtaining a larger share of the Structural Funds the main impact will be felt mostly by southern countries.

Even if the candidates declared that they would

accept fully all of the *acquis* and that they would not ask for a cent more than what has already been provisionally allocated to them, existing Member States would still have to negotiate among themselves. Their integration into the EU, without any special treatment, would still have an uneven impact on the Member States. A case in point is the exercise of the right of movement by the citizens of the east European candidates and the large immigration into Germany that is expected to ensue in the first years after enlargement.

It can be concluded, therefore, that part of the problem is that in addition to the negotiations between the EU and the candidates, Member States will also have to negotiate among themselves. In this respect, they can be part of the solution, but so far there has been no sign of any serious discussion taking place among the Member States. The candidates are not far off the mark when they claim that Member States are reluctant to deal with the tough issues. It is reported, for example, that on some issues, such as agriculture, opinions among the Member States are so divided that the Commission has left blank significant parts of the text of the draft common position it submitted to the Member States. On the other hand, the candidates have not helped matters by asking the EU to enter into "meaningful" negotiations the outcome of which is naturally unknown and, ironically, as a result, worsens the prospect of internal negotiations among the Member States.

#### **The need for pre-commitments and "unbundling"**

The realisation that there are unknowns in the enlargement process is neither new, nor unusual. After all this is the essence of any negotiation. What is more worrisome is that the EU, by not making any pre-commitment now, may lead itself into a dead end where the Member States will find it impossible to reach consensus. In situations where agreement depends on the distribution of future outcomes but where that distribution is unknown, a typical way out of the potential impasse is to make pre-commitments so as to even out the eventual distribution or to undertake to compensate those that turn out to be net losers. The EU has so far avoided making any meaningful pre-commitments and, as a result, it risks finding itself in a situation where it will be very difficult for Member States to reach satisfactory bargains (an exception is the "ring-fencing" of future expenditure that was agreed in March 1999 at the Berlin European Council that dealt with the financial perspective of the Union for the period 2000-06).

What kind of pre-commitments are possible at this stage? Naturally, it is not yet feasible to quantify with any precision the relative benefits and costs. What is feasible is to agree on a framework of principles such as that "all Member States will be expected to share the costs". One may even go as far as defining a "cohesion principle of enlargement".

Another way out of the potential impasse that may develop is to "unbundle" the various negotiating issues (by contrast, pre-commitments on compensation and

side-payments are like “bundling” or packaging different issues together so that everyone is guaranteed to gain something). What is there to unbundle? To answer this question it is necessary to digress briefly. One of the reasons why the candidates have suspected the EU of deliberately slowing down the enlargement process is that the EU has been subtly raising the entry barriers by defining stricter and more detailed criteria of performance and compliance by the candidates. It has also been constantly asking for additional information from the candidates about their internal administrative, political and economic reforms and appears to be finding new questions to ask and issues to clarify. To make matters worse, the messages and the answers the EU itself sends through its various services to the candidates are sometimes perceived by the latter as being inconsistent.<sup>6</sup>

It is not difficult to show that the various criteria of membership defined at successive European Councils have been raising the standards that the candidates are expected to meet. In the eyes of the candidates this amounts to shifting the goal posts and moving them farther away. For example, the often-quoted criteria defined at Copenhagen European Council (June 1993) required “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union; [and] the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union”. The Madrid European Council (December 1995) introduced the condition for appropriate “adjustment of administrative structures”. The Luxembourg European Council (December 1997) went further by specifying that the “incorporation of the *acquis* into legislation is necessary, but is not in itself sufficient; it will also be necessary to ensure that it is actually applied”. At the Helsinki European Council (December 1999) the candidates were told that “progress in the negotiations must go hand in hand with progress in incorporating the *acquis* into legislation and actually implementing and enforcing it”. Most recently, the Feira European Council (June 2000) declared that “in addition to finding solutions to the negotiating issues, progress in the negotiations depends on the incorporation by the candidate states of the *acquis* in their national legislation and especially on their capacity to effectively

implement and enforce it”. So the candidates were initially asked to accept the *acquis*, then apply it, then demonstrate progress in enforcing it and lastly (but probably not finally) implement it effectively before they even complete the negotiations.

#### **Ambiguous entry criteria**

On the one hand, one may argue that it is very natural for the EU to raise the standards of admission simply because it keeps discovering new structural weaknesses in the candidate countries. On the other hand, however, the candidates complain that the EU is unfair because it does not apply the same standards to its own members. Careful reading of the conclusions of the European Councils quoted above reveals that the standards have not been merely elaborated. They have also been made stricter, brought forward in time and have proliferated.

Irrespective of whether that constitutes unfair treatment or not, the issue remains that the EU has no developed criteria, benchmarks or process by which to judge the administrative capacity of its existing or prospective members. By not defining them more precisely and by largely innovating as it goes along, the EU makes the negotiations unnecessarily more

complicated, sends inconclusive (and confusing) messages to the candidates and risks holding itself hostage to Member States that could in the end decide to be obstructive on the pretext that the candidates have not conclusively proven that they have the capacity to apply the *acquis* effectively.

It is in the EU’s interest to avoid this eventuality. It can avoid it by de-linking the definition of clear and unambiguous criteria of

membership from the process of assessment of whether they have been fully satisfied. There is nothing intrinsically wrong with the EU’s wish to set high standards of entry. But the EU has gone beyond that. At the same time it has been assessing fulfilment of existing criteria by the candidates, it has been adding new and tougher ones.

It is also quite unclear how it expects candidates to prove that they have indeed built sufficient capacity to implement the *acquis*. In relation to the existing Member States, evaluation of the quality/capacity of implementation of Community law is often a legal question. Who will answer that question in relation to the candidates? The many vested interests on both sides of the accession negotiations cast serious doubt on whether

**The core of the problem is that the vagueness of the criterion about the implementation of the *acquis* can be exploited by any member state that wants to obstruct enlargement, even when it would be in the collective EU interest to admit new members.**



the impartiality that is indispensable in legal processes exists at all.

To repeat, the core of the problem is that the vagueness of the criterion about the implementation of the *acquis* can be exploited by any member state that wants to obstruct enlargement, even when it would be in the collective EU interest to admit new members.

Moreover, even if the candidates will in the end be compelled to commit large amounts of human and financial resources to bolster their administrative capacity in visible ways that will satisfy the EU, there can be no guarantee that they will maintain those resources after they enter the EU. One also wonders how the new members will behave towards the old members after the former gain entry into the EU. Will they try to extract some kind of revenge or will they have concluded after the treatment they receive in the pre-accession period that they should behave as selfishly as possible. The point here is that the EU may lose out in the longer run by pushing the candidates too hard now.

The present negotiating positions of each side depend on their expectations about future outcomes. Given the fact that most of those outcomes are still unknown, it is disingenuous and probably futile for the candidates to ask the EU to fix the date for the next enlargement. More importantly, even if the candidates succeed in having a date fixed, something else will certainly become vague or indeterminate (because not everything can be fixed before the accession negotiations are over and before the Member States carry out their internal bargaining to determine side payments).

Taking into account the need to manage those uncertainties (i.e. minimise risk), one possible way of de-linking the date of accession from the assessment of whether the candidates have sufficient implementing capacity (or, administrative capacity) is to agree on the general principle of a transitional period for the adjustment of the administrative structures of the candidates. During the transitional period they would not be able to exercise those rights of membership that critically depend on the functioning of an effective administrative structure. Even though entry into the EU will be fairly assured, the benefits that come with it will not be forthcoming unless EU rules can be applied and enforced.

Within this general framework of assured entry once the general criteria are satisfied, the purpose of the negotiations would be, *inter alia*, to define the sectors or areas to be subject to that special but transitional regime. In this way, the candidates will obtain political equality and the political benefits of membership (they will be assured of a place around the table so that their voice will be heard) without being able to exercise all the rights of membership until their administrative structures are truly capable of implementing EU rules effectively.

The economic “cold douche” of EU membership has been much discussed. Perhaps it is time to discuss the “administrative shock” of membership, whereby the administrations of the candidates are brought up to scratch by their immersion in the vast network of committees and working groups of the EU. Now they are expected to become “European” while being outside that network. One wonders how efficient this approach is.

### **Conclusion: prioritising problems**

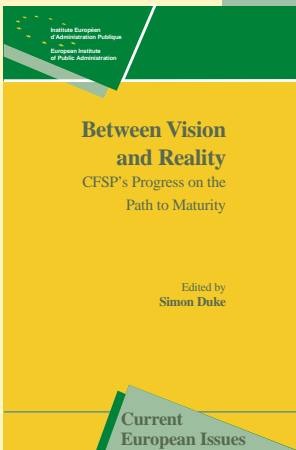
The fact that the EU and the candidate countries cannot avoid all unknowns of the accession negotiations and the enlargement does not mean that there is nothing for the EU or candidate countries to do at the present time. On their part, the candidates should decide what they want fixed above all: the date of entry, the derogations they wish to have at the negotiations or the entry criteria? On the basis of the analysis above, it seems that they should aim for the latter because vague criteria have a much greater potential to stall the enlargement process on both sides. For its part, the EU should begin identifying the pre-commitments that can be made now to smooth the process of enlargement later on. The Feira European Council, therefore, has served to reveal where the problem really lies in that process.

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### **NOTES**

- <sup>1</sup> I would like to acknowledge the helpful comments I have received from Edward Best, Rita Beuter and Tom Casier. The responsibility for the contents of the paper rests solely with the author.
- <sup>2</sup> Professor and Head of the Unit on EC Policies and the Internal Market at the European Institute of Public Administration. The views expressed in this paper are purely personal.
- <sup>3</sup> The sources of information used in this article are all in the public domain. They can be found on two web sites: (a) the web site of the Commission Director-General for Enlargement: “europa.eu.int/comm/enlargement” and (b) the website of the daily information service “euractiv.com”. Links to press articles and press-releases on the views of the candidate countries can be found in the latter site.
- <sup>4</sup> See the regular public opinion surveys published on the web site of the Commission Directorate-General for Enlargement.
- <sup>5</sup> We can add another layer of complexity by examining how benefits and costs are distributed within, rather than across, Member States. A member state may oppose enlargement, even in the case that as a whole gains from it, when its overall stance is determined by the lobbying pressure of those groups that stand to lose out.
- <sup>6</sup> Comments made personally to the author by officials from several candidate countries. □





# From Feira to Nice: more *bonnes paroles*?

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## Abstract

The conclusion of the Portuguese Presidency at Feira represents the latest stage in a process set into motion eighteen months earlier. The implications of the Feira conclusions for the Intergovernmental Conference (IGC) fall more into the maximalist camp (meaning that there is a need for significant treaty revision) given the ambitious deadline of the 'Headline Goals'. It is argued that the Amsterdam treaty revisions did not provide for sufficient flexibility in the security and defence areas and it is therefore imperative that treaty revision be addressed, even in the recesses of the 'parallel' IGC meeting on CFSP. Importantly, this effort must also be supported by the commitment of the necessary resources at the Capabilities Commitment Conference in November. Failure to do so risks ESDP becoming no more than *bonnes paroles*.

This short article attempts two tasks. In the first place it attempts a critical overview of the Portuguese Presidency Conclusions presented at Santa Maria da Feira (Feira hereafter) on 19-20 June in so far as the Common European Security and Defence Policy (ESDP) is concerned. Second, the Nice summit looms which marks the conclusion of the Intergovernmental Conference. Although CFSP issues are addressed in a series of parallel meetings to the IGC proper, treaty revisions may be required to support the aims of the Portuguese and current French Presidency if ESDP is to become more than *bonnes paroles*. The main aim of the IGC, which has been apparent since the European Council's Cologne summit, is to prepare the EU institutions for enlargement and, as such, relatively few changes if any can be anticipated to Title V of the Treaty on European Union (TEU) or related areas. While the main focus of the IGC is understandable, the ambitious goals of ESDP, which include the 'Headline Goals' that are supposed to be implemented by 2003, means that any modifications to the CFSP aspects of the TEU really have to be made now rather than held-over to the next IGC. In particular, the momentum that has been built up in the ESDP area may well necessitate treaty changes that could have a significant bearing for the EU as a whole. It is then a pity that the CFSP discussions are confined to a series of parallel discussions to the IGC-proper since this serves to denigrate an aspect of the EU's work that deserves more transparency.

## An Overview and Critique of Feira

The Portuguese Presidency conclusions at Feira give room for both optimism regarding ESDP but also concern. The fact that the Presidency conclusions devoted a considerable amount of space, including one entire appendix, to ESDP testifies to its importance in terms of furthering the ability of the EU 'to assert its identity on the international scene', in the words of the Treaty on European Union.

The task of the Portuguese Presidency in so far as ESDP was concerned was to steer forward the agenda set into motion at St. Malo and, in the case of the non-military aspects of crisis management, at the Amsterdam IGC.<sup>1</sup>

It was in this latter area

that most progress was made with the establishment of a Committee for civilian aspects of crisis management in May 2000 as well as proposals for a Rapid Reaction Facility and fund. As a counterpart to Helsinki's military 'Headline Goals', it was also agreed that the EU Member States should be able to provide up to 5,000 police officers for international missions across the range of conflict prevention and crisis management operations by 2003. The military aspects of crisis management saw some progress under the Portuguese Presidency but the central issue remains whether the EU Member States will actually devote the resources necessary to achieve the 'Headline Goals'. Whether the goals will be so much hot air or the beginning of a genuine conflict management capability will become evident at the Capabilities Commitment Conference to be held in Brussels on 20-

**Any modifications to the CFSP aspects of the TEU really have to be made now rather than held-over to the next IGC.**

21 November.<sup>2</sup>

The issue of how to avoid the 'discrimination' aspects of Madeleine Albright's '3 D's' (the others being duplication and decoupling) assumed much attention at Feira. A variety of interim and permanent modalities for dialogue, consultation and cooperation were provided for by the Portuguese Presidency at EU+6 format (EU plus the six non-EU European NATO members)<sup>3</sup> or EU+15 (as before, plus candidates for EU accession). It is not entirely clear how any meaningful consultation or cooperation will respect the decision-making autonomy of the EU and its single institutional framework. Nor is it apparent that the non-EU countries will appreciate being lumped together into a 'single, inclusive structure'.

Strains may also become apparent between NATO and the EU since it was made apparent at Feira that, 'Upon a decision by the Council to launch an operation, the non-EU NATO members will participate if they so wish, in the event of an operation requiring recourse to NATO assets and capabilities'. In the event that NATO assets are not used they will, 'on a decision by the Council,' be invited to take part. The Council position seems to assume that there is more pre-delegated authority to use key NATO assets than may in fact be the case and it could also be construed by NATO as an attempt to force the release of the required assets under political duress. Furthermore, it is far from apparent that the EU and NATO are yet able to deal with each other 'on an equal footing' as the Portuguese Presidency maintains in its 'Principles for Consultation' between the organisations.

EU-NATO relations still require much attention and it is questionable whether the French Presidency will be able to make much progress on this when their own *rapprochement* with NATO is stalled. One of the more controversial aspects of making a reality of the ESDP will be the introduction of what could be termed a security culture into the predominantly civil structures of the Union. NATO as well as individual EU Member States are right to be concerned about the notoriously leak prone EU. Symptomatic of this problem was the decision by the High Representative for CFSP to introduce a tough new code on the protection of classified information applicable to the General Secretariat of the Council, which may include not only new internal practices but physical structures to enhance security, prompted allegations that a 'security state' and an 'end to EU openness' were in the offing.<sup>4</sup> Detractors were quick to point out that the new rules would undermine Article 255 of the Treaty on European Communities,

which guarantees public access to EU documents, as well as Article 28 of the Treaty on European Union which explicitly applies Article 255 to the Common Foreign and Security Policy (CFSP). The applicability of Article 255 to the CFSP will presumably be addressed as part of the possible treaty revisions to Title V of the Treaty on European Union. This aside, the new code illustrates the sensitivity of introducing the necessary practices for handling materials at a level where NATO members will feel comfortable with sharing information which, in turn, is an essential aspect of any enhanced EU-NATO relations. Ten EU Member States agreed to the new restrictions (the Netherlands, Finland and Sweden voted against).<sup>5</sup>

Aside from this, the French Presidency in the lead up to the Nice summit promises to be of considerable interest for two further reasons. First, the EU's concentration on its relations with NATO under the Portuguese Presidency was, presumably, based on the premise that the WEU has 'completed its purpose'. Indications

from June 2000 suggest that the European Security and Defence Assembly (the revamped WEU Parliamentary Assembly) is not going to disappear. Moreover, there may be some good arguments for retaining the WEU based on the predictability of the divisive nature of the debates that would ensue if Article 17 of the TEU were subject to substantial amendment, which would occur if the WEU ceased to exist.

Second, it is far from clear that France and Britain (as well as others) understand the same thing by the search for 'the capacity for autonomous action' mentioned at St. Malo. The task of continuing the dialogue with NATO will make it difficult for the French administration not to be clearer about what they understand by 'autonomy' – and, hence, for others as well.

In conclusion, if the 'Headline Goals' are to be attained by 2003, the results of the Portuguese Presidency have to be developed in concrete and not merely rhetorical ways. The Capabilities Commitment Conference will provide perhaps the most important litmus test about whether the EU Member States are willing to match vision with reality. If they do not, ESDP will be so many *bonnes paroles*.

### **The IGC and Nice**

The parallel ESDP discussions for the IGC reflect two sets of position that, for the sake of simplicity, we shall call the minimalist and maximalist positions. The former argue that Title V of the Treaty on European Union (TEU) requires little or no alteration while the latter

## **The Capabilities Commitment**

**Conference will provide perhaps the most important litmus test about whether the EU Member States are willing to match vision with reality.**

suggest that the TEU may require major alteration. Both will be examined in turn.

The minimalists base their argument on the inherent flexibility of Title V of the TEU and the associated articles relevant to the CFSP. Flexibility was deliberately built into the Amsterdam Treaty and especially in the second pillar where often competing views called for general, if not vague, language. Thus, the in-built flexibility would, for the minimalists, cover most if not all of the structural changes and developments discussed above and below.

It could therefore be argued that the institutional modifications to the second pillar decision-making structures (the Political and Security Committee, the Military Committee and the Military Staff) take their legal character from Article 25 of the TEU. Conflict prevention, which is not officially a 'Petersberg task' and does not therefore explicitly appear in Article 11, could nevertheless be implicit (since CFSP covers 'all questions relating to the security of the Union').<sup>6</sup> The duties of the High Representative need, to some, further definition. To those who do not agree with this position, they are already outlined in the treaty as it stands. Similarly, closer relations with other security organisations (such as NATO) may not call for treaty revision since there is sufficient latitude in the existing wording to allow for enhanced links.

The WEU poses the largest challenge to the minimalist position since if it disappears altogether Article 17 of the TEU would require extensive (and controversial) revision. If, as the Cologne Presidency conclusions observed, the WEU will have 'completed its purpose' after the Petersberg-relevant tasks are transferred to the EU, the WEU will no longer be 'an integral part of the development of the Union', it will not provide 'access to an operational capability', nor will it 'support

the Union in framing the defence aspects' of the CFSP. The possibility of revising Article 17 to compensate for the WEU's disappearance would necessitate a major debate focusing on who frames the defence aspects of

the ESDP and who provides access to an operational capability – issues that are of special sensitivity for the EU's neutral and non-aligned members as well as a number of non-EU NATO members. Even if the WEU continues to survive, minus its Petersberg components, the issue of whether those components that have been transferred need treaty status still needs addressing.

By way of contrast, the maximalist position relies not so much on legal niceties but more upon the political need to explain how the rapid development of ESDP should be reflected in a

modified TEU. Unlike the minimalists, the maximalist stance would agree that although flexibility or enhanced cooperation was introduced as a result of the Amsterdam modifications to the TEU, this did not extend to security and defence policy. Primarily for political reasons it might therefore be desirable to explain, for instance, how the existing treaty-based structures co-exist with the new interim structures, as well as any transferred WEU structures, and to elaborate upon their mandates. The Political and Security Committee (COPS), Military Staff and Military Committee alongside the Satellite

Centre, the Institute for Security Studies and other transferred structures should therefore be incorporated into the treaty. The likelihood of confusion or even friction between the new interim components and, for example COREPER, has to be considered as well.

The question of when the interim structures become permanent remains open (al-

though there is already pressure to move them rapidly towards permanent status) and it might usefully be deliberated in the parallel CFSP talks whether there is

**The minimalists base their argument on the inherent flexibility of Title V of the TEU and the associated articles relevant to the CFSP. Flexibility was deliberately built into the Amsterdam Treaty and especially in the second pillar where often competing views called for general, if not vague, language.**

**The maximalist position relies not so much on legal niceties but more upon the political need to explain how the rapid development of ESDP should be reflected in a modified TEU.**

any sustainable logic in having a Political Committee as well as a *permanent* COPS. Given the infrequent meetings of the Political Committee and the high-level representation of COPS, the case for COPS assuming the role of the Political Committee would seem compelling. By extension, the question of who should be responsible for military-level cooperation (including defence industrial aspects) is also likely to surface. The use of informal or *ad hoc* meetings of the EU defence ministers hints at the possible utility of considering what formal arrangements might be made for the defence ministers to meet at the level of Council.

