



Institut Européen  
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# E I P A S C O P E

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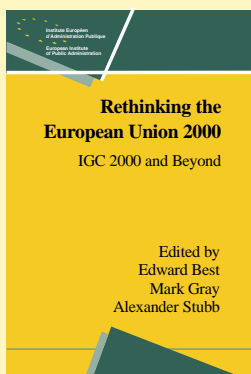
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# The Treaty of Nice: Not Beautiful but It'll Do<sup>1</sup>

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## *Summary*

After long and difficult negotiation, a Treaty was agreed at Nice in December 2000, concluding the Intergovernmental Conference convened to deal with the 'left-overs' from Amsterdam. There were criticisms of the conduct and tone of the discussions. Yet the basic goal was achieved: the possible institutional obstacles to enlargement were removed. There was an agreement to have one Commissioner per Member State as of 2005 and a reduction to an unspecified number less than that of the Member States once there are 27 countries in the EU; a complex system of reweighting of votes with a triple threshold for qualified majority; a limited extension of qualified-majority voting; and some relaxation of the conditions for 'enhanced cooperation'. It is not possible to foresee exactly how the new arrangements may work, and they may be modified before they come into force. Nonetheless, there are concerns that decision-making will not be easier while transparency may suffer; that attention has been distracted from non-treaty reforms and other issues of policy management; and that solidarity may have been weakened. The limited scope and particular nature of this agenda made it inevitable that bargaining should often seem zero-sum, while national positions proved unusually difficult to change. Any EU Presidency would have had great difficulty in managing these questions. For the future, improvements to the way in which Intergovernmental Conferences are structured and managed can be envisaged. Equally important will be how effectively diplomacy can be prepared and accompanied by other forms of European public deliberation.

The Treaty of Nice which was signed on 26 February should mark the end of a prolonged phase of adjustment for the European Union. The EU has been trying for the last ten years to adapt to the end of the Cold War division of Europe and, more recently, to prepare itself positively for a massive expansion to 27 members or more. The Intergovernmental Conference (IGC) which concluded in Amsterdam in 1997 was something of a false summit with regard to the institutional reforms which are essential before enlargement can proceed. A new IGC was thus held in 2000, focusing on the three issues 'left over' from Amsterdam – size and composition of the Commission, weighting of votes in the Council and possible extension of qualified majority voting (QMV) – 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'. The Feira European Council in June 2000 agreed that the new provisions on closer (now 'enhanced') cooperation should also be considered.

The IGC 2000 opened in Portugal on Valentine's Day. After nearly ten months of preparatory work, and four days of most unromantic wrangling, the Conference came to a rather tearful conclusion in Nice in the early hours of 11 December 2000. Tough words were heard as tired leaders departed, and an unprecedented degree of bad temper was rapidly reported as having characterised parts of the meeting.

Many immediate comments were critical. The content of the draft treaty was seen by some as failing to take the

firm steps essential to avoid future problems but rather introducing new complexities in the decision-making process. EU negotiations seemed to have been reduced to bargaining over relative power, instead of constructive compromise in the common interest, with particular criticism directed at the way in which the French Presidency had handled things. And the whole IGC process had apparently ended only in conflict and confusion.

Where reactions were more favourable, the underlying feeling seemed to be basically one of relief that there was a Treaty at all. One of the main obstacles to enlargement had been removed, and that was what mattered most. Indeed, in this light, Nice could be presented as a positive triumph. In the face of an urgent need to reach agreement, the Member States had managed to reach a compromise even over some of the most sensitive issues at stake so far in the integration process.

This article aims to give a balanced evaluation of what was agreed – and how. It first looks at the results of the IGC in each of the main issue areas and then offers some thoughts about the problems and achievements of the IGC 2000, the implications of the Nice Treaty for the future, and the steps which are now to be taken on the road to .... yet another IGC.

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

The only specific agreement in this case was that the five largest countries will lose their right to name two Commissioners: as of 1 January 2005, the Commission

will include 'one national of each of the Member States'. Further changes will take place '[w]hen the Union consists of 27 Member States'. The maximum number of Commissioners in EU27 is not fixed: the *Protocol on the Enlargement of the European Union* only states that the number 'shall be less than the number of Member States' and will be agreed by the Council, acting unanimously. Finally, a future 'rotation system based on the principle of equality' is agreed. The basic principle is defined to be that 'the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one', but with the intriguing qualification that 'each successive college shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States of the Union'. However, the implementing arrangements are to be adopted by the Council, by unanimity, only after signing the treaty of accession of the 27<sup>th</sup> Member State of the Union.

The smaller countries were thus successful, at least for the medium term, in defending their position. They continue to believe that a strong and independent Commission, like a strong legal system, is an essential guarantee of their interests in the face of the larger countries. The presence of a national of each country is not only felt to increase public acceptance of the institutions. It is also seen as reassurance both that all interests will really be taken into account within the Commission and that the political role of the Commission will not be weakened. The argument that a smaller Commission would be a more effective and more managerial body free of national ties and thus better able to defend small countries' interests is still outweighed by the belief – which seemed to be confirmed at Biarritz in October 2000 – that at least some of the larger countries saw the reduction in the number of Commissioners as a means to reduce the role of the Commission to that of a purely administrative body.

Since a Commission of 20 to 27 Members clearly requires stronger 'organisation', however, it was agreed that the President 'shall decide on its internal organisation in order to ensure that it acts consistently, efficiently and on the basis of collegiality'; as well as allocate and reshuffle responsibilities among Members. The President will be able to oblige a Member to resign, 'after obtaining the approval of the Commission', and 'shall appoint Vice-Presidents'.<sup>2</sup>

### **The Weighting of Votes and Threshold for Qualified-Majority Voting**

A generally accepted aim of re-weighting was to ensure that any winning coalition under QMV will represent a reasonable majority of the population, and that decisions cannot be blocked by too small a minority. At present, the minimum share of EU population represented by a possible winning coalition is around 58% (down from over 70% in EC9); the minimum share represented by a possible blocking minority is around 13%. Extrapolation of the present system would mean that a winning coalition in EU27 could represent barely 50% of the population, while a coalition representing a large majority could be blocked by one representing 10%.

There were also more particular concerns regarding the relative position of the larger Member States. From the 1950s until 1986, only one of the big states could be outvoted. In EC12 and EU15, two big countries could be outvoted, while the Big Five together could not outvote the rest (although they accounted for around 80% of the total

population in EU15). Would it now be accepted that *three* of the big countries would let themselves be outvoted?

The instruments available were an indirect recognition of relative population through a re-weighting of votes in favour of the larger countries and/or the addition of a dual key in the sense of also directly checking that a winning coalition, however it is weighted, represents a specific percentage of total population.

Many problems would not have arisen had there been acceptance of the *double simple majority*. Under this system, each Member State would have one vote. Decisions would require a majority of the states, so long as this also reflected a majority of the EU population.<sup>3</sup> This system would most clearly reflect the dual nature of the EU as a union of states and of citizens. It would have been simple to understand and relatively easy to manage. It would, by far, do most to increase ease of decision-making. It would be a once-off decision which would not require complex and repeated calculations as enlargement proceeds. And it would have made demographic weight count while avoiding differentiation between pairs of countries which had so far, despite having different populations, enjoyed equal voting rights.

However, the big countries generally preferred a re-weighting of votes to any system of dual majority,

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usually on grounds of greater simplicity. In addition, those Member States which 'renounced' their second Commissioner felt, some more strongly than others, that they had to be directly 'compensated'. Moreover, it may never have been completely realistic to imagine placing Germany or France on the same standing *qua* states as Luxembourg or Malta. Other 'objective' keys aiming to provide a simple principle which could be extended without re-negotiation (such as the Swedish ideas based on square roots of population) were also rejected.

The result was a triple threshold for qualified majority decisions, with an even greater degree of complexity than the present arrangements.

- a threshold of votes of well over 70%;
- a majority of Member States; and, if requested,
- verification that this represents at least 62% of the EU population.

#### *The weighting*

The future system of weighting is basically derived from proposals by which the present Member States would all receive an increased number of votes (so that 'all would have prizes') but in different proportions. There had also been some prior agreement that it would help to double the numbers anyway, in order to increase the scope for differentiation in the votes attributed to new Member States. Beyond this, the negotiations were strongly shaped by President Chirac's resisting Chancellor Schröder's demand that Germany should now have more votes than France in view of the difference in population of 22 million – while at the same time proposing, as EU Presidency, that differentiation should apply between other countries.

This led to renewed sensitivity between Belgium and the Netherlands. The Belgian position in the run-up to the IGC had been to accept a 'decoupling' but only if the French also accepted having fewer votes than Germany. In the end, Belgium only agreed to such a decoupling without Franco-German differentiation in return for having 12 votes compared to the Netherlands' 13, rather than the 11 originally proposed, and for an increase from 20 to 22 in the number of Belgian MEPs after enlargement. Spain continued to press its 'special position' as a medium-to-big country which had, on accession, accepted eight votes to the big countries' ten in exchange for two Commissioners. In the run-up to Nice, the Spanish Government also argued that it would only agree to continue having less votes than France, Italy and the UK if the Germans were to have more. Although Spain did

not succeed in its stated goal of obtaining the same influence in blocking decisions as the large countries, it did receive the greatest proportional increase in votes. This, however, contributed to sensitivities with Portugal, which, having had five votes compared to Spain's eight, was now offered 11 compared to 28 in the first proposals. The result was to give Portugal 12 compared to Spain's 27, as well as two more MEPs.

There was also a clear belief that applicant countries did not merit the same treatment as present Member States. In the first Presidency proposals at Nice, Poland was given fewer votes than Spain, Lithuania five votes compared to Ireland's seven, and Malta three to Luxembourg's four, although these three pairs of countries have nearly identical population sizes. Romania was to be offered the same number of votes as the Netherlands despite having a population which is 40% larger. The Polish situation was rapidly sorted out. Only in the final phases, however, was Lithuania given equal treatment with Ireland and Romania a slight increase compared to the Netherlands (14 to 13). Malta was left in its peculiarly disadvantaged position in both Council and Parliament.<sup>4</sup> The distribution which was finally agreed is shown in Table 1.

*Table 1: Shares of Population, Council Votes and European Parliament Seats in EU 27, as Agreed at Nice*

	Population		Present Votes		Future Votes		Present Seats		Future Seats	
Germany	82.0	17.0%	10	11.5%	29	8.4%	99	15.8%	99	13.5%
UK	59.2	12.3%	10	11.5%	29	8.4%	87	13.9%	72	9.8%
France	59.0	12.3%	10	11.5%	29	8.4%	87	13.9%	72	9.8%
Italy	57.6	12.0%	10	11.5%	29	8.4%	87	13.9%	72	9.8%
Spain	39.4	8.2%	8	9.2%	27	7.8%	64	10.2%	50	6.8%
Poland	38.7	8.0%			27	7.8%			50	6.8%
Romania	22.5	4.7%			14	4.1%			33	4.5%
Netherlands	15.8	3.3%	5	5.7%	13	3.8%	31	5.0%	25	3.4%
Greece	10.5	2.2%	5	5.7%	12	3.5%	25	4.0%	22	3.0%
Czech Rep.	10.3	2.1%			12	3.5%			20	2.7%
Belgium	10.2	2.1%	5	5.7%	12	3.5%	25	4.0%	22	3.0%
Hungary	10.1	2.1%			12	3.5%			20	2.7%
Portugal	10.0	2.1%	5	5.7%	12	3.5%	25	4.0%	22	3.0%
Sweden	8.9	1.8%	4	4.6%	10	2.9%	22	3.5%	18	2.5%
Bulgaria	8.2	1.7%			10	2.9%			17	2.3%
Austria	8.1	1.7%	4	4.6%	10	2.9%	21	3.4%	17	2.3%
Slovakia	5.4	1.1%			7	2.0%			13	1.8%
Denmark	5.3	1.1%	3	3.4%	7	2.0%	16	2.6%	13	1.8%
Finland	5.2	1.1%	3	3.4%	7	2.0%	16	2.6%	13	1.8%
Ireland	3.7	0.8%	3	3.4%	7	2.0%	15	2.4%	12	1.6%
Lithuania	3.7	0.8%			7	2.0%			12	1.6%
Latvia	2.4	0.5%			4	1.2%			8	1.1%
Slovenia	2.0	0.4%			4	1.2%			7	1.0%
Estonia	1.4	0.3%			4	1.2%			6	0.8%
Cyprus	0.8	0.2%			4	1.2%			6	0.8%
Luxembourg	0.4	0.1%	2	2.3%	4	1.2%	6	1.0%	6	0.8%
Malta	0.4	0.1%			3	0.9%			5	0.7%
<b>TOTAL</b>	<b>481.2</b>		<b>87</b>		<b>345</b>		<b>626</b>		<b>732</b>	

#### *The threshold of votes*

In the aftermath of Nice there was confusion even over what had actually been agreed concerning the threshold of votes for decisions under QMV. First, the *Protocol on the Enlargement of the European Union*, which deals with the Commission and the present Member States, states that as of 1 January 2005 the present Member States will have the number of votes indicated in the table above. For EU15 the threshold indicated in the first

provisional text was 170 votes out of 237. This, however, would be 71.7%, somewhat higher than the current level of 71.3% (62 out of 87). To stay at the current level, 168 would have been the obvious figure. Second, that threshold is to be adjusted proportionately with every accession on the condition that the qualified majority threshold expressed in votes does not exceed the threshold resulting from the table in the *Declaration on the Enlargement of the European Union* (as in Table 1), which stipulates the common position of the Member States in the accession conferences. This indicates a threshold of 258 votes out of 345, which would represent an increase in the percentage of votes required to 74.8%. Finally, a separate *Declaration on the qualified majority threshold and the number of votes for a blocking minority* stated not only that the maximum percentage for a qualified majority would rise to 73.4% but also that the blocking minority is to rise from 88 to 91 when all candidate countries will have joined. This would mean reducing the voting threshold to 255, giving yet another figure of 73.9%.

A revised Provisional Text dated 22 December reduced the threshold for EU15 from 170 to 169; but confirmed both the figure of 258 in the *Declaration on the Enlargement* and the agreement in the *Declaration on the qualified majority threshold* to raise the blocking minority to 91. The question may have to be resolved finally at the next IGC.

#### *The majority of states*

Re-weighting faces an inherent tension between the representation of states and the representation of citizens. At present a winning coalition necessarily has a majority of Member States – no combination of seven countries can reach the threshold of votes required for a qualified majority. The further one goes in making the weighting of votes more directly proportional to population, the easier it is for a qualified majority of votes to be reached by a minority of Member States. To deal with this part of this problem, there was preliminary agreement before Nice that, whatever the eventual weightings, a qualified majority would have to represent a majority of Member States.

The threshold of 258 out of 345 happens to be just the right number needed to ensure that a qualified

majority of votes always represents a majority of States,<sup>5</sup> in which case the second majority condition would only be relevant during the transition from EU 15 to EU 27. A blocking minority of 91, however, would change this.

#### *The 62% of population*

With a threshold of 258 or 255, the minimum share of total population represented by a winning coalition would be around 58% – more or less what it is today.<sup>6</sup>

However, as part of the negotiations for a re-weighting of votes in which France retained parity with Germany, a third condition was added by which any Member State may request verification that the qualified majority comprises at least 62% of the population. This means in practice that

Germany and any two of the other three largest countries (UK, France, Italy) – such a trio together accounting for over 40% – will still be able jointly to block any decision, whatever happens in terms of votes cast. Equally important, perhaps, is the very fact that relative demographic weight is now explicitly stated for the first time as a condition for decision-making.

#### **Qualified-Majority Voting**

Little change occurred in the end concerning the ‘possible extension’ of QMV. There had already been consensus by June 2000 that ‘a number of constitutional and quasi-constitutional issues intrinsically call for unanimity’.<sup>7</sup> The French Presidency in its Revised Summary of 23 November listed nearly 50 provisions which could be changed to QMV. Whereas a few Member States (e.g. Italy, Belgium, Netherlands, Finland) had virtually no objection to making QMV the rule, almost all others opposed some part of the list and either vetoed

any change or succeeded in introducing delays and conditions.

The British Government, with some support, defended its ‘red line’ areas of taxation and social security. The French Government agreed to extend QMV to trade in services, but

not to cultural and audiovisual services. Spain put off any change affecting the structural funds and the cohesion fund until 2007, and even then only on the condition that the financial perspective after 2007 will previously have been adopted. Germany blocked QMV in some areas in Justice and Home Affairs; while asylum policy is only to move to QMV provided that the

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Council has previously adopted the common rules and basic principles by unanimity, and most of immigration and other areas only in 2004.

The provisions in which QMV is to be introduced are therefore largely limited to procedural questions,<sup>8</sup> certain kinds of international agreement,<sup>9</sup> asylum and immigration and a few other policy decisions.<sup>10</sup> Of these, co-decision only applies in some cases.

### **The European Parliament**

The European Parliament was affected by two kinds of decision at Nice: the distribution of seats in the light of the ceiling of 700 agreed at Amsterdam; and the evolution of its institutional role in the EU system.

Franco-German differentiation had been implemented in the Parliament since 1992. This differentiation was in fact increased at Nice as part of the overall packet in which France retained parity of votes in the Council. Germany retained 99 representatives while France, Italy and the UK each dropped from 81 to 72. Moreover, Belgium, Portugal and Greece also received extra seats at the end as compensation for the voting arrangements in the Council – although the Czech Republic and Hungary, despite similar populations, did not, a situation which they later angrily vowed to fight. The consequence of all this was to exceed the ceiling of 700. A new limit was set at 732, thus somewhat weakening the credibility of other target figures and commitments.

With regard to Parliament's institutional role, the decisions were mixed, even contradictory. Parliament was finally placed on an equal footing as the Commission, the Council and the Member States with regard to the right to bring actions for judicial review of Community acts by the Court of Justice. However, co-decision was not recognised as a necessary corollary of qualified-majority voting in the Council. A further step was made in recognising the importance of political parties at European level in creating a European political debate, and thus boosting public interest in the European Parliament. Regulations governing such parties are now to be

adopted, 'in particular the rules regarding their funding'. Yet at the same time, the distribution of seats was not only being negotiated very much in terms of national representation. It tended to be treated as a means to compensate changes in the Council voting weights, and was agreed without any consultation of the European Parliament itself.

### **Enhanced Cooperation**

Important changes were introduced in the provisions on enhanced (or 'closer') cooperation, by which deeper integration can be pursued in particular areas without the participation of all countries. The main changes have been to relax the 'enabling clauses' introduced at Amsterdam – that is, the general conditions and

procedures contained in the Treaty on European Union, and the specific provisions included for the European Community and in Police and Judicial Cooperation in Criminal Matters (the new 'Third Pillar'). First, the simple right of veto has

been 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<sup>11</sup> for a unanimous decision. This 'emergency brake' has been taken away, or at least made less explicit – the Nice text indicates that in the EC and the Third Pillar a matter may still be referred to the European Council before a decision

is taken, although there is no mention of unanimity.<sup>12</sup> Second, the minimum number of States participating in an arrangement has been changed from a majority of Member States to an absolute figure of eight.

Further changes are made in the Third Pillar. Authorising procedures are brought closer to those in the European Community: the Commission is now given the near-exclusive right of initiative,<sup>13</sup> and the 'emergency brake'

is similarly removed (or disguised). The Court of Justice is also given jurisdiction.

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Pillar – although not, due in particular to UK opposition, in matters having military or defence implications. In this case, there is no formal threshold for participation and authorisation is granted by the Council, subject to an ‘emergency brake’.

### Conclusions

The first conclusion must be that Nice, seen in the long-term perspective of European integration, was a success if only because it did not fail, despite the depth of the differences and the sensitivities involved. The main goal was achieved, which was to remove the institutional obstacles which could be used to prevent enlargement.

The more specific stated objectives were to ensure ease of decision-making in an enlarged Union; to adjust the relative influence of the Member States in future Council voting arrangements so as to reflect demographic weight more fairly; to adapt the size and composition of the Commission so as to ensure future efficiency and legitimacy of that institution; and, most broadly, to welcome the new Members while guaranteeing that enlargement will not weaken the integration process.

