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THE NEW TREATY ON EUROPEAN UNION: A FIRST ASSESSMENT

Introduction*

The Amsterdam Summit of the European Council on 16 and 17 June this year was awaited with great anticipation. With the prospect of enlargement in sight, the institutions and the decision-making procedures of the European Union needed to be revised whilst maintaining a careful balance between flexible integration on the one hand and social and political legitimacy on the other hand. For this reason, the Member States submerged themselves in a long bargaining process, which has resulted in a text larded with political compromises.

The European Institute of Public Administration organized a Euregional afternoon seminar on the outcome of the Intergovernmental Conference; the seminar was held on 3 July in Maastricht. The principal speaker of the afternoon was Professor Franklin Dehousse, who not only teaches at the University of Liège and the College of Europe in Bruges, but who has also acted as the IGC Special Representative of the Belgian Minister of Foreign

Affairs. Professor Dehousse was thus in an excellent position to evaluate the outcome of the difficult negotiations.

One of his main remarks concerned the virtual absence of a coherent approach in the Treaty and the widespread use of protocols. Even though the new Treaty has established a consolidated cooperation between the Member States, the attempted institutional reform cannot be regarded, according to him, as much more than a 'small step'. Nevertheless, Dehousse's diagnosis is that progress has been made into the right direction, and that the European Union is brought closer to the citizen.

Below, you will find a first analysis of parts of the draft Treaty by three EIPA Faculty members who also presented their views during the IGC-afternoon.¹ Due to the publication date of this EIPASCOPE issue, their comments naturally concern the draft in circulation prior to the date of signing due to take place in Amsterdam in October 1997.

* By the three subsequent authors

A Contemplative View on the First Pillar of the New European Union

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After Amsterdam, one might easily be induced to think that EU Member States should have better obeyed an American proverb instructing us never to swap horses when crossing a stream. Indeed, whereas the main stream the IGC had been requested to cross was the adaptation of the EU institutions for the next enlargement, Member States put forward too many conditions or 'swaps' for both their representation and their capacity to act in the institutions of an enlarged European Union. The resulting failure to agree and the drowning of the necessary institutional reforms has focused the attention of a large part of the European Press. 'Amsterdam' has been judged a can of worms, a shamble and an irrelevance for Europe's needs (*the*

European), a failure (*L'Echo*), a betrayer of ambitions (*De Standaard*), a result that nobody wanted (*Libération*), a wound leaving Europe disabled (*Le Soir*). In such a mood one would be eager hastily to throw away in the stream the failing EU and its unfinished Treaty. However, this would amount to throwing the baby out with the bathwater. Wisdom does not advise anybody to do so but rather to compare how clean the baby has become even though he still has a foot in the stream. Therefore, this text distances itself on purpose from the heated debate in order to compare the European Community – i.e. the First Pillar of the European Union – before and after Amsterdam.

*'Where there is much light,
the shadow is deep...'* (Goethe)

Progress in the field of employment and social policies has been advertised as a major achievement of the Intergovernmental Conference. Behind the dazzling lights announcing the new chapter on employment and the integration of the social chapter, there seems however to be a less bright reality. As far as the instrument to act in favour of employment is concerned (new chapter VIa EC Treaty, articles 109n-109s), two elements dim the potential effects of the Community's new competence. First, the essential instruments at the disposal of the Community will be recommendations and guidelines to Member States, i.e. not excessively productive economic tools. The possibility of using incentive measures does exist, yet the pilot projects they can give rise to are restricted to exchanges between Member States of information, practices and approaches towards employment, i.e. still no direct actions in favour of employment. The added value of this title is rather dubious if one considers that the EU already made the relevant recommendations to Member States in 1993 by adopting the Delors White Paper on Growth, Competitiveness and Employment. Second, the decision-making procedures set up for such weak decisions involve a maze of administrative and political processes. Before the Council can for example issue guidelines to Member States, it needs to await work being completed on no less than seven documents : a joint annual report by the Council and the Commission; conclusions of the European Council; a Proposal from the Commission; reports from the European Parliament, the Economic and Social Committee, the Committee of Regions and the newly established Employment Committee.