The maximalist position is strengthened if some components of the WEU, such as the Security and Defence Assembly, continue to exist and lay claim to some elements of the 'transferred' components (under the current Title V the WEU remains an 'integral part of the development of the Union'). Whilst addressing the structural aspects of CFSP, maximalists may also argue for further elaboration of the High Representative's duties, especially in light of the increasingly complicated (and occasionally clashing) EU representation in external relations. The mandate and status of the new interim structures, especially COPS, may also be relevant since a case could be made for specification that the High Representative should preside over the new structures. This would have the advantage of not only increasing consistency between the WEU (at least for the meanwhile) but also NATO since the High Representative is not only Secretary-General of the WEU but also responsible for liaison with NATO's Secretariat. Specification of the role of the High Representative (and, by default, the Presidency) may also avoid the obvious difficulties of consistency when a non-WEU and/or non-NATO EU member assumes the Presidency.

The rapid development of non-military crisis management in the second pillar, most notably at Feira, must not be at the cost of the role of the Commission. Closer coordination will be required between the Council, Commission and the Council Secretariat since all have a legitimate role in a variety of non-military aspects of crisis management. Although this may not necessitate treaty revision, it nevertheless underscores the need for the Council and Commission to take

seriously their treaty-based responsibility for consistency. The addition of new non-military and military crisis management tasks also increases the pressure on the Presidency Troika to work in a complementary and non-competitive manner.

The development of relations with NATO, as specified at Feira, might also call for treaty revision, especially in so far as the right of association of non-EUNATO members is concerned. Currently a number of non-EU NATO members have been granted non-treaty based rights with regard to crisis management. In particular the need to ensure that

ESDP is compatible with the security and defence policy established with the NATO framework may require some buttressing of the wording of Article 17 TEU and, more generally, Title V.

Finally, the maximalist position could also argue from a legal standpoint that revision is necessary since a number of articles in the TEU and TEC could be contradictory. For instance, Article 11 (2) TEU obliges Member States to support the Union's external and security policy 'actively and unreservedly in a spirit of loyalty and mutual solidarity' while Article 23 allows for an EU Member State to block a QMV vote for 'important and stated reasons of national policy' in the context of joint actions and common positions adopted on the basis of a common strategy (the latter being adopted unanimously). Generally, the stipulations of Article 23, especially the double veto, are cumbersome and in urgent need of review. The stipulations in Article 17 of the TEU

regarding the field of armaments may also be at variance with Article 296 TEC.

On a less specific level, the whole question of CFSP's 'democratic deficit' may also surface and, in particular, with reference to the European Parliament's marginal role. A case can clearly be made for more legitimacy, especially with regard to sensitive issues of security and defence, and this will presumably mean deepening the involvement of both the EP as well as national parliaments. This could make for an interesting showdown between the WEU's European Security and Defence Assembly and the EP.

As is often the case, the IGC will probably continue to uphold the flexibility of Title V of the TEU and amendments will probably tend more towards the

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minimalist position. What will be of profound interest will be the fate of the WEU since if it has indeed 'completed its purpose' it will mean a revision of Article 17 which is at the heart of not only CFSP but future relations with NATO. In the absence of the WEU the EU Member States would have some uncomfortable questions to ask such as: who is responsible for defence (a question of particular interest to the neutral and non-aligned EU Member States) and who provides the EU with 'access to an operational capability'? Possible solutions might include a new declaration attached to the TEU which incorporates Article V of the Modified Brussels Treaty but which would initially bind the ten full WEU member states (although the declaration could of course be left open for others to associate). Alternatively (and less likely) references to the WEU in Article 17 TEU and elsewhere could in most cases substitute 'ESDP' in place of the WEU. The second question will be answered prior to the conclusion of the IGC at the Capabilities Commitment Conference and this may have profound effects for not only the French Presidency conclusions but the future shape and form of ESDP.

### Conclusions

The most important outcome of the European Council's Feira summit for the future of ESDP is the provision for the Capabilities Commitment Conference to be convened in November. This is, to use the Americanism, where the rubber hits the road. A lacklustre outcome of the conference will challenge the credibility of not only the 'Headline Goals' but also ESDP and, more generally, CFSP. If the EU's ambition is to assert its role on the international scene, then both Bosnia and Kosovo have illustrated only too well that in addition to diplomatic intercession and economic leverage (both positive and negative), the Union has to be endowed with the ability to *credibly* threaten the use of military force and, if necessary, to use it. The parallel CFSP discussions to the IGC should bear this in mind.

Finally, it is not clear how the parallel discussions on CFSP will be merged into the final stages of the IGC. It is however clear that flexibility has its limits and political developments since 1998 demand treaty revisions to Title V and other select articles, even if legal quibbles suggest the need for minimal changes. The EU is on the brink of what could be one of the most profound changes in its history and, ironically, this is being

discussed in the recesses of a parallel process while the focus is on adapting existing EU institutions for the enlargement of the Union. The growing presence of khaki in the corridors of the EU institutions suggests not only that the EU is becoming something of a hybrid, a civilian power as well as a security actor, but that the practices and codes of the former must be adapted to allow for the latter.

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### NOTES

- <sup>1</sup> The Joint Declaration issued at the British-French Summit, St Malo, 4 December 1998, made a call for the Union to have 'the capacity for autonomous action, backed up by credible military forces, the means to decide to use them, and a readiness to do so, in order to respond to subsequent crises'. Subsequent bilateral or multilateral statements have built upon elements of the St. Malo declaration. For an overview of these and other developments with regard to ESDP see, S. Duke (ed.), *Between Vision and Reality: CFSP's Progress on the Path to Maturity*, (Maastricht: European Institute of Public Administration, 2000).
- <sup>2</sup> In spite of criticism of some of the non-EU NATO members as well as some Europe Agreement countries, the conference is to include only the EU15 although provision will be made after the conference for non-EU contributions.
- <sup>3</sup> Czech Republic, Hungary, Iceland, Norway, Poland and Turkey. This implicitly leaves open the question of what arrangements will be made for cooperation with the two North American NATO members.
- <sup>4</sup> Decision of the Secretary-General of the Council/High Representative for the Common Foreign and Security Policy, on measures for the protection of classified information applicable to the General Secretariat of the Council, 27 July 2000, 2000/C 239/01. For reactions see Statewatch, 'Solana Plans for the Security State and an End to EU Openness agreed', at <http://www.statewatch.org/jlu100/05solana.htm>.
- <sup>5</sup> The cabinet of the Netherlands government decided on 22 September to take the Council of the EU to the European Court of Justice over the decision to change the EU code on public access to documents. The cabinet observed, amongst other things, that the decision violated the right of public access to documents enshrined in Article 255 (TEC). The Legal Affairs Committee of the European Parliament also voted in favour of legal action against the Council on 13 September.
- <sup>6</sup> The WEU's 1992 Petersberg tasks were incorporated into the Treaty of Amsterdam following the Amsterdam IGC and they consist of 'humanitarian and rescue tasks, peace-keeping tasks and tasks of combat forces in crisis management, including peacemaking'. □



# Le projet de Charte des droits fondamentaux de l'Union européenne<sup>1</sup>

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\* An English version of this article can be found on EIPA's web site: <http://eipa.nl>

## Résumé

En juin 1999, le Conseil européen de Cologne décida qu'il était nécessaire, au stade actuel du développement de l'Union, d'établir une charte des droits fondamentaux auxquels les citoyens ont droit à l'intérieur de l'Union européenne. Le principal objectif était d'arriver à une plus grande transparence en rassemblant en un seul texte les droits existants qui sont le fondement même de la culture et du système politique européens.

Conformément aux lignes de conduite des Conseils européens de Cologne et de Tampere, une Convention composée de représentants des gouvernements et des parlements nationaux, ainsi que du Parlement européen et de la Commission, a travaillé d'arrache-pied pendant plus de neuf mois pour trouver un consensus sur le projet de charte. Le débat s'est concentré sur plusieurs questions, à savoir: 1) la composition de la Convention; 2) la portée de la charte; 3) le contenu spécifique de la charte, en particulier par rapport aux droits à y inclure, la portée de ces droits et la définition de leurs titulaires; 4) le rapport futur entre le système communautaire de protection des droits fondamentaux après la proclamation de la charte, et le système constitué par le Conseil de l'Europe autour de la Convention européenne des droits de l'homme; et 5) le statut de la charte. Aucun consensus ne se dégagait à Cologne sur la question de la nature contraignante de la charte ni sur celle de son inclusion éventuelle dans les Traités. La décision sur ce point particulier sera prise lors du Conseil européen de Nice en décembre 2000. Les discussions sur le statut de la charte touchent aussi à ses implications plus larges pour la constitutionnalisation de l'Union européenne.

Cet article se termine par quelques réflexions sur les conditions requises pour que la charte puisse répondre aux attentes qu'elle a suscitées et réaliser les objectifs initiaux du projet: rendre le système de protection des droits fondamentaux plus transparent et accroître la légitimité d'une Union européenne désireuse de montrer à ses citoyens qu'elle se préoccupe non seulement des marchés, mais aussi des droits fondamentaux des personnes qui vivent en son sein.

## Introduction

Les Chefs d'Etat et de Gouvernement ont décidé lors du Conseil européen de Cologne qu'il y avait une nécessité "au stade actuel du développement de l'Union, d'établir une charte des droits fondamentaux afin d'ancrer leur importance exceptionnelle et leur portée de manière visible pour les citoyens de l'Union"<sup>2</sup>. Le Conseil européen extraordinaire sur la justice et les affaires intérieures tenu à Tampere les 15 et 16 octobre 1999 a défini la composition et les méthodes de travail spécifiques d'une "enceinte" qui prendra par la suite le nom de "Convention" et à laquelle a été confiée la tâche de rédiger un texte contentant les droits fondamentaux qui doivent avoir force exécutoire au niveau de l'UE.

Au cours de ces neuf derniers mois, on a assisté à de nombreux débats tant à l'intérieur qu'à l'extérieur de la Convention sur la portée de la charte, son contenu, la nature contraignante dont elle sera dotée et son rapport avec les traités. Il faut dire qu'il n'a pas été simple de venir à bout des divergences de vues par rapport à une charte qui ne plaira à coup sûr pas à tout le monde. Mais en dépit des difficultés rencontrées, la Convention est parvenue à un accord sur le contenu de la charte lors de sa réunion des 25 et 26 septembre 2000 et elle a proclamé officiellement le texte le 2 octobre 2000. Ceci a permis au Praesidium de transmettre le projet de

Charte au Conseil européen en temps utile pour le sommet de Biarritz des 12 et 13 octobre. Il appartient donc à présent aux Chefs d'Etat et de Gouvernement de prendre une décision sur la charte et de proposer son adoption formelle au Conseil, à la Commission et au Parlement européen.

Cet article passe brièvement en revue le contexte qui a conduit au processus d'élaboration de la charte, tout en soulignant les principales questions qui ont été au centre des débats, et analyse certains aspects essentiels de ce projet de charte.

## La voie qui a mené à Cologne

Il existe effectivement un certain nombre de raisons pour envisager un renforcement du rôle des droits de l'homme dans les politiques de l'Union européenne. Tout d'abord, le système de protection des droits fondamentaux que l'on connaît actuellement n'est pas visible immédiatement pour les citoyens, dès lors qu'il s'appuie sur les décisions prises par la Cour de justice des Communautés européennes (CJCE) sur la base des principes généraux du droit communautaire, la CJCE puisant son inspiration dans un conglomérat de textes internationaux sur les droits fondamentaux et dans les traditions constitutionnelles des Etats membres. C'est pourquoi, il semble nécessaire de rendre plus transparent

le système de protection des droits fondamentaux aux yeux des citoyens. Ce manque de transparence et de prévisibilité est d'autant plus préoccupant que l'Union a vu ses compétences s'élargir progressivement à chaque révision des traités originaux. Dès lors, la probabilité que les droits des citoyens soient affectés par les actions des institutions communautaires ou des Etats membres lorsqu'ils appliquent ou mettent en oeuvre le droit communautaire semble beaucoup plus grande qu'à l'époque de la naissance du projet européen. Cela est d'autant plus vrai que certaines de ces nouvelles compétences portent sur des domaines très sensibles, comme la sécurité et la défense, la justice et les affaires intérieures. Qui plus est, la réalisation de l'UEM et la nécessité de trouver des réponses globales au problème du chômage et de la réorganisation des marchés du travail montrent aussi toute la nécessité d'avoir des droits sociaux fondamentaux au niveau de l'UE.

Deuxièmement, l'imminence d'un autre élargissement qui fera entrer dans l'Union des pays qui jusqu'à une époque encore récente étaient soumis à des régimes non-démocratiques vient renforcer les craintes par rapport aux droits de la personne humaine. Dans ce contexte, il semble prudent de se livrer avant tout nouvel élargissement à une identification explicite des droits fondamentaux, qui sont le fondement même de la culture et du système politique européens. Toutes ces craintes ont été récemment attisées par le résultat des élections en Autriche et par l'inclusion du Parti de la Liberté dans la coalition qui est à la tête de ce pays, déclenchant un débat sur la charte et, plus généralement, sur la nécessité d'une protection adéquate des droits fondamentaux au niveau de l'UE. Pour la première fois, l'UE s'est vue confrontée à la possibilité qu'un de ses membres ne partage pas les valeurs communes de démocratie et de respect des droits fondamentaux, et l'on a ressenti le besoin de prendre des mesures à la fois politiques et législatives témoignant de l'engagement univoque de l'UE vis-à-vis des droits de l'homme.

Et, troisièmement, dans les rapports que l'UE entretient avec les pays tiers en matière de droits de l'homme, on a pu observer un déséquilibre évident entre les exigences que l'UE pose à l'adhésion des pays candidats et des pays tiers dans le domaine de la protection des droits fondamentaux et le système de protection de ces mêmes droits que l'on trouve au sein même de la Communauté.

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**Le Conseil européen de Cologne**

C'est dans pareil contexte que s'est tenu le Sommet européen de Cologne. La présidence allemande était bien consciente du désenchantement des citoyens européens par rapport au projet européen, qui, de l'avis de ceux-ci, se préoccupe davantage des marchés que des personnes. Ils voyaient dans la rédaction d'une Charte des droits fondamentaux un message adressé aux citoyens européens sur l'importance des droits civils, sociaux, économiques, politiques et culturels pour le projet européen. En tant que manifestation des valeurs communes de l'Union, la charte "contribuerait à la fois à l'identité de l'Europe et à s'identifier avec l'Europe"<sup>3</sup>.

Grâce aux bons efforts de la Présidence allemande, les Chefs d'Etat et de Gouvernement réunis à Cologne les 3 et 4 juin 1999 ont estimé qu'il "était

nécessaire d'établir une charte des droits fondamentaux afin d'ancrer leur importance exceptionnelle et leur portée de manière visible pour les citoyens de l'Union." Une décision sur l'élaboration d'une Charte des droits fondamentaux de l'Union européenne fut annexée aux conclusions de la présidence, fournissant ainsi les lignes directrices pour le contenu de la charte et la composition de l'enceinte à laquelle serait confiée la mission de rédiger la charte et de la présenter avant le Conseil européen de Nice en décembre 2000. Le Conseil européen devrait alors proposer au PE et à la Commission européenne de proclamer solennellement, conjointement avec le Conseil, une Charte européenne des droits fondamentaux de l'Union européenne sur la base de ce projet de charte. Ensuite il faudra examiner si et, le cas échéant, la manière dont la charte pourrait être intégrée dans les traités.

Conformément aux lignes directrices indiquées dans les conclusions de la présidence à Cologne, le Conseil européen extraordinaire sur la justice et les affaires intérieures tenu à Tampere les 15 et 16 octobre 1999 a défini la composition et les méthodes de travail spécifiques d'une "enceinte" composée de représentants des niveaux national et communautaire dont la tâche consisterait à rédiger un texte contenant les droits fondamentaux qui auront force exécutoire au niveau de l'UE. Cette enceinte a tenu sa réunion constitutive à Bruxelles le 17 décembre 1999 et sa première véritable réunion le 13 janvier 2000 au cours de laquelle elle adopta le nom de "Convention".

Au cours des neuf derniers mois, la Convention s'est attelée à la rédaction de la charte, essayant de trouver un consensus sur les droits qu'il convient d'y intégrer. Un

premier projet de charte complet a été soumis au Praesidium de la Convention le 28 juillet dernier<sup>4</sup> et un texte de compromis fut présenté le 14 septembre dernier<sup>5</sup>, y compris certains amendements qui devaient faciliter l'adoption du texte par la Convention fin septembre. La Convention est finalement parvenue à un consensus sur le contenu de la charte le 26 septembre dernier, après avoir introduit certains amendements à la convention de compromis précédente<sup>6</sup>. Le projet de charte a été formellement adopté par la Convention le 2 octobre 2000 au sein de la Chambre du Parlement européen à Bruxelles. Un certain nombre de points relatifs aux travaux de la Convention et au contenu de l'actuel projet de charte ont pu être mis en exergue.

### **La Convention et sa composition**

La composition de l'enceinte chargée d'élaborer la charte était déjà définie dans la décision de Cologne. Cependant, la composition précise ainsi que les méthodes de travail de cette enceinte furent définies dans une annexe aux conclusions de la Présidence du Conseil européen de Tampere. A Tampere, il fut décidé que l'enceinte serait composée de 62 membres répartis comme suit:

- 15 représentants des Chefs d'Etat et de Gouvernement des Etats membres;
- Un représentant du Président de la Commission européenne;
- 16 membres du Parlement européen désignés par celui-ci; et
- 30 membres des parlements nationaux (deux de chaque, puisque plusieurs Etats membres ont un système bicaméral) que désigneront ces mêmes parlements nationaux.

Aux côtés des membres à part entière, il y a quatre observateurs: deux représentants de la Cour de justice des Communautés européennes désignés par la Cour, et deux représentants du Conseil de l'Europe, dont un représentant de la Cour européenne des droits de l'homme. Plusieurs autres organismes européens furent invités à exprimer leur avis sur la charte, notamment le Comité économique et social, le Comité des régions et le médiateur.

La composition de la Convention est innovatrice, dès lors que jamais auparavant un texte européen de cette nature n'a été rédigé par un organe composé à la fois de représentants du législatif et de l'exécutif, aussi bien de niveau national que de niveau européen. C'est ainsi que plusieurs ONG et scientifiques ont loué la méthode suivie pour la préparation de la charte, contrairement à

ce qu'ils considèrent comme la méthode obscure et non-démocratique des conférences intergouvernementales convoquées pour la réforme des traités<sup>7</sup>. Il convient de souligner à cet égard l'implication des parlements nationaux dans ce processus. Leur participation à l'élaboration de la charte accroît sensiblement la légitimité du document qui en résultera aux yeux d'une opinion publique "qui se montre bien des fois critique à l'égard des mécanismes complexes de décision au niveau européen"<sup>8</sup>.

### **Les méthodes de travail de la Convention**

Les méthodes de travail de la Convention ont été fixées dans les conclusions de Tampere et précisées par la Convention elle-même lors de sa première réunion. Suivant les conclusions de Tampere, la Convention a élu un président et trois vice-présidents pendant sa session constituante du 17 décembre 1999. La nomination à la présidence de la Convention de l'ancien Président allemand, Roman Herzog, donne une idée de l'importance politique accordée à ce processus.

Les conclusions de Tampere prévoyaient également la mise en place d'un comité de rédaction composé d'un président (Roman Herzog), de vice-présidents (Iñigo Méndez de Vigo, représentant le PE; Gunnar Jansson, représentant les parlements nationaux; et un représentant de la Présidence du Conseil) et du représentant de la Commission (Antonio Vitorino), assistés par le Secrétariat général du Conseil. Le comité de rédaction rédige les diverses catégories de droits et les soumet à la Convention qui examine les propositions sous la forme d'un groupe de travail. En fonction de l'issue des débats et des propositions présentées par les membres de la Convention, le comité de rédaction modifie sa proposition et finalise l'ébauche de chaque section de la Charte. Chaque section est ensuite présentée une nouvelle fois à la Convention réunie en session plénière.

A partir de toutes les discussions portant sur les propositions de compromis relatives aux articles et à la

structure de la charte, la présidence a élaboré le projet de charte préliminaire pour le 28 juillet. Les membres de la Convention ont alors fait part de leurs commentaires (mais pas de leurs amendements) au président de la Convention. Les 11 et 13 septembre, les trois groupes représentés au sein de la Convention (représentants du PE,

représentants des gouvernements nationaux et représentants des parlements nationaux) ont tenu des réunions parallèles afin de débattre du projet de charte. Les positions des trois collèges furent envoyées au Praesidium qui rédigea le 14 septembre 2000 un nouveau

## **L'un des principaux aspects des travaux de la Convention, dont on se félicite généralement, est la transparence accordée aux travaux de la Convention.**

projet de texte afin d'obtenir un consensus pour la réunion prévue pour les 25 et 26 septembre, au cours de laquelle les membres de la Convention ont adopté la charte. Enfin, le projet de charte fut proclamé officiellement par la Convention le 2 octobre 2000. Il importe de préciser ici que les décisions au sein de la Convention sont prises par consensus, puisque aucune décision n'a pu être prise sur ce que constitue le quorum ou la majorité requis pour prendre des décisions.