Measured against these aims, however, the results are certainly not ideal, although some important qualifications are still called for. In the first place, despite the strength of the initial criticisms of the Nice Treaty, almost no-one actually claims that the outcome of the IGC is completely negative. Some of the less publicised results are in fact rather positive: notably the reforms to the Statute of the Court of Justice, the fact that the European Parliament has at last been given full standing to challenge Community acts before the Court, and the strengthening of the Commission’s internal organisation and of the role of its President. Moreover, it must be recognised that we do not know how the new arrangements may work in practice, and it is far from certain that the Nice agreements will even remain exactly as they are by the time they are supposed to come into effect. The 700

ceiling for MEPs set at Amsterdam was fairly casually forgotten at Nice. In the next few years, the Intergovernmental Conference to be convened in 2004 and the accession conferences will make it equally possible to change some of the conclusions of Nice.

Nonetheless, it is hard to believe that there will be any improvement in *efficiency*, understood as the ease of decision-making. The qualified-majority threshold has been raised and complicated, while important policy areas remain subject to unanimity. There is also the risk that all this fuss about the relative percentages of votes and majority thresholds may distract attention from the important non-treaty reforms which need to be

implemented to improve real *effectiveness*, and from the challenges posed by the fact that new policies are increasingly not being managed through legislative instruments adopted under the classic Community method.<sup>14</sup>

It is not clear what Nice will mean for legitimacy. *Transparency* has actually suffered, in that the decision-making system has been made yet more difficult for people to understand. At least in the short term, Nice has probably had a negative impact on *solidarity*. Arguments over relative national weight predominated over a Community perspective; tensions were exacerbated about the balance between big and small states; and the IGC caused positive harm to relationships between some countries. Strains between France and Germany were so strong that a summit had to be arranged for January 2001 to try to soothe the wounds. Benelux was seriously bruised, while the weighting game led to some sensitivities on the Iberian peninsula. Moreover, the image given in the candidate countries was hardly the most favourable – both in terms of the apparent discrimination against them vis-à-vis the present Member States in the distribution of votes and seats, and in terms of the vision created of the EU as a system based mainly on national interest and relative power.

It is tempting to ask whether the process and the results could have been any ‘better’ – meaning, if nothing else, whether compromises could have been more easily found and bad feeling avoided. Was there a lack of adequate leadership? France and Germany, far from serving as a tandem leading Europe forwards, were directly at odds. The European Commission, which on at least some previous occasions had played an important

role of brokerage, exercised comparatively little influence at Nice. And the French Government was in a particularly difficult situation which made it all the harder to fulfil the role expected of the Presidency.

The criticisms made of the French Presidency, however, must be

taken with care. Not everything was in fact managed in a way which attracted criticism. The French handling of enhanced cooperation, for example, has been considered rather effective. Most important, any Member State holding the Presidency would have had to deal with an exceptionally difficult agenda. The IGC was not only limited in *scope*, thus more or less precluding any kind of broad package deal in which Member States could feel that their losses in one issue area were compensated elsewhere. The *nature* of the issues was such that the negotiations were predictably going to be less ‘integrative’ than ‘distributive’ in character. The agenda did not include any broad policy issues in which the

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result – even if national preferences were not completely satisfied – could still be presented as an overall gain for the Union as a whole. On the contrary, the issues focused precisely on questions of relative national representation and influence which all too easily seemed to be a zero-sum game in which one country's gain was inevitably another one's loss. Moreover, the *context* was, already beforehand, one of an unusual tension between larger and smaller countries.

As luck had it, the Council Presidency which had to conclude such an IGC fell to a large country. Among the larger countries, it had to be precisely that large country which was most sensitive about the impact of German unification and EU enlargement on its own relative weight in European integration. And, just to make things even tougher, the French President was living in 'cohabitation' with a Prime Minister of an opposing party.

In another such fateful coincidence, when a compromise had to be reached over the future of the Union's finances in the first half of 1999, the Presidency happened to be held by Germany, the largest net contributor, at a time when there was strong domestic pressure on the German Government to reduce that contribution. Germany clearly (and even quantifiably) sacrificed part of what it

could have obtained had it felt able to put its full weight behind the national interest. In that case, however, the concession was a matter of degree, and the result could be presented as necessary to achieve a diffuse common goal. For France at Nice the question was simply and clearly parity or non-parity – an issue of such symbolic importance and national sensitivity that President Chirac obviously felt he could not give way.

In a broader perspective, the frictions at Nice were merely a predictable reflection of the difficult process of adjustment to the new realities of Europe. Whatever else, the IGC has drawn attention to the tectonic shift which has taken place in Europe in the last 10 years and which no amount of denial can reverse: Germany is now by far the largest country in the EU and the centre of the Union has moved east. These are fundamental constitutional and geopolitical questions which require sensitive

treatment, however, and consensus does not seem to have been strengthened. The IGC has not helped create a (re)new(ed) common vision of European integration.

On the contrary, in the course of 2000, speeches by national leaders highlighted the differences in approach.

It is in this context that the European Union is to set off once more on the road to an IGC. Can we make it any easier next time?

Improvements in the IGC process itself can be pursued. The difficulties in the IGC 2000 were (again) partly a result of structural problems. For example, there appears to be an inadequate link between the top political level and the Group of Representatives during the preparations. It was thus left to the Heads of State or Government to solve many of the difficult political problems at the last minute – and without officials. The confusions and disputes over exactly what was agreed arose largely because there is no mechanism for the Heads of State or Government to confirm precisely what they have agreed before departing.

It will be equally important to accompany intergovernmental diplomacy with broader processes of public deliberation. Although there are no 'left-overs' from Nice, as there were from Amsterdam, the Conference did adopt a *Declaration on the Future of the Union* which calls for a deeper and wider debate about the future development

of the EU. Following 'wide-ranging discussions with all interested parties', a new IGC is to be convened in 2004 to consider a more precise delimitation of competencies between the European Union and the Member States; the status of the Charter of Fundamental Rights; simplification of the Treaties; and the role of national parliaments.

The emphasis on national parliaments is doubly significant. On the one hand, it is a response to the various proposals which were again made in 2000 for a second (or, for some, third) chamber composed of national parliamentarians to be added to the Union's institutional system as a means to ensure respect for subsidiarity and to strengthen links between the EU and national political life. On the other hand, it reflects interest in the parallel experience in 2000 of the Convention on Fundamental Rights, which brought together representatives not only

## **The European Union is to set off once more on the road to an IGC. Can we make it any easier next time?**

## **A Convention cannot replace an IGC, it could certainly help in the future to prepare fundamental changes in the EU system on the basis of broader consensus and deeper support. There is certainly much to be done.**



of the national governments but also of national parliaments, as well as the European Parliament and European Commission. While such a Convention cannot replace an IGC, it could certainly help in the future to prepare fundamental changes in the EU system on the basis of broader consensus and deeper support. There is certainly much to be done.

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## NOTES

- <sup>1</sup> An earlier version of this paper was published as 'The European Union After Nice: Ready or Not, Here They Come!' in *Intereconomics* 36:1 (January-February 2001) pp.19-24.
- <sup>2</sup> Modified Article 217 TEC.
- <sup>3</sup> The population threshold could be higher, perhaps 60%, without losing the advantages of the system.
- <sup>4</sup> Questioned about the Maltese case, President Chirac was reported as stating that 'traditionally, the countries that have the longest history benefit from an advantage' as 'they have greatly contributed to the European building process'. (*Agence Europe*, 11-12 December 2000 p.4).
- <sup>5</sup> That is, working 'downwards' from the largest country in order to reach the highest number of votes with the lowest number of countries, the votes of the 13 most populous countries together total 257.
- <sup>6</sup> That is, working 'upwards' from the least populous country in order to reach the most votes with the least population, it is only possible to reach 258 votes by including all Member States except France, the UK and Germany. This coalition would represent 281 million citizens out of a total of 481 million, equivalent to 58.4%.
- <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'. See Annex 3.7 to the Portuguese Presidency's Report to the Feira European Council, CONFER 4750/00, 14 June 2000.

- <sup>8</sup> Appointment of the Secretary-General/High Representative and Deputy Secretary-General of the Council, CFSP Special Representatives, Court of Auditors, Economic and Social Committee, Committee of the Regions; nomination of the intended President of the Commission, appointment of the Commission following approval by the Parliament, and appointment of a new Member of the Commission to fill a vacancy; approval of the Statute for MEPs, and regulations governing political parties at European level; approval of the Rules of Procedure of the Court of Justice, Court of First Instance and Court of Auditors.
- <sup>9</sup> International agreements in CFSP or JHA where a qualified majority is required for internal decisions; representation of the EC in the sphere of economic and monetary union; trade in services and commercial aspects of intellectual property, with exceptions; economic, financial and technical cooperation with third countries.
- <sup>10</sup> Rules applicable to the structural funds and the cohesion fund after 1 January 2007; specific actions for economic and social cohesion outside the structural funds; rapid introduction of the ECU; incentive measures for anti-discrimination; financial assistance to a Member State in severe difficulties; support measures in the industrial sphere; financial regulations.
- <sup>11</sup> In the case of the European Community, the Amsterdam Treaty stipulates that the matter is referred to the Council, meeting in the composition of the Heads of State or Government. The Nice Treaty only refers to the European Council.
- <sup>12</sup> New Article 40a(2) TEU; modified Article 121 (2) TEC.
- <sup>13</sup> Again a semi-brake is left, in that, if the Commission does not submit a proposal as requested, the Member States concerned 'may then submit an initiative to the Council designed to obtain authorisation for the cooperation concerned.' (new Article 40a(1) TEU).
- <sup>14</sup> See Helen Wallace, 'Some Observations on the Illusions of Institutional Balance and the Representation of States' in Edward Best, Mark Gray and Alexander Stubb (eds.) *Rethinking the European Union: IGC 2000 and Beyond*. (Maastricht: EIPA, 2000) pp. 209-218; and 'Nice Votes If You Can Get Them', *Integration*, April 2001. □

# Vers un “fédéralisme à plusieurs niveaux”? Une analyse des procédures et pratiques de la participation des régions au processus décisionnel communautaire

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## Résumé

La nécessité d'une implication renforcée des régions dans les processus décisionnels et politiques européens fait partie du processus de régionalisation du paysage politique européen dans les années 80 et 90. En vue de permettre la participation des régions à la politique européenne, tous les Etats à forte structure régionale ont adopté des procédures et des règles très formalisées.

Cet article tente une comparaison entre les procédures et pratiques suivies dans les différents Etats membres et il ressort de cette comparaison que chaque Etat membre a finalement choisi de suivre sa propre voie en matière de coopération régionale sur le terrain de la politique européenne. L'approche adoptée en Autriche et en Allemagne, qui est celle d'une "participation compensatoire", correspond à un modèle interne de fédéralisme unitaire et coopératif, tandis que le système belge d'obligation de consentement dans les rapports internes et de division du travail dans les relations extérieures reflète le "système de séparation" belge et l'étend à l'espace communautaire. La pratique britannique correspond jusqu'ici à un système de gouvernement marqué moins par des règles fermes que par la flexibilité, le pragmatisme et les solutions au cas par cas, alors qu'en Espagne la coopération efficace des régions à la politique européenne se heurte à de nombreux facteurs imputables au modèle d'autonomie et au refus de la coopération de la part de l'Etat.

Cet article arrive à la conclusion que la pratique de la coopération des régions à la politique européenne semble plutôt indiquer un renforcement des institutions, pratiques et processus nationaux à la suite du processus d'intégration que leur nivellement ou affaiblissement.

Les processus décisionnels et de formation d'opinion au sein de l'UE se caractérisent notamment par une implication ferme et bien réglée des régions. Au niveau national et européen, les régions occupent à présent une place non négligeable dans les affaires européennes. En termes théoriques, le concept de "gouvernance à plusieurs niveaux" se réfère à l'absence d'un centre de décision clair, à la mise au point de nouveaux principes de conduite qui ne sont plus hiérarchiques, à des nouvelles possibilités d'action et à la présence d'acteurs n'appartenant pas à l'Etat central, y compris des acteurs régionaux.<sup>1</sup>

Les connaissances empiriques sur l'influence que ces acteurs régionaux exercent sur le processus décisionnel communautaire restent cependant faibles. On déplore même l'absence d'une étude comparative sur le fonctionnement des procédures et pratiques *formelles* relatives à la participation des régions aux affaires européennes et les quelques ouvrages qui existent se limitent à présenter le cadre juridique et s'avèrent assez superficiels en ce qui concerne le matériel *empirique*.<sup>2</sup>

Dans le présent article, l'auteur s'attache à résumer les informations sur les pratiques et processus *formels* de l'implication des régions dans les processus décisionnels européens en se limitant aux pays les plus fortement "régionalisés", à savoir la Belgique, l'Allemagne, l'Aut-

riche, l'Espagne et le Royaume-Uni. La question qui est au centre de cet article est de savoir s'il y a – comme le prétendent certains<sup>3</sup> – des indices montrant le développement d'une pratique politique comparable de nature "coopérative" dans ces Etats ou si, en revanche, la réalité plaide en faveur de la persistance de modèles politiques nationaux et de structures institutionnelles bien établies.

## Les règles de participation au niveau national

Au coeur des différents mécanismes de participation des régions au processus décisionnel de l'Union européenne on trouve tout d'abord les mécanismes de participation respectifs au niveau national. Il est intéressant de constater ici que, à l'exception manifeste du Royaume-Uni, ces règles ont généralement été établies dans les années 1992-1994; le lien avec l'achèvement du marché intérieur et le Traité de Maastricht semble donc évident ici.<sup>4</sup> Un autre aspect qu'il est intéressant de relever est que les règlements en la matière se caractérisent par un niveau de formalisation exceptionnellement élevé et qu'ils essaient tous, conformément à la répartition des compétences entre les différents niveaux à l'intérieur de l'Etat, de faire une distinction entre les différents degrés de coopération à la prise de décision *européenne*, essayant donc de projeter cette répartition nationale également dans l'espace européen.

En Belgique, l'"Accord relatif à la représentation du

Royaume de Belgique au Conseil de ministres de l'Union européenne " a été conclu le 8 mars 1994 en vue de la mise en oeuvre de la troisième phase de la réforme de l'Etat réalisée en 1993 (nouvel Art. 167 § 3 de la Constitution belge) et de l'article 146 TCE (Art. 203 TCE n.F.) modifié par le Traité de Maastricht. Cet accord règle pour la première fois de manière globale la participation des "régions"<sup>5</sup> à la coordination des affaires européennes ainsi que leur participation à l'échelle européenne. Plusieurs accords sectoriels ne visant pas uniquement la politique européenne (p. ex. l'accord sur la politique internationale de l'environnement ou l'accord sur les activités relatives à la politique énergétique) et l'accord du 18 mai 1995 relatif au statut des représentants des Communautés et des Régions dans les postes diplomatiques et consulaires, entre autres à la Représentation Permanente de la Belgique auprès de l'UE, viennent compléter le dispositif réglementaire central.<sup>6</sup>

Au centre du dispositif réglementaire belge se trouve l'interaction entre le principe de consentement au sein de l'Etat d'une part, et l'action autonome de l'Etat fédéral, des Régions et des Communautés sur la scène communautaire d'autre part. Les représentants de l'Etat fédéral, des Régions et des Communautés participent sur un pied d'égalité à la coordination organisée par le ministère des Affaires étrangères portant sur toutes les formations au Conseil (sessions de coordination "P-11").<sup>7</sup> L'Art. 2 § 5 de l'accord du 8 mars 1994 dispose en effet que le représentant belge au Conseil – et cela vaut déjà au sein du COREPER – ne peut prendre position que sur des matières ayant fait l'objet d'un accord préalable dans le cadre de la coordination intérieure belge – qu'il s'agisse d'une question relevant de la politique étrangère et de sécurité ou d'un programme culturel. S'il s'avère impossible d'arriver à un accord, on peut saisir la Conférence Interministérielle de la Politique Étrangère (CIPE), un organe délibératif sans pouvoir d'arbitrage, et ensuite la Cour d'arbitrage, ou alors – en principe – recourir à l'abstention au Conseil. Le fait que la coordination interne fonctionne généralement bien et que l'on obtienne donc dans la pratique le consentement nécessaire (on a pourtant échoué dans le cas de la directive relative aux élections communales, et la Belgique s'est abstenue), peut s'expliquer par la capacité – ou l'obligation – éprouvée de consentement.

**Il est intéressant de constater ici que, à l'exception manifeste du Royaume-Uni, les règles de participation ont généralement été établies dans les années 1992-1994; le lien avec l'achèvement du marché intérieur et le Traité de Maastricht semble donc évident ici.**

Le fonctionnement du système est renforcé par la formation préalable des positions dans de nombreuses conférences sectorielles, positions qui sont alors "reprises" formellement dans le cadre de la coordination "P-11", par des coordinations trilatérales entre les "régions" et par le fait que, en réalité, chaque ministre appelé à négocier jouit en fin de compte d'une marge de négociation appréciable.

La procédure au sein du Conseil fédéral (*Bundesrat*) pratiquée par l'Allemagne aujourd'hui remonte à la loi de ratification de l'Acte unique de 1986, mais n'a obtenu sa

forme actuelle que le 21 décembre 1992 par le nouvel article 23 de la Loi fondamentale ("*Europaartikel des GG*"), dans la loi relative à la coopération entre la Fédération et les Länder dans les affaires communautaires européennes du 12 mars 1993 (EUZBLG), reposant sur l'art. 23 de la Loi fondamentale (GG), et par un accord d'exécution du 29 octobre 1993 portant transposition du Traité de Maastricht.<sup>8</sup> Le modèle de participation allemand se caractérise par l'utilisation de l'organe fédéral, le *Bundesrat*, et le recours à son principe de majorité pour la prise de position sur des projets communautaires, y compris les projets relevant de la compétence interne exclusive des Länder où les décisions sont normalement prises à l'unanimité parmi les Länder. Avant cela, l'Allemagne connaissait déjà une "procédure de participation des Länder" reposant sur le principe d'unanimité, qui s'est avérée impropre et a dès lors été remplacée en 1986 par la position centrale du *Bundesrat*.<sup>9</sup>

La procédure allemande de participation consiste en un processus de consultation complexe, au centre duquel on trouve d'une part la recherche d'une ligne commune partagée par la Fédération et les Länder et, d'autre part, assez souvent aussi la question d'une classification "correcte" des compétences d'un projet communautaire dans les catégories visées à l'article 23 de la Loi fondamentale. Dans son alinéa 5, cet article fait une distinction entre la prise en considération "simple" et "de manière déterminante" de l'avis du *Bundesrat*, lorsque "des pouvoirs de législation des Länder, l'organisation de leurs services ou leur procédure administrative non contentieuse sont affectés de manière centrale." Une prise en considération "de manière déterminante" signifie que le gouvernement fédéral est censé fonder sa position de négociation sur l'avis du *Bundesrat*.