As regards the social policy of the European Union, the light is shed on the integration into the Treaty of the contents of the Social Chapter signed by 14 Member States in Maastricht. This agreement has given birth to two Directives on European works councils and parental leave which do not apply to Great Britain. The integration of the Chapter into the Treaty is operated by revising articles 117 to 119 EC so as to incorporate the articles of the Social Chapter. However, this improvement might be of value to the citizens of Great Britain but does not represent any progress for the citizens of the other 14 Member States. In fact, the articles of the Social Chapter are included in the Treaty without extension of the qualified majority to provisions requiring unanimity. Furthermore, the fields where the 14 were prohibited from acting are also excluded from any EU action in the new Treaty; this exclusion relates to pay, the right of association, the right to strike and the right to impose lock-outs. By retaining, in particular, under the unanimity rule, the two provisions regarding the protection of workers when their employment contract is terminated, and the financial contributions for promotion of employment and job creation, the EU does not seem to pay any great

attention to its legitimacy in a period of social agitation.

There are however two noticeable, although halfhearted, improvements.² First, the codecision will apply to the provisions requiring qualified majority and contained in Article 118.1. However, codecision will not apply to Article 118.2 containing the provisions requiring unanimity, nor will it apply to Article 118b whereby the Council may decide to transform into a Community act the agreement reached among social partners. Within this procedure, referred to as the social dialogue, the European Parliament is not even consulted. The second halfhearted improvement resides in the fact that Article 119 on the principle of equal pay for men and women shall not prevent Member States from maintaining or adopting specific measures of positive discrimination in favour of the under-represented sex. Here however, the Treaty is knocking on an already open door. Indeed, the fact that such measures of positive discrimination should be specific, as opposed to automatic and general, has already been recognized by the Court of Justice since its judgement in the Kalanke case.

*'Time shall unfold what plaited cunning
hides...'* (Shakespeare's King Lear)

The stream the EU did not manage to cross has been described by the IGC negotiators as **the institutional Bermuda triangle**. The three inseparable institutional corners of the triangle which led the negotiators off track have been the number of European Commissioners, the reweighting of the qualified majority as provided in Article 148.2 EC, and the extension of the scope of the qualified majority to a significant number of provisions requiring a unanimous vote. The failure to agree on these three interlinked institutional issues has been officialized in the Treaty by a special protocol on the institutions which aims at setting the rules only for a later institutional adaptation of the EU to enlargement. The Protocol provides in Article 1 that as soon as the next new Member State joins the EU, the Commission shall comprise one representative for each Member State, provided that the weighting of the votes in the Council has been modified in order notably to compensate the larger Member States which will be required to relinquish their second Commissioner. The Protocol then provides in Article 2 that, before the sixth enlargement, an IGC must be convened in order to 'carry out a comprehensive review of the provisions of the Treaties on the composition and functioning of the institutions'.

Several comments and future scenarios (seven in all) for EU institutions can be drawn from this polymorphic Protocol and other related provisions.

First, an agreement on the reweighting of votes in the Council will be effective when the first enlargement enters into force; the number of Commissioners will then equal the number of Member States of the EU, as no Member State can retain two Commissioners and every Member State is entitled under Article 157 to

appoint one Commissioner.

Second, if no agreement were to be reached on the reweighting of votes when the first enlargement becomes effective, the Commission would subsequently retain the two Representatives designated by the larger Member States since the limitation of the Protocol would not apply.

Third, a general IGC could be convened as early as the first enlargement instead of a simple or 'mini' IGC revising only the weighting of votes as provided by Article 1 of the Protocol on institutions.³ The intention to reopen the debate on the scope of the qualified majority in a general IGC as early as the first enlargement arises not so much from an interpretation of Article 1 of the Protocol but, indeed, from an entire political reinterpretation on the part of those Member States which felt disadvantaged by the non-agreement on the institutional issues on the eve of enlargement. Belgium in particular has pressed for such a reinterpretation of Article 1 by submitting a declaration to be inserted in the draft Treaty for signature in October in Amsterdam. The result of such a scenario would be a double IGC taking place first at the time of the first enlargement, and then after the fifth enlargement as provided for by article 2 of the Protocol. According to this scenario, both IGCs would discuss the three corners of the 'Bermuda triangle'.

Fourth, it should be mentioned that in the event of non-agreement on the reweighting of votes, the Council may still use Article 157 EC, which is explicitly covered by Article 1 of the Protocol and provides that 'the number of Members of the Commission may be altered by the Council acting unanimously', in order to allow one or more Member States to give up their second Commissioner as a gesture of goodwill.

Fifth, the revised Article 137 EC which restricts the total number of Members of the European Parliament to 700 might also need to be reconsidered before the general IGC scheduled to take place before the sixth enlargement by Article 2 of the Protocol. Indeed, one can imagine that the accession of less than 5 new Member States brings the total number of Members of the European Parliament above the ceiling of 700, consequently contravening Article 137 EC.