Au-delà des lignes directrices fixées à Tampere, la Convention prit plusieurs décisions sur le plan de la procédure lors de sa première réunion. Il fut alors décidé que la Convention travaillerait comme un groupe de travail à certaines occasions et comme véritable assemblée plénière à d'autres occasions, plutôt que d'instituer les groupes de travail prévus à Tampere. Cette méthode semblait plaire davantage aux membres de la Convention que la répartition des membres de la Convention en groupes de travail selon un ensemble de droits particuliers, puisque l'accord sur ce que devait être cet ensemble de droits était très controversé. Ce système permet aussi d'éviter des répétitions et des contradictions et assure la prise en compte de toutes les vues lors de la rédaction de chaque article de la charte, puisque tous les membres de la Convention peuvent participer aux réunions et exprimer leurs vues.

L'un des principaux aspects des travaux de la Convention, dont on se félicite généralement, est la transparence accordée aux travaux de la Convention. A la suite des conclusions de la présidence de Tampere, la Convention invita des groupes sociaux et des experts à exprimer leurs vues, et plusieurs organismes, experts et organisations en tous genres saisirent cette occasion pour faire part de leurs commentaires sur la charte. Une simple consultation du site Web<sup>9</sup> que le Conseil de l'Union européenne a consacré au processus d'élaboration de la Charte des droits fondamentaux permet de se faire une idée du nombre et de la diversité de ces commentaires. Tous les documents de travail de la Convention sont également disponibles sur Internet, sur ce même site. En outre, la Convention a procédé à l'audition de représentants de la société civile afin de tenir compte des vues et des intérêts des citoyens européens dans l'élaboration de la charte. En tout, plus de 70 associations de toutes sortes ont pris part à l'audition tenue le 26 avril 2000. Conformément aux conclusions de la présidence à Tampere, il y a eu également un échange de vues entre

la Convention et les pays candidats à l'adhésion à l'Union européenne.

### **Le contenu de la Charte**

Comme on l'a indiqué ci-avant, le Praesidium a proposé un texte complet du projet de charte le 28 juillet 2000 et une proposition de compromis reposant sur le projet et sur les commentaires soumis par les trois délégations fut présentée le 14 septembre 2000. Le projet définitif du 27 septembre 2000 contenait encore certaines modifications par rapport au texte du 14 septembre. En ce qui concerne le contenu de la charte, il convient de mentionner un certain nombre de points.

#### **1) Portée de la Charte**

La portée de la charte a fait l'objet de controverses et de débats continus dès lors que l'on s'est beaucoup inquiété du fait que la charte puisse conférer de nouveaux pouvoirs à l'UE et entraîner de nouvelles obligations pour les Etats membres.

Comme l'ont fait remarquer d'emblée les acteurs impliqués dans le processus d'élaboration de la charte, celle-ci entend s'appliquer aux institutions et organes de l'Union dans le cadre de leurs compétences, ainsi qu'aux activités des Etats membres lorsqu'ils appliquent ou mettent en oeuvre le droit communautaire. Dans cet ordre d'idées, il convient de remarquer que la jurisprudence de la Cour de justice des Communautés européennes est claire lorsqu'elle dit que l'exigence du res-

pect des droits fondamentaux lie également les Etats membres lorsqu'ils agissent dans le contexte du droit communautaire. Dans une affaire récente, la CJCE a décidé que "de plus, il y a lieu de rappeler que les exigences découlant de la protection des droits fondamentaux dans l'ordre juridique communautaire lient également les Etats membres lorsqu'ils mettent en oeuvre des réglementations communautaires"<sup>10</sup>.

Afin de clarifier cette question, le projet de charte qui a été présenté finalement contient une disposition stipulant que "les dispositions de la présente Charte s'adressent aux institutions et organes de l'Union dans le respect du principe de subsidiarité, ainsi qu'aux Etats membres uniquement lorsqu'ils mettent en oeuvre le droit de l'Union. En conséquence, ils respectent les droits, observent les principes et en promeuvent l'application, conformément à leurs compétences respectives". Le même article stipule que "La présente

## **La charte ne doit pas imposer aux Etats membres des obligations qui dépasseraient la portée de la législation européenne et elle ne saurait en aucun cas impliquer un transfert de compétences des Etats membres vers l'Union.**



Charte ne crée aucune compétence ni aucune tâche nouvelles pour la Communauté et pour l'Union et ne modifie pas les compétences et tâches définies par les Traités". Par voie de conséquence, la charte ne peut pas imposer aux Etats membres des obligations qui dépasseraient la portée de la législation européenne et elle ne saurait en aucun cas impliquer un transfert de compétences des Etats membres vers l'Union. A cet égard, la Commission a déclaré dans une communication faite en septembre que la charte ne nécessitera aucun amendement des constitutions des Etats membres<sup>11</sup>.

## 2) *Qui peut bénéficier des droits garantis par la charte?*

Il s'agit là d'une question épineuse eu égard à sa complexité juridique. Dès que la décision fut prise de rédiger une charte des droits fondamentaux de l'UE, plusieurs voix se sont fait entendre (y compris celle du Conseil de l'Europe) pour rappeler que les droits fondamentaux sont, par définition, universels et que personne ne peut être exclu de la protection pour des raisons liées à la nationalité. D'après eux, la charte doit s'appliquer à toute personne tombant sous la juridiction de l'Union et seules des raisons objectives et proportionnelles pourraient justifier l'applicabilité de certains droits uniquement aux citoyens de l'Union (et éventuellement aux personnes résidant légalement à l'intérieur de l'UE).

L'approche adoptée par la Convention sur ce point que laisse déjà deviner le projet de charte, était que les titulaires des droits seraient identifiés au cas par cas, utilisant des formules telles que "tout citoyen de l'Union" ou "toute personne" pour identifier les titulaires de chaque droit particulier. Il faut remarquer que la plupart des droits sont accordés à tout le monde alors que certains droits sont accordés uniquement à des groupes spécifiques, à savoir enfants, travailleurs, citoyens de l'Union, ressortissants des pays tiers, personnes âgées et personnes handicapées.

## 3) *La structure de la Charte*

Le projet de Charte regroupe les droits autour de six valeurs fondamentales: dignité, libertés, égalité, solidarité, citoyenneté, et justice. Le principal souci de la Convention était d'élaborer un texte concis qui soit lisible et compréhensible pour tout le monde, puisque l'objectif primordial de la charte est, selon les conclusions de la Présidence à Cologne, de rendre plus transparents aux yeux des citoyens les droits auxquels ils ont droit en vertu du droit communautaire.

Au cours des débats menés au sein de la Convention, on proposa de scinder le texte en deux parties, la première contiendrait une liste concise des droits et la deuxième donnerait un commentaire détaillé des implications de chaque droit. Cette partie définirait la portée matérielle des droits en s'en remettant principalement aux textes existants sur les droits fondamentaux et en tenant compte de la jurisprudence de la CJCE ainsi que des traditions constitutionnelles des Etats membres. Les débats de la Convention et le

texte complet de la charte proposé par le Praesidium en juillet 2000 ont montré que la Convention a opté pour la première option; il s'agit donc d'un texte concis énumérant les droits auxquels les citoyens ont droit au sein de l'UE. Toutefois, le 31 juillet 2000, les membres de la Convention reçurent un rapport contenant des explications sur les stipulations de la charte<sup>12</sup>. Ce rapport, rédigé par le Secrétariat de la Convention sur requête du Praesidium et selon les instructions de celui-ci, stipule les textes juridiques et la jurisprudence qui servent de base à la formulation de chaque article. Certains membres de la délégation du PE au sein de la Convention ont émis des critiques sur ce point, car ils voyaient dans la "déclaration explicative" une partie B qui, si elle était ajoutée à la charte, limiterait la portée des droits contenus dans le projet de charte. Roman Herzog, président de la Convention, précisa à la mi-septembre que la "déclaration explicative" ne sera pas destinée à faire partie de la charte et qu'il faut la voir simplement comme étant une déclaration explicative du Praesidium. Ainsi, la partie explicative n'aura aucun statut officiel, mais sera certainement utile pour une interprétation ultérieure de la charte.

## 4) *Droits à inclure dans la charte*

Les conclusions de Cologne indiquaient qu'il fallait inclure dans la charte trois types de droits. Celle-ci devait contenir "les droits et les libertés fondamentaux ainsi que les droits de procédure tels qu'ils sont garantis par la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales, et tels qu'ils résultent des traditions constitutionnelles communes aux Etats membres" (droits civils et politiques), "les droits fondamentaux réservés aux citoyens de l'Union (droits des citoyens) et il faudra par ailleurs prendre en considération "les droits économiques et sociaux tels qu'énoncés dans la Charte sociale européenne et dans la Charte communautaire des droits sociaux fondamentaux des travailleurs" (droits économiques et sociaux).

La répartition du contenu de la charte en trois catégories de droits a été source de controverse dès le début. Tout d'abord, la ligne de démarcation entre certains de ces droits est assez floue, surtout en ce qui concerne les droits des citoyens. Et deuxièmement, d'aucuns ont souligné le caractère indivisible des droits civils et sociaux, et ont fait remarquer que la séparation entre ceux-ci est due essentiellement à des raisons historiques. Une première conséquence de ce débat fut la décision de la Convention de ne pas répartir ses membres en groupes de travail en fonction d'une catégorie de droits particulière, mais que la session plénière travaillerait comme un groupe de travail à certaines occasions et comme véritable plénière à d'autres. La deuxième conséquence en est que la charte a été structurée en fonction de divers paramètres, regroupant les droits autour de six valeurs fondamentales: dignité, libertés, égalité, solidarité, citoyenneté, et justice.

S'agissant des droits effectifs à inclure dans la charte, il fut décidé que celle-ci inclurait ce que l'on



appela les “droits existants” afin de “consolider” les droits déjà applicables au niveau de l’UE et de les rendre davantage visibles aux yeux des citoyens. Cela implique que la charte ne devait pas comporter de nouveaux droits ou mettre à jour les droits existants<sup>13</sup>. En dépit de cette position initiale, plusieurs “nouveaux droits” ont été ajoutés dans le projet de charte présenté par la Convention, comme par exemple le droit à une bonne administration, le droit à la protection des données à caractère personnel ou les droits en matière de bioéthique.

Le débat sur les droits à inclure et la formulation de ces droits s’est avéré long et ardu. Pour élaborer la charte, la Convention a pris pour base la Convention européenne des droits de l’homme (pour les droits civils et politiques) et la Charte sociale européenne ainsi que la Charte communautaire des droits sociaux fondamentaux des travailleurs (pour les droits sociaux). Toutefois, la Convention a aussi utilisé d’autres instruments comme étalon de mesure pour les droits à inclure dans la charte, tels que divers instruments internationaux sur les droits fondamentaux<sup>14</sup>, les traditions constitutionnelles des Etats membres<sup>15</sup>, la jurisprudence de la CJCE et les articles des traités eux-mêmes. A cet égard, il convient de signaler que le texte explicatif rédigé par le Secrétariat de la Convention indique clairement la source de chaque article.

Un consensus général s’est dégagé par rapport aux droits civils et politiques. Les principales dissensions portaient sur les dispositions relatives aux droits sociaux car, si les droits civils et politiques sont considérés comme des droits fondamentaux dans tous les Etats membres, cela n’est pas

toujours le cas lorsqu’il s’agit des droits sociaux. En outre, si certains droits sociaux peuvent être immédiatement exécutoires, d’autres droits sociaux sont simplement des “objectifs de politique fondamentaux” ou des “droits programmatiques” et nécessitent une intervention de l’Etat, normalement à travers l’affectation de ressources budgétaires, tandis que leur possibilité d’être appliqués est contestée et qu’il est très difficile de les invoquer face à un juge. Le projet présenté par le Praesidium en juillet 2000 reprenait les droits sociaux sous le chapitre consacré à la “solidarité”. Ces dispositions furent fortement critiquées par la plupart des ONG du secteur social et les syndicats, qui considéraient la charte comme étant une régression sur le terrain social, et comme un retour en arrière par rapport aux traités et aux conventions en ce qui concerne certains droits tels que le droit de grève ou le droit au logement. A la suite de ces critiques, certaines modifications ont été apportées au projet de compromis

présenté en septembre 2000 et au projet de charte définitif, renforçant les droits sociaux et économiques par l’introduction notamment d’une référence explicite au droit de grève.

##### **5) Portée des droits et niveau de protection de la charte: le rapport entre la Charte des droits fondamentaux de l’UE et la Convention européenne de sauvegarde des droits de l’homme et des libertés fondamentales.**

Le type de rapport que l’on peut établir entre ce texte et celui de la Convention européenne des droits de l’homme et des libertés fondamentales de 1950 représente l’un des points les plus actuels par rapport à l’élaboration d’une Charte des droits fondamentaux de l’UE. Dès le début, on s’est dit inquiet du fait que le résultat de ce processus puisse menacer le système de protection des droits de l’homme que le Conseil de l’Europe a mis plus de cinquante ans à ériger. En effet, la rédaction d’une Charte des droits fondamentaux de l’UE risque d’entraîner une situation dans laquelle il y aura deux types de droits en Europe, créant par là “deux catégories de citoyens jouissant de droits différents”, en même temps que des problèmes d’interprétation et de coordination qui pourraient être dus au fait que deux

Cours prendraient des décisions différentes sur la question des droits fondamentaux.

Le projet de charte contient une disposition stipulant que “dans la mesure où la présente Charte contient des droits correspondant à des droits garantis par la Convention européenne de sauvegarde des droits de l’homme et des

libertés fondamentales, leur sens et leur portée sont les mêmes que ceux que leur confère ladite convention. Cette disposition ne fait pas obstacle à ce que le droit de l’Union accorde une protection plus étendue”. Le mémorandum explicatif annexé à la charte stipule que lors de la détermination de la portée des droits qui découlent de la Convention européenne des droits de l’homme, cette portée est déterminée non seulement par le texte de la Convention, mais aussi par la jurisprudence de la Cour européenne des droits de l’homme. Il résulte de cette disposition que la CJCE doit suivre la jurisprudence de la Cour européenne des droits de l’homme lorsqu’elle interprète les dispositions de la charte qui sont “empruntées” à la Convention européenne des droits de l’homme, ce qui est déjà la pratique courante de la CJCE. Ceci devrait garantir une interprétation cohérente des dispositions qui sont communes aux deux textes. En outre, la disposition de la charte sur le niveau de protection qu’elle offre stipule

### **Si les droits civils et politiques sont considérés comme des droits fondamentaux dans tous les Etats membres, cela n’est pas toujours le cas lorsqu’il s’agit des droits sociaux.**

que le niveau de protection fourni par la charte ne peut en aucun cas être inférieur au niveau qui est garanti par la Convention européenne des droits de l'homme, ce qui implique que les dispositions permettant des restrictions ne peuvent pas être inférieures au niveau garanti dans cette convention.

D'autres problèmes restent à résoudre, tels que la relation et la coopération futures entre la CJCE et la Cour européenne des droits de l'homme. Il serait sage de mettre au point d'autres voies pour sauvegarder une protection cohérente des droits fondamentaux à travers l'Europe, comme un système de recours qui permettrait à la CJCE de soumettre des questions d'interprétation à la Cour européenne des droits de l'homme à condition que celles-ci tombent dans la sphère de compétence de cette dernière<sup>16</sup>.

D'aucuns ont réclamé l'adhésion de l'UE/CE à la Convention européenne des droits de l'homme, ce qui correspond à une ancienne revendication du Conseil de l'Europe, de la Commission et du PE. Selon eux, l'adhésion à cette convention assurerait une protection renforcée des droits des citoyens de l'UE dès lors qu'elle impliquerait la soumission de la CJCE à un système de surveillance externe dans le domaine des droits fondamentaux, à savoir celui de la Cour européenne des droits de l'homme. Contrairement à ceux qui pensent que ceci aurait des conséquences négatives, ces auteurs considèrent qu'en adhérant à la Convention européenne des droits de l'homme, l'UE/CE ne ferait que se mettre au diapason des Etats membres qui, bien que possédant leur propre catalogue de droits fondamentaux dans leurs constitutions nationales, ont aussi signé la Convention européenne des droits de l'homme et se sont soumis à un contrôle externe en matière de droits fondamentaux.

### **La nature contraignante ou non-contraignante de la charte et son intégration éventuelle dans les traités**

L'un des points les plus importants qui touche à tout le processus d'élaboration, et qui est en même temps aussi l'un des points les plus controversés, consiste à savoir si la charte doit avoir une nature contraignante et s'il faut l'inclure dans les traités, et si oui, sous quelle forme. Conformément aux conclusions de Cologne, la Convention doit présenter un projet de Charte au Conseil européen de Nice en décembre 2000 et ensuite "le Conseil européen proposera au Parlement européen et à la Commission de proclamer solennellement, conjointement avec le Conseil, une charte des droits fondamentaux de l'Union européenne sur la base dudit projet". Il faudra alors se demander s'il y a lieu ou non d'intégrer la charte dans les traités, et comment procéder. C'est pourquoi, la décision sur la nature contraignante

de la charte et son inclusion éventuelle dans les Traités n'incombe pas à la Convention, mais appartient aux seuls Chefs d'Etat et de Gouvernement.

Etant donné l'incertitude qui règne par rapport à la nature contraignante de la charte et à sa relation avec les Traités, les membres de la Convention ont appelé de leurs vœux une approche "responsable" par rapport au contenu, veillant à une "formulation adéquate" et à ce qu'elle soit cohérente par rapport aux Traités au cas où le texte serait finalement inclus dans les Traités. Cette

approche est la seule à laisser au Conseil européen le choix de l'incorporer dans les traités avec force de loi ou de lui donner la forme d'une simple déclaration. A cet égard, Antonio Vitorino, le représentant de la Commission européenne au

sein de la Convention, a souligné récemment que la charte a été rédigée en supposant qu'elle deviendra en fin de compte contraignante et sera intégrée dans les traités.

Les positions sur ces deux questions diffèrent radicalement parmi les Etats membres, parmi les Institutions et au sein même de la Convention. D'une part, certains soutiennent que la charte doit être un document politique de nature déclarative et voient la charte comme un message destiné aux citoyens et aux pays candidats à l'adhésion pour témoigner du respect de l'Union pour les droits de l'homme, tandis que la protection "effective" des droits fondamentaux des citoyens doit dépendre des constitutions nationales et des instruments internationaux contraignants en vigueur auxquels les Etats membres sont parties signataires, en particulier la Convention européenne des droits de l'homme. Plusieurs Etats membres partagent cette position, notamment le Danemark et le Royaume-Uni. Cette approche a été largement critiquée, surtout par les ONG qui estiment que si la charte devait devenir une simple déclaration dépourvue de valeurs concrètes, cela aurait des répercussions négatives sur l'opinion publique et pourrait faire croire aux pays candidats que la question des droits de l'homme est plus une question de bonnes intentions qu'une véritable volonté politique de défendre les droits des citoyens<sup>17</sup>.

En revanche, d'autres sont favorables à une charte entièrement contraignante. En général, les partisans de cette thèse sont aussi favorables à l'incorporation de la charte dans les Traités, que ce soit en tant que nouveau titre ou sous forme de protocole. L'intégration de la charte dans les Traités voudrait dire que celle-ci primerait les constitutions nationales. Remarquons ici que certains souhaitent voir l'élaboration de la charte comme faisant "partie intégrante" du "processus de constitutionnalisation" de l'Union. Plusieurs voix se sont élevées récemment pour réclamer que l'Union européenne se

dote d'une Constitution dont le coeur serait la Charte des droits fondamentaux. Le PE a soutenu dès le début cette vue et s'est battu pour faire ancrer dans les traités une charte légalement contraignante. A cet égard, le Parlement européen a donné son avis conforme en mars 2000 au résultat final du processus en fonction de toute une série de critères, y compris la nature contraignante de la charte et son incorporation dans le Traité sur l'UE<sup>18</sup>.

### **Conclusions: quelle charte pour quelle Union européenne?**

Comme on l'a déjà fait remarquer dans cet article, un certain nombre de raisons justifient d'envisager un renforcement de la protection des droits fondamentaux à l'intérieur de l'UE. Pour atteindre cet objectif, on pourrait notamment élaborer une Charte des droits fondamentaux de l'UE qui offrirait l'avantage de préciser une fois pour toutes les droits auxquels ont droit les citoyens de l'UE et de conférer une plus grande légitimité à l'UE aux yeux de ses citoyens. Visibilité et légitimité sont donc deux avantages que cette charte pourrait offrir et ils sont précisément aussi la principale raison invoquée par le Conseil européen de Cologne pour proposer l'adoption de la Charte de l'UE.

Toutefois, la simple existence de la charte ne conférera pas de légitimité à l'UE. La charte devrait montrer un net engagement de l'UE vis-à-vis de la défense des droits fondamentaux. Pour que cet objectif puisse être réalisé, il convient de réunir plusieurs conditions.

#### **1) Valeur ajoutée**

Selon Giampiero Alhadeff, Secrétaire général de SOLIDAR, "Un bon document qui réitère les droits mais qui ne les fait pas avancer ne plaira à personne et ne sera probablement pas accepté par la Convention, ni par aucune des trois institutions ou la société civile"<sup>19</sup>. Les réactions d'un grand nombre d'organisations de la société civile face aux premiers projets de charte ont été très négatives. Des associations telles que la Confédération européenne des syndicats (CES), le Forum permanent de la société civile, la Plate-forme des ONG européennes du secteur social, ou le Lobby européen des femmes ont refusé leur soutien au projet dans sa version de juillet 2000 en affirmant qu'il était régressif par rapport à d'autres instruments internationaux et aux constitutions des Etats membres. Les critiques à cet égard semblent s'être atténuées à la suite des dernières modifications qui ont été introduites dans le projet de charte.