Un aperçu du *Bundesrat* de l'application de cet article montre de nombreuses divergences par rapport à la classification systématique des projets communautaires<sup>10</sup>, ce qui n'a cependant pas encore donné lieu à un conflit politique sérieux ni à un contrôle juridictionnel. Au contraire, la procédure se déroule de manière routinière et n'est au fond guère différente de ce qui se passe dans le cas d'un avis du *Bundesrat* sur des sujets relevant de l'administration ou de la législation de la Fédération.<sup>11</sup> La procédure prévue lorsque le gouvernement fédéral ne se rallie pas à l'avis du *Bundesrat* lorsque l'avis de celui-ci est à prendre en considération "de manière déterminante", et souhaite représenter une autre position au sein du Conseil, n'a été appliquée qu'une seule fois (en avril 2000 en rapport avec la proposition de directive communautaire concernant l'évaluation des incidences sur l'environnement). La "Chambre européenne" (*Europakammer*) du *Bundesrat*, spécialement créée pour traiter de cas pressants et qui est habilitée par la Loi fondamentale à prendre des décisions à la place du *Bundesrat* (Art. 52, alinéa 3a, de la Loi fondamentale), ne s'est réunie qu'à neuf reprises depuis son instauration le 26 novembre 1993 – et la tendance est à la baisse. Ainsi on peut dire dans l'ensemble que la consultation sur les projets communautaires est devenue pratiquement entièrement une activité de routine pour le *Bundesrat*; il convient aussi d'ajouter que la participation des Länder aux réunions servant à déterminer les instructions à donner au représentant allemand au COREPER et aux réunions destinées à arrêter la position de négociation allemande pour certaines formations du Conseil est assurée par des représentants des Länder nommés par le *Bundesrat*.<sup>12</sup>

Ainsi, sur le plan formel, la participation des Länder aux affaires communautaires européennes a été transférée totalement au *Bundesrat*. Cependant, des prises de position essentielles continuent de se faire par consentement dans les différentes conférences des ministres sectoriels (*Fachministerkonferenzen*) et – sur des questions centrales telles que l' "Agenda 2000" ou les Conférences intergouvernementales – dans le cadre de la conférence des Ministres-Présidents des Länder, avant d'être véritablement "arrêtées" au sein du *Bundesrat*. La participation des Länder repose donc en réalité sur une interaction complexe entre la coopération des Länder et la Fédération dans les conférences ministérielles spécialisées et dans de nombreuses réunions d'experts, et le traitement routinier des projets communautaires au *Bundesrat*. Le traitement des questions européennes reflète ainsi les pratiques du

## **Le traitement des questions européennes reflète les pratiques du fédéralisme allemand et favorise aussi la centralisation des pouvoirs et la coopération des organes exécutifs.**

fédéralisme allemand et favorise le centralisme exécutif et coopératif.

Au Royaume-Uni, aussitôt après la mise en place des nouvelles institutions régionales le 1er juillet 1999 (le „*D-Day*„), le gouvernement central, l'Ecosse et le Pays de Galles se mirent d'accord en octobre 1999 sur un "Memorandum of Understanding" qui règle de manière globale leurs rapports, y compris la coopération dans le domaine des affaires européennes.<sup>13</sup> Les quelques principes fixés dans ce mémorandum en vue de la coopération dans le domaine international et européen, qui prévoient une implication étroite et complète des autorités régionales (§ 19), sont précisés dans des accords complémentaires. Le mémorandum établit un Comité

Ministériel Commun ("Joint Ministerial Committee" – JMC) comme organisme central de consultation et de conciliation, qui sera aussi utilisé comme instance ultime de consultation pour fixer la position de négociation sur des questions européennes affectant les compétences des régions (§ A 1.9. de l'accord sur le JMC). Eu égard aux

particularités du processus décisionnel européen, on a cependant également prévu un "mécanisme" particulier qui devrait permettre au ministre compétent de consulter à la fois d'autres ministres du gouvernement central et des ministres régionaux.<sup>14</sup> L'accord sur le Comité Ministériel Commun prévoit enfin la création d'un comité de hauts fonctionnaires ("Committee of officials"), qui instaurera un sous-comité chargé des questions communautaires (§ A1.13). Les autres détails de la coopération pour les affaires européennes sont déterminés dans un "Concordat commun sur la coordination de la politique européenne" entre le gouvernement central et l'Ecosse et le Pays de Galles, ainsi que dans de nombreux concordats bilatéraux et sectoriels. Il faut préciser ici qu'aucun des documents susmentionnés n'est contraignant juridiquement, tous n'engagent que l'honneur ("binding in honour").

Le concordat commun relatif à la coordination de la politique européenne souligne la pleine implication des régions dans la formation de la position de négociation tout en montrant la grande importance de leur participation au niveau de l'UE, et met en évidence les principes d'informalité, de flexibilité et d'examen au cas par cas. Lors de la fixation des positions de négociation britanniques, la plupart des questions doivent être traitées bilatéralement et par téléphone, et l'on s'efforce de renoncer aux réunions de concertation formelles. Ceci nous amène à dire que la nature de chaque processus de consultation dépendra en fin de compte toujours de la nature de l'affaire concernée, de



la pratique établie et du caractère urgent ou non de l'affaire en question, ce qui est d'ailleurs prévu dans le texte du concordat (§ B.3.11). Il semble toutefois que l'on ne dispose pas encore d'informations accessibles sur l'application pratique de ces principes; en revanche, il est certain que jusqu'ici le Comité ministériel ne s'est encore jamais réuni pour discuter d'affaires communautaires.

En Autriche, la procédure de participation des Länder (*Verfahren der Länderbeteiligung*) a été introduite par un amendement de la Constitution en 1992 et a été reprise pratiquement telle quelle en 1994

dans le nouvel article sur l'Europe de la Constitution (Art. 23d B-VG). Elle est complétée par un accord entre la Fédération et les Länder, conclu le 12 mars 1992, relatif aux droits de participation des Länder et des Communes aux affaires relatives à l'intégration européenne et par un traité des Länder, entré en vigueur le 4 avril 1993, portant sur l'organisation de la formation de volonté commune sur les affaires européennes.<sup>15</sup> Ce traité est à la base de la *Integrationskonferenz der Länder* (IKL), la conférence chargée de coordonner la participation des Länder aux affaires communautaires dans laquelle chaque Land est représenté par le chef de gouvernement (*Landeshauptmann*) avec droit de vote ainsi que par le président du parlement régional (*Landtagspräsident*) sans droit de vote. Le traitement "administratif" des dossiers communautaires a pourtant été transféré par l'accord du 12 mars 1992 entre la Fédération et les Länder de mars 1992 au Bureau de liaison des Länder (*Verbindungsstelle der Länder*), l'outil central de la coordination des Länder. Le règlement de l'article Art. 23d, alinéa 2 de la Constitution selon lequel la Fédération est tenue par un "avis uniforme des Länder sur un projet établi dans le cadre de l'UE et touchant à des matières dans lesquelles la législation appartient aux Länder", s'inspire clairement de la pratique allemande. La Fédération ne pourra s'écarter de ces avis que pour des "raisons impératives relevant de la politique étrangère et européenne".

Dans la pratique de la participation des Länder, le Bureau de liaison des Länder constitue l'institution clé.<sup>16</sup> Formellement, le Bureau n'a aucune compétence de coordination par rapport au contenu et se contente d'assurer le flux d'information; cependant, comme il est

compétent pour transmettre "l'avis uniforme" à la Chancellerie fédérale, il remplit une fonction de filtre. En outre, il participe, à la demande des Länder, aux réunions servant à fixer les instructions à donner au représentant autrichien au COREPER, il met à la disposition des Länder une partie des "représentants communs des Länder" (*Gemeinsame Ländervertreter*) dans

les comités communautaires, et il coordonne leur nomination ainsi que leurs activités. Si la conférence d'intégration des Länder, constituée en réalité pour satisfaire les parlements régionaux, n'a pratiquement aucun rôle et

n'a été convoquée que deux fois en tout (le 21 juin 1993 et le 17 novembre 1997, pour l' "Agenda 2000"), la participation des Länder aux affaires européennes s'est parfaitement intégrée, grâce au rôle central du Bureau de liaison, dans les structures de travail du fédéralisme autrichien. En ce qui concerne le contenu, l'élaboration des "avis uniformes" des Länder se fait au sein de la conférence des Chefs des gouvernements ou bien dans les conférences sectorielles des Länder. Une liste, dressée par le Bureau de liaison, de tous les "avis uniformes" arrêtés depuis l'entrée en vigueur de la 'procédure de participation' montre que jusqu'à juillet 2000 il y a eu 35 avis de ce type<sup>17</sup>. Jusqu'ici, le gouvernement fédéral s'est toujours formellement rallié à ces avis à une seule exception près (l'avis – négatif – sur la recommandation du Conseil relative à la conservation des espèces animales sauvages dans les zoos)<sup>18</sup>. La pratique montre à ce sujet

une concentration sur la politique d'environnement qui est importante pour les Länder ainsi que sur d'autres questions centrales pour eux (la politique touristique, le droit de vote aux élections communales, les conférences intergouvernementales).

En Espagne, les bases de la pratique actuelle de la parti-

cipation des Communautés autonomes aux affaires communautaires européennes ont été jetées en 1992. C'est en 1992 que furent créées les 16 "Conférences sectorielles" (*Conferencias Sectoriales*), à travers lesquelles est organisée la participation sectorielle des régions aux affaires européennes. 1992 marque également l'institutionnalisation formelle de la Conférence pour les affaires communautaires européennes, qui existait déjà depuis 1989 de manière informelle, avec son rôle horizontal et de coordination.<sup>19</sup> Un accord entre

## **Dans la pratique de la participation des Länder, le Bureau de liaison des Länder constitue l'institution clé.**

## **La participation des Länder aux affaires européennes s'est ainsi parfaitement intégrée dans les structures de travail du fédéralisme autrichien.**

les Communautés autonomes portant institutionnalisation de la Conférence pour les affaires communautaires européennes fut en effet signé le 29 octobre 1992<sup>20</sup> et, le 30 novembre 1994, un autre accord réglant la participation des Communautés autonomes aux affaires européennes à travers les Conférences sectorielles (appelé “Accord-cadre”) lui fit suite. D’autres éléments tels que la création d’un “Département pour les affaires autonomes” au sein de la Représentation Permanente de l’Espagne (depuis 1996)<sup>21</sup> et l’implication de représentants des Communautés autonomes dans 55 comités de la Commission (depuis 1997) sont venus compléter ces règlements-cadres.

L’“Accord-cadre” du 30 novembre 1994 distingue entre les projets de l’UE qui concernent “exclusivement” des compétences réservées de l’Etat, des compétences “partagées”, ou des compétences “exclusives” des Communautés autonomes (Art. 3.1.1.-3.1.3.). Dans le dernier cas, les régions peuvent en principe déterminer la position de négociation espagnole au Conseil à travers une “position commune”. Cependant, l’accord est resté pratiquement insignifiant. D’une part, il semble que l’Etat central ne respecte pas correctement ses obligations d’information envers les Communautés autonomes et, en réalité, qu’il n’a aucune intention de tenir compte des droits de participation des régions. D’autre part, il semble aussi que les Communautés autonomes n’aient pas réussi à rendre opérationnelle la procédure de participation. Les Communautés autonomes semblent n’avoir pris aucune “position commune” au sens de l’article 3.1.2. de l’Accord-cadre – à l’exception d’une position adoptée dans la Conférence pour les affaires communautaires européennes en 1997 portant sur la Conférence intergouvernementale de l’époque.<sup>22</sup> Cela nous amène à penser que la procédure, telle qu’elle se présente actuellement, n’intéresse pas beaucoup les régions. Les indices en ce sens ne manquent certainement pas: l’adaptation prévue de l’Accord-cadre aux conditions spécifiques des Conférences sectorielles ne s’est pas faite et plusieurs Conférences n’ont même pas repris cet accord dans leur champ d’action. On ignore comment une position commune doit être élaborée et voir le jour, et on manque semble-t-il encore généralement d’expérience et de capacité pour une

“coopération horizontale”.

On peut se demander si l’introduction d’un mécanisme de participation *multilatéral* mettant les régions sur un pied *d’égalité* est étrangère à un système fondé sur des degrés d’autonomie très différents et reposant principalement sur l’autonomie régionale conjuguée aux relations bilatérales avec l’Etat central. Ainsi, le mécanisme de participation reste limité au niveau d’une plate-forme servant au transfert unilatéral d’informations, qui n’est pas non plus satisfaisant étant donné le refus de l’Etat. Parallèlement au mécanisme de participation général pour toutes les régions, il existe d’ailleurs des comités “Europe” bilatéraux entre l’Etat central et le Pays Basque (Accord du 30

novembre 1995) et entre l’Etat central et la Catalogne (Accord du 9 juin 1998). Cela ne signifie pas pour autant que ces comités bilatéraux exercent une plus grande influence: en règle générale, ils se réunissent une fois par an et se livrent à un échange d’informations et d’avis sur les matières n’intéressant que les dites régions. Cependant, le fait qu’il y ait un accès bilatéral privilégié au gouvernement central n’est pas à négliger.

#### **Participation des régions au niveau de l’UE**

En Belgique, l’accord du 8 mars 1994 règle la répartition de la représentation du Royaume entre l’Etat fédéral, les Communautés et les Régions eu égard aux différentes compositions du Conseil. A l’annexe I, les compositions sectorielles du Conseil sont classées en quatre catégories sous l’angle de la répartition *interne* des compétences: dans la catégorie I (affaires *exclusives* de l’Etat fédéral, p. ex. Conseil Affaires générales et Conseil ECOFIN), la Belgique est représentée exclusivement par l’Etat fédéral; dans la catégorie II (compétence *principale* de l’Etat fédéral, comme p. ex. l’énergie et les affaires sociales) par un ministre dit “siégeant” de l’Etat fédéral et un ministre “régional” en tant que “assesseur”; dans la catégorie III (affaires relevant *principalement* des Communautés et des Régions, comme p. ex. recherche et développement) par un ministre “régional” “siégeant” et par un ministre de l’Etat fédéral en tant que “assesseur”; et dans la catégorie IV (*matières exclusivement “régionales”*, comme culture et jeunesse)

## **On peut se demander si l’introduction en Espagne d’un mécanisme de participation *multilatérale* mettant les régions sur un pied *d’égalité* est étrangère à un système fondé sur des degrés d’autonomie très différents et reposant principalement sur l’autonomie régionale conjuguée aux relations bilatérales avec l’Etat central.**

exclusivement par un ministre “régional”.<sup>23</sup> L’avantage de cette formule claire réside dans l’évitement de conflits sur la classification des projets communautaires européens qui sont fréquents en Allemagne. Le ministre “siégeant” représente la Belgique pendant toute une session du Conseil, ce qui exclut donc un changement dans la conduite de la négociation. Le regroupement de certaines formations du Conseil et le souci d’assurer le bon déroulement de la Présidence belge de l’UE au deuxième semestre 2001 ont cependant conduit à un abandon temporaire de ce principe.<sup>24</sup>

A côté de la classification schématique des formations du Conseil, la répartition des Conseils *entre* les “régions” est une autre caractéristique intéressante de la pratique belge. On a ajouté à l’accord de mars 1994 un accord entre les “régions” qui introduit un système de rotation semestriel de la représentation de la Belgique au Conseil sur la base d’une stricte égalité entre toutes les “régions”, y compris la petite Communauté germanophone. Dans le cadre de ce système, on procède cependant en partie à une attribution spéciale des mandats – la Wallonie siégeant plus souvent au Conseil “Industrie”, la Flandre au Conseil “Culture”, et la Communauté germanophone au Conseil “Tourisme”, ce qui satisfait les intérêts de chaque “région”. Ce système de rotation concilie donc le principe d’égalité de toutes les entités fédérées avec les intérêts particuliers de chaque “région”.

En Allemagne, l’article 23, alinéa 6, de la Loi fondamentale stipule que “si des pouvoirs exclusifs des Länder sont affectés de manière centrale, l’exercice des droits qui incombent à la République fédérale d’Allemagne en tant qu’Etat membre de l’Union européenne doit normalement être transféré par la Fédération à un représentant des Länder de rang ministériel désigné par le Bundesrat”. Le paragraphe 6 alinéa 2 de la Loi sur la coopération de la Fédération et des Länder dans le domaine des affaires de l’Union européenne (EUZBLG) précise que cette règle vaut aussi au niveau des groupes de travail. La formule prudente assure en revanche que cette règle vise “seulement” le transfert de la *conduite des négociations* au Conseil, et dans aucun cas – contrairement à la pratique belge – la présidence de la délégation allemande, voire la Présidence au Conseil pendant la Présidence allemande, tâches qui sont réservées au gouvernement fédéral. L’aperçu du Bundesrat sur l’application de l’article 23 de la Loi fondamentale, auquel il a déjà été fait allusion, montre que le transfert de la conduite des négociations à un ministre d’un Land est resté l’exception absolue. Même dans le cas de certains projets qui tombent clairement,

de manière centrale, dans le champ des compétences exclusives des Länder (comme les Programmes “Culture 2000” et “Socrates”), le gouvernement fédéral a refusé, avec succès, de transférer la conduite des négociations aux Länder.

La participation de représentants des Länder dans les organes de consultation de la Commission et du Conseil, visée au § 6 de la loi EUZBLG, est largement pratiquée et elle l’est de manière pragmatique. La Fédération et les Länder ont des listes communes de comités et de projets communautaires en vue desquels ont été nommés, toujours par le Bundesrat, des représentants des Länder, y compris des représentants de niveau ministériel. Ces listes recouvrent actuellement près de 300 comités et groupes.<sup>25</sup> La pratique allemande se caractérise ainsi par le fait que les personnes représentant les Länder sont en réalité nommées par un organe fédéral, le Bundesrat; dès lors, la succession ou la nouvelle nomination d’un grand nombre de représentants des Länder dans les comités de l’UE figure régulièrement à l’ordre du jour du Bundesrat. Le mélange “impropre” de tâches et de compétences entre le Bundesrat, organe fédéral, et les Länder atteint ici son paroxysme: les Länder ont transféré, par un amendement de la Constitution, au Bundesrat l’exercice d’une partie de leurs droits constitutionnels, tandis que le Bundesrat, à son tour, s’appuie sur le personnel des Länder pour l’exercice de ces droits au niveau de l’Union européenne.

Au Royaume-Uni, l’implication des ministres régionaux doit faire l’objet d’un examen au cas par cas par le ministre responsable de la centrale londonienne, conformément au Concordat général relatif à la coordination de la politique européenne (§ B.3.13), tout comme l’examen de la participation des fonctionnaires régionaux à des réunions des comités du Conseil ou de la Commission doit se faire de manière bilatérale et informelle conformément à la pratique bien établie (§ B.3.15). Une autre disposition précise sans équivoque que la responsabilité de la conduite des négociations incombe aux ministres de Whitehall, qui peuvent décider de donner, le cas échéant, la parole aux régions. Si l’on évite de fixer des règles contraignantes, l’objectif est néanmoins de montrer clairement la coopération la plus efficace possible en tant que “*Team UK*”.

La collaboration entre Whitehall et les exécutifs des collectivités territoriales semble se développer de manière pragmatique, flexible et positive. Toutefois, elle ne semble pratiquement pas se démarquer de l’implication antérieure et bien établie des ministères pour les territoires (*Scottish Office, Welsh Office*

**En général, on peut donc dire que la participation belge à l’UE correspond à un système de double diplomatie, à la fois interne et externe.**

*Northern Irish Office*) dans les affaires communautaires; la poursuite des pratiques établies est même prévue expressément dans les concordats (§ B.1.4. et § B.2.4. des concordats européens). C'est ainsi qu'avant la dévolution, il était courant que le Royaume-Uni se fasse représenter par un ministre du *Scottish Office* au Conseil Pêche<sup>26</sup> et que des fonctionnaires du même ministère puissent participer à des réunions de comité. La collaboration pragmatique, qui est fonction des sujets inscrits à l'ordre du jour, reste donc inchangée, mais elle est poursuivie avec une intensité accrue. C'est ainsi, par exemple, que jusqu'à la fin 2000, des fonctionnaires écossais ont participé à des groupes de travail du Conseil à 75 reprises, et des ministres écossais ont participé à des réunions du Conseil dans 14 cas.<sup>27</sup> Mesuré à l'aune de l'intensité de la participation, un traitement différencié des Régions semble se développer, en fonction du degré de dévolution dont ceux-ci jouissent. Ici l'Ecosse se voit certainement accorder un rôle particulier.

En Autriche, l'article 23d, alinéa 3 de la Constitution prévoit la possibilité de charger un représentant nommé par les Länder de "concourir à la prise de décisions au Conseil". Il n'est pas question ici d'un transfert de la "conduite des négociations", comme le prévoit l'article 23, alinéa 6 de la Loi fondamentale en Allemagne. A ce jour, cette possibilité n'a pas encore été exploitée,<sup>28</sup> aussi parce que le gouvernement fédéral a suivi – à une exception près – volontairement l'avis des Länder. En revanche, on recourt régulièrement à la disposition de l'article 8 de l'accord relatif à la participation des Länder qui prévoit d'impliquer des représentants des Länder dans la délégation autrichienne lors des réunions de groupes de travail.<sup>29</sup> En somme, la pratique de la participation des Länder à l'échelle de l'Union européenne donne l'impression d'une collaboration pragmatique entre la Fédération et des Länder et d'une concentration sur ce qui est strictement nécessaire étant donné les ressources limitées.