Sixth, if the six accessions which have been considered positively by the Commission were to take place simultaneously, all the abovementioned scenarios would not be worth mentioning since Article 2 of the Protocol provides in this case for a general IGC.

Seventh, in its communication on Agenda 2000 the European Commission signalled that a multiple accession could indeed take place and lead to a general IGC. According to the Commission, an IGC should be convened as soon as possible after the year 2000 to prepare the Union for enlargement by means of far-reaching reforms of the institutional provisions of the Treaty, including the generalized introduction of qualified majority voting. Because, following the terms of the Protocol, such an IGC is required only after five enlargements, and because the year 2000 is

so close, it can be interpreted that the Commission is calling for the EU to prepare for a multiple enlargement. Once again, this scenario of multiple accession would prevent the EU from having to face all the possible stages involved in the 'Bermuda' Protocol.

*'Since we cannot get what we like,
let us like what we get...'* (Spanish Proverb)

Despite the non-agreement on institutional adaptation to enlargement, a number of **improvements to the functioning of the European Union** brought in by the Amsterdam Treaty need to be presented. First, we know that, due to this failure to agree, qualified majority voting (QMV) has not been extended to crucial parts of the Community's competences, namely the right to move and reside freely, the coordination of social security schemes, parts of the environmental policy and, in particular measures of a fiscal nature, fiscal provisions or culture. However, QMV has been extended to fields which might witness, or have already experienced, important Community actions. These fields include Research and Development, employment guidelines and incentives measures, social exclusion, equal treatment of men and women, public health, transparency, the countering of fraud, outermost regions and customs cooperation.

Second, the European Parliament turns out to be the kingpin. Not only will it need to approve the nomination of the President of the Commission, but essentially will it become co-legislator in almost all fields of Community action since the cooperation procedure has disappeared – except for one particular phase of monetary policy. The Parliament continues of course to be consulted only in some restricted areas, notably the employment and social fields, but nobody would have expected that its legislative powers would be upgraded to such an extent. By being the only party truly to believe in the probability of an extension of the codecision procedure, the Parliament confirms French scientist Pasteur's observation that chance favours the prepared mind. Another improvement relating to codecision is its simplification; by giving up the stage of the third reading in the Parliament, the simplification aims at speeding up the procedure which has currently lasts an average of approximately one year.

The third improvement concerns other specific aspects of the EU institutions. The Economic and Social Committee will be consulted on social matters, employment measures and public health. The Committee of Regions will be consulted on social matters, employment measures, vocational training, public health, environment and transport. The competence of the Court of Auditors essentially extends to the right to refer to the Court of Justice. As regards the Commission, the powers and autonomy of its President will be strengthened by two elements. Whereas a new first subparagraph in article 163 EC confers the political guidance of the Commission to its President, a Declaration grants the President broad discretion in the allocation of tasks within the College

of Commissioners.

A fourth improvement, even though its added value is lower, concerns the constitutionalization into Protocols of several rules already in place for the functioning of the European Union. Let us mention *inter alia* the Protocol on the application of the principles of subsidiarity which cements into the Treaty the *modus operandi* reached so far between EU institutions and Member States; the Protocol on transparency which makes official the right for citizens to access documents and calls upon the institutions to elaborate further their own rules of procedure in this regard; a Protocol which solves the long standing contention regarding the Institutions' permanent locations; a Protocol on the quality of Community legislation; and finally a Protocol which clarifies the role National Parliaments are entitled to play and in particular their right of information during the process of decision-shaping.

'Everything should be made as simple as possible, but not simpler...' (Einstein)

Although some provisions could have been listed above as improvements, they need to be distinguished for their **complexity and the legal uncertainty** they generate. First, the Treaty opens the door to so-called flexibility or closer cooperation while putting in place however a number of hurdles before some Member States are allowed to undergo legislative action by using the Union institutions and procedures. Specific hurdles can be found in article 5a EC whereas general hurdles applying also to closer cooperation in the Third Pillar are listed in article K15 of the new title VIa Treaty on European Union (TEU). Closer cooperation needs for example to be a measure of last resort and to preserve the *acquis communautaire* as well as the Community policies. Problems will arise when checking whether a proposal for closer cooperation, which will first need a triggering vote by qualified majority, will obey such hurdles or not. It is indeed hard to predict how the criteria of last resort will be defined, whether in terms of time or urgency. Furthermore, it is hard to think of any flexible measure that would not affect either the *acquis* or a Community policy at the current level of European integration. The choice will have to be made between legal formalism and political pragmatism.