Par ailleurs, le Groupe d'experts en matière de droits de l'homme a estimé dans son rapport 1999 qu'un texte énumérant explicitement les droits exécutoires au niveau de l'UE aurait déjà une valeur ajoutée par rapport à l'actuel système de références à d'autres textes et traditions constitutionnelles, qui est incompréhensible pour les individus. A cet égard, la Commission européenne souligne dans sa communication du 13

septembre 2000<sup>20</sup> la valeur ajoutée offerte par la charte, qui donne aux citoyens une sécurité juridique et à l'Union une déclaration univoque des droits de l'homme qu'elle doit respecter dans ses politiques internes et externes.

#### **2) Nature contraignante par opposition à une déclaration politique, et relation de la charte avec les Traités**

Comme on l'a déjà signalé, la nature contraignante de la charte reste une question à résoudre à ce stade et elle ne le sera probablement qu'à Nice. S'agissant de l'intégration de la charte dans les traités, il est peu probable que la décision soit prise à Nice et elle sera plus que probablement reportée à une date ultérieure, éventuellement dans le contexte des discussions sur la constitutionnalisation des traités<sup>21</sup>. Une charte qui est simplement une déclaration politique et qui ne possède pas une nature contraignante, ou qui n'est pas incluse dans les traités pourrait susciter de faux espoirs au sein du public et aurait un effet opposé à celui recherché au début du processus, à savoir accroître la légitimité de l'UE aux yeux des citoyens en plaçant "la personne humaine" au coeur de la construction européenne.

Toutefois, dans sa communication du 13 septembre 2000, la Commission souligne avec insistance que la charte soutiendra la protection des droits des citoyens indépendamment de sa nature contraignante, dès lors que même une simple déclaration serait une source d'inspiration pour la CJCE et une contrainte pour les actes des Institutions communautaires.

#### **3) Système de recours**

Pour que la charte puisse protéger effectivement les droits fondamentaux, il faudrait non seulement que son contenu ait un caractère progressiste et contraignant, mais aussi que l'on crée des mécanismes d'exécution permettant aux citoyens de se défendre contre des violations de leurs droits fondamentaux. Une protection efficace des droits fondamentaux en tant que règle générale présuppose une protection judiciaire des droits ayant force exécutoire ainsi que la création du cadre nécessaire pour la mise en oeuvre des droits programmés. Le projet actuel, tel qu'il est interprété par la "déclaration explicative" du Praesidium, n'entend pas modifier le système de recours prévu par les traités, "et en particulier les règles sur la recevabilité". L'accès que les citoyens ont actuellement à la CJCE est très limité, car ils ne peuvent saisir la CJCE que s'ils sont concernés directement et individuellement. Pour rendre la charte effective, il faudrait élargir les possibilités de recours des citoyens en cas de violation de leurs droits par les institutions<sup>22</sup>.

#### **4) Création d'une politique des droits de l'homme**

Selon J.H.H. Weiler, le véritable problème de la Communauté est "l'absence d'une politique des droits de l'homme". Selon lui, un amendement du traité faisant de la protection active des droits de l'homme dans la

sphère d'application du droit communautaire une des politiques de la Communauté, serait plus efficace que tout autre texte énumérant des droits fondamentaux. Le groupe d'experts en matière de droits de l'homme s'est rallié partiellement à cette vue et a souligné dans son rapport de 1999 que l'attention doit aller non seulement à la reconnaissance explicite des droits fondamentaux, mais aussi à "une protection renforcée des droits grâce à des politiques et des changements organisationnels connexes".

Il s'agira de tenir compte de tous ces points au moment de mesurer le contenu et l'importance de la charte de l'UE. En attendant l'adoption formelle de la charte et la décision finale sur son statut juridique, il importe d'informer les citoyens des différents aspects positifs de la charte. Autrement on court le risque d'un accueil négatif du texte de la part des citoyens et de voir la charte devenir, selon les termes de J.H.H. Weiler "un symbole de l'impuissance européenne et le refus de prendre les droits au sérieux"<sup>23</sup>.

## NOTES

- <sup>1</sup> Le Conseil européen de Biarritz s'est tenu alors que cet article était en cours d'édition. Lors de ce Sommet, les Chefs d'État et de Gouvernement ont approuvé à l'unanimité le contenu de la Charte, et une fois formellement adopté par la Commission européenne et le Parlement européen, le texte sera solennellement proclamé au Conseil européen de Nice les 6 et 7 décembre 2000. Le Sommet ne s'est pas prononcé sur le statut juridique et le caractère contraignant ou non de la charte, mais à en croire les déclarations de la Présidence, cette charte deviendra probablement une déclaration politique.
- <sup>2</sup> Décision du Conseil européen concernant l'élaboration d'une charte des droits fondamentaux de l'Union européenne, conclusions de la présidence, Conseil européen de Cologne, les 3 et 4 juin 1999.
- <sup>3</sup> J.H.H. Weiler, 'Does the European Union Truly Need a Charter of Rights?', *European Law Journal*, Vol. 6, n° 2 (2000), pp. 95-97.
- <sup>4</sup> CHARTE 4422/00, CONVENT 45, Note du Praesidium, texte complet de la Charte proposé par le Praesidium, Bruxelles, le 28 juillet 2000.
- <sup>5</sup> CHARTE 4470, CONVENT 47, texte complet de la charte proposé par le Praesidium à la suite de la réunion des 11 au 13 septembre 2000 sur la base du document CHARTE 4422/00 CONVENT 45. Bruxelles, le 14 septembre 2000. Une version ultérieure de la charte comme elle a été finalisée par le groupe de travail de juristes-linguistes a été présentée le 21 septembre 2000. CHARTER 4470/1/00 REV 1, CONVENT 47; Bruxelles, le 21 septembre 2000.
- <sup>6</sup> CHARTE 4487/00, CONVENT 50, Note: projet de charte des droits fondamentaux de l'UE, Bruxelles, le 28 septembre 2000.
- <sup>7</sup> Dans la même veine, voir aussi Jacqueline Duteil de la Rochère, 'La Convention sur la Charte des Droits Fondamentaux et le processus de construction européenne', *Revue du Marché commun et de l'Union européenne*, n° 437 (2000).
- <sup>8</sup> Cette remarque a été faite par le membre de la Commission, Antonio Vitorino, lors de son premier discours devant la Convention.
- <sup>9</sup> <http://db.consilium.eu.int/df/>.
- <sup>10</sup> Arrêt du 13 avril 2000, affaire C-292/97. Pas encore publié.
- <sup>11</sup> Communication de la Commission sur la Charte des droits fondamentaux de l'Union européenne, COM(2000) 559, 13 septembre 2000.
- <sup>12</sup> CHARTE 4423/00, CONVENT 46, Note du Praesidium: texte des explications relatives au texte complet de la charte, tel que repris au doc. 4422/00 CONVENT 45, Bruxelles, le 31 juillet 2000.
- <sup>13</sup> Un certain nombre de problèmes se posent s'agissant de ce que seraient les "droits existants", puisque les Etats membres ne sont pas tous tenus par les mêmes instruments sur les droits fondamentaux ni ne partagent les mêmes traditions constitutionnelles.
- <sup>14</sup> Comme la Convention de Genève, la Déclaration universelle des droits de l'homme de 1948, la Convention européenne des droits de l'homme et en matière de biomédecine, la Convention sur les droits politiques et civils, la Convention de New York sur les droits de l'enfant.
- <sup>15</sup> Par exemple, référence a été faite à la Constitution finlandaise dans la discussion sur les droits de l'enfant et la non-discrimination.
- <sup>16</sup> Voir le Rapport du Groupe d'experts en matière de droits fondamentaux – 'Affirmation des droits fondamentaux dans l'Union européenne – Il est temps d'agir', (février 1999).
- <sup>17</sup> Pour une vue similaire, voir J.H.H. Weiler, *op. cit.*
- <sup>18</sup> Voir la résolution du Parlement européen sur l'élaboration d'une Charte des droits fondamentaux de l'Union européenne, 16 mars 2000.
- <sup>19</sup> Giampiero Alhadeff, 'A European Union Charter of Fundamental Rights – The Heart of Europe', *Challenge Europe On-Line Journal*, <http://theepc.be/ChallengeEurope/Journal/Aldah.htm>.
- <sup>20</sup> Communication de la Commission sur la Charte des droits fondamentaux de l'UE, COM (2000) 559, 13 septembre 2000.
- <sup>21</sup> C'est du moins ce qui ressort des déclarations des représentants de certains Etats membres et de la Présidence française.
- <sup>22</sup> Pour une analyse plus approfondie, voir la contribution à la Convention du Conseil consultatif sur les affaires internationales, CHARTE 4451/00, CONTRIB 305, Bruxelles, le 4 septembre 2000.
- <sup>23</sup> J.H.H. Weiler, 'Does the European Union Truly Need a Charter of Rights?', *European Law Journal*, Vol. 6, n° 2 (2000), pp. 95-97. □

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# The Experience of Member State Officials in EU Committees: A Report on Initial Findings of an Empirical Study

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## 1. Introduction

Committees are an essential part of the functioning of modern governance. Some are official, whilst others are unofficial or even ad hoc. They play a crucial role in the daily operation of the European system of governance by providing expertise in policy development and decision-making, linking Member States' governments and administrations with the European level, as well as increasing the acceptance of European laws and programmes in the Member States. In various guises, committees are active at every stage of the European political process – assisting the Commission in drafting legislation, preparing the dossiers on which the Council takes decisions and supervising the implementation of EC law by the Commission. The latter are generally referred to as comitology committees, although the term is sometimes extended to include all committees.

Since 1995, EIPA has organised seminars for Member State officials on the role of committees in the EC political process. In the spring of 1997 we started to distribute a questionnaire<sup>1</sup> to those participants in the seminars who have been involved in one or more committees at EC level. It was designed to get an overview of the experience of Member State officials in EU committees: in what kind and how many committees they were involved, how frequently meetings were taking place, how long they lasted, what languages were used, etc. The major part of the questionnaire focussed on the question of how Member State officials viewed the roles they performed in these committees and how they perceived the roles performed by other participants.

During the first day of the seminar, we asked those participants who had been involved in committees to complete the questionnaire. Participation in the seminars in Maastricht was very uneven between the different Member States: there were very few participants from the southern Member States, but regular participation from those of central Europe, the UK and Ireland. In addition to the seminars in Maastricht, EIPA organised a number of seminars in Member States, particularly in

those that had joined the EU in 1995. Unquestionably this led to a very unbalanced sample. In order to correct this, an effort was made in early 1999 to contact the Permanent Representation of all the Member States from which we had few respondents asking them to help us to get more completed questionnaires from their Member States. This effort was very successful in the case of Belgium and Spain, but did not result in many additional completed questionnaires from the other Member States. The composition of the sample by Member State is summarised in Table 1. The Table also shows the type of ministry the respondents came from, differentiating between the Foreign Ministry, other ministries, agencies and the Member State's permanent representation in Brussels.

*Table 1: Composition of the sample by Member State and institutional affiliation*

Member State	Ministry or Institution				Total
	Foreign Ministry	Other Ministries	Agencies, etc	Permanent Representation	
Austria		14	3		17
Belgium	2	20	7		29
Denmark	1	5	1		7
Finland	2	17	2		21
France		3	1		4
Germany		7	3	1	11
Greece		1		1	2
Ireland		1		2	4 <sup>a</sup>
Luxembourg	1				1
Netherlands	2	10	1		13
Portugal	5	3	1		9
Spain	55	5		60	
Sweden	2	23	9		34
United Kingdom	1	4	1		6
<b>TOTAL</b>	<b>N</b>	<b>16</b>	<b>163</b>	<b>34</b>	<b>218<sup>a</sup></b>

<sup>a)</sup> One respondent did not answer the question about institutional affiliation. In this and all following tables N = number of respondents.

The sample cannot claim to be representative either with respect to the Member States included or with respect to the type of committees Member States' officials participated in. From the total sample, 132 respondents participated in expert committees, 134 participated in Council working parties and 76 in comitology committees. Not unexpectedly, 61 respondents participated in at least two types of committee and 31 in all three types.

As with all written questionnaires, there were a considerable number of items missing, because respondents did not complete all of the questions, even though for most of the questions multiple choice answers were provided for. For this reason in the presentations below the number of respondents (N) varies in each table.

The paper reports some initial findings. The first part will summarise some practical aspects:

- time spent on EU matters;
- availability of documentation and interpretation facilities;
- language use.

The second part concentrates on:

- officials' loyalties and identities;
- their role perception when participating in EU committees;
- the question of coordination.

## 2. Time Requirement for Member State Officials Participation in EU Committees and Availability of Documentation

For Member State officials, participating in EU committees means time, time that is not be available for national concerns. Time spent on EU matters naturally varies with the place in the hierarchy of a respondent, as summarised in Table 2.

Table 2: Time consumed in committee work by position (in %)

		Position			
Working time spent on EU matters		Director-General, Deputy D-G	Head/Deputy of Unit/Division	Head of Section, Senior Advisor, Advisor	Total
15% or less		37	26	24	27
15-50%		43	44	44	44
50% or more		20	30	32	29
<b>TOTAL</b>	%	100	100	100	100
	N	<b>40</b>	<b>27</b>	<b>131</b>	<b>198</b>

As could be expected, the major burden is carried by heads of section, senior advisers and advisers, the middle and lower middle level of Member States' administrations. Nearly two-thirds of the respondents belonged to this group. Surprising, a relatively large proportion (20%) come from the Director-General or Deputy Director-General level.<sup>2</sup> This can possibly be explained by the fact that it is common practice for the top level of Member States' administrations to attend committee meetings in Brussels on important issues, often accompanied by lower level officials. It may also be taken as an indicator of the importance assigned by Member States' administrations to EC matters. The fact that more than 60% of this top-level group spends almost a day or more of their weekly working time on EC matters supports this conclusion.

Involvement in EU affairs may affect one's attitude to European integration positively or negatively. If a Member State's civil servant spends a lot of his working

time with EU matters, he or she may, for instance, get increasingly fed up with it or conversely develop an increased appreciation of the importance of EU issues for Member State administrations. Table 3 shows that the majority of respondents did not change their attitude towards European integration.

Table 3: Working time consumed in committees and change of attitude (in %)

		Working time consumed		
Change of attitudes		15% or less	15-50%	50% or more
More in favour		24	44	34
Unchanged		67	51	54
Less in favour		9	5	12
<b>TOTAL</b>	%	100	100	100
	N	<b>58</b>	<b>83</b>	<b>59</b>

Only 16 respondents (i.e. 8%) indicated that participation led to a negative view of European integration; 113 out of 200 respondents (i.e. 57%) did not change their attitude and 35% indicated that their participation led them to view European integration from a more positive perspective.

There are significant differences with respect to the frequency and duration of meetings between expert committees, working parties in the Council and comitology committees (see Table 4). Almost half of the expert committees meet only between one and three times a year while 54% of the working parties in the Council meet eight or more times a year, suggesting that involvement in working parties is very time consuming with frequent meetings. About 60% of all types of committee meetings last one day, half-day meetings are rare. However, more than one-third of the expert committees last more than one day.

Table 4: Frequency and duration of meetings in the three types of committees (in %)

Number of meetings per year		EC <sup>a</sup>	CWP <sup>a</sup>	CC <sup>a</sup>
1-3		49	15	36
4-8		30	31	34
8+		21	54	30
<b>TOTAL</b>	%	100	100	100
	N	<b>132</b>	<b>131</b>	<b>76</b>
Duration of meetings				
1/2day		6	11	10
1 day		58	60	65
1 day+		36	29	25
<b>TOTAL</b>	%	100	100	100
	N	<b>131</b>	<b>126</b>	<b>68</b>

<sup>a)</sup> In this and all the following tables expert committees are abbreviated to EC, Council working parties to CWP, and comitology committees to CC.

Table 5: Officials from small, medium-sized and large Member States participating in all three types of committees

Number of meetings per year	EC			CWP			CC		
	Small	Medium	Large	Small	Medium	Large	Small	Medium	Large
1-3	3	3	5	3	1	1	7	2	2
4-8	8	5	1	4	4	2	3	5	4
8+	6	0	0	10	3	3	7	1	0
<b>TOTAL N</b>	17	8	6	17	8	6	17	8	6

We also found interesting differences with respect to the involvement of Member State officials in EU committees between small, medium-sized and large Member States. We classified Austria, Denmark, Finland, Ireland, Luxembourg and Sweden as small Member States, Belgium, Greece, the Netherlands and Portugal as medium-sized Member States, and France, Germany, Spain and the UK as large ones. Table 5 shows, that the number of meetings attended per year was by far the highest for officials from small Member States. This is particularly the case for expert and comitology committees. In contrast, Council working parties are presumably attended by senior policy officials of large Member States who do not participate in expert and comitology committees but delegate these tasks to more “junior” experts. In small Member States, as a result of the smaller size of their administrations, senior policy officials are at the same time the Member States’ experts.

Finally, it has been frequently reported that documentation for committee meetings arrives only shortly before the meeting takes place. Table 6 shows that in expert committees and comitology committees in well over 50% of the cases, documentation is in the hands of the participant a week or more before the meeting takes place. The situation in Council working parties is quite different. Two-thirds of the respondents reported that documentation arrives only a day or two before the meeting. This suggests that the pace of work in Council is the most intense and that Member State officials are often confronted with documentation at the very last minute. In the case of comitology committees, 14% reported that documentation is only available at the time of the meeting. These are probably committees in the agricultural sector, which meet weekly or bi-weekly.

Table 6: Availability of documentation for the committee meetings (in %)

Documentation arrival	EC	CWP	CC
week before	64	20	55
day or two before	32	70	31
at time of arrival	4	10	14
<b>TOTAL</b>	100	100	100
<b>%</b>	<b>110</b>	<b>132</b>	<b>71</b>
<b>N</b>			

These committees are dealing largely with routine matters where preparation is not required by participants. The results suggest that the situation may not be as bad as it is often pictured: more than 85% of the participants have the relevant documentation in their hands before they arrive in the meeting room.

### 3. Availability of Interpretation Facilities and Language Use in Committees

Participating in EU committees means communication. Today there are 11 official languages. Communication, both formally in meetings and informally during coffee breaks, lunches and in the hallways, is an essential part of participating effectively in these meetings. The communication and language problems will increase significantly with enlargement.

Even today it is practically impossible to provide simultaneous translation facilities from all official languages into all others in all committee meetings. Common practice is often to translate from seven, eight or nine languages into three or four as Table 7 shows. Participants may, with few exceptions, speak their own language, but they have to understand French, English, German or perhaps Spanish or Italian in order to follow the discussions. In some cases the committee may work in only two or three languages with simultaneous translation only between these languages and respondents reported a few cases where committees work in only one language. Table 7 also shows significant differences between the different types of committees. In Council working parties, where communication is obviously most important as final decisions are prepared here, full interpreting facilities were available in almost 60% of the meetings. In expert committees and comitology committees 57% and 68% reported interpreting facilities from seven or nine into three or four languages. Working in only two or three languages is found most frequently in expert and comitology committees. Expert groups sometimes work in only one language, but only in one in 20 cases. Interpretation

Table 7: Availability of interpreting facilities in committee meetings (in %)

Interpreting facilities	EC	CWP	CC
translation from all into all languages	17	59	17
from 7 to 9 languages into 3 or 4 languages	56	37	68
only 2 or 3 languages	20	3	15
work only in one language	5	1	0
<b>TOTAL</b>	100	100	100
<b>%</b>	<b>118</b>	<b>132</b>	<b>71</b>
<b>N</b>			



facilities are clearly most important in Council working parties, however even today, in 40% of all Council working party meetings full interpretation facilities are not available.

Successful negotiations and discussions in committees do not depend solely on what happens in the committee room, but also on what happens during coffee breaks and in discussions in the hallways and that is closely related to the capability of participants to communicate in languages other than their own. Not surprisingly we found a relatively high competence in foreign languages among those participating in committees (self-assessment of respondents), particularly in English, as Table 8 shows. 90% of committee members who are not native English speakers are able to communicate somehow in English (189 out of 208), and more than 80% can speak English well or very well. French capabilities are not as widely spread. However, in the sample there were still 150 out of about 190 committee members who are not native French speakers who somehow can manage to get along in French if necessary. The numbers are much lower for German. We differentiated between Germanic, Latin and other native language groups whereby Germanic languages include German, English, Dutch and the Scandinavian languages except Finnish. Latin languages include French, Portuguese, Spanish and Italian. Greek and Finnish were categorised as other languages together with the languages of a few respondents whose native language is not one of the community official languages. What is surprising is the fact that the English competence (“good” and “very good”) of native speakers of Latin languages is much higher than the French competence of native Germanic language speakers. English is clearly the most frequently used language in Brussels and it can be expected that this will further increase with enlargement. At least for our sample English has clearly become the first foreign language of Member State officials participating in Committee Meetings.<sup>3</sup>

It can be expected that this development will reinforce

Table 8: English, French and German capabilities by native language groups (in %)

Language capabilities		Native Language Groups			Total	
		Germanic	Latin	Other	N	%
English	very good and good	98	78	100	167	88
	can manage	2	22	0	22	12
	Total	100	100	100		100
	% N	86	81	22	189	
French	very good and good	51	60	69	84	56
	can manage	49	40	31	65	44
	Total	100	100	100		100
	% N	71	65	13	149	
German	very good and good	41	25	14	19	35
	can manage	59	75	86	35	65
	Total	100	100	100		100
	% N	39	8	7	54	

Table 9: Language use in and around meetings

	language most frequently used in committee meetings	language most frequently used in informal discussions
French	15	19
Spanish	23	7
English	45	70
Other	17	4
TOTAL %	100	100
N	210	202

with enlargement since English has become the first foreign language in all the accession countries. Table 9 underscores this impression that English has become the major language in Brussels in informal communications between Member State officials. French is still important, but German is almost of no relevance. In meetings however, Member State officials prefer to speak their native language, but if they do not, they are more likely to speak English than French.<sup>4</sup>

#### 4. Member State Officials' Loyalties and Identities

National officials attending EU committees spend most of their time and energy in national administrations.<sup>5</sup> Thus, we might expect their dominant institutional allegiances and identifications to be to their nation state when entering EU committees. However, “membership” in EU committees imposes *additional* obligations on officials, although for most they are of a secondary character. They are exposed to new agendas and actors, and are expected to look for common solutions. Officials participating in Council working parties and in comitology committees may be expected to behave more like government representatives than officials attending Commission expert committees. The main reason for this is the basically negotiating character of the two former EU committees. In the Commission expert committees, on the other hand, participants are expected to behave more like experts. Thus, *professional allegiances and conceptions of sectoral roles* are likely to be fairly strongly displayed.