En Espagne, la discussion sur la participation des Communautés autonomes aux travaux du Conseil se poursuit encore aujourd'hui. Malgré une sommation du Parlement en 1998 insistant sur l'élaboration d'un mécanisme permettant aux régions d'être représentées au Conseil, la situation n'a guère évolué et il semble clair que l'État n'a aucune intention d'apporter son soutien à une solution quelconque. Du côté des Communautés autonomes, il y a un accord sur les bases d'un mécanisme de participation (arrêté en septembre 1999), mais une proposition concrète de projet commun n'a pas encore vu le jour, notamment semble-t-il parce que la discussion

est empreinte, en réalité, d'une certaine méfiance à l'égard d'un système dans lequel, en fin de compte, il semble indispensable qu'une région devrait représenter les intérêts de tous.<sup>30</sup> L'expérience de la participation aux comités de la Commission, au sein desquels les fonctionnaires de la région chargée de la coordination semblent définir de manière plus ou moins autonome la position de toutes les régions, étant donné l'absence de mécanismes de concertation efficaces, ne plaide pas en faveur d'une amélioration rapide de cette situation.<sup>31</sup>

Le 26 septembre 2000, un projet de loi visant la participation des régions au Conseil, introduit conjointement par les partis régionaux basque et catalan et soutenu par le PSOE, fut rejeté par le parti au pouvoir, le PP, devant le Congrès des députés. A cette occasion, le gouvernement put compter également sur l'appui du

parti régional des Canaries, pour lequel ce projet de loi ne répondait pas aux préoccupations propres aux Iles Canaries.<sup>32</sup> Les mécanismes proposés, c'est-à-dire la participation aux diverses formations du Conseil et aux groupes de travail dans le cadre de la délégation espagnole et la possibilité de transférer la conduite des négociations

aux Communautés autonomes, sont bien connus et rappellent aussi bien des éléments de la pratique belge ("répartition" des formations du Conseil) que des éléments de la pratique allemande et autrichienne (participation au sein de la délégation nationale, possibilité de transférer la conduite des négociations). Cependant des doutes subsistent quant à la question de savoir si la participation aux travaux du Conseil que les Communautés autonomes, surtout celles historiques, réclament avec insistance et à juste titre, conduirait aussi à un renforcement structurel de la capacité des régions d'organiser la coopération "inter-autonome", sans laquelle cette participation ne pourrait pratiquement pas fonctionner.

Les différences de position des régions au niveau de l'UE sont également mises en évidence par les règlements prévoyant leur implication dans les Représentations permanentes des Etats membres auprès de l'UE. Aussi bien les Régions et Communautés belges – sous la forme des "attachés communautaires" ou "attachés régionaux" – que les Länder autrichiens – sous la forme d'une agence externe du Bureau de liaison des Länder – de même que les Communautés autonomes espagnoles, bénéficient d'une présence institutionnalisée dans leur Représentation permanente respective. La représentation *individuelle* des Communautés et des Régions belges s'oppose pourtant à la représentation *collective* des Länder autrichiens et des régions espagnoles. Dans le

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cas de l'Espagne, la tâche d'informer les Communautés autonomes à travers le "Département pour les affaires autonomes" n'est d'ailleurs pas assurée par des représentants indépendants des régions, mais par un fonctionnaire de l'Etat central. En Allemagne, une réglementation similaire a finalement échoué sur des questions de statut, alors qu'au Royaume-Uni, on a suivi une tout autre voie à la suite de la dévolution, avec des bureaux régionaux qui restent formellement intégrés dans la structure de la Représentation permanente du Royaume-Uni mais qui sont, en réalité, indépendants.

### **La persistance de pratiques et de modèles politiques nationaux**

Un aperçu des différents processus de participation des régions à la politique communautaire montre qu'il y a lieu d'établir une distinction plus précise entre les différents modèles de réaction et d'adaptation dans chaque Etat membre et que l'on ne peut pas parler véritablement du développement d'une pratique "coopérative".

En Belgique, la coopération européenne de l'Etat fédéral et des "régions" se caractérise, à l'intérieur de l'Etat, par la nécessité d'obtenir un consentement dans l'élaboration de la position belge et, vers l'extérieur, par une division du travail qui fonctionne apparemment de manière satisfaisante. On peut ajouter que, compte tenu de la pratique allemande, autrichienne et espagnole en matière de représentation des régions au Conseil, l'amendement de l'article 203 TCE effectué par le Traité de Maastricht se présente, en réalité, comme une "Lex Belgica" qui a effectivement permis à la Belgique de transposer son ordre interne au niveau européen. En général, on peut donc dire que la participation belge à l'UE correspond à un système de double diplomatie, à la fois interne et externe.<sup>33</sup> L'accord au sein de l'Etat est la condition *sine qua non* d'une division du travail vers l'extérieur, d'autant plus qu'une culture politique consensuelle fait défaut.<sup>34</sup> L'avènement de la fédéralisation a nécessité une formalisation des procédures de coordination, mesure plutôt étrangère à la politique belge.<sup>35</sup> Le fonctionnement du système repose d'ailleurs – tout comme au Royaume-Uni – fortement sur "l'uniformité" politique dans la composition des gouvernements à tous les niveaux, sans laquelle le pragmatisme européen menace de s'effondrer.

Par rapport à l'Allemagne, les observateurs ont fait

remarquer et ont critiqué à juste titre que les mécanismes de l'article 23 de la Loi fondamentale ont projeté l'ordre fédéral interne dans l'espace européen et que l'adhésion à l'UE n'a conduit, globalement, qu'à une stabilisation et à une consolidation des structures et procédures du "fédéralisme coopératif" et "unitaire"<sup>36</sup>. Et en effet, le refus du gouvernement fédéral de mettre en pratique le transfert prévu de la conduite des négociations aux Länder, et la participation extensive – et non respectueuse d'une bonne utilisation des ressources – des représentants des Länder aux groupes de travail, sont tout à fait caractéristiques du système fédéral allemand qui est fortement intégré verticalement. On peut cependant se demander si la "participation compensatoire" des Länder qui s'est avérée une bonne solution jusqu'ici (participation aux affaires européennes à titre de compensation pour les tâches relevant de leurs compétences propres) offrira encore une solution à l'avenir. Le débat critique mené dans le cadre de la dernière Conférence intergouvernementale, dans laquelle les Länder sont allés jusqu'à menacer de refuser éventuellement leur accord au nouveau Traité de Nice, a montré que le mécanisme de compensation a peut-être atteint ses limites.

La question de savoir comment évoluera la "constitution" du Royaume-Uni, si elle restera un "system without maps"<sup>37</sup> ou si elle évoluera vers une sorte de constitution écrite, reste posée. Tout aussi ouverte est la question de savoir comment évolueront les rapports entre les régions et Whitehall, si on ira dans le sens d'une structure étatique à plusieurs niveaux avec des rapports uniformes entre les différents territoires et le Centre ou si on passera plutôt à un système de gouvernement

"asymétrique" avec un traitement différencié des territoires.<sup>38</sup> Il semble plus probable que les rapports seront plutôt bilatéraux et individuels que multilatéraux et collectifs, et que l'on verra émerger un système de gouvernement pragmatique et coopératif qui tiendra compte des différentes réalités des territoires. Ce scénario de "mutual accomodation"<sup>39</sup> implique une coopération aux affaires européennes qui soit à la fois pragmatique, flexible

et différenciée, et moins influencée par les règles et les procédures que par des solutions face à des situations concrètes et par une coopération correspondant à la pratique établie. Toutefois, en ce qui concerne la composition des gouvernements aux différents niveaux, les conditions politiques sont actuellement favorables,

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mais cette situation pourrait ne pas durer.

Les expériences autrichiennes se rapprochent des expériences allemandes. S'agissant de la participation à l'UE, on parle généralement d'un renforcement des structures du "fédéralisme coopératif" et d'une "participation compensatoire" des Länder en raison des compétences propres qu'ils ont perdues.<sup>40</sup> Si les pratiques et processus autrichiens sont plus empruntés à l'idée du caractère étatique des Länder<sup>41</sup>, ils s'inscrivent en réalité parfaitement dans les rapports de travail du fédéralisme autrichien, avec une prépondérance des exécutifs et la position clé du Bureau de liaison des Länder en tant que "Secrétariat" de la coopération des Länder et d'interlocuteur de la Fédération. Il faut ajouter que de l'avis de la plupart des observateurs, les Länder ont à peine réussi à relever les défis de l'intégration<sup>42</sup> – ce qui pourrait révéler un fédéralisme comparativement plus centralisé.<sup>43</sup>

La discussion sur le fait de savoir si l'Espagne doit être considérée comme un Etat à structure fédérale se poursuit, en Espagne comme ailleurs.<sup>44</sup> Pour pouvoir répondre à cette question, il est important de savoir que la pratique espagnole de participation régionale, ou, mieux dit, "autonome", aux affaires européennes reste caractérisée, du moins en partie, par le conflit et la méfiance, certainement entre l'Etat et les Communautés autonomes, mais aussi en partie entre ces dernières; le passage à un modèle politique coopératif est pour l'instant tout au plus superficiel. Etant donné une culture politique qui n'est pas très favorable à la coopération *multilatérale*<sup>45</sup>, il semble finalement indiqué de ne pas parler de l'émergence d'un système à caractère fédéral, mais plutôt d'un système empreint d'*autonomie* et d'*asymétrie*.<sup>46</sup> Il convient d'ajouter qu'en ce qui concerne la participation des régions aux affaires européennes, on déplore encore l'absence d'une pratique qui soit acceptée par toutes les parties concernées et qui devrait probablement, en fin de compte, placer les Communautés autonomes sur un pied d'égalité.

Encore qu'il soit difficile de porter un jugement sur des mécanismes de participation très complexes et très différents, l'image qui ressort de ce bref tour d'horizon est celle d'une "résistance" remarquable des institutions et des modèles politiques nationaux. Au lieu d'une convergence de pratiques politiques à laquelle on s'attend parfois étant donné la nécessité de s'adapter aux exigences de l'intégration et du processus décisionnel communautaire, il semble qu'il faille plutôt parler de la persistance de pratiques et de procédures nationales éprouvées et bien établies. De surcroît, l'intégration semble plutôt *renforcer* les institutions et les procédures nationales déjà en place.

L'examen des procédures de participation des régions aux affaires européennes suggère une certaine prudence par rapport au concept de "gouvernance à plusieurs niveaux". Il n'est certes pas surprenant que ce concept ait été développé en vue du fonctionnement des Fonds structurels.<sup>47</sup> L'examen du fonctionnement des procédures de participation *formelles*, qui ne tient pas

compte bien évidemment des réseaux politiques à caractère plus ou moins informel, nous fait pourtant penser que la réalité est plus fortement caractérisée par un "double engrenage politique" dans lequel l'Etat central négocie dans deux directions et peut, à travers ce rôle central, obtenir de nouvelles ressources et rechercher de nouvelles possibilités d'action. Cette constatation coïncide d'ailleurs avec l'impression générale que les régions continuent à s'en remettre essentiellement aux canaux d'influence nationaux traditionnels pour défendre leurs intérêts au niveau communautaire.<sup>48</sup>

## NOTES

- <sup>1</sup> Voir à ce sujet Thomas König, Elmar Rieger et Hermann Schmitt (dir.), *Das europäische Mehrebenensystem*, Frankfurt/Main 1996.
- <sup>2</sup> Voir, entre autres, Jean Charpentier et Christian Engel (dir.), *Les régions de l'espace communautaire*, Nancy 1992; Barry Jones et Michael Keating (dir.), *The European Union and the Regions*, Oxford 1995; Charlie Jeffery (dir.), *The Regional Dimension of the European Union. Towards a Third Level in Europe?*, London 1997.
- <sup>3</sup> Tanja Börzel, *The Domestic Impact of Europe. Institutional Adaptation in Germany and Spain*, Florence, EUI 1992; Tanja Börzel, *Europäisierung und innerstaatlicher Wandel. Zentralisierung und Entparlamentarisierung?*, in: *Politische Vierteljahresschrift* 41 (2000), n° 2, pp. 225-250.
- <sup>4</sup> Le Secrétariat général de l'action extérieure du Gouvernement basque a publié un recueil des dispositions et textes de loi se rapportant à cette matière: "Les pouvoirs des Länder, cantons, régions et communautés autonomes en matière d'action extérieure et communautaire: Cadre législatif", Maastricht, IEAP, 1996. Cet ouvrage contient la plupart des textes cités ici; quant aux nouveaux textes, ils sont cités en note de bas de page.
- <sup>5</sup> En ce qui concerne la Belgique, la notion de "région" – lorsque placée entre guillemets – recouvre aussi bien les Régions que les Communautés.
- <sup>6</sup> Voir pour la pratique de participation belge Yves Lejeune (dir.), *La participation de la Belgique à l'élaboration et à la mise en œuvre du droit communautaire*, Bruxelles 1999; Bart Kerremans, Belgium, in: Hussein Kassim et al. (dir.), *The National Co-Ordination of EU-Policy*, Oxford 2000, pp. 182-200; Bart Kerremans, *Determining a European Policy in a Multi-Level Setting: The Case of Specialized Co-ordination in Belgium*, in: *Regional and Federal Studies* 10 (2000), n° 1, pp. 36-61.
- <sup>7</sup> Près de 100 réunions de ce type ont lieu chaque année.
- <sup>8</sup> Voir dans l'abondante littérature, notamment Rudolf Morawitz und Wilhelm Kaiser, *Die Zusammenarbeit von Bund und Ländern bei Vorhaben der Europäischen Union*, Bonn 1994; Georg-Berndt Oschatz und Horst Risse, *Die Bundesregierung an der Kette der Länder? Zur europapolitischen Mitwirkung des Bundesrates*, in: *Die Öffentliche Verwaltung* 48 (1995), n° 11, pp. 437-452; Hartmut Klatt, *Die innerstaatliche Beteiligung der Bundesländer an der deutschen Europapolitik*, in: Peter Nitschke (dir.), *Die europäische Union der Regionen*, Opladen 1998, pp. 133-166; Fraz H.U. Borkenhagen (dir.), *Europapolitik der deutschen Länder. Bilanz und Perspektiven nach dem Gipfel von Amsterdam*, Opladen 1998; Ralf Müller-Terpitz, *Die Beteiligung des Bundesrates am Willensbildungsprozess der Europäischen Union*, 1999.

- L'accord d'exécution (*Bund-Länder-Vereinbarung*) a été modifié, le 8 juin 1998, en vue de la ratification du Traité d'Amsterdam. Voir *Bundesanzeiger* n° 123/1998, p. 9433.
- <sup>9</sup> Sur cette procédure Rudolf Hrbek, *Doppelte Politikverflechtung: deutscher Föderalismus und europäische Integration*. Die deutschen Länder im EG-Entscheidungsprozess, in: Rudolf Hrbek und Uwe Thaysen (dir.), *Die deutschen Länder und die Europäischen Gemeinschaften*, Baden-Baden 1986, pp. 17-36; et dans le même tome, Günther Einert, *EG-Entwicklung unter Ländervorbehalt?*, pp. 41-49.
- <sup>10</sup> Secrétariat du Bundesrat, Bureau du Comité des questions relatives à l'Union européenne, *Qualifizierte Mitwirkung des Bundesrates in Angelegenheiten der Europäischen Union*, 31 décembre 1999.
- <sup>11</sup> La routine est illustrée par un aperçu statistique du travail du Bundesrat (<http://www.Bundesrat.de/PDundF/zahlenspiegel.html>). En outre, depuis 1958 – lorsque la première procédure de consultation communautaire dite “légère” fut introduite – jusqu’à septembre 2000, le Bundesrat a dans l’ensemble donné son avis sur 7.333 propositions de la CE ou de l’UE – ce qui dépasse le chiffre des règlements de la Fédération ayant fait l’objet d’une consultation du Bundesrat.
- <sup>12</sup> Voir pour les réunions servant à fixer les instructions à donner au représentant allemand au COREPER, Hendrik Escher, *Ländermitwirkung und der Ausschuss der Ständigen Vertreter (AStV)*, in: Borkenhagen (dir.), *Europapolitik der deutschen Länder*, pp. 51-68.
- <sup>13</sup> Memorandum of Understanding and Supplementary Agreements between the United Kingdom Government, Scottish Ministers and the Cabinet of the National Assembly for Wales. Presented to Parliament by the Lord Chancellor by Command of Her Majesty, octobre 1999.
- <sup>14</sup> Il s’agirait bien ici d’une sorte de comité ministériel, mais on ne dispose d’aucune information sur lui. Le *Ministerial Committee for European Co-ordination* (MINECOR), en place depuis 1988, aux travaux desquels participe, p. ex., le ministre écossais des Affaires européennes, sert uniquement à représenter la politique commune européenne du Royaume-Uni aussi bien à l’intérieur de l’Etat que vers l’extérieur.
- <sup>15</sup> Voir Heinz Schäffer, *Österreichs Beteiligung an der Willensbildung der Europäischen Union, insbesondere an der europäischen Rechtsetzung*, in: *Zeitschrift für öffentliches Recht* 50 (1994), pp. 3-73; Josef Unterlechner, *Die Mitwirkung der Länder am EU-Willensbildungsprozess*, 1997; Klemens H. Fischer, *Die Positionierung der österreichischen Bundesländer im institutionellen Gefüge der Europäischen Union*, in: Rudolf Hrbek (dir.); *Europapolitik und Bundesstaatsprinzip. Die “Europafähigkeit” Deutschlands und seiner Länder im Vergleich mit anderen Föderalstaaten*, Baden-Baden 1999, pp. 117-141.
- <sup>16</sup> Voir Andreas Rosner, *Koordinationsinstrumente der österreichischen Länder*, Wien 2000, p. 137 et suiv. et p. 166 et suiv. sur le rôle du Bureau de liaison dans la participation européenne et sur l’institution “Gemeinsamer Ländervertreter”.
- <sup>17</sup> Verbindungsstelle der Bundesländer beim Amt der Niederösterreichischen Landesregierung, *EU-Länderbeteiligungsverfahren; einheitliche Stellungnahmen der Länder* (30 juin 2000), Annexe au VST-2179/60 du 6 juillet 2000.
- <sup>18</sup> Rosner, *Koordinationsinstrumente der Länder*, p. 70.
- <sup>19</sup> Voir pour la pratique de participation espagnole en général *Ministerio para las Administraciones Públicas* (dir.), *La participación de las Comunidades Autónomas en los asuntos comunitarios europeos*, Madrid 1995; Instituto de Estudios Autonómicos (dir.), *La participación europea y la acción exterior de las Comunidades Autónomas*, Madrid 1999.
- <sup>20</sup> Le rôle et la légitimité de la Conférence européenne ont été renforcés par la loi n° 2/1997 du 13 mars 1997. Voir *Boletín del Estado* n° 64 du 15 mars 1997, p. 8518.
- <sup>21</sup> Décret royal 2105/1996 du 20 septembre 1996, *Boletín del Estado* n° 229 du 21 septembre 1996.
- <sup>22</sup> Eduard Roig Molés, *La Conferencia para Asuntos relacionados con la Unión Europea*, in: Instituto de Derecho Público (dir.), *Informe sobre las Comunidades Autónomas 1999*, Barcelona 2000, pp. 539-549, p. 544. Le volume publié chaque année par l’*Instituto de Derecho Público* informe de manière continue du développement des régions espagnoles, notamment aussi du mécanisme de participation à l’UE.
- <sup>23</sup> Il convient de signaler que la répartition des matières ne s’étend pas au niveau des groupes de travail qui sont réglés de manière informelle. On peut avoir ici aussi la présence de représentants de plusieurs “régions” lors d’une réunion. Jusqu’ici, des représentants des “régions” ont participé à près de 130 comités et groupes de la Commission et du Conseil.
- <sup>24</sup> Le 20 avril 2000, le Conseil général s’est prononcé en faveur de la fusion des diverses formations du Conseil; ceci a rendu en partie caduque la répartition belge au sein des Conseils. Pendant la présidence belge de l’UE, la présidence des différents conseils, qui traitent à présent de tâches relevant des différentes catégories – comme par exemple le nouveau Conseil Marché intérieur (cat. II), Protection des consommateurs (cat. I) et Tourisme (cat. IV) – se fera selon un système de rotation en fonction des compétences à l’intérieur de l’Etat.
- <sup>25</sup> Les listes sont tenues par le Comité européen du Bundesrat et sont publiques. Il existe plusieurs listes différentes étant donné la différenciation entre les nominations des représentants des Länder “rattachées aux comités et groupes” et “celles qui sont rattachées aux projets”.
- <sup>26</sup> Voir Micheal Keating, *The Nations and Regions in the United Kingdom and European Integration*, in: Udo Bullmann (dir.), *Die Politik der dritten Ebene. Regionen im Europa der Union*, Baden-Baden 1994, pp. 225-246.
- <sup>27</sup> Jack McConnell (Minister for Education, Europe and External Affairs), *Scotland in Europa: A New Beginning*, Speech to the Centre for Scottish Public Policy, Edinburgh, 4 December 2000. Il est arrivé que le ministre écossais de l’Education représente seul le Royaume-Uni, étant donné l’absence d’autres ministres.
- <sup>28</sup> A l’occasion du Conseil informel des ministres chargés de l’aménagement du territoire en juin 1998, le Conseil municipal de Vienne, qui est compétent pour ces questions, a insisté sur un transfert de la participation, qui a été cependant refusé pour des raisons de statut (le chef de délégation était un fonctionnaire fédéral).
- <sup>29</sup> Les Länder autrichiens ont, à ce jour, nommé 27 représentants pour 18 groupes de travail du Conseil.
- <sup>30</sup> Roig Molés, *La Conferencia*, p. 542.
- <sup>31</sup> Roig Molés, *La Conferencia*, p. 546 et suiv. Il convient de préciser, pourtant, que les 55 comités dans lesquels participent actuellement les Communautés autonomes ont été “choisis” de manière autoritaire par l’Etat et ne tiennent pas compte des intérêts des régions. On a commencé, il semble, à renégocier le nombre et la liste des comités dans lesquels des représentants des régions peuvent prendre place, ce qui pourrait renforcer l’intérêt du côté des Communautés autonomes.
- <sup>32</sup> Voir El País du 27 septembre 2000. Le texte de loi figure au *Boletín Oficial del Congreso de Diputados*, Série D, n° 47/2000 du 19 juillet 2000, p. 29 et suiv.
- <sup>33</sup> Kerremans, *Determining a European Policy*, p. 56, parle d’un “système purement intergouvernemental”.
- <sup>34</sup> Voir Arend Lijphart, *Patterns of Democracy. Government Forms and Performance in Thirty-Six Countries*, Yale 1999, p. 33 et suiv.
- <sup>35</sup> Hervé Bribosia, *La participation des autorités exécutives aux*