Further queries will probably arise when implementing the new articles Fa and 236 EC. These articles can be used to suspend the rights of a Member State, including its voting rights, should it breach the principles of liberty, democracy, human rights and the fundamental freedoms, and the rule of law as provided in Article F.1. Since this breach requires to be acknowledged by the Council meeting in the composition of the Heads of State or Government, it is likely that one will witness serious interferences between legal and political considerations. Moreover, since this suspension procedure does not apply to paragraph 2 of Article F which obliges the Union to

respect the European Convention on Human Rights, one does not really know how this obligation will be applied in practice. Similar queries apply to the new paragraph of the preamble of the TEU whereby the Union declares its attachment to fundamental social rights as defined by the UN Social Charter of 1961 and the Community Charter of 1989. Indeed, the fact that several national Constitutions guarantee these rights even better than with a preamble, does not mean that the fundamental social rights are in fact enforced.

A third legal mystery surrounds the new article 7d EC. This article intends to protect the particular nature and mission of public services. The problem is that it does not really say more on this issue than article 90 EC or recent proposed EC legislation in the field, and it is surely less explicit than the Case Law on the liberalization of public services. It is uncertain as to what extent the European Court of Justice will be challenged by Member States to take into account this new article in the process of further liberalization.

A fourth legal attraction is the Declaration to the Final Act on sport. It is indeed hard to foresee the effects of a call made to the 'bodies' of the European Union to 'listen' to sports associations and to give 'special consideration to the particular characteristics of amateur sport. It is of course dubious what exactly the notion of listening should mean in the EC decision-making process; it is further uncertain whether, applied 'to the letter', such Declaration would not put into question parts of the judgement of the European Court of Justice in the *Bosman* case relating to the free movement of football players.

To conclude this section on the complex improvements, it should be noted that a number of Community instruments which were expected to be simplified, were actually not altered in Amsterdam. First, Declaration No. 16 of the Maastricht Treaty, which instructed the IGC to establish a more coherent hierarchy between the different Community legal acts, has not been carried out. Second, Article 113 has not been modified so as to make the Common Commercial Policy more coherent. In particular, the external competence of the Community in the fields of services and intellectual property challenged by the European Court of Justice in its opinion 1/94 has not been recognized in the new Treaty; according to the new fifth paragraph of Article 113 EC this competence can only be granted in the future by a unanimous decision of the Council. Third, the simplification of the complex comitology procedure whereby the Commission executes implementing legislative powers under the varying supervision of Member States, has been postponed, by a Declaration to the final Act, until the end of 1998 and it is proposed that the Commission be requested to then deliver on this matter.

'The entire ocean is affected by a pebble...' (Blaise Pascal)

The new Treaty on European Union is studded with a **plethora of Protocols and Declarations**. The problem

with this mosaic of safety nets is twofold. First, some unilateral or combined moves by Member States are not even necessary because they demand something already recognized by EC Law. Second, some of these instruments aim at safeguarding minor if not trivial interests compared to the constitutional nature of the Treaty. Declarations and Protocols not yet mentioned earlier intend notably to protect or favour island regions and overseas countries or territories, services such as general economic services, public service broadcasting, public credit institutions in Germany; voluntary service activities; animal welfare; churches and confessional organizations. Although it is legitimate that Member States hold specific interests, one may regret that the new Treaty has been chosen as the battlefield for safeguarding interests perceived as under threat. The Amsterdam phenomenon of 'protocolarization' certainly has disrupting and polluting effects upon the Treaty.

Conclusion

More than previous Treaties in the process of European integration, the First Pillar of the Amsterdam Treaty is the result of a compromise. On one hand, the compromise simultaneously stages positive upgradings of the Maastricht Treaty including democratic improvements, the extension of qualified majority voting, a procedure for closer cooperation, a capacity to act in favour of employment, and references to fundamental rights, social rights and transparency. On the other hand, one may regret not only that some of these achievements are modest, simply cosmetic, offset by protocolarization or wrapped up in legal uncertainty, but also that the same compromise stages the nebulous postponement of the institutional adaptation of the EU to enlargement. The European Union was thus given a bonus in Amsterdam but it is still sitting surrounded by a mist preventing it from wisely considering enlargement. As a compromise, the new Treaty on European Union offers, after Maastricht, an improved umbrella but a poor roof for an enlarged Union.