Table 10 shows that national officials who attend different EU committees express more allegiance towards their own national government institutions than towards the EU committees in which they participate. Thus as expected, supranational loyalties seem to be secondary to national allegiances. However, the extent to which they feel responsibility towards EU level entities is considerable, particularly among Council working party participants.

Also as expected, those in Council working parties tend to assign more weight to their relationship to their own government than those on expert committees, although the difference is not very big. A remarkably large proportion of Council working party participants identify themselves with their own

Table 10: Proportion (in %) of those who to a great extent<sup>a</sup> feel allegiance to identify with or feel responsible to the following when participating in committees

	EC	CWP	CC
My own government	65	76	69
My own ministry, department or agency	74	81	60
The requirements of the policy arena in which I am working	58	65	58
My own professional background and expertise	60	65	60
The committee or group in which I participate	39	57	44
<b>TOTAL</b>	<b>N</b>	<b>106</b>	<b>109</b>
			<b>58</b>

<sup>a</sup> Values 1 and 2 combined on the following five-point scale: to a very great extent (value 1), to a fairly great extent (2), both/and (3), to a fairly small extent (4), to a very small extent (5).

sector administration, policy arena or professional background. This pattern is probably due to the high degree of functional specialisation that accompanies the basically intergovernmentally arranged Council structure. Hence, a complex repertoire of roles is evoked by national officials attending EU committees, especially by those who participate in Council working parties.

The respondents were further asked to indicate how they perceive the roles of their fellow colleagues within EU committees.

Table 11: Officials' perception of the role of colleagues from other countries when participating in committees (in %)

	EC	CWP	CC
Mainly independent experts	33	11	6
Mixed roles	22	12	20
Mainly government representative	45	77	74
<b>TOTAL</b>	<b>%</b>	<b>100</b>	<b>100</b>
	<b>N</b>	<b>113</b>	<b>122</b>
			<b>66</b>

Table 11 reveals a pattern that is more clearly consistent with our expectations concerning the expert versus the government representative role. National civil servants attending Council working parties and comitology committees tend to perceive other colleagues mainly as government representatives. Expert committee participants, on the other hand, tend to perceive other colleagues as having more mixed roles. Thus, only a minority (i.e. 45%) find their counterparts behave *mainly* as government representatives.

Table 12 presents considerations deemed important amongst officials attending different EU committees.

First, almost no major differences can be observed between officials attending different EU committees as far as the above considerations are concerned. Second, as to the relative priority given to the proposals, statements and arguments of other actors, one

Table 12: Proportion (in %) who will give much consideration<sup>a</sup> to proposals, statements and arguments from the following when participating in committees

	EC	CWP	CC
Colleagues and experts from my own Member State	87	84	81
Colleagues from other Member States who have demonstrated considerable expertise on the subject matter at hand	73	70	69
Colleagues from large Member States	38	38	30
Colleagues from Member States from my own region	42	46	48
Colleagues from Member States who share a similar position	61	71	68
Representatives from the Commission	57	60	57
Interest groups and firms I know from my Member State	26	32	44
Interest groups and firms I know or have contact with at the European level	17	11	13
<b>TOTAL</b>	<b>N</b>	<b>113</b>	<b>121</b>
			<b>66</b>

<sup>a</sup> Values 1 and 2 combined on the following five-point scale: very much consideration (value 1); a fair deal of consideration (2); both/and (3); fairly little consideration (4); very little consideration (5).

consideration seems to be more important than others: officials attending EU committees pay most attention to what their colleagues and experts from their own country have to say. This observation underscores the tendency already indicated in Table 10 and 11 about the national allegiances of committee participants. Participants pay particular attention to the point of view of colleagues from other Member States who have demonstrated considerable expertise on the subject matter. This proportion is remarkably high. Officials give considerably less weight to arguments from colleagues from large Member States, and colleagues from Member States within their own region. The quality of the argument is considered more important than the sheer size and geopolitical position of the Member States they represent. Moreover, the EU Commission is also considered more important than large Member States and Member States within their own region. This may be interpreted as reflecting an element of supranational identification among national officials. Finally, interest groups and firms are deemed considerably less important than colleagues from other Member States. By comparison, however, interest groups and firms from their own country are considered much more important than EU level interest groups and firms. This observation underscores the general tendency apparent in Table 12, namely that national officials attending EU committees pay more heed to national institutions than to supranational institutions.

In sum, what we see is that *arguing*, not only *bargaining*, is a salient feature of the system. The

intergovernmental notion of national actors entering EU arenas with predetermined and fixed preferences has to be significantly modified. Obviously, deliberation is taking place among actors in which interests may be moved or reshaped primarily on the basis of expert knowledge. There is obviously also a good deal of trust in the Commission, as further underpinned by Table 13.

*Table 13: National officials' perceptions of commission officials' independence of particular national interests when participating in committees (in %)*

		EC	CWP	CC
<b>Mainly independent</b>		81	70	79
<b>Mixed roles</b>		13	18	16
<b>Mainly dependent</b>		6	12	5
<b>TOTAL</b>	<b>%</b>	100	100	100
	<b>N</b>	109	112	63

National officials attending different EU committees seem to agree on the relative independence of Commission officials from particular national interests. Only a very small minority report that Commission officials act more in the interest of the country they come from originally.

Participation in EU committees tends to affect the institutional allegiances and conceptions of roles of participants. Nonetheless civil servants largely retain their national and sectoral identities when attending EU committees. Elements of supranational loyalty do however tend to supplement such pre-existing allegiances to some extent.

### 5. The Coordination Behaviour of Member State Officials Attending Committees

In the last section we saw how officials attending expert committees probably behave more like experts than they do when attending Council working parties and comitology committees. In contrast, when attending Council working parties and comitology committees, national officials perceive themselves and their colleagues from other Member States more as government representatives. The various perceptions of roles and identities of national government officials attending different EU committees may partly reflect different coordination processes at the national level. One difference that might be expected is between officials attending Commission expert committees on the one hand, and officials participating in Council working parties and comitology committees on the other. Officials attending expert committees are expected to be less subject to national coordination efforts. Officials attending Council working parties and comitology committees, on the other hand, are more likely to participate in meetings with clearly coordinated "positions" from their respective national governments.

Table 14 indicates different modes of policy coordination behaviour amongst EU committee participants. Participants in expert committees seem

less coordinated nationally than officials participating in Council working parties and comitology committees. Officials attending comitology committees seem to be even better coordinated nationally than officials attending Council working parties, though the difference is not very large. By comparison, officials in expert committees tend to take "positions" that are less strongly coordinated back home and "positions" that are in the best interest of the Member States as a group more strongly than Council working party and comitology committee participants. Still, when asked whether national interests or professional considerations are deemed vital when deciding what "positions" to pursue, no major differences are observed between officials participating in different EU committees. Council working party participants seem to pay more heed to national interests than do expert and comitology committee participants. These differences are marginal, however. The most significant observation is that in expert committees, participants have much more leeway to follow "their" own position than in Council working parties or in comitology committees.

*Table 14: Proportion (in %) of officials who coordinate their "position" most of the time<sup>a</sup> before participating in committee meetings*

	EC	CWP	CC
<b>I have to coordinate with the Foreign Office or another central coordinating body</b>	20	47	43
<b>My "position" has in fact been coordinated with all relevant ministries</b>	28	47	53
<b>My "position" has been coordinated with all relevant departments in my own ministry</b>	38	55	59
<b>I have clear instructions about the "position" I should take</b>	28	35	46
<b>I take the "position" I think is in the best interest of my country</b>	63	72	66
<b>I take the "position" I think is best on the basis of my professional expertise</b>	43	43	34
<b>If I have no instructions, or if the question is not important for my country, I take the "position" I think is the best for the Member States as a group</b>	52	46	46
<b>TOTAL</b>	<b>N</b>	<b>110</b>	<b>119</b>
		<b>62</b>	

<sup>a</sup> Value 1 on the following three-point scale: always or most of the time (value 1), about half of the time (2), rarely or never (3).

Finally, the respondents were asked to indicate what contacts they have had before committee meetings.

Officials attending EU committees have contacts more frequently with colleagues from other countries who are in a similar situation or have similar problems than with officials from other countries who are respected for their expertise. This may reflect the dual need for coalition building and in-depth professional knowledge amongst EU committee participants. Furthermore,

Table 15: Proportion (%) of officials who have the following contacts regularly<sup>a</sup> before participating in committee meetings

	EC	CWP	CC
<b>With colleagues from other Member States:</b>			
– whom I respect for their expertise	20	21	15
– who have a lot of influence in the committee	8	10	13
– who are in a similar situation or have similar problems	33	35	34
<b>With Commission officials</b>	22	21	26
<b>With national or European interest representatives</b>	7	13	18
<b>With MEPs I know</b>	0	1	2
<b>With members of my national parliament who are specialist in my area of work</b>	0	2	2
<b>TOTAL</b>	<b>N</b>	<b>111</b>	<b>123</b>
		<b>66</b>	

<sup>a</sup> Value 1 on the following three-point scale: almost before every meeting, regularly (value 1), sometimes, when I think it could be useful (2), hardly ever (3).

Commission officials are contacted by 23% of the officials (mean score). Contacts with MEPs, with national parliamentarians and with national or European interest representatives are much less frequent, or of practically no importance. These observations are largely consistent with the results presented in Table 12. Finally, no major differences can be observed between participants in expert, comitology committees or Council working parties. The most significant difference is that comitology committee participants seem to have contacts with national or European interest representatives more frequently than expert committee participants and Council working party participants.

## 6. Summary

With respect to practical aspects we can conclude the following:

- Many national officials spend a considerable amount of time and energy on EU committee work. In fact almost one-third of our respondents use at least half of their working hours on preparation, coordination and participation.
- Council working parties are more demanding in this respect than other committees. Officials from small Member States seem to attend meetings more frequently than their counterparts from larger countries. This may be due to the smaller size of their administrations.
- Documentation is available earlier in Commission expert committees and comitology committees than in Council working parties where it commonly arrives only a day or two before meetings. Only a small minority receives documentation at the time of arrival in the meeting room.
- Interpreting facilities are more available in Council working parties than in other committees. For

example, in the Council 59% report that all languages are translated into all languages while this holds for only 17% in other committees.

- English is by far the most frequently used language in formal as well as in informal meetings.

As could be expected, given the primary institutional affiliation of national officials, national allegiances are more clearly expressed than supranational identities. However, a considerable proportion *also* feels loyalty to the committee(s) in which they participate. A clear majority expresses considerable trust in the Commission in the sense that they acknowledge its independence from particular national interests. Commission officials are among their most important interlocutors. Sheer intergovernmentalism is also transcended in the sense that the quality of the argument seems more important than the kind of country the speaker originates from. The multiple identities evoked by our respondents also point beyond a pure intergovernmental logic. In all kinds of committees they identify themselves heavily with sectoral and functional administrations and policy arenas. The government representative role is most clearly expressed in the Council and comitology settings. It is also in these settings that their positions and mandates are most clearly coordinated and directed from back home.

## NOTES

- <sup>1</sup> The questionnaire was jointly developed by Morten Egeberg and Jarle Trondal from the University of Oslo and Guenther F. Schaefer and the "comitology team" at EIPA. By the end of 1999, 232 questionnaires had been completed. Of these, eight were Norwegians, and in six cases it was impossible to identify clearly the Member State which the respondent represented. We excluded these from the analysis that will be summarised in this article which is thus based on 218 completed questionnaires.
- <sup>2</sup> It could be argued that this may be the result of the sample. The top level of a Member State's administration can not usually be expected to attend three-day seminars. Therefore, this top level may well be over presented in our sample since it usually constitutes less than 20% of a Member State's administration.
- <sup>3</sup> It could be argued that this result reflects the imbalance of our sample. In the Latin language group, France and Italy are under represented, as is the United Kingdom and Germany in the Germanic language group. However, in the sample the two native language groups were of about the same size (95 Latin and 100 Germanic) representing roughly the actual distribution between the two groups in the population.
- <sup>4</sup> It is interesting that 20% of the Spanish respondents use another language than their mother tongue in meetings. It is also interesting that while 45% of respondents use English in meetings only 10% of the sample are English native speakers.
- <sup>5</sup> Almost 30% of the respondents reported, however that they spent 50% or more of their working time on EU matters. See Table 2. □



# Controlling organised crime in the EU Member States: Towards a convergence between National Criminal Justice Systems?

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## **Introduction**

The control of transfrontier organised crime has become one of the main policies in the EU and most of its Member States. Recent developments have demonstrated the growing attention given to this subject, such as the special Tampere Summit on Justice and Home Affairs,<sup>1</sup> the adoption of an EU Strategy to prevent and control organised crime,<sup>2</sup> and the creation of the European Anti-Fraud Office (OLAF).<sup>3</sup> Many of the EU initiatives also aim to change the organisational structures and procedures of the law enforcement and public prosecution services of the Member States, with a view to facilitating and strengthening their cooperation.

An assessment of the influence of the EU in this field was at the heart of a research project coordinated by EIPA and co-sponsored by the EU "Falcone" Programme and the Scientific Research and Documentation Centre of the Dutch Ministry of Justice.<sup>4</sup> The project was carried out by a group of researchers who identified, analysed and compared recent organisational changes in the relevant services of the EU Member States, with the ultimate objective of determining whether and to what extent, the national criminal justice systems are converging.

## **The Research Network**

One of the first challenges before the start of the project was to establish a network of researchers who had considerable ability in respect to understanding and describing the general organisational traits of their national criminal justice system.<sup>5</sup>

We also had three professional referees on board who participated in the project as consultants, and who assisted us in establishing the right contacts:

- *Dr Willy Bruggeman*, Deputy Director of Europol;
- *Mr Glenn Audenaert*, (former) Head of the Belgian Europol National Unit;
- *Mr Wil van Gemert*, Director of the Dutch Criminal Intelligence Service.

One of the attractive and enriching aspects of this project was that it was possible for the research network to meet twice. These so-called Round Tables were hosted by EIPA in Maastricht. The first meeting, in June 1999, was mainly devoted to a discussion of the research area and methodology. The discussions

contributed to the design of a common questionnaire, which was subsequently used by the researchers to generate standardised findings and to produce their national reports. The second Round Table was convened in February 2000, and allowed the researchers to present and compare their research findings. Moreover, the title and format of the final report were discussed; the latter was submitted to the sponsoring bodies in July 2000.<sup>6</sup>

## **Convergence between National Police and Prosecution Organisations**

Traditionally, police organisations and public prosecution services are well-established organisations with a relatively long history. Similar to other organisations, they are primarily characterised by stability, continuity and predictability. Their long-term existence is secured by means of a relatively fixed structure, composition and mission. At the same time, however, a contrary current dictates change, fluidity, contingency and an organic sensitivity to internal and external forces.<sup>7</sup> At the moment, information and communication technologies (ICT), regionalisation, globalisation and Europeanisation pose major challenges to such organisations.

Police and justice organisations are becoming increasingly less immune to external influences, for various reasons. Firstly, law enforcement authorities are more often subjected to tighter accountability mechanisms. Secondly, as public organisations they are confronted with new public management (NPM) reforms. Thirdly, the exclusive monopoly of police and justice organisations is becoming more relative in view of the steady expansion of the private security industry. Fourthly, the upsurge of multidisciplinary, cross-sector or "integral security" approaches to crime problems force police and justice organisations to take account of different organisational perceptions, images and cultures.

Hence, "Europeanisation" – in this context defined as the impact of EU instruments on the domestic architecture of police and public prosecution bodies – is only one of various factors that may prompt organisational changes. In our research, we established that various rationales may be at play, but also different objectives, paths of reform, and methods

of implementation.<sup>8</sup> In studying the processes of convergence, different theoretical perspectives are available. One perspective is administratively functionalistic and focuses on the pooling of knowledge and resources. It has resulted from the assumption that the demand for specific skills and equipment required for the control of transfrontier organised crime is rarely available at local or regional level, and hence needs to be pooled at national or international level. The objective of this perspective is to optimise interoperability and effectiveness, and to share best practices.

The second perspective, which we have called “mimesis”, draws on contingency theory, which is part of organisational studies. This perspective emphasises the environmental dimension of organisations: if other organisations “Europeanise”, there is a need to adapt and follow suit. We found however that strict isomorphism approximating Di Maggio and Powell’s<sup>9</sup> predictors is unlikely among different national law enforcement organisations, because they are not mutually interdependent and they do not depend on the same sources for funding. Nevertheless, we found some evidence of a partial cross-fertilisation process, where national organisations copy part of a model and insert it into their own system, such as the creation of a National Criminal Intelligence Service in Denmark along the lines of NCIS in the UK, or the import of the 4 x 4 – intelligence rating system into most West-European criminal intelligence services.

The third perspective on convergence used in our study was “Europeanisation”. This perspective assumes that the European Union functions as a political and regulatory vehicle for national law enforcement authorities to explore enlargement of scale, to create coordination functions, and to rationalise intelligence-processing. Title VI of the Treaty on European Union – which since “Amsterdam” exclusively concerns police and judicial cooperation in criminal matters – an effective judicial instrument to oblige Member States to reform their national police and public prosecution services. Except for the Europol Convention or a few texts of the Schengen *acquis*, the EU regulatory environment offers only a vast array of soft law instruments like the 1997 Action Plan to Combat Organised Crime, including various recommendations that have the effect of “facilitating” or “structuring”.<sup>10</sup> In this context, we could think of various interaction structures that have been set up under the remit of Title VI, which have had the side-effect of promoting interaction between professionals (“epistemic communities”), and hence have led to more exposure to external scrutiny. Little research was done in the particular field of Europeanisation, but a Dutch-British comparative research initiative revealed that Europeanisation and convergence of criminal justice systems tends to be selective, and hence it fails to

affect all the various components of criminal justice system to the same extent.<sup>11</sup>

### **Organisational Changes: the Implementation of EU Instruments**

The common questionnaire used for the purpose of the research referred to several EU legal instruments which call for organisational changes in the Member States. The most important text in this context is the 1997 Action Plan to Combat Organised Crime, which recommended the adoption of various measures before the end of 1999.<sup>12</sup>

It appears that a central body with overall responsibility for the coordination of the fight against organised crime, as suggested in Recommendation 1 of the Action Plan, has not been created or designated in any of the EU Member States. Nevertheless, many Member States have central coordination bodies at the level of the law enforcement agencies and of the prosecution service, some of which have been created in recent years as a consequence of the control of organised/serious crime.<sup>13</sup>

Meanwhile, the implementation of Recommendation 19 of the Action Plan was more successful: most of the Member States designated a central national contact point for the law enforcement agencies, which embraces the Europol National Unit, the Interpol National Central Bureau and the SIRENE desk. However, one may assume that it was not the Recommendation itself, but the necessity to ensure close relations and effective coordination between these three units that has encouraged EU Member States to create a single central contact point. At the level of the prosecution service, it seems that most of the Member States designated a central contact point, which is a prerequisite for the establishment of the European Judicial Network (EJN) foreseen by Recommendation 21 of the Action Plan.

With regard to multidisciplinary integrated teams – which are brought forward by Recommendation 20 of the Action Plan – the relatively vague character of this term needs to be differentiated according to the organisational model of each Member State.<sup>14</sup> EU Member States which have one single national police force have tended to create special teams which are composed of police officers and public prosecutors, such as in Denmark and Sweden, and these could be considered as multidisciplinary integrated teams. On the other hand, some of the Member States with a plural police system have created teams drawing officials from the different law enforcement agencies. These teams are either independent bodies, which is the case in Greece, Ireland and Italy, or they are located within one of the agencies, which is generally the police service (as in France and the Netherlands). Several of these multidisciplinary teams existed prior to the Action Plan. Furthermore, the creation of recent teams seems to respond to purely national considerations.

The report, which contains a more detailed overview of the implementation of EU instruments, shows that despite the adoption of a considerable number of legal instruments, the direct impact of the EU on the architecture of domestic criminal justice systems turns out to be rather modest. Moreover, it appears that national policies and structures are chiefly responsible for determining the scope of organisational changes. The limited effect of the EU measures in the field of justice and home affairs may also be due to the fact that there are hardly any binding legal instruments and that it is still too early to judge the success of implementation. However, even though we found little evidence of systemic harmonisation, this does not preclude a certain degree of organisational convergence.