- travaux du Conseil de l'Union et des conférences intergouvernementales, in: Lejeune (Ed.), *La participation de la Belgique*, pp. 85-144; p. 132.
- <sup>36</sup> Fritz Scharpf, *Optionen des Föderalismus in Deutschland und Europa*, Frankfurt/New York 1994; Klaus H. Goetz, *National Governance and European Integration: Intergovernmental Relations in Germany*, in: *Journal of Common Market Studies* 33 (1995), n° 1, pp. 91-116; Arthur Benz, *Der deutsche Föderalismus*, in: Everhard Holtmann (dir.), *50 Jahre Bundesrepublik Deutschland. Rahmenbedingungen – Entwicklungen – Perspektiven*, Opladen 1999, S. 135-153. Rainer-Olaf Schultze, *Föderalismusreform in Deutschland. Widersprüche – Ansätze – Hoffnungen*, in: *Zeitschrift für Politik* 46 (1999), pp. 173-194.
- <sup>37</sup> Peter Hennessy, Whitehall, London 1990, p. 306.
- <sup>38</sup> Voir à ce sujet Micheal Keating, *What's Wrong with Asymmetrical Government?*, in: *Regional and Federal Studies* n° 8 (printemps 1998), pp. 195-218. Voir aussi Michael O'Neill, *Great Britain: From Dicey to Devolution*, in: *Parliamentary Affairs* 53 (2000), n° 1, pp. 69-95.
- <sup>39</sup> Martin Laffin und Alys Thomas, *The United Kingdom: Federalism in Denial?*, in: *Publius: The Journal of Federalism* 29 (1999), n° 3, pp. 89-107; p. 107.
- <sup>40</sup> Voir Peter Pernthaler, *Föderalismus – Bundesstaat – Europäische Union. 25 Grundsätze*, Wien 2000, S. 45f; Heinz Schäffer, *Europa und die österreichische Bundesstaatlichkeit. Gedanken zur Bewahrung und Weiterentwicklung des Föderalismus im werdenden Europa*, in: *Die Öffentliche Verwaltung* 47 (1994), n° 5, pp. 181-195; p. 189.
- <sup>41</sup> Schäffer, *Europa und die österreichische Bundesstaatlichkeit*, p. 191. Traduction par l'auteur.
- <sup>42</sup> Voir Gerda Falkner, *Österreichische Politiknetzwerke und EU-Mitgliedschaft: Ergebnisse und Trends*, in: Gerda Falkner und Wolfgang C. Müller (dir.), *Österreich im europäischen Mehrebenensystem*, Wien 1998, pp. 221-247; Gerda Falkner, *How Pervasive are Euro-Politics? Effects of EU Membership on a New Member State*, in: *Journal of Common Market Studies* 38 (2000), n° 2, pp. 223-250.
- <sup>43</sup> Lijphart, *Patterns of Democracy*, p. 186 et suiv.
- <sup>44</sup> Voir à ce sujet Kerstin Hamann, *Federalist Institutions, Voting Behaviour, and Party Systems in Spain*, in: *Publius: The Journal of Federalism* 29, n° 1 (Hiver 1999), pp. 111-137; p. 113. Si on prend comme critères les indices du fédéralisme donnés par Lijphart dans *Patterns of Democracy*, p. 186 et suiv, on pourrait qualifier l'Espagne d'Etat semi-fédéral.
- <sup>45</sup> Ministerio para las Administraciones Públicas, *La participación*, p. 162.
- <sup>46</sup> Voir José Juan Gonzáles Encinar, *Ein asymmetrischer Bundesstaat*, in: Dieter Nohlen und José Juan Gonzáles Encina (Ed.), *Der Staat der Autonomen Gemeinschaften*, Opladen 1992, pp. 217-230.
- <sup>47</sup> Voir par exemple Gary Marks, Liesbet Hooghe et Kermit Blank, *European Integration from the 1980s: State-Centric v. Multi-level Governance*, in: *Journal of Common Market Studies* 34 (1996), n° 3, pp. 341-377.
- <sup>48</sup> Michael Keating, *The New Regionalism in Europe. Territorial Restructuring and Political Change*, Northampton 1998, p. 166; Christian Engel, *Das "Europa der Regionen" seit Maastricht*, in: Borkenhagen (dir.), *Europapolitik der deutschen Länder*, pp. 153-178. □



## *Summary of Conference Proceedings*

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

Maastricht, 19-20 February 2001

*Dr Phedon Nicolaides\* and Anne-Mieke Den Teuling\*\**

On 19 and 20 February 2001, the European Institute of Public Administration organised a conference on "The Enlargement of the European Union: Prerequisites for Successful Conclusion of the Accession Negotiations". It was the fourth consecutive conference on the theme of enlargement to be held in successive years. The speakers included the Swedish Permanent Representative, addressing the conference on behalf of the member states of the Union, officials of the European Commission and Chief Negotiators or Ambassadors from the twelve candidate countries that have started accession negotiations with the European Union.

The conference was a special event in the calendar of activities of EIPA not only for the high level of speakers but also for two other reasons. It was one of the chosen occasions to mark EIPA's twentieth anniversary and, second, it provided a platform for launching a new book giving an account of Finland's accession to the European Union. The book, entitled *Finland's Journey to the European Union*, was written by Antti Kuosmanen who is now Director in the General Secretariat of the EU Council. Two members of staff of EIPA, Frank Bollen and Phedon Nicolaides, made a contribution to the book.

The conference began with a review of the direction and priorities of the enlargement process under the Swedish Presidency of the Council of the EU. As is well known, Sweden attaches very high priority to speedy progress in the accession negotiations. Progress is now possible because of the conclusion of the inter-governmental conference that culminated in the Treaty of Nice.

### **The accession negotiations**

Although enlargement is seen by the EU as a historic necessity, it is unlikely to be achieved easily. Both the Union and the candidates are concerned about the

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modalities and consequences of enlargement. Yet, these concerns are not necessarily the same. Some of the differences that separate the Union and the candidates are real but can be bridged, while others are exaggerated. Experience with past enlargements suggests that compromises will in the end be found.

The candidates also expressed their frustration with the slow progress of the negotiations and especially with the fact that the EU keeps asking many questions and clarifications without offering any clear statements of intent with respect to significant negotiating chapters such as agriculture.

Several speakers from the EU side stressed on several occasions during the conference that the aim of the accession negotiations was not to modify the *acquis communautaire*. That would be unacceptable to the EU. The *acquis* is the result of countless negotiations and compromises among the existing member states. It therefore cannot be re-opened by acceding states otherwise the negotiations will be interminable. By contrast, some temporary derogations are unavoidable but they will be limited in number and duration and will be granted by the EU only to those candidates that present credible demands, pose no threat to the fundamental principles of the internal market and have well thought-out plans for gradual compliance with the whole of the *acquis*.

On their part, speakers from candidate countries explained that it was not their intention to seek modification of the *acquis* or request extensive derogations. However, they noted that the *acquis* as it currently stands reflects the needs of the existing member states. The candidates had their own special needs and peculiarities that deserved to be taken into account by the rules and policies of the EU. Although it was left unresolved whether and how the *acquis* could be adjusted so as to accommodate prospective member states, it was understood that some candidates would, nevertheless, attempt to introduce suitable changes into the *acquis* during their negotiations.

### **Road map of negotiations**

The intention of the Swedish Presidency is to open as many negotiating chapters as possible and, depending on the preparedness of the candidates, close as many as possible. In this context, it was explained that the "road map" which had been proposed by the Commission and accepted by member states was only indicative. This road map identifies the sequence of the chapters to be tackled by current and future EU presidencies. The clarification concerning the indicative nature of the road map suggests that those candidates that are capable or willing to progress faster will be able to do so without being held back by the pace and schedule which is followed by the rest.

However, it may not be possible for candidates to move faster on all negotiating chapters because, as was pointed out, the road map envisages discussions on agriculture for the Spring of 2002 while the work programme of the Commission makes it unlikely that it will be able to draft the common position of the member states before the middle or end of 2002. That is the point in time at which it is expected that the Commission will carry out an extensive review of the functioning of the common agricultural policy after the agreement for reform of that policy at the Berlin European Council in March 1999.

### **Capacity for implementation of EU rules**

An issue that was mentioned repeatedly during the conference was the development of administrative capacity by the candidate countries for effective implementation and enforcement of EU rules. The development of such capacity was considered to be one of the most difficult issues in the enlargement process. It is difficult not only because its development takes time and effort, but also because it is not so easy to assess whether the capacity has been firmly established.

It was suggested that the effective implementation of EU rules could not be secured only with the spending of money or the hiring of extra staff. Although financial and human resources are necessary, effective implementation and enforcement depend critically on the design of institutional and regulatory structures. Rules cannot be effectively applied unless those responsible are sufficiently empowered and at the same time accountable for their actions. In addition, the regulatory structures would have to provide sufficient information and strong incentives to those who have to comply with the rules.

Ultimately the task of the candidate countries, in this connection, is to persuade the EU that they have put in place credible and irreversible institutions and procedures. In this way the EU will be assured that indeed there exist national bodies which are equally concerned about the effective implementation and enforcement of EU rules in each of the candidates.

### **Significant policies and negotiating chapters**

An innovation of the conference this year in relation to past conferences was that it had sessions dedicated to particular EU policies, corresponding to different negotiating chapters. With respect to the common agricultural policy, the stance of the candidate countries is that they must be eligible for direct payments to farmers. They reject as unjustified and unacceptable the EU view that direct payments are a form of compensation for the reduction in guarantee prices. Despite their many requests for temporary derogations, the candidate countries want full and immediate integration in all aspects of the CAP [institutional, technical and financial]. They defend this position on grounds of fairness and equality with existing member states. Nonetheless, they also expect to benefit considerably from the CAP. Such gains would make their accession to the EU more attractive to their populations.

There was consensus that the issue of direct payments would likely dominate the negotiations on agriculture, even though it was suggested that it would not prove as difficult as it is believed at present. Other issues are seen by some as more problematic. These are, for example, quality and food safety standards and the setting of national production quotas for sugar and milk.

In the session on regional policy and the structural funds there was less discussion about the eligibility of the candidate countries and more expressions of concern about whether the aims and instruments of regional policy could adequately address their regional problems. Given their level of income in relation to the EU, most candidate countries are fairly confident that they will be eligible for assistance from the structural funds. Even those candidates with the highest levels of income, which would soon become ineligible for support from the structural funds, still felt that they should also receive assistance in order to cope with the costs of adoption of the *acquis* and the other preparations for membership.

In the session on environmental policy it was emphasised that the candidate countries were in favour of applying EU environmental rules not only in order to comply with the requirements of membership but mostly because they stood to benefit from cleaner environment. The most problematic issues were thought to be the packaging waste and the treatment of waste water because they needed large amounts of resources and time.

In the session on the movement of persons the candidate countries were united in their opposition to any restrictions on the right of free movement. Movement of persons was the issue on which the candidates appeared to feel they had some bargaining power vis-à-vis the EU because the EU itself was expected to ask for exceptions. They also rejected German and Austrian demands for restrictions on the movement of persons because they were thought to be too long in duration, too vague as to how they would apply in

practice and too disproportional to their intended effect. There was also the view that if the candidates would not be granted any derogations, even temporary, to the fundamental EU freedoms, there would hardly be any justification for the EU to ask for such derogations.

Yet, some surprising differences emerged among the candidate countries. While the larger countries argued that they did not pose any threat in terms of large migration into the EU, the smaller candidates were themselves concerned about migration from the EU into their territory. Movement of persons was also the issue on which the candidates appeared to be following different negotiating strategies. Some seemed determined to pursue a line arguing for equality with EU member states, perhaps hoping to gain something else, another concession on a different issue, later on. Some were inclined to argue that any restriction imposed by the EU ought to apply on a country by country basis and sector by sector case (meaning that no restrictions would be imposed on smaller countries and less sensitive sectors). While still a third group appeared willing to consider safeguard solutions in the form of emergency restrictions imposed in cases where a certain threshold of persons entering the EU is exceeded.

Indeed, the chapter on the movement of persons may give rise to distinct negotiating strategies. Some candidates may decide that the optimum strategy is to make and accept no request that restricts fundamental freedoms, while others may choose the option of accepting some reciprocal restrictions.

### **Past experiences**

The conference ended with an account of the experience of Finland and the similarities and differences between its accession negotiations and the present enlargement.

Similarities can be found in the basic assumptions concerning the nature of enlargement whereby the *acquis communautaire* has to be fully adopted and implemented by the candidates. Also the organisation of the negotiating process and the way the negotiations

progress have not been changed. Differences between the previous enlargement and the present enlargement exist mainly in the number of the candidate countries [larger], their level of development [lower], their ability to implement EU rules [lower] and the size of the *acquis communautaire* [larger].

It was pointed out that the negotiations between the EU and a candidate country do not constitute international negotiations in the normal sense of the word; reaching an agreement by compromise and through offers and requests, with both the negotiating partners standing on an equal footing. Rather, it is much more a matter of the candidate countries adopting the Union *acquis*.

Linked with the above is the fact that the accession conferences tend to be formal events where written positions are exchanged with little actual negotiating. Real negotiations [in the sense of bargaining] only take place in the end of the negotiation process, where there is much time pressure and the final agreement inevitably is in the form of a package deal. The structure of the EU makes it a rigid negotiating partner, with very limited space to manoeuvre and little flexibility. In this sense, it is a tough negotiating partner precisely because it cannot respond fully by making concessions to the demands of the other side.

If any lesson can be drawn from past enlargements is that the candidate countries should not expect much responsiveness from the EU and therefore should think very carefully about their positions, their requests and their expectations. Too complicated and excessive requests will make it impossible for the EU to reach an internal compromise that would result in an external concession in favour of the candidate countries. As a consequence, the candidates were also advised to pay particular attention to their domestic discussions and internal negotiations between the different national actors. That is where they will have to decide the extent of the concessions they will inevitably have to make in Brussels. □

## After the Applause Stops: Nice's Aftermath and the Prospects for CESDP<sup>1</sup>

*Dr Simon Duke*

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It was generally acknowledged that one of the more successful outcomes of the French Presidency and the 2000 Intergovernmental Conference (IGC) was the progress made on the Common European Security and Defence Policy (CESDP). The French Presidency can of course claim some of the credit for advancing CESDP, but it really represents the cumulative efforts of the EU Member States and four presidencies since the historic Anglo-French St Malo summit of December 1998 set the ball rolling. But, contrary to some of the laudatory comments, the outcome of the IGC and the French Presidency saw advances in non-military and military crisis management and not, as is sometimes claimed, defence. This is not just a semantic point since it is precisely in defence that progress has *not* been made and probably will not be for a while to come. A more accurate portrayal of progress to date might refer to the emergence of a European security policy (ESP) and no more.

Prior to the Nice summit few modifications had been expected to Title V of the Treaty on European Union (TEU) and many, including legal experts, queried whether any changes would be necessary. Yet, the changes that did take place are significant. Two in particular stand out. In Article 17 of the TEU all references to the Western European Union (WEU), bar one, were removed. The modification implies that the WEU is no longer an 'integral part of the Union', it does not provide the Union with 'access to an operational capability', notably for Petersberg tasks, it will not assist the Union 'in framing the defence aspects' of the CFSP. Nor can the Union 'avail itself' of the WEU to 'elaborate and implement' decisions and actions of the Union with defence implications.

The changes to Article 17, which were largely foreshadowed by the WEU's Marseilles Declaration of 13 November 2000, may have significant implications for the second pillar. The vestiges of the WEU still uphold the collective defence guarantee contained in Article V of the Modified Brussels treaty, as well as the armaments collaboration aspects of the nineteen-member Western European Armaments Group (WEAG).<sup>2</sup> It is though unclear how serious the WEU's Article V commitment is, especially in light of the transferral of key assets, such as the Satellite Centre, to the EU. The centre may be critical for the EU's ability to conduct Petersberg tasks but, presumably, it is not irrelevant to the WEU's defence obligations. Other residual problems

due to the changes in Article 17 may also come to the fore. For example, if the WEU no longer provides access to an 'operational capability', does this then mean that the Forces Answerable to the WEU (FAWEU) are only available for Article V contingencies, or might they become FAEU? The role of the interim European Defence and Security Assembly (the former Parliamentary Assembly) is also left up in the air.

A further significant impediment to the short-term development of CESDP may also come about as a result of the WEU's former practice of operating at 21 (the ten full members, the six associate members and the five observers) and at 28 (as before, plus the seven associate partners). The WEU associate members, which included Norway and Turkey, enjoyed full involvement in the WEU Council. With the effective dissolution of these extended ties, the former WEU observers, who are all EU members, enjoy a privileged position since they are fully involved in CFSP decision making. The perceived need to respect EU decision-making autonomy is currently at odds with Turkey's objections to the lack of any CESDP equivalent to the status it enjoyed under the WEU. This may lead to persistent efforts by Ankara to block any guaranteed access to NATO planning capabilities for EU-led Petersberg missions.

The effective separation of crisis management and defence tasks between the WEU and EU poses the question of whether the EU Member States have any interest in developing a common defence policy or common defence – notions that remain in the TEU. The outcome of the IGC suggests that this is a highly divisive issue that is not only confined to the smaller neutral or non-aligned EU Member States. Various proposals to maintain some linkage between the EU, the WEU and Article V of the Modified Brussels Treaty in the form of a declaration attached to the treaty were rejected.