From Maastricht to Amsterdam: Was it Worth the Journey for CFSP?

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As in 1991, the question of the further development of Europe's foreign policy capacities has once again been high on the agenda of the 1996-1997 Intergovernmental Conference. The high expectations of 1991 following the transformation in Maastricht of European Political Cooperation (EPC) into CFSP had not been fulfilled and following Europe's poor performance in the Yugoslavian crisis, European citizens did not hide their disappointment. They have increasingly seen the European Union as a paper tiger incapable of acting and not able to take care of its own security. Whether the amendments introduced in Amsterdam will be able to change that image, remains however very much the question.

During the fifteen months of negotiations, the IGC in the area of foreign and security policy has primarily focused on four questions: the issue of introducing Qualified Majority Voting (QMV); the introduction of the principle of flexibility; amendments with regard to security and defence; and the question of institutional changes.

The debate on the use of unanimity versus QMV is as old as that on European foreign policy cooperation itself. While for some countries like France and the United Kingdom, the area of foreign policy is considered too sensitive to transfer full sovereignty to the European level, others like Germany, Italy and the Benelux countries for example, judge that the intergovernmental approach only constitutes an intermediary phase, and estimate that the only way to

overcome the paralysis in CFSP is to move to decision-making by QMV .

The Treaty of Amsterdam leaves no doubt as to which school of thought has prevailed. Decision-making by unanimity remains the general rule in the field of CFSP (Art. J.13). A special or reinforced Qualified Majority (at least 10 Member States in favour) is possible but only for implementing common strategies, joint actions or common positions which, before, have already been adopted by unanimity. There is an additional safeguard providing the possibility for a Member State to oppose a decision by QMV 'for important and stated reasons of national policy'. The Council can then bring the matter before the European Council which has to decide by unanimity. In practice this means that a Member State which opposes a decision by QMV can always use its veto. Member States also maintain their veto for decisions having military or defence implications (Art. J.13.2).

The most important novelty for the decision-making process in the Second Pillar is the possibility for Member States to abstain, i.e. not to participate in certain decisions under CFSP. In the event of such positive or constructive abstention, the Member State(s) in question are not bound by the EU decision, but the Treaty asks them not undertake any action conflicting with or impeding EU action. For flexibility to apply, there has however to be a critical mass of countries supporting the decision in question and the Treaty stipulates that those abstaining should not represent

more than one third of the votes weighted. Contrary to the first and the Third Pillar where flexibility consists of a majority of Member States moving ahead, in the Second Pillar it is the result of one or more Member States not participating in a decision. Whether this new possibility will make it more easy to act in the area of CFSP, will very much depend on the willingness of the Member States to make use of constructive abstention.

In the area of security and defence, the most important achievement is undoubtedly the introduction of the so-called Petersberg tasks into the Treaty (Art.J.7.2). The European Union, in cooperation with the Western European Union (WEU), can undertake humanitarian and rescue tasks, peacekeeping tasks and tasks involving combat forces in crisis management including peacekeeping. This is undoubtedly a positive development since these types of mission are most apt to address the security challenges of the post-cold war period and also the neutral countries can participate in their implementation. It has however to be added that the WEU still has a long way to go in further developing its operational capacities before it has the potential to fulfil the whole range of Petersberg tasks.

Further developments in the security area will, to a large extent, also depend on the future relationship between the EU and the WEU. The proposal by France, Germany, the Benelux countries and Spain to gradually integrate the WEU into the EU has not been maintained. Due to the firm resistance of the United Kingdom for whom NATO should remain the principal forum for discussing European security and defence questions, the text of the Treaty only refers to the possibility of integrating the WEU into the Union, making such a merger dependent on a unanimous decision of the European Council. Such a decision should be adopted in accordance with the Member States' respective constitutional requirements.

Another controversial issue was that of the reformulation of the Treaty's Article on defence (former Art. J.4.1). The new Treaty speaks of a 'progressive' instead of a 'gradual' framing of a Common Defence Policy, but there is still no firm commitment to a common defence. Several Member States continue to favour the Atlantic framework to discuss security and defence issues and the presence of four neutral countries in the negotiations presented a further stumbling block.

Lastly, the new article J.7 for the first time also includes a reference to possible cooperation in the armaments field. There is an increasing awareness that European firms are losing their competitiveness *vis-à-vis* the American giants and that unless there is increased cooperation, they might not be able to survive. Whether this vague clause will lead to any concrete results remains to be seen and depends entirely on the Member States who in the past have been extremely reticent to combine forces.