### **Centralisation and Specialisation**

Deficiencies in the control of organised crime frequently come to the surface in the context of national crisis-events.<sup>15</sup> The criminal justice systems of several Member States were prompted to revise their organisational structures and procedures. As already indicated, EU measures hardly seem to have any apparent influence, whereas some national reforms are clearly inspired by the model of another Member State.<sup>16</sup> The “Falcone” research project identified two dominant tendencies: centralisation, flanked by specialisation.

With regard to centralisation, the control of organised crime demands special expertise, specific investigation tools and elaborate authorisation procedures, which are not always available at local or regional level. Moreover, it is the perceived need for an internationally coordinated response and improved cooperation which often leads to the establishment of central agencies. Many Member States, including the ones that do not have a central police system, have recently created (or plan to create) national law enforcement bodies for the central coordination of investigations.<sup>17</sup> These changes are sometimes accompanied by a simultaneous centralisation in the field of intelligence processing, with the setting up of central databases for the analysis of intelligence and information exchange.<sup>18</sup> At the level of the public prosecution service, some Member States also introduced reforms which have reinforced central coordination.<sup>19</sup>

Although not much evidence could be found of decentralisation trends,<sup>20</sup> a significant move towards specialisation could be identified. During the past decade, many EU Member States have considered the creation of special law enforcement agencies at the national level with a view to controlling certain forms of organised/serious crime more efficiently. In the field of economic and financial crime – which is particularly relevant for the EU because of the cooperation through OLAF – many Member States established (sometimes multi-disciplinary) services

specialised in the investigation of international and complex fraud cases. The financial intelligence units foreseen i.e. by the 1991 EC Money Laundering Directive should also be mentioned, even if they are not always law enforcement units in the literal sense. Specialised units have also been set up for the control of serious crime, especially with regard to drug trafficking, environmental crime, illegal immigration or organised crime in general. Despite the specialisation of the law enforcement agencies in several Member States, considerable disparity has emerged regarding the organisational status, size and mandate of these services, which vary from small coordination units to autonomous and sizeable agencies with operational powers at national level. Within the prosecution services, specialisation seems to be less frequent, but has begun to take shape in some Member States with the appointment of specialised magistrates or the creation of special multidisciplinary teams.<sup>21</sup>

### **Conclusion**

In summary, the comparison of the reforms throughout the different EU Member States reveals a markedly differentiated picture: national characteristics mainly determine the scope of organisational changes, but at the level of national coordination of international cooperation and information flows seemingly similar organisational responses have evolved. While there is no integral or wholesale convergence of national law enforcement and prosecution structures, there are some convergence tendencies concerning the creation of national structures for the control of organised crime, in particular the creation of a single central contact point for international police cooperation, which includes the Europol National Unit and the SIRENE bureau. The way in which these national coordination structures are embedded is generally determined by pre-existing organisation structures and cultures. Hence, it is difficult to assess the effect which EU instruments have had on the adaptation of domestic criminal justice systems, and to weigh their impact alongside reforms that had already been initiated and in relation to “crises” in domestic criminal justice systems.

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### **NOTES**

<sup>1</sup> The conclusions of the special European Council held in Tampere (Finland) on 15 and 16 October 1999 called for the strengthening of Europol’s powers, and for a certain degree of institutionalisation by means of establishing joint investigation teams: Eurojust (a unit with the task of coordinating the national prosecution authorities), an operational Task Force of European Chiefs of Police and a European Police Academy.

<sup>2</sup> “The Prevention and Control of Organised Crime: a

European Union Strategy for the beginning of the new Millennium”, OJ 2000 C 124/1-33. The new programme, a follow-up to the 1997 EU Action Plan to Combat Organised Crime, covers the period until 30 June 2005 and contains 39 recommendations which extend and consolidate many of the recommendations of the former Action Plan.

<sup>3</sup> As a consequence of the resignation of the “Santer” Commission in March 1999, the Anti-Fraud unit of the European Commission (UCLAF) was transformed into the European Anti-Fraud Office (*Office européen de lutte antifraude* (OLAF), with a more independent status and more extensive powers.

Commission decision 1999/352/EC/ECSC/Euratom of 28 April 1999 establishing a European Anti-Fraud Office (OJ 1999 L 136/20-22); Regulation 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by OLAF (OJ 1999 L 136/1-7).

<sup>4</sup> This article summarises the activities and results of the research project, which has already been presented in a previous article of the same authors: The “Falcone” Research Project on Organisational Changes within the Police and Prosecution Services of the EU Member States as a Consequence of the Fight against Organised Crime, *EIPASCOPE*, No. 1999/3.

<sup>5</sup> The following list of people – mostly academics – participated in the research network:

- **Austria:** Prof Dr Kurt Schmoller and Dr Jörn Kessel, respectively Professor of Criminal Law and Assistant, University of Salzburg;
- **Belgium:** Dr Gert Vermeulen, Academic Assistant and Lecturer, University of Ghent;
- **Denmark:** Peter Kruize, Research Fellow, University of Copenhagen;
- **Finland:** Dr Tuija Hietaniemi, Associate Professor, University of Helsinki and Researcher, National Bureau of Investigation;
- **France:** Prof Didier Bigo and Franziska Hagedorn, respectively Professor of Politics, *Institut d’Etudes Politiques*, Paris and PhD student, London School of Economics;
- **Germany:** Prof Dr Hans-Heiner Kühne, Professor of Criminal Law, University of Trier;
- **Greece:** Dr Effi Lambropoulou, Associate Professor, Panteion University in Athens;
- **Italy:** Dr Francesca Longo, Researcher, University of Catania;
- **Ireland:** Prof Dermot P.J. Walsh, Professor of Law, University of Limerick;
- **Luxembourg:** Lieutenant-Colonel Armand Schockweiler, Director of the General Inspectorate of the Luxembourg Police;
- **Netherlands:** Dr Monica den Boer, Associate Professor, Centre for Law, Public Administration and Informatisation, Tilburg University
- **Portugal:** Comissário Antero Lopes, Public Security Police Headquarters, Ministry of Interior;
- **Spain:** Prof Óscar Jaime-Jiménez, Prof Fernando Reinares and Laia Moreno, respectively Professors of Politics and Research Assistant, University of Burgos;
- **Sweden:** Janne Flyghed, Lisa Westfelt and Jenny Valind,

respectively Associate Professor at the University of Stockholm, MA student at the University of Stockholm and LL.M. student at the University of Maastricht;

– **United Kingdom:** Dr James Sheptycki, Lecturer, University of Durham.

<sup>6</sup> Monica den Boer and Patrick Doelle, *et al.* (eds.), *Controlling Organised Crime: Organisational Changes in the Law Enforcement and Prosecution Services of the EU Member States*, Final Report on the Research Project 98/FAL/145 funded by the EU “Falcone” Programme and the Dutch Ministry of Justice (WODC), Maastricht, European Institute of Public Administration, 2000.

<sup>7</sup> Th. P.P.M. van der Krogt and C.W. Vroom, *Organisatie is beweging*, Utrecht, Lemma, 1991, p. 19.

<sup>8</sup> E.g. C. Pollitt and G. Bouckaert, *Public Management Reform. A Comparative Analysis*, Oxford, Oxford University Press, 2000.

<sup>9</sup> Paul J. Di Maggio and Walter W. Powell (1983), “The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields”, in *American Sociological Review*, Vol. 48, April, p. 156.

<sup>10</sup> See e.g. Anthony Giddens, *Central Problems in Social Theory: Action, Structure, and Contradiction in Social Analysis*, Berkeley, University of California Press, 1979.

<sup>11</sup> Phill Fennell, Bert Swart, Nico Jörg and Christopher Harding (eds.), *Criminal Justice in Europe. A Comparative Study*, Oxford, Clarendon Press, 1995.

<sup>12</sup> The Action Plan to Combat Organised Crime was prepared by a High Level Group and adopted by the Council on 28 April 1997 (OJ 1997 C 251/1-18).

Other relevant instruments are e.g. the 1995 Europol Convention, the Schengen Convention or the 1991 EC Money Laundering Directive. A short description of these instruments (with references) can be found in the previous article on the project (see endnote 4).

<sup>13</sup> E.g. in Finland, France, Greece, Ireland, Italy, Netherlands, Sweden, and United Kingdom.

<sup>14</sup> We propose a rather general definition: a multidisciplinary integrated team is composed of officials from different ministries or agencies, without taking into account of whether the team has a coordinating and/or an operational role.

<sup>15</sup> Recent examples are the “Dutroux” case in Belgium, the problem of massive illegal immigration in Greece, the Mafia problem in Italy or the “IRT” scandal in the Netherlands.

<sup>16</sup> Examples are the Danish *Nationalt Efterforskningsstøttecenter* (NEC) inspired by the British National Criminal Intelligence Service, or the planned Austrian Federal Office of Criminal Investigation inspired by the German *Bundeskriminalamt*.

<sup>17</sup> E.g. in Austria, Belgium, Denmark, France, Ireland and United Kingdom.

<sup>18</sup> E.g. in Denmark, Finland, France, Greece, the Netherlands, Sweden and United Kingdom.

<sup>19</sup> E.g. in Belgium, Finland, France and the Netherlands.

<sup>20</sup> Several examples of regionalisation found in our research seemed to have an ambiguous effect, as they appeared to reinforce centralisation rather than decentralisation.

<sup>21</sup> E.g. in Belgium, France and Sweden. □



# Rapport sur la table ronde organisée par le CER-IEAP sur “Les aspects socio-économiques de la gouvernance européenne des collectivités territoriales”

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\* An English version of this report can be found on EIPA's web site: <http://eipa.nl>

La table ronde organisée les 17 et 18 juillet 2000 par le Centre européen des régions, Barcelone, en coopération avec l'Union italienne des Chambres de commerce, UNIONCAMERE, Bruxelles, et avec la Conférence des Présidents des régions et des provinces autonomes italiennes, et le soutien logistique du Comité économique et social (CES), a reconnu toute l'importance du débat sur la gouvernance et a offert à plus de 100 participants une plate-forme adéquate pour une discussion sur ce thème du point de vue régional et local. La volonté de la Commission européenne de produire un Livre blanc sur la gouvernance au deuxième semestre de l'année 2001 montre la grande actualité de cette question dont on a pu également s'apercevoir au cours des discussions menées lors de ces deux journées.

L'impression générale qui régnait parmi les participants à la table ronde était que le processus décisionnel de l'UE est trop fermé. Il est urgent d'accorder une place plus grande à la participation venant des niveaux régional et local, et d'organiser différemment (à des niveaux différents) les responsabilités administratives. L'idée centrale qui sous-tend cette revendication est de sensibiliser davantage à "l'Europe" un plus grand nombre d'acteurs au sein de l'UE, comme par exemple les Chambres de commerce, les mouvements sociaux, les organismes de la société civile, et aussi les citoyens.

De nombreux observateurs sont convaincus que la réalisation de cet objectif ne pourra se faire sans la prise en compte des niveaux régional et local. S'il est vrai que Maastricht a conféré aux collectivités régionales et locales leur dimension institutionnelle, force est de constater qu'à Amsterdam les Etats membres n'ont pas manifesté la volonté de réaliser une autre percée par l'octroi de pouvoirs accrus à ces entités.

Les participants à la table ronde ont associé la gouvernance au niveau infranational essentiellement à trois contextes: décentralisation, démocratie et coopération, concepts qui se chevauchent peut-être et qui représentent en général des aspects différents mais proches du même phénomène, à savoir l'importance croissante de l'approche de la base au sommet (ascendante) dans l'intégration européenne.

Les discussants ont été unanimes à reconnaître le rôle que doit jouer la décentralisation dans la construction d'une Europe mieux accessible et plus responsable. Par ailleurs, ils ont signalé que le processus mis en marche à Maastricht a conduit à la création d'un "réseau de gouvernance" des collectivités territoriales et que nous allons vers un renforcement supplémentaire des pouvoirs régionaux qui devrait conduire pour ainsi dire à la "fédéralisation des Etats et à l'eupéanisation des régions". Par ailleurs, l'on a reconnu que l'on ne peut pas parler au niveau européen d'une érosion des Etats et de leur souveraineté, mais plutôt d'un transfert de cette souveraineté vers un autre niveau, et qu'à l'échelon de l'Etat la tendance à transférer la souveraineté vers le bas est bien réelle.

Par ailleurs, le débat a été clair sur ce point: lorsqu'on parle de "gouvernance des collectivités territoriales", l'on ne fait pas référence à l'idée d'une "Europe des régions". En effet, il faut savoir que tous les problèmes rencontrés actuellement ne sont pas dus à une décentralisation insuffisante, par exemple le déplacement des compétences vers un autre niveau, puisque près de 80% des politiques communautaires sont déjà décentralisées (au niveau horizontal). La question n'est (peut-être) pas tant de décentraliser plus, mais de le faire différemment.

Il s'agit de faciliter l'accès à la gouvernance des territoires et lui donner une assise démocratique. Aussi bien les artisans de ce phénomène que son environnement dans l'UE sont de plus en plus considérés comme "des sphères en interaction horizontale", ce qui laisse espérer que ce processus informel entraînera un changement automatique du climat gouvernemental; en d'autres termes, le rôle des administrations régionales et locales doit être vu comme faisant partie d'un gouvernement européen dans lequel celles-ci doivent être incluses.

En dehors des acteurs classiques qui sont impliqués dans le processus décisionnel européen (à savoir les administrations régionales et locales, des organisations communautaires comme le Comité des régions, etc.), il convient de ne pas sous-estimer le rôle ni les fonctions

d'autres acteurs que sont, par exemple, les représentations régionales et locales à Bruxelles, les différentes chambres, etc., dans la mesure où ceux-ci sont tous des acteurs importants sur la scène et sont représentés pour la plupart à cette table ronde.

Concernant les représentations régionales et locales à Bruxelles, cette table ronde a permis de recenser plusieurs modèles qui sont souvent rattachés aux différentes formes de systèmes d'Etat national et, par voie de conséquence, au rôle que les régions assument chez elles. Bien entendu, leur rôle et leur composition dépendent à la fois du modèle institutionnel qui leur sert de cadre de référence (p. ex. fédéral, "régionalisé", unitaire, etc.) et de la mission qui guide leur action.

Un représentant à cette table ronde a identifié essentiellement l'existence de deux modèles différents. D'une part, les représentations régionales à structure institutionnelle, à savoir les bureaux qui établissent un lien institutionnel entre Bruxelles et leur région. Le plus souvent on trouve ces représentations politico-institutionnelles dans les Etats membres fédéraux de l'UE (par exemple, le modèle allemand). Elles se rapprochent des "ambassades" sous l'angle de leur rôle et de leur fonction et ont une orientation plus stratégique et à plus long terme.

D'autre part, l'autre type de bureaux, un modèle que certains ont assimilé au modèle britannique, se caractérise lui par une représentation plus marquée des intérêts privés/semi-publics. Ce sont généralement des bureaux de moins grande envergure, dont le champ d'action est moins formel et qui poursuivent des objectifs à plus court terme.

La question de savoir quel est le modèle qui convient le mieux pour représenter fortement l'intérêt de son entité infranationale reste ouverte; cependant, la tendance observée suggère un modèle utilisant un cadre et des mécanismes institutionnels, mais s'appuyant sur une agence technique.

Les Chambres de commerce (de niveau régional et local) constituent l'autre catégorie d'acteurs représentés à cette table ronde qui, bien souvent, ne bénéficient pas de toute la reconnaissance qu'ils méritent. Différentes descriptions de ces acteurs ont été examinées: les "Chambres de commerce sont des acteurs en prise directe sur leur territoire, elles connaissent parfaitement bien les réalités locales ainsi que leurs besoins", cette définition repose sur la conviction que l'interprétation des caractéristiques locales est essentielle pour développer la réalité locale.

L'on a par ailleurs affirmé que les Chambres de commerce représentent la communauté économique métropolitaine, une communauté capable de prendre une part active dans le gouvernement de l'Europe. Ces Chambres fournissent des services aux entreprises; elles aident à créer les infrastructures; elles assurent la médiation entre les intérêts économiques des entreprises et ceux des instances sociales; elles travaillent en tant qu'unités programmatiques dans le court terme; elles ont aussi un rôle à jouer pour stimuler les initiatives et trouver un accord entre plusieurs parties; enfin, elles ont un rôle clé à jouer pour relier les intérêts publics et privés en faveur du développement de leur territoire.

Dans de nombreux cas, ces chambres ont en fait les mêmes fonctions que les municipalités et les provinces. Sans aucun doute, les chambres au niveau régional et local sont un acteur supplémentaire dans la construction de la gouvernance, dès lors qu'elles s'efforcent d'assurer la prise en compte des réalités locales dans le processus décisionnel de l'UE.

En résumé, on peut dire que cette table ronde a clairement démontré que, au-delà des différents contextes et définitions donnés au concept de gouvernance en général et à la gouvernance des collectivités territoriales en particulier, il semble que tout le monde soit d'accord pour reconnaître que les collectivités régionales et locales sont de plus en plus actives au niveau européen et qu'elles doivent par conséquent se voir attribuer un rôle renforcé et une plus grande reconnaissance, à la fois à un niveau plus général et plus particulièrement du point de vue institutionnel. □



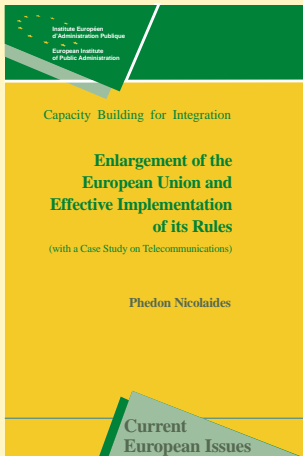
# ANNOUNCEMENTS / ANNONCES

*Conference*

## **Foundations of e-Europe: Achieving the Common Market in Telecommunications**

organised by  
the European Institute of Public Administration,  
with generous support from Fundación Retevisión

**Maastricht, 27-28 November 2000**



The future of the European economy and its ability to compete effectively in world markets depend on greater use of information technology and the growth of a truly liberalised and integrated telecommunications network. The modernisation, liberalisation and integration of European telecommunications raise a number of important policy issues which are examined in a forthcoming residential conference organised by the European Institute of Public Administration on 27-28 November 2000 in Maastricht.

The conference, which has been made possible by the generous support of the Spanish “Fundación Retevisión”, will bring together senior officials from the European Commission, national policy-makers and regulators, and telecommunications operators and users to discuss the state of affairs in the European telecommunications sector, the current regulatory framework and the recent proposals for improvement of that framework.

The conference is addressed to officials, telecommunications operators and users, academics and journalists who follow EU policy developments.

The conference will cover the following subjects:

- (a) The Policy Environment: Towards efficient and effective regulations:
  - The future of the EU policy on telecommunications.
  - Assessment of the new regulatory framework.
  - Assessment of the present and future regime concerning interconnection and licensing.
- (b) The Market Environment: Towards open and competitive telecommunications:
  - Dealing with infrastructural constraints (local loop and alternative networks).
  - Dealing with technological convergence and service integration.

It will also include a number of panel debates. Participants will have ample opportunity to put questions to the speakers.

The conference will be held at the purpose-built conference facilities of the European Institute of Public Administration in Maastricht. The language of the conference is English.

Due to the generous support of Fundación Retevisión, we are able to set the participation fee at *Euro 400*. The fee includes lunches and refreshments for two days and a complimentary copy of the volume with the conference proceedings that will be published soon after the conference and distributed to all participants. The fee does not include the cost of travel and accommodation, although EIPA will assist participants with their hotel reservation. The deadline for registration is 20 November 2000.

For more information and/or registration forms, please contact:

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*EIPA web site: <http://www.eipa.nl>*

*Policy Seminar:*

## **Challenges for a European Public Procurement Policy**

Maastricht (NL), 30 November – 1 December 2000

The European Institute of Public Administration is organising a *Policy Seminar* entitled “Challenges for a European Public Procurement Policy”. The Seminar will take place on 30 November – 1 December 2000 at the European Institute of Public Administration in Maastricht, the Netherlands.

The aim of this 2-day *Policy Seminar* is to discuss some of the main features of and recent developments in the public procurement policy in Europe. In particular, the Seminar will focus on the challenges faced by the European procurement regime:

- the introduction of a new EC **legislative package** and its implications for the procurement activity in Member States of the European Union;
- the development of new technologies and purchasing practices, leading to **electronic procurement** (and E-commerce);
- the introduction of other policy considerations, such as the protection of the **environment**, in carrying out procurement activities;
- the interface between procurement and **competition issues**, notably in the field of utilities with the liberalisation of sectors such as telecommunications;
- the proper implementation and enforcement of the EC Directives on public procurement, including **recent case law** and the possible recourse to **national authorities** to ensure an effective application of EC procurement rules.

The *Policy Seminar* should be of particular interest to senior public officials involved in the formulation and implementation of public procurement policy, as well as to lawyers and business people that have to operate within the scope of the EC public procurement regime. The Seminar is also intended for practitioners and public officials involved in procurement activities and academics.

The working language for the Seminar will be English.