The continuation of the work of nineteen-member WEAG under the WEU's umbrella may also mark a lost opportunity. Article 17 of the TEU maintains the vague formula that the progressive framing of a 'defence policy' will be supported, 'as Member States consider appropriate, by cooperation between them in the field of armaments'. Yet it was agreed in the context of crisis management at St Malo that Europe needs strengthened armed forces 'which are supported by a strong and competitive European defence industry and technology'. As it is, the work of WEAG, POLARM (within the EU),



*Organisme Conjoint de Coopération en Matière d'Armement* (OCCAR) and the Letter of Intent (LoI) countries continues in a piecemeal fashion. Hopefully some consolidation of their activities might be considered in the near future.

The second notable change saw the replacement of the Political Committee in Article 25 by the Political and Security Committee (PSC). It is the PSC that will, amongst other things, exercise political and strategic direction of crisis management operations under the responsibility of the Council. The modifications to this act are particularly profound since they attribute legal authority not only to the PSC but also to CESDP in general. The PSC has been described as the 'linchpin of European security and defence policy and of the CFSP' and it is also the anchor for the Military Committee and Military Staff. The incorporation of the PSC into the (provisional) Nice Treaty has the potential to be revolutionary provided the permanent PSC representation is of sufficiently senior status.

It is easy to forget, amongst the general euphoria surrounding the rapid progress of CESDP, that what has been achieved is a start, and nothing more. Not only is it a start, it may also prove to be the easier part of the overall goal of establishing a working CESDP. A number of tough challenges are on the horizon and four deserve special mention.

#### **Has CESDP outpaced CFSP?**

First, any progress made in CESDP needs to be matched by developments elsewhere in the EU's external relations. CESDP is not an end in itself but the continuation of a range of other instruments that, when combined, should provide a seamless web of options with which to address crisis scenarios. This may involve the ability to intervene diplomatically, to use various forms of economic leverage (both positive and negative), to credibly threaten the use of military force and, if necessary, to use it. Developments since St Malo have concentrated on the upper end of the EU's crisis management abilities perhaps at the cost of concentrating on the linkage between the various forms of crisis prevention and management that could be employed. The different *modus operandi* of the pillars, the overlapping and often confusing mandates of the Commission and the Council Secretariat, most notably in the cases of the Commissioner for External Relations and the High Representative for CFSP, and numerous shortcomings in the EU Member States crisis management capacities, mean that the EU is not yet in a position to offer a seamless web of options to address crisis scenarios that may call for military intervention and a sustained presence. For the foreseeable future only the U.S. will have this ability, if matched with the necessary political resolve.

#### **Enhancing EU-NATO relations**

Second, the French Presidency report on European Security and Defence Policy detailed the emerging cooperation between the EU and NATO in both non-

crisis and crisis situations. Relations between the two organisations are however in an early and thus delicate stage. One of the key issues to be addressed is the Turkish demand for greater inclusion in CESDP. The EU has to preserve its institutional autonomy whilst, perhaps in reaction to persistent U.S. pressure, it must find a way to respond to Turkey's demands (as well as those of the other non-EU European NATO members). Any failure to do so runs the risk of stifling EU-NATO cooperation in its infancy and may push key EU Member States towards greater autonomy (and thus duplication) from NATO than they may have wanted. For its part, Turkey must consider whether it is in its long-term interests to block EU access to NATO planning facilities and other assets, especially in light of its EU candidacy and ongoing talks on enhanced customs union.

The issue of communications and, more specifically their security, may also complicate EU-NATO relations. Following proposals made by Solana in July 2000 to exclude sensitive documents covering security and defence, justice and home affairs as well as trade and aid, from the normal handling procedures providing for openness and transparency, Finland, the Netherlands and Sweden voiced their opposition, as did the European Parliament. A forthcoming European court case on this issue may significantly compromise the development of CESDP if a decision is made to uphold the principles of openness and transparency of Article 255 of the Treaty establishing the European Community. Anything significantly less than the equivalent to NATO's own classification and handling procedures for EU security-related matters would presumably stifle the willingness of individual NATO members to share information with the leak-prone EU. Since Sweden was one of the countries to oppose the draft common position, it has become something of a poisoned chalice for the current Presidency.

#### **Transatlantic relations under the Bush administration**

Third, the Bush administration is in its early days. Nevertheless there are enough storm clouds on the horizon to cause concern. The apparent determination of the Bush administration to push ahead with missile defence (MD) has met with little open support amongst the European allies and from some quarters, most notably France, opposition. A major transatlantic split on this issue could complicate the EU's access to euphemistically called 'NATO assets' for 'Europe only' operations under NATO's Combined Joint Task Force concept. Certainly, it may make public opinion in the U.S. more reluctant to engage in multilateral crisis management operations. It may also split the European allies, especially France and the United Kingdom. Although the Blair government is guarded on the issue (especially since it would involve modifying the Flyingdales early warning radar), British support for MD risks damaging Anglo-French relations and thus the 'engine' of CESDP. Conversely, British opposition could damage trans-

atlantic relations and London's continuing willingness to frame CESDP in the context of buttressing the European pillar of the Atlantic Alliance. The impression that fissures may be developing in EU-UK relations was compounded by British participation in U.S. air strikes against selected Iraqi air defence installations around Baghdad in mid February 2001. Amongst the international condemnation of the strikes, the voices of France and Turkey were pronounced.

Disputes in the civilian aerospace sector, specifically the mutual charges of illegal subsidies being paid for the development of Airbus and Boeing aircraft, also hold the potential to cause a major rift in transatlantic relations. Until now disputes have involved vexatious, but relatively minor, aspects of transatlantic trade (bananas, beef hormones and so forth). The civilian aerospace sector is critical to the EU Member States as well as the U.S. and a major dispute in this area could have significant knock-on effects for CESDP post-Nice. It may, once again, push the EU in the direction of a more autonomous CESDP.

### **Matching resolve with resources ... déjà vu all over again?**

Finally, CESDP suffers from an underlying gap between resolve and resources. Any dispute that pushed the EU towards a more autonomous CESDP would currently call the EU's bluff. In its current form, the economics of CESDP only makes sense if one assumes access to a number of 'NATO assets' (read U.S.) in certain critical areas. The static or declining defence budgets of the majority of EU Member States stand in stark contrast to the long list of shortcomings in European capabilities identified by the November 1999 WEU Audit of Assets and Capabilities and the almost identical list unveiled at the Capabilities Commitment Conference a year later.

The continuation of current defence trends will not only damage CESDP but NATO itself. Current defence trends will not only heighten the technology gap between the U.S. and its European allies but may also accentuate technology gaps within Europe. Efforts to do more with the same by, for example, converting to professional armed forces rather than reliance on conscript forces, are of dubious economic soundness. Even if the economics is sound, reallocation of defence budgets is unlikely to yield the kind of short-term results needed to meet the Headline Goals. This leaves the EU heavily reliant upon presumed or guaranteed access to key 'NATO assets' which, as has been argued, may not be forthcoming. The need for increased defence budgets and wiser expenditure seems unavoidable.

### **Conclusion**

CESDP is a work in the making. The Nice summit represents a commendable start, but no more. The emergence of the institutional structures to address non-military and military aspects of crisis management is encouraging. The slower progress on developing cooperation and consultation mechanisms with the

EU+6 and EU+15 is less encouraging, especially with Turkey's position in mind. The early (and perhaps premature) signs emanating from the Bush administration indicate a number of pitfalls in the near future for transatlantic relations that can hopefully be avoided.

The development of relations with third parties and organisations will undoubtedly shape CESDP, but the decisive challenges lie within the EU. The development of CESDP is only useful in so far as it moves the EU towards the development of a seamless web of crisis management responses. Careful attention must therefore be paid to ensuring that CESDP is complemented by developments in conflict prevention. This implies that more emphasis and not just lip-service must be placed on consistency in the EU's external relations generally. For the Member States the main challenge is for them to prove that resolve can be matched with resources — and apologies if this sounds like the old capabilities-expectations gap all over again.

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### **NOTES**

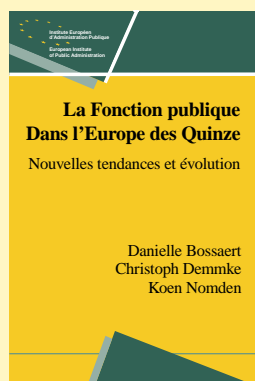
<sup>1</sup> A version of this article appeared in the on-line journal, *Challenge Europe*. The article may be found at the European Policy Centre's web site, <http://www.theepc.be>. Some of the themes raised in this contribution are also explored in more depth in *Between Vision and Reality: CFSP's Progress on the Path to Maturity*. The book is edited by Dr. Simon Duke and is the outcome of a colloquium held in November 1999 which gathered together top academics and practitioners to explore the progress and pitfalls of progress towards a Common Foreign and Security Policy and, in particular, in formulating a Common European and Security Policy.

*'I commend this book to all those who are interested not only in the latest developments in Europe's Common Foreign and Security Policy but also its potential for the future. The various contributions raise important issues which all of us will be grappling with over the next few years. This book helps shed some light on the path which lies ahead'.*

From the foreword by Dr. Javier Solana, Secretary General, High Representative of the European Union for the Common Foreign and Security Policy.

<sup>2</sup> Article V of the Modified Brussels Treaty reads, 'If any of the High Contracting Parties should be the object of an armed attack in Europe, the other High Contracting Parties will, in accordance with the provisions of Article 51 of the Charter of the United Nations, afford the Party so attacked all the military and other aid and assistance in their power'. □

## *La Fonction publique dans l'Europe des Quinze Nouvelles tendances et évolution\**



Dans le contexte des processus d'eupéanisation et d'internationalisation qui vont en s'accélégrant, les fonctions publiques des Etats membres de l'Union européenne sont soumises à une pression de plus en plus grande pour se moderniser et s'adapter à la nouvelle donne. La plupart des Etats membres se livrent actuellement à une réflexion sur les structures et systèmes d'organisation hérités de l'histoire, comme par exemple les règles sur l'accès à la Fonction publique, les mesures de formation interne, les régimes de rémunération, la durée du travail, etc., et cela en vue de leur réforme. Ce processus concomitant soulève un certain nombre de questions intéressantes: comment réagissent les Etats membres de l'UE face à ces nouveaux défis? dans quelle mesure constate-t-on une convergence ou une divergence des tendances de développement? assiste-t-on à une évolution vers un modèle européen de fonction publique ou bien constate-t-on encore la prépondérance des traits caractéristiques propres à un pays? Ces questions sont d'autant plus intéressantes que les fonctions publiques demeurent fortement marquées par leurs traditions et

leur histoire nationales, tandis que les compétences de l'UE sont plus que limitées dans ce domaine. Ainsi, aucun des traités européens, jusqu'ici, n'a prévu de compétences communautaires pour l'organisation de la fonction publique.

L'élément clé de cet ouvrage est une étude comparative de l'organisation et de la structure des fonctions publiques dans les Etats membres, dans laquelle on s'interroge avant tout sur les nouvelles évolutions et sur les points de développement communs et différents. Contrairement à la première édition, cette deuxième édition se concentre davantage sur l'impact de l'intégration européenne sur les fonctions publiques. Jusqu'ici, on ne trouvait dans ce secteur comparatif que très peu de recherches approfondies. Face à ce contexte, l'équipe multinationale de l'IEAP a tenté de donner au lecteur un aperçu le plus large possible des différentes conceptions de la fonction publique dans l'Europe des Quinze et s'est efforcée de lui indiquer les grandes tendances qui se dégagent en la matière. Cette publication orientée vers la pratique, qui sera disponible également en langues allemande et anglaise plus tard cette année, s'adresse aux fonctionnaires nationaux et européens tant de l'UE que des pays tiers, aux représentants syndicaux, à des universitaires ainsi qu'à toute autre personne intéressée par le sujet.

\* Danielle Bossaert/Christoph Demmke/Koen Nomden/Robert Polet  
EIPA 2001, 356 pages  
ISBN 90-6779-153-9; NLG 80/EUR 36.30  
Prochainement disponible en anglais

NOUVELLE PUBLICATION

## Repenser l'Union européenne: A la CIG 2000 et au-delà\*

### Rethinking Europe: IGC 2000 and Beyond\*\*

Pourquoi la Conférence intergouvernementale qui a débouché sur le Traité de Nice a-t-elle été aussi difficile et quelle implication ses résultats auront-ils pour l'évolution future de l'Union européenne? Cet ouvrage demeure une contribution importante pour mieux comprendre la toile de fond de l'agenda de Nice et appréhender la question plus vaste du changement de l'UE.

La première section donne une vue d'ensemble du débat politique autour de Nice à travers des exposés de représentants des États membres et des Institutions européennes. La deuxième section offre des analyses plus détaillées de questions telles que la repondération des voix, la composition de la Commission, le vote à la majorité qualifiée et la coopération renforcée, ainsi que des processus parallèles relatifs à la politique européenne de sécurité et de défense et au projet de Charte des droits fondamentaux. Dans la troisième partie, des universitaires de renom, dont Philippe Schmitter, Helen Wallace et J.H.H. Weiler, vont au-delà de ces questions pour examiner les tendances et les défis plus vastes auxquels l'Union européenne doit faire face.

*"Ce volume sera très apprécié par toute personne préoccupée par la forme que prendra l'Europe de demain et accueilli favorablement par tous ceux qui, dans les États membres, sont responsables de négociation de la Conférence intergouvernementale".*

Paavo Lipponen, Premier ministre finlandais

*"Ce livre, par la qualité et le pluralisme des textes qu'il rassemble, est une contribution précieuse au nécessaire débat sur l'avenir de l'Europe. Il aidera à comprendre les principaux thèmes de la réforme institutionnelle à laquelle l'Union européenne doit faire face pour réussir l'élargissement".*

Michel Barnier, Membre de la Commission européenne

*"Cet ouvrage constitue un apport particulièrement utile dans le débat politique européen sur la réforme institutionnelle, sans laquelle nous ne pourrions jamais nous libérer des effets paralysants de l'inertie bureaucratique et des préférences nationales étriquées".*

Philippe de Schoutheete, ancien Représentant permanent de la Belgique auprès de l'Union européenne

*"Les débats en cours sur la réforme institutionnelle de l'UE doivent être plus ouverts. Ce livre établit des ponts entre le débat politique et les approches théoriques des questions, et ce d'une manière qui sera très utile à la fois pour les gens de terrain et pour les professeurs."*

William Wallace, Professeur de relations internationales, London School of Economics and Political Science

Why was the Intergovernmental Conference which produced the Treaty of Nice so difficult, and what will its results mean for the further development of the European Union? This book remains an important contribution to understanding the background to the Nice agenda – and the wider agenda of EU change.

The first section provides insight into the political debate around Nice through contributions by representatives of the Member States and the European institutions. The second section offers more detailed analyses of the questions of reweighting of votes, the composition of the Commission, qualified-majority voting and enhanced cooperation, as well as the parallel processes of European Security and Defence Policy and the draft Charter of Fundamental Rights. In the third section, leading academics, including Philippe Schmitter, Helen Wallace and J.H.H. Weiler look beyond these issues to address the broader trends and challenges facing the European Union.

*"This volume will be much appreciated by everyone concerned about the future shape of Europe and will be welcomed by all those in the Member States responsible for negotiating the Intergovernmental Conference."*

Paavo Lipponen, Prime Minister of Finland

*"The quality and variety of the texts that this book brings together make it a valuable contribution to the dialogue required on the future of Europe. This will assist understanding of the main issues of institutional reform which the EU must face to make a success of enlargement."*

Michel Barnier, Member of the European Commission

*"This is a significant contribution to a European political debate on institutional reform without which we will never be able to overcome the paralysing effect of bureaucratic inertia and narrow national preferences."*

Philippe de Schoutheete, former Permanent Representative of Belgium to the European Union

*"The discussions taking place over institutional reform of the EU need to be opened up. This book links the political debate and academic approaches to the questions in a way which will be very useful both to practitioners and to professors."*

William Wallace, Professor of International Relations, London School of Economics and Political Science

\*\* Edward Best/Mark Gray/Alexander Stubb (eds)  
EIPA 2000, 372 pages  
ISBN 90-6779-147-4; NLG 80/EUR 36.30

\* Sous la direction de Edward Best/Mark Gray/Alexander Stubb  
EIPA 2000, 404 pages  
ISBN 90-6779-151-2; NLG 80/EUR 36.30



## Capacity Building for Integration Series

This booklet contains details of five volumes in the EIPA series *Capacity Building for Integration*. The series has been produced to make EIPA expertise available both to Member States' administrations and to those in the countries preparing themselves for membership of the European Union. The material presented in these volumes is the result of EIPA's mission to respond to the issues and questions national governments have to face in managing their European responsibilities. The experience gained in the present Member States will, of course, be very useful to newcomers to the EU.

The series is produced in response to a special request by the European Parliament. The volumes in this series include:

1. **Managing EU Structural Funds: Effective Capacity for Implementation as Prerequisite<sup>1</sup>**  
*Frank Bollen*
2. **European Environmental Policy: the administrative challenge for the Member States<sup>2</sup>**  
*Christoph Demmke/Martin Unfried*
3. **Enlargement of the European Union and Effective Implementation of its Rules – a Case Study on Telecommunications<sup>3</sup>**  
*Phedon Nicolaides*
4. **Effective Implementation of the Common Agricultural Policy: The case of the milk quota regime and the Greek experience in applying it<sup>4</sup>**  
*Pavlos Pezaros*
5. **Organisational Analysis of a Europeanisation Process: A Dutch Experience<sup>5</sup>**  
*Adriaan Schout*

Capacity Building can be defined as the process by which capacities are acquired. The implementation of Community law requires more than simply transposing legal requirements and allocating financial resources. Rather, European legislation requires building capacities at national level: from initiation of European policies to their enforcement at local level. Moreover, capacity can be said to depend on viable institutions, skilled human resources, financial and technological resources, effective coordination systems, working practices, procedures and efficient incentives and sanctions. To this end, national administrations have to constantly adapt their management systems to new requirements. Therefore, the need to build capacities is a requirement for both Member States and Candidate Countries.

This series of volumes studies in detail the demands put on national administrations to comply with different European policies. What are the basic requirements according to the different aspects of compliance and enforcement? What are the most efficient approaches for implementing and enforcing European policies? How can effective implementation and enforcement be achieved?

These publications identify weaknesses in national coordination and administrative procedures and structures and makes proposals for improving implementation and enforcement of European policies. To this end, they should help those who are interested in the question of how to manage European integration.

<sup>1</sup> EIPA 2001, 44 pages, ISBN 90-6779-156-3: NLG 25/EUR 11.34.

<sup>2</sup> EIPA 2001, 309 pages, ISBN 90-6779-157-1: NLG 80/EUR 36.30.

<sup>3</sup> EIPA 2000, 86 pages, ISBN 90-6779-148-2: NLG 40/EUR 18.15.

<sup>4</sup> EIPA 2001, 72 pages, ISBN 90-6779-159-8: NLG 35/EUR 15.88.

<sup>5</sup> EIPA 2001, 55 pages, ISBN 90-6779-158-x: NLG 35/EUR 15.88.



*Seminar***Assessing the EU's Progress on the Path to a European Security and Defence Policy**

Maastricht, 9-10 April 2001

Progress in the second pillar has proceeded at an astonishing pace since 1998 – at least at the rhetorical level. A series of meetings at the EU level, as well as bilateral discussions between various EU Member States, have charted an ambitious course towards the eventual goal of providing the Union with the capacity for autonomous action, backed by credible military forces. Of course, the important and complementary development of non-military crisis management structures has also reshaped the EU's security agenda. Finally, the Capabilities Commitment Conference, held in Brussels in November 2000, has given us a better idea of how the European Council's 1999 'Headline Goals' will be achieved, as well as the shortcomings.

The first objective of this seminar is to assess, in a critical manner, what progress has been made towards realising the various goals established in the ESDP context over the last couple of years. Of particular note will be the outcome of the 'parallel' IGC discussions on IGC and the implications of the Nice summit for the second pillar.