Some of the most visible results in the Second Pillar are a number of institutional novelties. The widely discussed function of Mr or Mrs CFSP has been

created, but his/her tasks will not be performed by a political personality as initially proposed by the French, but by the Secretary General of the Council. The primary tasks of this High Representative for CFSP will consist in helping to formulate, prepare and implement foreign policy decisions. Only if asked specifically by the Presidency, the High Representative can also perform representational tasks. This is probably all the better since the addition of another player into the existing 'troupe' might only increase the confusion, rather than helping lead to the solution.

The Secretary General is helped in his tasks by a newly established policy planning and early warning unit, composed of experts from the General Secretariat, the Member States, the Commission and the WEU. The aim of this unit is to be a pool of information and to help CFSP to become more pro-active, preventing situations like Yugoslavia where the Member States were totally taken by surprise.

Furthermore it is explicitly stated that the EU, in the area of CFSP, can conclude international agreements and there has also been concluded an interinstitutional agreement between the European Parliament, the Council and the European Commission concerning the financing of CFSP, which should smooth the implementation of CFSP decisions with financial implications.

Whether the new Treaty of Amsterdam will succeed in realizing the objectives defined by the Reflection Group to make the external policies of the Union 'more coherent, more effective and visible' remains very much the question.

Undoubtedly, the intergovernmental character of CFSP has been maintained and even been reinforced. Decisions will continue to be taken by unanimity and the role of the European Council which defines the general principles, the common strategies, and decides whether to move towards a common defence has been strengthened. Decisions by QMV are only possible where there is basic unanimous agreement.

In the sensitive area of security and defence, no major progress has been made. Member States continue to have divergent views in this field, and the fact that the EU has been enlarged with three neutral countries has not made it easier to come to any consensus. Contrary to the last IGC, where there was substantial uncertainty with regard to the future of NATO and the continuing commitment of the US to European security, there was, this time, less pressure on the Member States to make real progress. More and more countries seem to have accepted the fact that in the years to come NATO will continue to be the principal player on the European security scene. With its recent rapprochement with NATO's military structures, even a staunch Europeanist like France seems to be willing to admit that the development of a fully independent European security and defence identity outside the Atlantic framework is not a realistic option. Germany, together with France one of the most active supporters of a fully-fledged CFSP, has been putting all its eggs in the

EMU-basket and in Amsterdam the rescuing of the Stability Pact became a more important priority than further developing CFSP. The agreement on Combined Joint Task Forces (CJTF) being reached last year at the Atlantic Council in Berlin is undoubtedly much more important for European security than the amendments to Article J.7 of the Treaty on European Union.

The most interesting novelty in the Second Pillar is probably the increased emphasis on flexibility, made concrete through the possibility of constructive abstention. Further enlargement will make it increasingly difficult, if not impossible for the EU Member States to speak with one voice. Through constructive abstention, it should become easier to take into account the different historical and geographic interests of the Member States. It is however clear that when Member States have a vital interest at stake, they

will not resort to abstention but will use their veto. Constructive abstention can therefore not be expected to provide a solution for situations of deadlock such as the one surrounding the recognition of Croatia or Macedonia. In many cases, it will therefore continue to be extremely difficult for the Fifteen to agree to action.

In conclusion, it can be said that despite a number of institutional adjustments, the Treaty of Amsterdam in the Second Pillar to a large extent maintains the status-quo. Increased flexibility might constitute a step forward but very much will depend on its implementation. CFSP will continue to be an interesting forum for cooperation and exchange of views in the foreign policy area, but it is very doubtful whether following Amsterdam it will be better prepared for the type of crises like Yugoslavia or Albania.

Step by Step Progress: An Update on the Free Movement of Persons and Internal Security⁴

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The new Treaty of Amsterdam has been characterized as extraordinarily difficult by dignitaries, journalists and academics alike. The tremendous complexity of the Amsterdam Treaty is largely due to the many changes that were made in the area of Justice and Home Affairs (JHA) Cooperation. Before Amsterdam, cooperation in this field was already split between communitarian and intergovernmental action. In particular visa policy, fraud, money laundering, customs cooperation and drugs were topics that were scattered around in the Treaty. The fragmentation of some justice and home affairs issues will continue after Amsterdam. The three main 'zones' of cooperation will be: 1) A New Title 'Free Movement of Persons, Asylum and Immigration', which will eventually be subject to full Community competence; 2) The incorporation of the Schengen *Acquis* into the new Treaty; and 3) A revamped Third Pillar with provisions on Police and Judicial Cooperation.