For further information and programme, please contact:

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*EIPA web site: [http://www.eipa.nl/activities/default\\_proc.htm](http://www.eipa.nl/activities/default_proc.htm)*



Seminar/Séminaire

## Does size matter? Challenges and strategies in 'small' and 'large' EU Member States / *Petits et grands, tous égaux? Défis et stratégies dans les petits et grands Etats membres de l'UE*

with a speech by Jean-Claude Juncker, Prime Minister of Luxembourg/  
*avec un exposé de M. Jean-Claude Juncker, Premier Ministre du Luxembourg*

Maastricht,

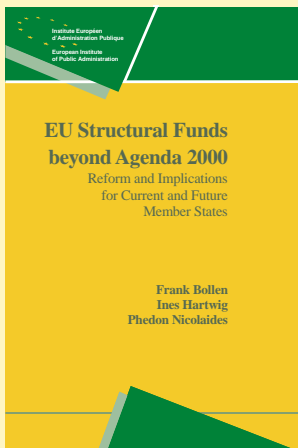
11 and 12 December 2000 / *les 11 et 12 décembre 2000*

The seminar aims to highlight the significance of "state size" in the EU by way of example. That is by showing how size is relevant in negotiations inside and outside the Union, in cooperation and coalition building with other Member States, in the development of administrative capacities and in relation to participation in CFSP, etc. The participants will have the unique opportunity to benefit from a discussion forum with Jean-Claude Juncker, the Prime Minister of Luxembourg and renowned specialists with significant experience in EU affairs. After the two-day session, the participants should have a better understanding of the impact of 'state size' in the EU as well as of the power and practice of 'small' and 'large' in this arena.

The conference will be conducted in French and English

*Ce séminaire vise à mettre en exergue la signification de la 'dimension de l'Etat' dans l'UE au moyen d'exemples, c'est-à-dire en montrant le rôle joué par cette dimension dans les négociations au sein de l'UE et en dehors de celle-ci, dans la coopération et l'établissement de coalitions avec d'autres Etats membres, dans le développement des capacités administratives, dans le cadre de la participation à la PESC, etc. Les participants auront l'opportunité unique de profiter d'un forum de discussion avec Jean-Claude Juncker, le Premier Ministre du Luxembourg, et des spécialistes de renom possédant une expérience impressionnante en matière d'affaires européennes. A l'issue de la session, les participants devraient avoir une meilleure compréhension de l'impact de la 'dimension de l'Etat' dans l'UE, ainsi que du pouvoir et des pratiques des 'petits' et 'grands' Etats au sein de cette institution.*

*Le séminaire se déroulera en français et en anglais.*



For further information, please contact/Pour de plus amples renseignements, veuillez contacter:

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*EIPA web site: <http://www.eipa.nl>*

Seminar

## Managing EU Structural Funds: New Challenges and Future Prospects

Maastricht (NL), 14-15 December 2000

The European Institute of Public Administration (EIPA) is organizing a seminar on the theme "**Managing EU Structural Funds: New Challenges and Future Prospects**". This seminar will take place on 14-15 December 2000 at EIPA's premises, located in the centre of Maastricht, the Netherlands. The working languages of the seminar will be English and French, with simultaneous interpretation being provided.

The objective of the seminar is twofold: (1) to bring together practitioners at European, national and sub-national level as well as academic experts in order to share experiences and identify cases of 'good practice' in managing effectively the EU Structural Funds, and (2) to exchange views and stimulate debate on the future of the EU Structural Funds in the light of the forthcoming enlargement of the European Union.

The speakers at the seminar will be high-level representatives of the European Commission as well as of various Member States' authorities and prominent academics. The seminar also includes sessions during which case studies will be presented which should encourage the participants to exchange practical examples and experiences in managing the EU Structural Funds.

It is anticipated that the audience of the seminar will comprise officials of EU Institutions, civil servants of the administrations of EU Member States and of the candidate countries, representatives of regional and local authorities, academic experts, etc.

As the seminar will be of a participatory nature, the participants will be strongly encouraged to actively take part in several discussions throughout the entire programme. Moreover, the participants will have ample opportunities to exchange informally points of view related to the topics of the seminar both with the respective speakers as well as among themselves.

For further information and programme, please contact:

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## Seminar / Séminaire

# Quality Management in Public Administration – Where To Go?/ *La gestion de la qualité dans l'administration publique – Quelle est la voie à suivre?*

Maastricht (NL)

18-19 January 2001 / *les 18 et 19 janvier 2001*

### *Context*

Public management is increasingly devoted to the concept of “quality” (e.g. in services, processes and resources). In several countries specialised units have been created to support quality management in government. Furthermore, a series of special models for quality management have been developed, and in several European countries prize schemes have been established to reward quality in public administration.

### *Objective*

The objective of this seminar is to discuss ongoing initiatives and practical experiences in the field of quality management in public administration. The seminar will focus in particular on models for quality management and ways of implementing them, both from a practitioner's and a theoretical point of view. The seminar will also deal with quality management as a basis for benchmarking. Input from case-study presentations and workshops will be a fundamental aspect of the seminar providing for the exchange of experience and adding depth and meaning to the subject.

### *Target Group*

The seminar is aimed at an international audience of public officials as well as other interested persons from e.g. trade unions and universities or research establishments dealing with quality management in the public service. The seminar will also be a unique occasion on which to meet people from other countries and to discuss matters of common interest.

This two-day seminar is being organised by the European Institute of Public Administration (EIPA), to take place at its premises in Maastricht, the Netherlands.

The working languages of the seminar will be both English and French.

### *Contexte général*

*Aujourd'hui, le concept de qualité (que ce soit des services, des processus ou des ressources) s'impose de plus en plus au sein de la gestion publique. C'est ainsi que des unités spécialisées ont été créées dans plusieurs pays afin de soutenir la gestion de la qualité dans l'administration. Par ailleurs, une série de modèles spéciaux ont été conçus pour gérer la qualité, et plusieurs pays européens ont institué des Prix de la qualité dans l'administration publique.*

### *Objectif*

*L'objectif du séminaire est de débattre des initiatives qui sont actuellement en cours et des expériences pratiques dans le domaine de la gestion de la qualité dans l'administration publique. Le séminaire se penchera plus particulièrement sur différents modèles de gestion de la qualité ainsi que leur mode d'application à la fois sous l'angle pratique et théorique. La gestion de la qualité sera également examinée comme base pour le benchmarking. L'apport des présentations d'études de cas et des ateliers sera essentiel en vue d'enrichir le séminaire et d'encourager l'échange d'expériences.*

### *Groupe cible*

*Ce séminaire à dimension multinationale s'adresse aux fonctionnaires chargés de la gestion de la qualité dans l'administration publique, ainsi qu'à toute personne intéressée notamment au sein des organisations syndicales et des universités/instituts de recherche. Il offre une occasion privilégiée de rencontrer des participants d'autres pays et d'ouvrir le débat sur des thèmes communs.*

*Ce séminaire de deux jours est organisé par l'Institut européen d'administration publique (IEAP), et aura lieu dans ses locaux à Maastricht (Pays-Bas).*

*Les langues de travail du séminaire seront l'anglais et le français.*

For more information and registration forms, please contact:

*Pour obtenir de plus amples informations ou recevoir un bulletin d'inscription, adressez-vous à:*

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*Seminar*

## **Committees and Comitology in the Political Process of the European Community**

Maastricht, 23-25 January 2001

Committees play a significant role in the various phases of the political process in the European Community. They participate in designing, deciding and implementing EC policy: expert or advisory committees help the Commission in the process of drafting legislation; Council working parties or committees prepare decisions of the ministers; and in the process of implementation, so-called 'Comitology' committees supervise the implementation of EC law.

The seminar is designed to help civil servants from the Member States and the Community institutions to gain a better understanding of the role these committees play in the policy process both from a theoretical and from a practical point of view. In the first part of the seminar a typology of committees – based on their function in decision-making – will be developed, followed by simulations and case studies of the various types of committees designed to illustrate the role they play in the policy process and the way they operate.

The combination of theoretical discussions and interactive learning will give participants the opportunity to improve their theoretical and practical knowledge of the work of committees in all aspects of Community policy-making and implementation. The working language will be English.

For more information and registration forms please contact:

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*EIPA web site: <http://www.eipa.nl>*

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*Seminar / Séminaire*

## **European Negotiations / *Négociations européennes***

Maastricht

19-23 March, 18-22 June, 8-12 October, 19-23 November 2001

This is a practical programme which aims to explore and define the strategies and tactics inherent in negotiations at the European Union level. This programme adopts a twofold approach. On the one hand, progressive simulation exercises will enable the participants to experience genuinely recreated negotiations and transform them into a laboratory to reflect on ways and means of optimising the experience of European negotiations. This programme obviously aims to help participants to improve their negotiation abilities and therefore places emphasis on practical skills development. For this particular purpose, individual performance cards will be drawn up and made available by the trainers. On the other hand, sessions in which debriefing of the simulations will take place will present both theoretical and empirical research on the factors which influence negotiations. Such factors include good preparation, particular techniques of negotiation, cultural patterns, communication skills and personal style. Similarly, the EU context is presented highlighting *inter alia* the institutional intricacies, Council rules of procedure, and the roles of the Presidency, the European Commission and the Parliament in negotiations. Finally, the multinational composition of the group should also offer participants an opportunity to discover together the special dynamics of the European negotiations in this intensive and highly participatory programme.

The working languages are English and French. Simultaneous translation will be provided.

*Ce séminaire, à caractère pratique, vise à explorer et à définir les stratégies et tactiques inhérentes aux négociations à l'échelle de l'Union européenne. La méthode du programme est double. D'une part, des exercices de simulation progressifs permettent aux participants de recréer plusieurs situations authentiques de négociations et de les transformer en un laboratoire où ils pourront réfléchir sur la façon d'optimiser l'expérience des négociations européennes. Ce séminaire est avant tout conçu pour aider les participants à perfectionner leurs talents de négociateurs, et met donc l'accent sur le développement des aptitudes pratiques. A cette fin, des fiches d'action personnalisées seront préparées et distribuées par les formateurs. D'autre part, des sessions d'évaluation des simulations présentent à la fois des recherches théoriques et empiriques sur les facteurs qui influent sur la négociation: la bonne préparation, les techniques particulières de négociation, les traits culturels, les canaux de la communication et le style personnel. Le contexte de l'Union européenne est lui aussi présenté, et en particulier les rouages institutionnels, les règles de procédure au sein du Conseil ou encore le rôle de la Présidence, de la Commission et du Parlement européen dans les négociations. Enfin, la composition multinationale du groupe devrait offrir aux participants une occasion unique de découvrir ensemble la dynamique particulière des négociations européennes dans ce programme intensif et fortement participatif.*

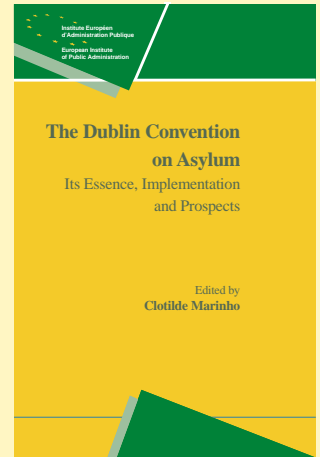
*Langues de travail: anglais et français (l'interprétation simultanée étant assurée).*

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Two Seminars on / Deux séminaires sur / Zwei Seminare zum

## The Dublin Convention on Asylum / La Convention de Dublin sur l'asile / Dubliner Übereinkommen über Asyl

Partially financed by the European Commission in the framework of the Odysseus Programme /  
Partiellement financés par la Commission européenne dans le cadre du Programme Odysseus /  
Teilfinanziert von der Europäischen Kommission im Rahmen des Odysseus-Programms

I Seminar – Maastricht, EIPA, 1-2 February 2001

II Seminar – Maastricht, EIPA, 25-27 April 2001

The aim of this set of seminars is to enhance knowledge of the Dublin Convention, its implementation decisions and how it is enforced in the Member States, in order to improve its operation and stimulate its uniform and consistent application, by dealing with practical problems of implementation.

*The seminars are open to civil servants from European Union Member States, from the applicant countries to the EU, as well as from Norway and Iceland.*

*The working languages of the seminars are English, French and German.*

*Cette série de séminaires a pour but de permettre aux participants d'élargir leurs connaissances sur la Convention de Dublin, les décisions concernant sa mise en œuvre et son mode d'application dans les Etats membres, afin d'améliorer le fonctionnement et d'encourager une application uniforme et cohérente de ladite Convention, à travers l'examen de problèmes pratiques de mise en œuvre.*

Ces séminaires s'adressent aux fonctionnaires des Etats membres de l'Union européenne, des pays candidats, de Norvège et d'Islande.

Les langues de travail des séminaires sont l'anglais, le français et l'allemand.

Ziel dieser beiden Seminare ist es, durch die Behandlung praktischer Durchführungsprobleme ein verbessertes Verständnis des Dubliner Übereinkommens, seiner Durchführungsentscheidungen und seiner Umsetzung in den Mitgliedstaaten zu erreichen und so seine Funktionsweise und seine einheitliche und konsequente Anwendung zu fördern.

*Eine Teilnahme an den Seminaren ist für Bedienstete aus den Mitgliedstaaten der Europäischen Union, aus den Ländern, die einen Beitritt zur EU beantragt haben, sowie aus Norwegen und Island möglich.*

*Arbeitsprachen der Seminare werden Englisch, Französisch und Deutsch sein.*

### I Seminar – Maastricht, EIPA, 1-2 February 2001

Directed at officials charged with, or who will be charged with, the enforcement of the Convention. It will focus specifically on the difficulties arising from the application of the Convention's provisions on *time-limits* and on the *exchange of information*, provide a forum for debate on future developments and an analysis of the EURODAC regulation.

### Séminaire I – Maastricht, IEAP, les 1<sup>er</sup> et 2 février 2001

*Ce séminaire est destiné aux fonctionnaires qui sont ou seront chargés de l'application de la Convention. Il examinera plus particulièrement les difficultés liées à l'application des dispositions de la Convention relatives aux délais et à l'échange d'informations. Ce séminaire sera aussi l'occasion d'ouvrir un débat sur les développements futurs et d'analyser le règlement EURODAC.*

### I. Seminar – Maastricht, EIPA, 1. - 2. Februar 2001

Dieses Seminar richtet sich an Bedienstete, die mit der Umsetzung des Übereinkommens befasst sind oder befasst sein werden. Das Seminar wird insbesondere auf die Schwierigkeiten eingehen, die sich aus der Anwendung der Bestimmungen des Übereinkommens zu *Fristen* und *Informationsaustausch* ergeben, es wird ein Forum zur Diskussion über zukünftige Entwicklungen und eine Analyse der EURODAC-Verordnung bieten.

### II Seminar – Maastricht, EIPA, 25-27 April 2001

Directed at policy-makers, judges and officers dealing with appeals involved in the enforcement of the Convention. It will provide an overview of the case-law in the various Member States involving the decisions resulting from the procedure to determine the Member State responsible for the examination of an asylum application. Special emphasis will be given to the application of the *opt-out clause*, in particular for family reasons, and its connection with the European Convention on Human Rights, as well as the *humanitarian clause*, *time-limit* provisions and the differences in asylum laws and practice among Member States.

### Séminaire II – Maastricht, IEAP, du 25 au 27 avril 2001

*Ce séminaire est destiné aux décideurs, juges et responsables des recours participant au contrôle de l'exécution de la Convention. Il offrira une vue d'ensemble de la jurisprudence des différents Etats membres sur les décisions résultant de la procédure nationale pour déterminer l'Etat responsable de l'examen de la demande d'asile. Le séminaire se penchera aussi sur l'application de la clause d'exemption (opt-out clause), notamment pour des raisons familiales, et sa relation avec la Convention européenne des Droits de l'Homme, ainsi que sur la clause humanitaire, les dispositions relatives aux délais, et les divergences entre les Etats membres s'agissant du droit et des pratiques en matière d'asile.*

### II. Seminar – Maastricht, EIPA, 25. - 27. April 2001

Dieses Seminar richtet sich an Politikgestalter, Richter und Bedienstete, die im Rahmen der Umsetzung des Übereinkommens mit dem Bereich der Rechtsmitteleinlegung befasst sind. Das Seminar bietet einen Überblick über die Rechtsprechung in den verschiedenen Mitgliedstaaten zu den Entscheidungen, die sich bei der Bestimmung des für die Prüfung des Asylantrages zuständigen Mitgliedstaates ergaben. Ein besonderer Schwerpunkt wird auf der Anwendung der *opt-out*-Klausel – insbesondere aus familiären Gründen – und ihrem Bezug zur Europäischen Menschenrechtskonvention liegen sowie auf der *Humanitätsklausel*, den *Fristbestimmungen* und den Unterschieden in Asylgesetzen und –praxis in den Mitgliedstaaten.

For more information and application forms, please contact / Pour obtenir de plus amples informations ou recevoir un bulletin d'inscription, adressez-vous à / Weitere Auskünfte erteilt und Anmeldeformulare sind erhältlich bei:

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## *Colloquium*

# **Mutual Recognition of Diplomas**

## **A quest for a more effective/efficient operation**

Maastricht, 5-7 February 2001

This colloquium has the following four objectives:

- (a) present and analyse the main systems used by the Member States for the recognition of professional qualifications obtained in other Member States;
- (b) identify best-practice and efficient national procedures;
- (c) identify potential problems in the mutual recognition of diplomas;
- (d) consider various proposals for reforming the present Community framework.

Recognition of foreign qualifications and diplomas has proven to be a source of major problems for the EU's internal market, in particular as far as the free movement of persons and the freedom to provide services are concerned. Although EU law has enshrined the principle of mutual recognition, which should make it easier to benefit from those freedoms, in real life there are often practical hurdles.

The colloquium aims to improve understanding of the Community framework of the recognition of diplomas and of the remaining problems by bringing together experts and practitioners and by providing an opportunity for officials and professionals who deal with this subject daily to meet and discuss the operation of the national systems.

The colloquium is based on active interaction between speakers and participants so as to facilitate the exchange of different views. It will use a variety of teaching methods – lectures, case studies, working groups – to achieve a deeper understanding to the issues and of the legal and administrative obstacles that prevent the smooth recognition of professional qualifications. There will also be a comparative review of the systems in operation.

Through looking at the different approaches and through the discussions in the working groups, the colloquium aims to develop ideas for the improvement of both national systems and the Community framework. In this respect there will be ample opportunity to exchange experiences and discuss ideas from different participants and from different Member States. This discussion will involve officials who administer the various national systems. The colloquium intends, in this way, to offer an opportunity for participants to seek clarifications from and convey ideas on improvements to their colleagues from other Member States.

The colloquium is designed to address the needs of a wide spectrum of officials, professionals and other interested persons although the primary target audience are officials who are involved in the process of recognition of diplomas. However, the colloquium will also be useful to policy-makers and advisers on EU issues, academics that teach on EU issues and, of course, those who are responsible for the granting of diplomas.

The working language of this colloquium will be English.

For more information and registration forms, please contact:

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*EIPA web site: <http://www.eipa.nl>*

*Practitioners Seminar:*

# **Achieving Better Procurement Practices in Europe**

Maastricht (NL), 8-9 February 2001

The European Institute of Public Administration (EIPA) is organising a Practitioners Seminar entitled “Achieving Better Procurement Practices in Europe”. The seminar will take place at EIPA in Maastricht, NL, on 8-9 February 2001.

*Objectives:*

The objective of this seminar is to enhance awareness concerning professional procurement practices so as to increase the efficiency of the procurement process in a manner consistent with EC rules and principles. It will present ways of assisting public authorities involved in procurement to reform their procurement organisation and process so as to perfect their purchasing activities.

*Target Group:*

The seminar is intended for public officials from national, subnational and local authorities and other public bodies of the EU Member States and associated countries working in the field of public procurement, as well as for lawyers involved in procurement activities.

*Contents:*

This seminar will outline the recent legal developments of, and reform proposals for, public procurement policy in Europe. The following topics will be covered:

- *The Rationale for the European Public Procurement Policy*  
Public procurement in the light of internal market objectives and economic efficiency.
- *Recent Developments in EU Procurement Policy*  
Overview of recent developments and prospects in European public procurement policy.
- *EC Rules and Case Law*  
Highlights of some of the major contentious issues in EC public procurement rules, remedies and recent case law.
- *Working Groups: Sharing National Experiences in Procurement Practice*
- *The Procurement Process*  
Key features of an efficient procurement system: organisation, choice of procedure, tendering, bid evaluation, verification phase, contracting, quality assurance, cost control.
- *Reforming Public Procurement Practice: A Case Study*  
How to improve public procurement practices? Considerations and proposals from a practitioner.

The working language for the seminar will be English.

For further information and programme, please contact:  
*Ms Esther Haenen, Programme Organisation, EIPA*  
*P.O. Box 1229, NL – 6201 BE Maastricht*  
*Tel: +31-43 3296 361; Fax: +31-43 3296 296; E-mail: e.haenen@eipa-nl.com*  
*EIPA web site: [http://www.eipa.nl/activities/default\\_proc.htm](http://www.eipa.nl/activities/default_proc.htm)*

# Seminare des *Europäischen Instituts für öffentliche Verwaltung*

in Zusammenarbeit mit der  
*Hochschule für Verwaltungswissenschaften, Speyer*

## **Der politische Entscheidungs- und Umsetzungsprozeß in der Europäischen Union und seine Bedeutung für die Bundesländer**

*Maastricht (NL), 12. – 16. Februar 2001*

Seit Mitte der 80'er Jahre sind die deutschen *Länder* in zunehmendem Maße zu der Erkenntnis gelangt, daß sie sich im Rahmen der rechtlichen Möglichkeiten verstärkt an der Gestaltung der Europäischen Union (EU)/ Europäischen Gemeinschaft (EG) beteiligen müssen, um ihre Eigenständigkeit im Prozeß der europäischen Integration zu wahren und zu stärken. Während der letzten Jahre wurde diese Einsicht in die Tat umgesetzt: die meisten Länderministerien haben Europareferate eingerichtet; alle Bundesländer haben in Brüssel Informationsbüros eingerichtet. Wichtiger noch ist die aktive und konstruktive Rolle die Ländervertreter im politischen Entscheidungsprozeß in zunehmendem Maße übernommen haben durch ihre Mitarbeit an den Arbeitsgruppen des Rates und im Regionalausschuß.