The second broad subject area will assess the state of transatlantic security and defence relations (during the first hundred days of the new U.S. Presidency) and the state of NATO-EU relations. Of special importance will be the impact of ESDP on the non-EU members of NATO. Work on the latter aspect has been undertaken by the Portuguese and French Presidencies of the EU but the key problems of institutional asymmetry and the need for institutional autonomy are still apparent.

The third topic for examination will be an assessment of WEU and EU relations, especially with regard to the integration of the Petersberg-relevant functions of the former into the latter. It is nevertheless clear that some key (and perhaps useful) components of the WEU, such as the Parliamentary Assembly, will not be transferred. This gives rise to the question of whether the WEU has a future and, if so, what role might it play?

Finally, it is important to frame discussions on ESDP within a firm economic framework. The most obvious issue is whether the EU's aspirations regarding ESDP, the Headline Goals and so forth, can be accommodated within the existing defence budgets of the EU Member States. If not, what are the implications for ESDP and how might the situation be rectified? A further connected aspect is the defence industrial perspective and whether a defence industrial base is a prerequisite for a European capacity for autonomous action.

The seminar will provide a valuable opportunity to discuss not only the progress that has been made towards the realisation of ESDP but, more importantly, it will identify those areas where more attention is required. The speakers, who include leading academics as well as senior officials, will assist in not only mapping out the undoubted progress that has been made but also in helping to identify priority areas for attention that will assist the development of ESDP from vision to reality.

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*<http://www.eipa.nl>*

*Second Seminar on / Deuxième séminaire sur / Zweites Seminar 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 financé par la Commission européenne dans le cadre du Programme Odysseus /*  
Teilfinanziert von der Europäischen Kommission im Rahmen des Odysseus-Programms

Maastricht, 25-27 April 2001 / *du 25 au 27 avril 2001 / 25. – 27. April 2001*

The aim of this seminar 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 seminar is 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.

The seminar is open to officials from European Union Member States, from the applicant countries to the EU, as well as from Norway and Iceland.

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

*Ce séminaire 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.*

*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.*

*Ce séminaire s'adresse aux fonctionnaires des Etats membres de l'Union européenne, des pays candidats, de Norvège et d'Islande.*

*Les langues de travail du séminaire sont l'anglais, le français et l'allemand.*

Ziel dieses Seminars 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.

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.

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.

Arbeitssprachen des Seminars werden Englisch, Französisch und Deutsch sein.

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

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## *Seminar*

# **The Common Agricultural Policy and the Environmental Challenge – New Tasks for Public Administrations?**

Maastricht, 14-15 May 2001

The achievement of sustainable forms of production is widely recognised by governments as a long-term policy objective for agriculture. According to the OECD (1998), many countries are developing sustainable agricultural strategies, often within the framework of broader national environmental and sustainable development objectives.

Sustainable agriculture is, however, primarily linked to the impact of agricultural activity on the environment. At European Union level, the Common Agricultural Policy – being the oldest and most comprehensive policy ever developed by the European Community since its establishment – is currently faced with the increasing demands of civil society linked to environmental protection. After all, Article 6 EC Treaty enriches the “traditional” objectives of CAP with environmental considerations, since it explicitly states that “environmental protection requirements must be integrated into Community policies and activities, in particular with a view to promoting sustainable development”.

On the other hand, CAP continues to be one of the very few areas upon which the EU has exclusive competence to decide. The national administrations of the Member States, and consequently the candidate countries – being responsible for compliance with the agricultural *acquis* – have to undertake new tasks to effectively implement the relevant new rules and measures that are decided in common. In addition, according to an initiative of the European Council launched in Helsinki in 1999, the Agriculture Council has to develop a comprehensive strategy on environmental integration for the Gothenburg summit in June 2001.

The seminar will bring together senior officials from the European Commission, academics, as well as researchers and senior experts from national administrations to discuss the challenge of integrating environmental considerations into the Common Agricultural Policy. The invited experts will not dominate but stimulate the debates, and participants will be invited to make a contribution according to their particular expertise. Short presentations will be followed by extensive discussions to allow for an exchange of views and perspectives.

The seminar is aimed at policy makers, officials at European, national and regional levels, representatives of agricultural and environmental associations, and other experts who follow EU policy developments. It will combine scientific analysis with practical expertise to highlight some of the main problems that have arisen and, as far as possible, to make recommendations to public administrations for adopting and implementing viable solutions in the light of the new developments on the subject. Agenda 2000 has already given more prominence to environmental considerations, offering greater incentives, while indicating the direction for the future.

The working language of the seminar will be English.

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## *Séminaire / Seminar*

# **Les aspects juridiques du commerce électronique**

## ***Legal Aspects of E-commerce***

Luxembourg

*les 17 et 18 mai 2001 / 17-18 May 2001*

*Ce séminaire, qui réunira des orateurs venant de toute l'Europe, a pour objectif de débattre des problèmes juridiques posés par l'utilisation de l'informatique dans les échanges commerciaux à l'échelle européenne. Il s'adresse à tous ceux qui traitent des aspects juridiques du commerce électronique (juges, régulateurs, avocats et consultants), ainsi qu'à toute personne intéressée par le sujet.*

*Seront notamment examinés le droit des contrats, le droit d'auteur et le droit des marques, la protection des consommateurs, le droit de la concurrence, la protection de la vie privée et la sécurité des données, le paiement électronique et les signatures électroniques. Plus particulièrement, l'on se penchera sur les problèmes en matière de domain grabbing, conception de site Web, vente à distance, contrats par voie électronique et argent électronique.*

*Les langues de travail du séminaire seront l'anglais et le français, et la traduction simultanée sera assurée.*

The objective of this seminar, which will gather speakers from all over Europe, is to discuss legal problems arising when information technology is used to make business from a European perspective. It is addressed to all persons who deal with the legal issues of e-commerce (like judges, regulators, lawyers and consultants), as well as to all other persons interested.

The topics covered include contract law, copyright and trademark law, consumer protection, competition law, privacy and data security, e-payment and digital signatures. This would include the problems of domain-grabbing, web site design, distant selling, e-contracting and electronic cash.

The working languages will be English and French, with simultaneous translation being provided.

*Pour tout complément d'information, n'hésitez pas à vous adresser à /*

Should you wish to receive any further information, please do not hesitate to contact:

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*2, Circuit de la Foire Internationale, L – 1347 LUXEMBOURG*

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## Conference

# “Brave New e –World”: The Implementation of e-Government in Local and Regional Authorities in Europe

Maastricht, 17-18 May 2001

The application of new technologies in public administration demands a re-think of the very notion and fundamental role of the public service. These technologies add a new dimension, necessitating a re-orientation which goes much further than a simple change in modes of operation. This phenomenon is occurring at the national and, in particular, at regional and local levels in the European Union, where the aim is to bring about a modernised public service system with procedures which facilitate access to information, provide improved services and ensure greater participation of the citizens. It is in this context that the European Council Summit in Lisbon (P) in 2000 launched the initiative to make Europe fully aware of and integrated into the internet environment.

Acknowledging this development, the European Institute of Public Administration (EIPA) in Maastricht (NL) and its antenna, the European Centre for the Regions (EIPA-ECR) in Barcelona (E), with the support of CAP GEMINI ERNST & YOUNG (NL), will jointly be organising – for the first time – a conference on **“Brave New e-World: The Implementation of e-Government in Local and Regional Authorities in Europe”** to be held on 17-18 May 2001 at EIPA’s premises, located in the heart of the historic city of Maastricht. The conference will examine the strategies that subnational public bodies must adopt to take full advantage of the opportunities offered by information and communication technologies (ICT). It will identify the key challenges these bodies will face in offering value-added services to the citizens in a networked public society.

Representatives and politicians from local and regional authorities, civil servants from the sub-national public administrations, IT experts and consultants etc. will have the opportunity to analyse and discuss topical issues such as *“The Role of the Different Levels of Public Administration in the Implementation of e-Government”*, *“Enabling e-Government at Regional and Local Level”* and *“Initiatives and Programmes of the EU to Support the Realisation of e-Europe”*. The conference will follow a hands-on approach, demonstrating ‘best practice’ examples of European regions which aim to make e-Government a reality. In addition, participants will have the opportunity to simulate *“How to Introduce e-Government into Public Bodies”* in a workshop.

The working language of the conference is English.

Further information on programme and practical organisation can be obtained at the EIPA web site ([www.eipa.nl](http://www.eipa.nl)) or by:

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Seminar / Séminaire

## **New Challenges in Human Resource Management: Personnel development and competency management in the public sector**

### *Les nouveaux défis de la gestion des ressources humaines: le développement du personnel et la gestion des compétences dans le secteur public*

Maastricht

21-22 May 2001 / les 21 et 22 mai 2001

#### **Objective**

The objective of this seminar is to discuss ongoing developments in human resource management (HRM) in public administration. The seminar will focus on two main themes, namely personnel development and competency management, further complemented by keynote speeches. Personnel development is an important tool for public organisations in improving performance, whilst it also serves to motivate and retain staff. Competency management is a relatively new phenomenon in public services and focuses on the development of competence-based instead of function-based organisations. It therefore not only focuses on the development of knowledge, but also on attitudes, behaviour and skills.

The themes will be approached from both a practical and an analytical perspective by speakers with a background as practitioners, academics or consultants. Some themes will be dealt with in a comparative way, others in the form of case-studies with wider policy implications.

#### **Target group**

The seminar is aimed at an international audience of public officials working in the field of HRM, as well as other interested persons from e.g. trade unions and universities or research establishments dealing with HRM in the public service. The seminar will also provide an opportunity to meet people from other countries and to discuss matters of common interest.

Please note that another seminar in the same field will take place also at EIPA Maastricht on *Monday 15 and Tuesday 16 October 2001*. Further information in this respect will be put on our Website in due time and published in the next issue of EIPASCOPE.

#### **Objectif**

*Ce séminaire a pour objectif de débattre de l'évolution en cours dans le domaine de la gestion des ressources humaines (GRH) au sein de l'administration publique. Le séminaire s'articule autour de deux thèmes principaux: le développement du personnel et la gestion des compétences, qui feront l'objet d'exposés introductifs en vue d'orienter les discussions. Le développement du personnel constitue un précieux outil afin d'accroître la performance des organisations publiques, tout en contribuant à motiver et à retenir le personnel. La gestion des compétences est un phénomène relativement nouveau dans les services publics, visant au développement d'organisations axées sur les compétences plutôt que sur les fonctions. Ainsi la gestion des compétences ne repose pas seulement sur le développement des connaissances, mais aussi sur les attitudes, le comportement et les aptitudes.*

*Les thèmes du séminaire seront abordés sous un angle pratique et analytique par des orateurs expérimentés, qu'ils soient praticiens, universitaires ou consultants. Certaines questions seront traitées de manière comparative tandis que d'autres seront analysées à partir d'études de cas ayant des implications plus vastes.*

#### **Groupe cible**

*Ce séminaire à dimension multinationale s'adresse aux fonctionnaires travaillant dans le domaine de la GRH, 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.*

*Veillez noter qu'un autre séminaire consacré à ce même domaine aura lieu également à l'IEAP Maastricht les lundi 15 et mardi 16 octobre 2001. De plus amples informations sur ce séminaire seront disponibles en temps voulu sur notre site et seront publiées également dans le prochain numéro d'EIPASCOPE.*

For more information and registration forms, please contact / Pour obtenir de plus amples informations ou recevoir un bulletin d'inscription, adressez-vous à: Mrs Eveline Hermens, Programme Assistant

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## *Seminar*

# **Update on Comitology**

Maastricht, 22 May 2001

This one-day seminar is designed for civil servants from the Member States who have either participated in one of the previous three-day EIPA seminars on committees and comitology or already have a good knowledge of the subject. The purpose of the seminar is to bring them up-to-date with the latest developments, in particular with the new Comitology Decision 1999/468.

In June 1999 the Council adopted the new Comitology Decision after a prolonged conflict between the institutions, particularly the European Parliament and Council. The new rules for the three remaining types of committees – advisory committee (procedure I), management committee (procedure II) and regulatory committee (procedure III) – will be explained in detail.

The seminar will commence with a brief historical overview of the development of implementation committees, including the 1987 Comitology Decision and the power struggle between the institutions. Then the new Council Decision 1999/468 of June 1999 will be introduced with a particular emphasis on the criteria which determine the choice of committee procedure. Subsequently, the role of the European Parliament, the new provisions on transparency and the transition from the old to the new comitology procedures will be described and discussed in detail.

The working language of the seminar will be English.

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

Maastricht, 18-20 September 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.

Particular emphasis will be placed on the new rules for Comitology committees as laid down by Council Decision 1999/468 of June 1999.

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 languages of the seminar will be English, French and German, provided that there are enough participants requiring each language.

For more information and registration forms please contact:

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## **Understanding Decision-Making in the European Union: Principles, Procedures and Practice**

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### ***Comprendre le processus décisionnel de l'Union européenne: Principes, procédures et pratique***

Maastricht, 28-30 May 2001 / du 28 au 30 mai 2001

The European Union encompasses cooperation in an ever greater number of policy areas. This cooperation is taking place in a variety of ways, and involves more and more different actors. To understand EU decision-making processes, one cannot only think of a "Community method" in some fields and "intergovernmentalism" elsewhere, nor limit attention to European law. New methods of "open coordination" and other forms of soft law are increasingly employed; new forms of reaching European agreements are growing in the social sphere; and the practical implementation of policies involves complex multi-level networks and public-private partnerships. In this context, it is increasingly difficult as well as important to be aware of how European cooperation works in the different fields.

This intensive three-day seminar is intended for all those interested in obtaining a broader understanding not only of how the European Institutions are evolving but also of how different types of policy are now being managed. It will be particularly useful for junior public officials and representatives of organisations involved in European programmes, who will be helped to develop rapidly in their specialisation while having a good feel for the bigger picture.

The course starts by presenting the European institutions and their interaction in the classic policy cycle, which remains an essential starting point for understanding the Union. It also provides an overview of the various structures and processes now involved in the major policy areas, and considers the challenges posed for policy coordination – both at European level and within the Member States – and for implementation. The sessions on decision-making in the Community legislative process will include a simulation of a Council working group, and a case study illustrating the operation of the co-decision process. Some of the new approaches to policy management will then be illustrated by examining the different actors and instruments involved in Employment and Social Affairs. The course concludes with an evaluation of trends affecting EU decision-making in the perspective of enlargement, the political debate over European competences following Nice, and the search for new forms of decentralisation and participation in European Governance.

The seminar will be held in English with simultaneous translation in French.

La coopération au sein de l'Union européenne touche des domaines de plus en plus nombreux. Réunissant des acteurs très différents, cette coopération se traduit aujourd'hui sous diverses formes. Pour bien comprendre les processus décisionnels européens, on ne peut se contenter de considérer la "méthode communautaire" dans certains domaines et la "méthode intergouvernementale" dans d'autres, ni limiter son attention au droit européen. On voit émerger de nouvelles méthodes de "coordination ouverte" et d'autres formes de droit non contraignant; de nouvelles formes d'accords européens font également leur apparition sur le terrain social, et la mise en œuvre pratique des politiques s'appuie sur de complexes réseaux à plusieurs niveaux et des partenariats public-privé. Dans ce contexte, il s'avère donc de plus en plus difficile, mais nécessaire d'appréhender le fonctionnement de la coopération européenne dans les différentes sphères.

Ce séminaire intensif de trois jours s'adresse à tous ceux qui veulent acquérir une meilleure compréhension des institutions européennes et de leur évolution, et de la façon dont les différentes politiques communautaires sont gérées à l'heure actuelle. Il sera particulièrement enrichissant pour les jeunes fonctionnaires et représentants d'organisations participant à des programmes européens, qui pourront ainsi bénéficier d'un soutien pour évoluer rapidement dans leur domaine de spécialisation tout en disposant d'une vision plus large.

Le séminaire débutera par une présentation des institutions européennes et de leur interaction dans le cycle politique classique, point de départ essentiel pour comprendre l'Union. Il offrira en outre un aperçu des différentes structures et des processus concernant les principaux domaines d'action, et se penchera sur les défis à relever en matière de coordination des politiques – tant au niveau européen qu'à l'échelle des Etats membres – et de mise en œuvre. Les sessions consacrées au processus législatif communautaire comporteront une simulation d'une réunion d'un groupe de travail du Conseil, de même qu'une étude de cas illustrant le fonctionnement de la procédure de codécision. L'on cherchera également à éclairer certaines nouvelles approches de la gestion des politiques en examinant les divers acteurs et instruments impliqués dans le domaine de l'emploi et des affaires sociales. Pour conclure, le séminaire tentera d'évaluer les tendances entourant le processus décisionnel européen dans la perspective de l'élargissement, le débat politique sur les compétences européennes après Nice, et la recherche de nouvelles formes de décentralisation et de participation à la gouvernance européenne.

Le séminaire se tiendra en langue anglaise, avec traduction simultanée en français.

For more information and registration forms, please contact / Pour toute information ou demande d'inscription, adressez-vous à:

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## Quality Management in Public Administration – Where To Go?

### *La gestion de la qualité dans l'administration publique – Quelle est la voie à suivre?*

Maastricht

11-12 June 2001 / les 11 et 12 juin 2001

#### **Context**

The concepts of “quality” and of “benchmarking” are becoming increasingly important in the public sector, particularly in public management. In several countries specialised units have been created to support quality management and/or benchmarking exercises in government. Furthermore, a series of special models for quality management in the public sector 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

- a) focus on *models for quality management in the public sector*, their different criteria and ways of implementing the models – both from a practitioner’s and a theoretical point of view. It will thereby
- b) pay particular attention to *the use of quality management in ministerial departments*. The seminar will
- c) also deal with *quality management as a basis for benchmarking* in the public sector.

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 and benchmarking in the public sector. 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 seminar will be held in English with simultaneous translation in French.

#### **Contexte général**

*Aujourd’hui, les concepts de “qualité” et de “benchmarking” s’imposent de plus en plus dans le secteur public en général, et la gestion publique en particulier. C’est ainsi que des unités spécialisées ont été créées dans plusieurs pays afin de soutenir la gestion de la qualité et/ou la pratique du benchmarking 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*

- a) *se penchera sur divers modèles de gestion de la qualité dans le secteur public, leurs différents critères et modes d’application – à la fois sous l’angle pratique et théorique.*
- b) *Dans ce contexte, il s’intéressera plus particulièrement à l’application de la gestion de la qualité dans les départements ministériels.*
- c) *La gestion de la qualité sera également examinée comme base pour le benchmarking dans le secteur public.*

*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 et du benchmarking dans le secteur public, 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).*

*Le séminaire se tiendra en langue anglaise, avec traduction simultanée en 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*

# **Protection of Intellectual and Industrial Property at European Level: Developments and Challenges**

Maastricht, 14-15 June 2001

The European Institute of Public Administration (EIPA) is organising a seminar entitled “Protection of Intellectual and Industrial Property at European Level: Developments and Challenges”. This seminar will take place on 14–15 June 2001 at EIPA’s premises, located in the centre of Maastricht, the Netherlands. The working language of the seminar will be English.

The objective of the seminar is twofold: (1) to address the main characteristics of and recent developments in intellectual and industrial property protection at Community level, in particular the new initiatives in the field of patents, and (2) to exchange views and stimulate debate on these issues.

The speakers at the seminar will be representatives of the European institutions, lawyers, and academics. The seminar is intended for civil servants from the administrations of EU Member States, candidate countries and third countries, representatives of patent offices, industry and the legal profession, as well as academics.

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

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*<http://www.eipa.nl>*

Seminar / Séminaire:

## Who's Afraid of European Information?

### *A la conquête de l'information européenne*

Maastricht, 18-20 June / du 18 au 20 juin 2001

The aim of this seminar is to provide those working in the field of European affairs on a daily or occasional basis, with the skills to trace and use European documents, by offering them a complete overview of major European information sources, and methods of gaining access to it.

The seminar is open to all those working in the field of European affairs, Community officials, legal experts and information specialists from the Member States of the EU and the candidate countries.