What makes the new Treaty particularly difficult to read are the many protocols and declarations that clarify the positions (mostly reservations) of individual Member States. With this 'protocolarization', the tack has been firmly set on *à la carte* flexibility: even though some of the protocols are not enabling clauses but predetermined limits to integration, some Member States have effectively been given a wide margin to determine when they are ready for partial integration. The incorporation of the Schengen *Acquis* means the end of an awkward system of two parallel systems of governance and hence of multi-speed integration. But we should not overlook the fact that renewed flexibility

reenters the stage through the backdoor by means of opt-in and opt-out protocols, temporal clauses, and even flexible conditions for the ratification of Third Pillar conventions. Most likely the results achieved by the Dutch Presidency will give lawyers and implementing officials in the Member States many sleepless nights.

A New Title 'Visas, asylum, immigration and other policies related to the free movement of persons' (IIIa)

In the 'old' Third Pillar construction, there are nine matters of common interest. Some of these matters have been found eligible for transfer to Community law, namely immigration, asylum, external borders (Visa Policy) and judicial cooperation in civil matters. This Title – in which communitarian instruments, methods of decision-making and legislation will apply – should enter into force within five years after the entry into force of the new Title (Article 73i). Taking account of the eighteen months period required for ratification, it may last six and a half years before the provisions in this new Title enter into force. The free movement of persons may thus only be realized in 2003 or 2004, which is more than a decade past the previous 1992 deadline.

Even if the Member States succeed in the progressive establishment of the Free Movement of Persons Area, free movement will not apply integrally to the whole EU. Exceptions to the abolition of internal border controls are made for the United Kingdom and Ireland (Article 73q). By means of a Protocol on the

application of certain aspects of Article 7a of the Treaty, the two countries have not only secured the maintenance of their internal border controls, but also the unscathed continuation of their 'Common Travel Area'. This solution is also seen as beneficial for Spain, because a solution to the dispute about the status of Gibraltar does not need to be found immediately. Another Protocol ('On the Position of the United Kingdom and Ireland'), in particular Article 3, leaves the two Member States the space to adopt a Title IIIa measure. A special protocol on the position of Denmark has been designed to overcome (expected) domestic constitutional difficulties, which are anticipated following the rejection of the Maastricht Treaty in the first Danish referendum. This protocol secures Denmark's national sovereignty regarding the free movement of persons, which according to chief negotiator Patijn is a 'special' position, with a sort of 'legal opt-out' and a 'political opt-in'.

Furthermore, there is a protocol on the external relations of the Member States with regard to the crossing of external borders. The Member States can negotiate or conclude agreements with third countries as long as they respect Community Law and other relevant international agreements. Deeper, or more intensive cooperation, between Member States and third states can thus be pursued. The question is whether the protocol can be interpreted as a pretext for a divergent set of security standards and arrangements at the external border of the EU.

The new Title is linked up with one of the objectives set out in Article B, namely that the Union should be maintained and developed as an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, immigration, asylum and the combating of crime. This link reveals a much clearer correspondence between free movement of persons and 'flanking measures'. The emphasis on security becomes more than obvious from the French insistence on a declaration relating to the Schengen protocol, namely that the level of protection and security within the New Area should remain the same as under Schengen (Declaration 41). This possibly implies that Member States who fear that their internal security is at stake, can reintroduce internal border controls, which corresponds with Article 2A Schengen Implementing Agreement and which is similar to what France has done with its northern borders with Belgium and Luxembourg. The Amsterdam Treaty does not explicitly state the criteria of what constitutes a real threat to the internal security of Member States. In this regard, Article 73l reasserts the sovereignty of the individual Member States in the maintenance of law and order and the safeguarding of internal security. The Council can decide by qualified majority (on a proposal from the Commission) to 'adopt provisional measures of a duration not exceeding six months for the benefit of the Member States concerned.' Such a rule would become operational in

the event of an emergency situation characterized by a sudden influx of third country nationals (old Article 100C (2)).

Germany, with its major intake of asylum seekers, has won a case by insisting that the unanimity rule will not automatically change into a qualified majority decision-making process once the five years have subsided (Article 73o). The application of qualified majority voting will not only be subject to an evaluation but also to a unanimous decision of the Council as to whether or not to actually introduce this new method. The much heralded extension of Community competence therefore only seems to be a bit of a sop. This is partially compensated for by the fact that the right of initiative, which during the initial five years will be shared between the Member States and the Commission, will automatically be an exclusive right for the Commission without further political ado.