Das Seminar ist für Bedienstete der Bundesländer geplant, die noch relativ wenig Erfahrung und Kontakt mit der Europäischen Union haben, Kenntnisse in diesem Bereich jedoch in ihrer Arbeit oder in ihrer zukünftigen Arbeit brauchen. Es vermittelt grundlegendes Wissen über die Strukturen und Entscheidungs- und Umsetzungsprozesse in der Europäischen Union und die Rolle, die die Länder dabei heute spielen bzw. spielen können.

Es ist die Aufgabe dieses Seminars, Bediensteten der Bundesländer die Gelegenheit zu bieten:

- ihr Verständnis der politischen Entscheidungs- und Implementationsprozesse auf europäischer Ebene zu vertiefen,
- ihre Kenntnisse über wichtige Bereiche der europäischen Politik zu verbessern,
- die Problematik der Beziehungen zwischen *Ländern*, Bund und EU besser kennenzulernen.

## **Die europäische Integration nach dem Amsterdamer Unionsvertrag: Herausforderungen für Politik und Verwaltung der deutschen Bundesländer**

*Maastricht (NL), 2. – 6. April 2001*

Das Seminar spricht in erster Linie Bedienstete der Bundesländer an, die bereits weitgehende Erfahrungen in der Zusammenarbeit mit den europäischen Institutionen haben, diese Institutionen gut kennen und auch mit dem Vertrag über die Europäische Union vertraut sind. Ziel des Seminars ist es, grundlegende Probleme der institutionellen, politischen und wirtschaftlichen Weiterentwicklung der europäischen Integration aus der Perspektive der deutschen Bundesländer zu diskutieren. Es soll die Teilnehmer in die Lage versetzen, über ihre Zusammenarbeit mit europäischen Institutionen zu reflektieren und ihr Wissen und ihr Verständnis der europäischen Integration, insbesondere auch im Hinblick auf aktuelle Entwicklungen, zu vertiefen. Dabei werden die Mitgestaltungs- und Mitwirkungsmöglichkeiten der Bundesländer im Entscheidungsprozeß und in der Gestaltung der Politik der Europäischen Gemeinschaft hinterfragt.

Das Seminar ist ein Diskussionsseminar. Das EIPA-Team, ergänzt durch Europa-Experten aus Wissenschaft und Praxis, diskutiert kritisch mit den Teilnehmern folgende Themen:

- Grundprinzipien der europäischen Integration
- Institutionen und Entscheidungsprozesse in der EG
- EG-Recht, nationales Recht und nationale (regionale) Verwaltung
- Wirtschaftspolitische Herausforderungen
- Das Verhältnis zwischen der Europäischen Union, den Mitgliedstaaten, den Ländern und Regionen
- Perspektiven für den europäischen Integrationsprozeß im nächsten Jahrtausend aus der Sicht des Rates, der Kommission und des Parlamentes
- Perspektiven für eine Neudefinition des Verhältnisses zwischen der Europäischen Gemeinschaft und den Ländern und Regionen.

Eine Teilnahme an den Seminaren ist für alle Bediensteten der deutschen Bundesländer möglich. Weitere Informationen und Anmeldeformulare erhalten Sie bei:

*Belinda Vetter, Programmorganisation, EIPA*

*Postfach 1229, NL – 6201 BE Maastricht*

*Tel.: + 31-43 3296 382; Fax: + 31-43 3296 296; E-mail: b.vetter@eipa-nl.com*

*EIPA web site: <http://www.eipa.nl>*

# Event Celebrating EIPA's 20<sup>th</sup> Anniversary

## *Fourth European Conference*

### **Enlargement of the European Union: Prerequisites for Successful Conclusion of the Accession Negotiations**

Maastricht, 22-23 February 2001

#### **Purpose**

The impending enlargement of the European Union is probably one of the most significant developments in the process of European integration both for the Union itself and for the continent of Europe. For this reason the European Institute of Public Administration is announcing a Fourth European Conference on 'Enlargement of the European Union: Prerequisites for Successful Conclusion of the Accession Negotiations' to be held on 22 and 23 February 2001 at Maastricht, the Netherlands.

As with the three previous events, the primary objective of the conference is to review progress in the accession negotiations and the state of preparation of both the candidate countries to enter the Union and the readiness of the Union to receive them. The new conference, however, differs from the previous ones in that it also includes sessions on three special themes: the reform of EU institutions to facilitate the entry of new members and the suggestions for a new inter-governmental conference in the future; the EU's scoreboard for assessing the readiness of the candidates; and consideration for the arrangements and solutions that will resolve the tough negotiating problems that lie ahead.

#### **A Major Gathering**

In the short period during which the enlargement conferences have been held they have become a sort of traditional annual gathering for those interested in the process of accession of new members to the European Union. The success of previous events was the result of both the high level of speakers but also the high-level of participants who were afforded a unique opportunity to discuss in depth the various aspects of enlargement.

#### **Speakers**

Speakers will be senior officials from the three main EU institutions involved in the enlargement process – the Council, the Commission and the Parliament – the Swedish Permanent Representation, the Chief Negotiators or Ambassadors of the candidate countries and prominent academics.

#### **Method**

The aim of the conference is to disseminate information and stimulate public debate. Each session will begin with a presentation of the main issues followed by discussion with the audience. The principal stages of the conference will be concluded with a general discussion session for the purpose of considering alternative views, identifying similarities and linkages between the various themes and drawing overall conclusions. Furthermore, informal contact between participants and speakers will be encouraged during the social events of the conference.

#### **Target audience**

The conference will be of interest to public officials, diplomats, academics and journalists who follow the process and problems of enlargement. Through the conference they will gain a unique perspective on that process and the problems.

#### **Seminar Materials and Dissemination**

Speakers' notes and other background material will be distributed to all participants. In addition, two new EIPA books on the enlargement of the EU will be available free of charge at the conference venue. The books deal with the similarities with the previous enlargement and the concept of effective implementation of EU rules, respectively. The main points of the presentations and of the discussion sessions will be put on EIPA's web site afterwards so a wider audience can access them. They will also be edited and published in *Eipascopes*, which is EIPA's in-house journal distributed to more than 7,000 policy-makers, academics and commentators throughout Europe.

#### **Venue and language**

The conference will be held at the purpose-built facilities of the European Institute of Public Administration in the historic town of Maastricht in the Netherlands. The language of the conference is English.

For further information, please contact:

*Ms Sonja van de Pol, Programme Organisation, EIPA*

*P.O. Box 1229, NL – 6201 BE Maastricht*

*Tel: +31-43 329 6371; Fax: +31-43 329 6296; E-mail: s.vandepol@eipa-nl.com*

*EIPA web site: <http://www.eipa.nl>*



*Workshop on*

# State Aid Policy and Practice in the European Community: An Integrative and Interactive Approach

Maastricht, 22-23 March 2001

The European Institute of Public Administration (EIPA) would like to announce a two-day Workshop on “State Aid Policy and Practice in the European Community”, which will take place in Maastricht, the Netherlands, on 22-23 March 2001.

One of the foundations of the European Community is “a system ensuring that competition in the internal market is not distorted” (Art. 3 of the EC Treaty). However, competition can be distorted both by restrictive practices of companies and by subsidies granted by central and local governments of the Member States. Therefore, the European Community has developed an elaborate system of rules and procedures to prevent governments from using state aid to support inefficient industries and offer unfair incentives to attract mobile capital.

**The purpose of the Workshop is to examine in depth the interpretation and application of the Treaty rules and of the frameworks, guidelines and notices that have been developed by the Commission over the years. Some Commission decisions are analysed so that participants obtain a better understanding of the factors that shape those decisions. The Workshop also provides a forum to compare national experiences in granting state aid.**

An innovative feature of the Workshop is that participants are also presented with an extensive and updated statistical assessment of state aid policy. This assessment is the result of the continuous research on and monitoring of state aid cases by the EC Policies Unit of EIPA. Participants will be offered free copies of the Institute’s latest publication on state aid.

The **target audience** of the Workshop consists of middle managers and senior officials from all levels of government and local authorities, officials from public enterprises, academics, representatives of business and trade associations and other practitioners.

EIPA, which is organising and hosting the Workshop, has extensive experience and a well-established track record in these kinds of educational activities. Last year it organised more than 300 conferences, seminars, workshops and round-table discussions, spanning the whole range of EU institutions, decision-making procedures, policies and the EU legal system. The Workshop also represents a continuation of the research and seminar activities of the Institute in the area of competition policy.

The working language of the Workshop will be English.

For further information and registration, please consult:

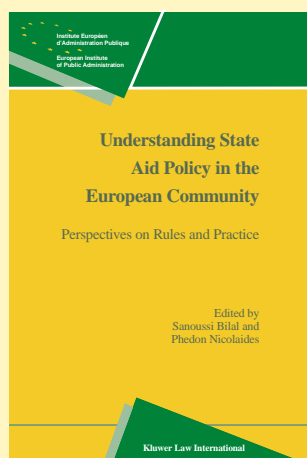
EIPA web site: <http://eipa.nl/activities/default.htm>

or contact:

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## SIGNING OF COOPERATION AGREEMENT WITH MALTA

On Wednesday, 18 October 2000, a cooperation agreement was signed between Malta and EIPA. This agreement will enable the Maltese public service to cooperate in the field of training and research in public management and European issues and to facilitate the participation of Maltese public officials, lawyers and judges or other experts in EIPA's activities. The agreement will also create a position at EIPA for a Maltese national who will carry out research in areas of interest to Malta and the EU which are linked to the accession process. The Director of the Staff Development Organisation will represent Malta on EIPA's advisory body, the Scientific Council.



*Photograph taken on the occasion of the signing of a cooperation agreement between the Staff Development Organisation in the Management and Personnel Office, Office of the Prime Minister, Malta, represented by its Director, Dr Philip von Brockdorff, and EIPA, represented by its Director-General, Prof Gérard Druésne*

## EIPA Staff News

### \* **Newcomers**

- **Cláudia Faria** (P) joined EIPA on 16 September 2000 as a lecturer.

## VISITEURS A L'IEAP

### Visite à l'IEAP de Monsieur Joseph Schaack

Visite à l'IEAP de Monsieur Joseph Schaack, Secrétaire d'Etat à la Fonction publique et à la Réforme administrative, accompagné de Monsieur Pierre Neyens, Directeur de l'administration du personnel de l'Etat, Ministère de la Fonction publique, et membre du Conseil d'administration de l'IEAP, Maastricht, le 9 octobre 2000



*De gauche à droite: Prof. Robert Polet, Professeur de gestion publique et Directeur général adjoint; Prof. Dr Gérard Druesne, Directeur général; et Madame Danielle Bossaert, Chargée de cours à l'IEAP; Monsieur Joseph Schaack, Secrétaire d'Etat à la Fonction publique et à la Réforme administrative; et Monsieur Pierre Neyens, Directeur de l'administration du personnel de l'Etat, Ministère de la Fonction publique, et membre du Conseil d'administration de l'IEAP*

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### Visit by H.E. Dame Rosemary Spencer C.M.G.

On Friday, 30 June 2000, H.E. Dame Rosemary Spencer C.M.G., accompanied by Mr Tony Hennessy (First Secretary) and Ms Jenny Cooper (Second Secretary) of the Embassy, visited EIPA. After a short meeting with the Director-General and some members of EIPA's faculty the Ambassador gave a presentation on "Britain in the EU".



*Photograph taken on the occasion of the visit to EIPA by H.E. Dame Rosemary Spencer C.M.G., the Ambassador of the United Kingdom to the Netherlands: welcomed by the Director-General of EIPA, Prof Gérard Druesne*

# Recent and Forthcoming EIPA Publications

## **Rethinking the European Union: IGC 2000 and Beyond**

*Edward Best/Mark Gray/Alexander Stubb (eds)*

EIPA 2000, 372 pages: **NLG 80**

(Also available in French)

## **EU Structural Funds beyond Agenda 2000: Reform and Implications for Current and Future Member States**

*Frank Bollen/Ines Hartwig/Phedon Nicolaïdes*

EIPA 2000, 236 pages: **NLG 70**

(Only available in English)

## **Schengen Still Going Strong: Evaluation and Update\***

*Monica den Boer (ed.)*

EIPA 2000, 129 pages: **NLG 60**

(Mixed texts in English, French and German)

## **Negotiating the Future of Agricultural Policies: Agricultural Trade and the Millennium WTO Round**

*Sanoussi Bilal/Pavlos Pazaros*

Kluwer Law International 2000, 302 pages

(Only available in English)

## **Umweltpolitik zwischen Brüssel und Berlin: Ein Leitfaden für die deutsche Umweltverwaltung**

*Christoph Demmke/Martin Unfried*

EIPA 2000, 248 Seiten: **NLG 60**

(Nur auf Deutsch erhältlich)

## **The Dublin Convention on Asylum: Its Essence, Implementation and Prospects**

*Clotilde Marinho (ed.)*

EIPA 2000, 413 pages: **NLG 25**

(Mixed texts in English and French)

## **Le niveau intermédiaire d'administration dans les pays européens: La démocratie au défi de la complexité?**

*Torbjörn Larsson/Koen Nomden/Franck Petiteville (eds)*

IEAP 1999, 446 pages: **NLG 65**

(Also available in English)

## **Understanding State Aid Policy in the European Community: Perspectives on Rules and Practice**

*Sanoussi Bilal and Phedon Nicolaïdes (eds)*

EIPA/Kluwer Law International 1999, 260 pages

Paperback available from EIPA: **NLG 70**

Hardcover available from Kluwer Law International

(Only available in English)

## **Internal Management of External Relations: The Europeanization of an Economic Affairs Ministry**

*Adriaan Schout*

EIPA 1999, 360 pages: **NLG 65**

(Only available in English)

## **L'Euroformation des administrations régionales et locales d'Europe\*** (Actes de la Conférence interrégionale; Barcelone, juin 1998) / **Eurotraining for Regional and Local Authorities in Europe** (Proceedings of the Interregional Conference; Barcelona, June 1998)

*Sous la direction de Eduardo Sánchez Monje*

IEAP 1998, 409 pages: **NLG 65**

(Pour faciliter la compréhension de cet ouvrage et lui assurer une large diffusion, les textes sont publiés dans la langue originale mais aussi en traduction française et anglaise)

### • CURRENT EUROPEAN ISSUES SERIES

## **Enlargement of the European Union and Effective Implementation of its Rules (with a Case Study on Telecommunications)**

Current European Issues – Capacity Building for Integration

*Phedon Nicolaïdes*

EIPA 2000, 86 pages: **NLG 40**

(Only available in English)

## **Between Vision and Reality: CFSP's Progress on the Path to Maturity**

*Simon Duke (ed.)*

EIPA 2000, 319 pages: **NLG 70**

(Only available in English)

## **L'égalité de traitement entre hommes et femmes**

*Sous la direction de Gabrielle Vonfelt*

IEAP 2000, 94 pages: **NLG 40**

(Disponible en français uniquement)

## **Managing, Monitoring and Evaluating the EU Budget: Internal and External Perspectives**

*Roger Levy (ed.)*

EIPA 1999, 133 pages: **NLG 50**

(Mixed texts in English and French)

## **Les administrations en mouvement**

## **Les réformes de modernisation administrative dans quatre pays: Portugal, Pays-Bas, Irlande et France**

*Isabel Corte-Real/Koen Nomden/Michael Kelly/Franck Petiteville*

IEAP 1999, 148 pages: **NLG 50**

(Also available in English)

## **A Regional Representation in Brussels: The Right Idea for Influencing EU Policy Making?/Une représentation régionale à Bruxelles: un choix judicieux pour influencer sur l'élaboration de la politique européenne?**

*Alexander Heichlinger*

EIPA 1999, English: 32 pages; French: 34 pages: **NLG 35**

(This publication comprises both an English and a French version)

## **Services of General Interest in the EU: Reconciling Competition and Social Responsibility – Developments in Telecommunications and Postal Services**

*Georg Haibach (ed.)*

EIPA 1999, 192 pages: **NLG 60**

(Only available in English)

## **A Guide to the Enlargement of the European Union (II): A Review of the Process, Negotiations, Policy Reforms and Enforcement Capacity**

(Revised and Extended Edition)

*Phedon Nicolaïdes/Sylvia Raja Boean/Frank Bollen/Pavlos Pazaros*

EIPA 1999, 102 pages: **NLG 40**

(Only available in English)

## **Formation à l'intégration européenne: Pour une coopération, entre les institutions européennes et les administrations des États membres de l'Union européenne, en matière de formation permanente du personnel et des gestionnaires publics**

*Sous la direction de Robert Polet*

IEAP 1999, 56 pages: **NLG 25**

(Also available in both English and German)

## **La face nationale de la gouvernance communautaire: L'élaboration des "positions nationales" des États membres sur les propositions d'actes communautaires**

*Franck Petiteville*

IEAP 1999, 113 pages: **NLG 40**

(Disponible en français uniquement)

### • WORKING PAPERS (available free of charge on EIPA's web site):

## **An Efficient, Transparent Government and the Rights of Citizens to Information**

(Conference Proceedings)

*Amaryllis Verhoeven; Bart W. Édes, Tony Venables; Dutch Ministry of the Interior*

EIPA 2000

## **Governance by Committee: The Role of Committees in European Policy Making and Policy Implementation**

*Georg Haibach*

EIPA 2000

## **Consistency as an Issue in EU External Activities**

*Simon Duke*

EIPA 1999

## **Connected Coalition Formation and Voting Power in the Council of the European Union: An Endogenous Policy Approach**

*Sanoussi Bilal and Madeleine O. Hosli*

EIPA 1999

## **Enlargement of the EU and Effective Implementation of Community Rules: An Integration-Based Approach**

*Phedon Nicolaïdes*

EIPA 1999

## **The EU Approach Concerning Agriculture in the New WTO Round**

*Pavlos Pazaros*

EIPA 1999

\* Details of all previous Schengen publications can be found online

All prices are subject to change without notice.

A complete list of EIPA's publications and working papers is available on request from the Publications Department or can be found on EIPA's web site.



## *About EIPASCOPE*

EIPASCOPE is the Bulletin of the European Institute of Public Administration and is published three times a year. The articles in EIPASCOPE are written by EIPA faculty members and associate members and are directly related to the Institute's fields of work. Through its Bulletin, the Institute aims to increase public awareness of current European issues and to provide information about the work carried out at the Institute. Most of the contributions are of a general character and are intended to make issues of common interest accessible to the general public. Their objective is to present, discuss and analyze policy and institutional developments, legal issues and administrative questions that shape the process of European integration.

In addition to articles, EIPASCOPE keeps its audience informed about the activities EIPA organizes and in particular about its open seminars and conferences, for which any interested person can register. Information about EIPA's activities carried out under contract (usually with EU institutions or the public administrations of the Member States) is also provided in order to give an overview of the subject areas in which EIPA is working and indicate the possibilities on offer for tailor-made programmes.

Institutional information is given on members of the Board of Governors and Scientific Council as well as on changes, including those relating to staff members, at EIPA Maastricht, Luxembourg and Barcelona.

The full text of current and back issues of EIPASCOPE is also available on line. It can be found at: <http://eipa.nl>

## *EIPASCOPE dans les grandes lignes*

EIPASCOPE est le Bulletin de l'Institut européen d'administration publique et est publié trois fois par an. Les articles publiés dans EIPASCOPE sont rédigés par les membres de la faculté de l'IEAP ou des membres associés et portent directement sur les domaines de travail de l'IEAP. A travers son Bulletin, l'Institut entend sensibiliser le public aux questions européennes d'actualité et lui fournir des informations sur les activités réalisées à l'Institut. La plupart des articles sont de nature générale et visent à rendre des questions d'intérêt commun accessibles pour le grand public. Leur objectif est de présenter, discuter et analyser des développements politiques et institutionnels, ainsi que des questions juridiques et administratives qui façonnent le processus d'intégration européenne.

En dehors des articles, EIPASCOPE contient également des informations sur les activités organisées par l'IEAP et, plus particulièrement, ses séminaires et conférences ouverts qui sont accessibles à toute personne intéressée. Notre bulletin fournit aussi des renseignements sur les activités de l'IEAP qui sont réalisées dans le cadre d'un contrat (généralement avec les institutions de l'UE ou les administrations publiques des Etats membres) afin de donner un aperçu des domaines d'activité de l'IEAP et des possibilités qu'il offre pour la réalisation de programmes sur mesure adaptés aux besoins spécifiques de la partie contractuelle.

Il fournit également des informations institutionnelles sur les membres du Conseil d'administration et du Conseil scientifique ainsi que sur les mouvements de personnel à l'IEAP Maastricht, Luxembourg et Barcelone.

EIPASCOPE est aussi accessible en ligne et en texte intégral sur le site suivant: <http://eipa.nl>

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