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

*Ce séminaire a pour ambition d'aider ceux qui travaillent chaque jour ou occasionnellement dans le domaine des affaires européennes à retrouver et à utiliser les documents européens en leur offrant une vue d'ensemble des principales sources d'information européenne ainsi que des méthodes disponibles pour y accéder.*

*Le séminaire s'adresse à tous ceux qui sont appelés à traiter des affaires européennes, aux fonctionnaires communautaires, aux juristes et aux spécialistes de l'information dans les Etats membres de l'UE et les pays candidats.*

*Les langues de travail sont l'anglais et le français, avec traduction simultanée.*

For more information and/or registration forms, please contact /  
*Pour obtenir de plus amples informations ou recevoir un bulletin d'inscription, adressez-vous à:*

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or consult our web site / *ou consultez notre site Web*

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Seminar / Séminaire  
**European Negotiations**

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*Négociations européennes*

Maastricht, 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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## The Economic Development of European Territories in the 21<sup>st</sup> Century: The Role of Regional and Local Instruments and Policies

### *Le développement économique des collectivités territoriales européennes au 21<sup>ème</sup> siècle: le rôle des politiques et instruments régionaux et locaux*

Brussels (B), 25-26 June 2001 / *Bruxelles (B), les 25 et 26 juin 2001*

For the 4<sup>th</sup> time, the European Centre for the Regions (EIPA-ECR), the European Institute of Public Administration's (EIPA) antenna in Barcelona (E), will bring together representatives of and politicians from local and regional authorities, high-profile civil servants – both from the sub-national public administrations and their regional and local representations in Brussels, Members of the Committee of the Regions (CoR), the Economic and Social Committee (ECOSOC), and Members of European Parliament to freely discuss and reflect on topical issues and the challenges facing the regions in today's Europe.

The **2001 Round Table**, which will be organised in close cooperation with the Italian Union of Chambers of Commerce (UNIONCAMERE) and the Conference of Presidents of the Italian Regions and Autonomous Provinces, will be held on 25 and 26 June 2001 at the premises of the Economic and Social Committee (ECOSOC) in Brussels.

The working languages will be English, French and Italian (with simultaneous interpretation).

*Le Centre européen des régions (CER), l'Antenne de l'Institut européen d'administration publique (IEAP) à Barcelone (E), réunira pour la quatrième fois des représentants et responsables politiques des autorités régionales et locales, aux côtés de fonctionnaires de haut niveau issus à la fois d'administrations publiques de niveau infranational et de leurs représentations régionales et locales à Bruxelles, ainsi que de membres du Comité des régions (CdR), du Comité économique et social (CES) et du Parlement européen. Cette réunion sera l'occasion d'une discussion à bâtons rompus et d'une réflexion en profondeur sur des thèmes d'actualité de même que sur les défis auxquels sont confrontées les régions dans l'Europe d'aujourd'hui.*

*La **Table ronde 2001**, qui sera organisée en étroite coopération avec l'Union italienne des Chambres de commerce (UNIONCAMERE) et la Conférence des Présidents des régions et des provinces autonomes italiennes, se tiendra les 25 et 26 juin 2001 dans les bâtiments du Comité économique et social (CES) à Bruxelles.*

*Les langues de travail de cette table ronde seront le français, l'anglais et l'italien, la traduction simultanée étant assurée entre ces trois langues.*

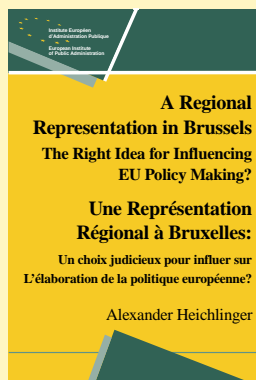
Further information on the programme and practical organisation can be obtained at the EIPA-ECR web site ([www.eipa.nl/barcelona](http://www.eipa.nl/barcelona)) or from/

*De plus amples informations sur le programme ainsi que sur l'organisation pratique peuvent être obtenues en consultant le site Web du CER-IEAP ([www.eipa.nl/barcelona](http://www.eipa.nl/barcelona)) ou en vous adressant à:*

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## *Advanced Interactive Workshop*

# **Towards Effective and Transparent State Aid Control: Recent Policy Issues**

Maastricht, 28-29 June 2001

The European Institute of Public Administration (EIPA) announces a two-day *Advanced Workshop* on EC state aid policy entitled "Towards Effective and Transparent State Aid Control: Recent Policy Issues", which will take place in Maastricht, the Netherlands, on 28-29 June 2001.

The aim of this *Advanced Workshop* is to discuss some of the main recent developments and future challenges in state aid policy in the European Union. To devise appropriate aid schemes, not only Member States must ensure an accurate interpretation of the EC legal requirements, but they must also have a proper understanding of the approach adopted by the Commission. In this respect, case study analysis and exchange of experiences with officials from the Commission and other Member States is essential.

The *Advanced Workshop* intends to bring together senior national and Commission officials to address five major issues: (1) Compensation of undertakings for the performance of services of general economic interest, (2) Public participation in undertakings, (3) Rescue and restructuring aid, (4) Fiscal aid and (5) Environmental aid.

Emphasis will be placed on the presentation of concrete cases, rigorous analysis and informal exchange of information and experience.

The *Advanced Workshop* should be of particular interest to policy-makers and practitioners involved in the formulation and implementation of state aid schemes, as well as to lawyers and business people that have to operate within the scope of the EC state aid regime.

EIPA, which is organising and hosting the *Advanced 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. This *Advanced Workshop* also represents a continuation of the research and seminar activities of the Institute in the area of competition policy.

The working language for the *Advanced Workshop* will be English.

**For Background Information on State Aid policies, rules, practice  
and State Aid Related Activities at EIPA, please consult:  
<http://www.eipa-nl.com/public/Topics/TopicsMenu.htm>**

or contact:

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## *Conference*

# **Innovative Approaches in Implementing and Enforcing Environmental Policy**

Maastricht, 2-3 July 2001

The ineffective application and enforcement of environmental law is still a major problem. In recent years, the focus of the attention and analysis of politicians, civil servants and academics has clearly been on the drafting process, the transposition process and the role of the citizens in the implementation process (including access to the courts). In addition, "everybody talks about implementation but nobody knows the real dimension of the problem". Despite all the studies that have analysed the problem and the technological progress in recent years, there is surprisingly little knowledge about the real dimension of the problem.

This conference organised by EIPA will focus on the application and enforcement phase of the policy process. In this field, the effective application and enforcement of Community law involves a number of technical steps and raises difficult questions (e.g. how can enforcement actions be measured, what kind of performance indicators are needed to measure enforcement, what kind of policies are needed to ensure effective compliance?). It seems increasingly to be the case that classical compliance and enforcement reports based on numbers of enforcement actions, total penalties assessed etc. may not in themselves indicate effective and diligent enforcement.

During the conference, participants will discuss four major subjects with experts:

- (1) deterrent approaches and their effectiveness (how effective are fines?);
- (2) compliance assistance strategies (how can information, data management and reporting systems be improved?);
- (3) compliance incentives (how can all the actors involved be motivated to comply with the legal requirements?)  
and
- (4) innovative approaches to enforcement.

The conference is designed for practitioners at ministerial level, in agencies and in regional and local authorities. Participants will receive extensive documentation.

The working language of the conference will be English.

For further information please contact:  
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*EIPA web site: <http://www.eipa.nl>*



## *Conference*

### Quality Management in Detail:

#### **Environmental Management Systems in Public Administration: with ISO and the new EMAS towards Best-Practices?**

Maastricht, 24-25 September 2001

Policy makers have been promoting environmental management and auditing systems for the private sector in the course of the last decade. Ministries, municipalities and other public bodies in Europe undertake environmental management and auditing themselves in order to improve their environmental performance and strengthen their credibility with their private clients. This is not limited to EMAS and ISO, but includes all the different initiatives linked inter alia to Green “housekeeping” and Green procurement activities. Environmental management systems hold promises for advancing environmental protection goals, setting performance targets, increasing efficiency, and generally improving performance potentially beyond what is required under existing regulations. However, the efficiency and effectiveness of Environmental Management Systems is still to be proven.

The new EMAS Regulation is about to enter into force. This will certainly mean new opportunities to promote the introduction of environmental management schemes in private enterprises with a focus on sectors other than industry and with respect to companies which already have experience of ISO 14001. On the other hand, the new EMAS Regulation is a challenge for public authorities as they can now also officially apply for certification under the new EMAS scheme.

The conference will critically examine the new EMAS Regulation and its relation to the ISO scheme. Civil servants from administrations throughout Europe who have introduced environmental auditing and management systems will present their practical experiences. The conference will explore the following questions raised by environmental management systems:

- Why implement environmental management systems in public authorities?
- How can overcome initial obstacles be overcome, and what is the appropriate scheme?
- What are the appropriate approaches for different kinds of administrations to adopt (ministries, municipalities, etc.)?
- How can overall quality management efforts and environmental management systems be combined?
- Are we moving towards a system of Best Practices? Is it possible to define performance indicators with the objective of comparing the environmental performance of public authorities?
- Are environmental management systems leading to better (economic and environmental) results?

The working language of the conference will be English.

Further information can be obtained from:  
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*EIPA web site: <http://www.eipa.nl>*

## *Seminar*

# **Policing and Public Accountability in Europe: Designing European Police Networks**

Maastricht, 27-28 September 2001

### **Seminar objectives:**

The seminar aims to review recent legislative, political, social and economic developments that will affect the context within which the police systems in Europe function.

The policing system as a whole is a very complex hybrid because of the many actors involved in security issues: citizens, communities, private security firms, etc. All these actors have their own perceptions and expectations when it comes to public security and crime. Policing in a plural environment seems to be the trend for the future governance of European law enforcement. Two of the leading questions throughout this seminar will be what kind of scenarios are feasible and desirable, and which institutional process could serve as a model of future governance? As part of the development of EU governance that is currently taking place, will new forms just emerge in this area or do they have to be deliberately designed? If the latter, by whom?

When defining public accountability in police cooperation, the most difficult problem is a lack of social legitimacy. From the perspective of police accountability, the basic issue is the legitimacy of police activities and the role of police institutions. A principal question at the European and international level is how to strengthen evaluation of police activity by citizens in order to achieve a higher standard of police accountability. The seminar explores alternative approaches to the traditional evaluation models to define a new context of policing.

### **Target group:**

This seminar is aimed at officials, academic researchers and policy makers who have an interest in or are involved in evaluating and monitoring contextual changes in policing.

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 language of the seminar will be English.

For more information and registration forms, please contact:

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

## *Conference*

# **Transparency on the Agenda: The Agenda of Transparency**

Maastricht, 8-9 October 2001

An important feature of the European Union is its emphasis on opening up the work of the European Union to the public, on rendering the decision making process more transparent and on making its information accessible.

The term transparency first made its appearance during the negotiations leading to the Treaty of Maastricht, and has been a matter of prime importance and discussion since, as much for the European institutions as for the Member States.

This conference, which EIPA is organising to take place on 8 and 9 October 2001, will examine a number of current issues related to transparency in the European Union, namely:

- Transparency between Maastricht and Stockholm
- The programme and role of the Council "Presidency" in the second half of 2001
- Transparency in Justice and Home Affairs
- Information technology and transparency
- The role of the European Ombudsman
- The role of the media
- OLAF and transparency
- The European Commission's White Paper on Governance
- Judgements of the European Courts on access to documents
- The new regulation on access to documents

The working language of the conference is English.

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

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*or consult our web site:*

*<http://www.eipa.nl>*

*Topical Seminar on*

# **Public-Private Partnerships: Can the EU Accommodate National Initiatives?**

Maastricht, 25-26 October 2001

The European Institute of Public Administration (EIPA) would like to announce a two-day Seminar on "Public-Private Partnerships: Can the EU Accommodate National Initiatives?", which will take place in Maastricht, the Netherlands, on 25-26 October 2001.

### **Purpose of the seminar**

Partnerships between the private sector and the public sector, at all levels of government, are proliferating. But, whenever public authorities act in the economy they must comply with the obligations of Member States as specified in the EU Treaties and secondary legislation.

The purpose of the seminar is to explore how the aims of public-private partnerships (PPPs) can be achieved while the obligations of the Member States are fulfilled.

In addition, experience has indicated that in certain situations EU rules prevent public authorities from acting in a way that would maximise the efficiency and effectiveness of PPPs. Therefore, the seminar also aims to explore how prevailing EU rules may need to be adjusted so as to facilitate the growth and usefulness of PPPs.

### **Target audience**

The seminar is aimed at the needs of managers in the public sector who design or oversee or intend to develop such partnerships and who are not necessarily familiar with the relevant EU rules or face difficulties in establishing such partnerships because of EU rules.

It is also aimed at policy-makers in the Member States and Community Institutions in so far as it will examine how EU rules may be adjusted so as to accommodate PPPs.

### **Method of the seminar**

The seminar will rely on lectures and case studies to identify and analyse the main issues and problems concerning public-private partnerships.

The working language of the seminar will be English.

**For Background Information on Public Procurement in Europe  
and Public Procurement Related Activities at EIPA, please consult:  
<http://www.eipa-nl.com/public/Topics/TopicsMenu.htm>**

or contact:

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# Institutional News

At their meeting of 3 November 2000, the Board of Governors of EIPA unanimously approved the following changes:

- **BOARD OF GOVERNORS:**

*The Netherlands*

- Mr Emil A.A.M. BROESTERHUIZEN (Deputy Director and Head of the Department for General Questions of Science Policy/International Cooperation) has been appointed member of EIPA's Board of Governors, representing the Ministry of Education, Culture and Science (succeeding Mr Roel GATHIER, who has accepted another position).
- Mr Theo LANGEJAN (Deputy Director-General) has been appointed member of EIPA's Board of Governors, representing the Ministry of the Interior and Kingdom Relations (succeeding Mr Jan VOSKAMP, who retired from active service as of 1 September 2000). However, after his appointment as member of EIPA's Board of Governors, Mr Langejan was appointed Director-General within the Ministry of Social Affairs and Employment as of 1 February 2001. He therefore had to step down from the Board of Governors. Until Mr Langejan's successor is appointed, Mr Peter VAN DER GAAST, Head of the International Civil Service Affairs Division, will represent the Netherlands on the Board of Governors.

*European Commission*

Mr Horst REICHENBACH (Director-General of Personnel and Administration at the European Commission) has been appointed member of EIPA's Board of Governors. Mr Reichenbach accepted EIPA's invitation to become a member of EIPA's Board of Governors at the suggestion of the Secretary-General of the European Commission, Mr O'Sullivan.

- **SCIENTIFIC COUNCIL:**

*Chairmanship*

Professor António CORREIA DE CAMPOS, President of the *Instituto Nacional de Administração* of Portugal, has been appointed Chairman of the Scientific Council, succeeding Mr Jaakko KUSSELA (FIN) whose mandate terminated at the end of 2000.

*Denmark*

Ms Ine MÆRKEDAHL, Director of the *Danmarks Forvaltningshøjskole* in Copenhagen, has been appointed member of the Scientific Council; Mr Peter MCQUIBBEN, acting Director who represented the Danish school on the Scientific Council until the appointment of Mr Mehlbye's successor, has therefore stepped down.

*France*

On the proposal of Mr Gilbert SANTEL, Director-General of the French Public Administration and Public Service, Mr Ralph DASSA, Director of the Centre for European Studies in Strasbourg, has been appointed member of EIPA's Scientific Council, representing France. The decision was taken by the members of EIPA's Board of Governors by written procedure on 12 March 2001.

*United Kingdom*

Dr Stephen HICKEY, Principal Finance Officer at the Department of Social Security, has resigned from EIPA's Scientific Council because he has left his post.

*European Commission*

Mr Maurizio MANCINI, Adviser to the Director-General of the DG Personnel and Administration, has been appointed representative of the European Commission on the Scientific Council (succeeding Mr David WALKER).

*Bulgaria*

Mr George MANLIEV (Executive Director of the Bulgarian Institute for Public Administration and European Integration) has been appointed member of EIPA's Scientific Council.

*Cyprus*

Mr Christos TALIADOROS (CY), who has taken up the post of Director of the Cyprus Bankers Employers' Association, has resigned from the Scientific Council.

*Malta*

Dr Philip VON BROCKDORFF, Director of the Staff Development Organisation (within the Management and Personnel Office, Office of the Prime Minister) has been appointed representative of Malta on EIPA's Scientific Council.



## Visiteurs à l'IEAP

Visite à l'IEAP, le 8 mars 2001, de S.E. Madame Anne GAZEAU-SECRET, Ambassadeur de France aux Pays-Bas, accompagnée de Monsieur Dr Jan HUYNEN, *Consul Honoraire à Maastricht*; Monsieur Philippe NOBLE, Conseiller de Coopération et d'Action culturelle; et Monsieur Dominique PLADYS, *Attaché pour la Science et la Technologie auprès de l'Ambassade de France aux Pays-Bas*.

Au cours de cette visite, S.E. Madame Anne GAZEAU-SECRET a fait un exposé sur le thème "Bilan de la Présidence française de l'Union européenne".



*M. Gérard Druesne, Directeur général de l'IEAP, et S.E. Mme Anne GAZEAU-SECRET, Ambassadeur de France aux Pays-Bas*

# Recent and Forthcoming EIPA Publications

## **Réunion des représentants des administrations publiques des partenaires euro-méditerranéens dans le cadre du partenariat euro-méditerranéen**

Actes de la Réunion; Barcelone, les 7 et 8 février 2000  
Sous la direction de *Eduard Sánchez Monjo*  
EIPA 2001, 345 pages **NLG 80/EUR 36.30**  
(Also available in English)

## **Finland's Journey to the European Union**

*Antti Kuosmanen (with a contribution by Frank Bollen and Phedon Nicolaïdes)*  
EIPA 2001, 319 pages: **NLG 70/EUR 31.76**  
(Only available in English)

## **La Fonction publique dans l'Europe des Quinze: Nouvelles tendances et évolution**

*Danielle Bossaert, Christoph Demmke, Koen Nomden, Robert Polet*  
IEAP 2001, 356 pages: **NLG 80/EUR 36.30**  
(An English version is forthcoming)

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

*Edward Best/Mark Gray/Alexander Stubb (eds)*  
EIPA 2000, 372 pages: **NLG 80/EUR 36.30**  
(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/EUR 31.76**  
(Only available in English)

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

*Monica den Boer (ed.)*  
EIPA 2000, 129 pages: **NLG 60/EUR 27.22**  
(Mixed texts in English, French and German)

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

*Sanoussi Bilal/Pavlos Pezaros*  
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/EUR 27.22**  
(Nur auf Deutsch erhältlich)

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

*Clotilde Marinho (ed.)*  
EIPA 2000, 413 pages: **NLG 25/EUR 11.34**  
(Mixed texts in English and French)

## **• CURRENT EUROPEAN ISSUES SERIES**

### *Capacity Building for Integration*

#### **\* European Environmental Policy: The Administrative Challenge for the Member States**

*Christoph Demmke and Martin Unfried*  
EIPA 2001, 309 pages: **NLG 80/EUR 36.30**  
(Only available in English)

#### **\* Managing EU Structural Funds: Effective Capacity for Implementation as a Prerequisite**

*Frank Bollen*  
EIPA 2000, 44 pages: **NLG 25/EUR 11.34**  
(Only available in English)

#### **\* Organisational Analysis of the Europeanisation Activities of the Ministry of Economic Affairs: A Dutch Experience**

*Adriaan Schout*  
EIPA 2000, 55 pages: **NLG 35**  
(Only available in English)

#### **\* Effective Implementation of the Common Agricultural Policy: The Case of the Milk Quota Regime and the Greek Experience in Applying It**

*Pavlos D. Pezaros*  
EIPA 2001, 71 pages: **NLG 35/EUR 15.88**  
(Only available in English)

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

*Phedon Nicolaïdes*  
EIPA 2000, 86 pages: **NLG 40/EUR 18.15**  
(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/EUR 31.76**  
(Only available in English)

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

*Sous la direction de Gabrielle Vonfelt*  
IEAP 2000, 94 pages: **NLG 40/EUR 18.15**  
(Disponible en français uniquement)

\* Details of all previous Schengen publications can be found on EIPA's web site <http://eipa.nl>

All prices are subject to change without notice.  
A complete list of EIPA's publications and working papers is available on <http://eipa.nl>

## 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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