The protocol on asylum for nationals of EU Member States is a blow in the face for human rights organizations across Europe. Spain had wanted a total suppression of that right, following the refusal by Belgium to extradite suspected ETA terrorists. The Spanish wish has been diluted only to a certain extent as the final protocol now lists certain conditions under which an application made by a national of a Member State may be taken into consideration or declared admissible. The basic presumption that underlies the protocol is that all EU Member States are safe countries. Apparently, the Dutch Presidency proposed, during the negotiations, amending a passage and adding a declaration which stipulates that the Protocol would be interpreted in accordance with the provisions of the 1951 Geneva Convention and the 1967 New York protocol. Unfortunately, only Belgium has made a declaration to this extent. Other EU Member States should follow this example.

The communitarization of immigration, asylum, external borders and legal cooperation in civil matters enhances the role of the institutions more generally. The European Parliament has to be consulted prior to the taking of initiatives (Article 73o). The role of the Court of Justice is expanded if there is no remedy under national law, the Court may be requested to give a ruling, but it can only be asked to do so by the highest judicial authorities in the Member States (Article 73p). Its position is strengthened as the Commission is enabled to question certain practices.

The Incorporation of Schengen into the New Treaty

The Protocol which integrates the Schengen *Acquis* into the framework of the European Union requires that not only the two Schengen Conventions (1985 and 1990), but also all the decisions of the Executive Committee (about 200 mostly unpublished decisions), should be incorporated into the New Treaty. The Schengen Implementing Convention states that all rules should be compatible with Community law. But the question is whether all the decisions by the Executive Committee are also in line with Community

law, and whether they have any legally binding force at all.

The ultimate consequence of the incorporation of Schengen is that the *Acquis* will be separated between the already existing *acquis communautaire*, the new Title (see above) and the remaining Third Pillar. Some parts of Schengen have effectively been encapsulated by Community directives (firearms, money laundering). Rules and regulations that relate to visa, immigration and asylum will in due time be transferred to the new Title, while provisions concerning executive cross-border police competences and mutual legal assistance in criminal matters will stay in the Third Pillar. For the time being however, the Schengen arrangements will fall under the Third Pillar unless the Council decides otherwise (Article 2 Schengen Protocol).⁵

It is clear that the Dutch Presidency has been adamant that more institutional coherence be guaranteed. The Amsterdam Summit invited the Council to take appropriate measures as soon as possible to ensure, as soon as the Treaty enters into force, the adoption of certain implementing measures relating to the protocol incorporating the Schengen *Acquis* into the Treaty. This includes the integration of the Schengen Secretariat into the Council's General Secretariat (Article 7 Schengen Protocol). Most likely, a special Committee will be created to deal with the institutional and legal aspects of the incorporation of Schengen into the Treaty. The Committee will at least be composed of members of the Schengen Secretariat, the Secretariat of the Council and the European Commission, but individual lawyers (public officials of national ministries) who have been actively involved in masterminding this operation may also get a seat on the Committee.

Exemptions are apparently again the price to be paid for progress. The UK, Ireland and Denmark negotiated special provisions. The first two countries are allowed to opt into certain Schengen provisions, which can be characterized as a form of differentiated integration: Article 4 of the Schengen Protocol allows the UK and Ireland to request 'at any time' to take part in some or all of the provisions of the Schengen *Acquis*. This creates a situation in which the two Member States can maintain its border controls and deny citizens the freedom to travel, and at the same time take part in compensatory security arrangements, such as the Schengen Information System. The balance between the two constituents seems to have got lost in the negotiation process. While the UK and Ireland are allowed to enter Schengen bit by bit, the future EU Member States will have to accept the Schengen *Acquis* in full (Article 8 Schengen Protocol).

The positive side of the integration of Schengen into the TEU is that we will have one regulatory régime for internal security management in Europe instead of two. Nonetheless, as the door has been opened wide for differentiated integration, there may be considerable problems at implementation level.

Another risk is the (indirect) contamination effect the Schengen provisions can have on Community legislation, as they are mostly negotiated behind closed doors and with little or no participation of EC institutions. This contamination effect may be countered by the formal adoption rules that apply to the Schengen provisions before they are transformed into Community rules. The Schengen Protocol is notoriously vague on this important aspect.

Provisions on Police and Judicial Co-operation in Criminal Matters

The new Title VI comprises fewer matters of common interest than its predecessor, but its provisions should be interpreted as a prelude to intensified cooperation between police forces, customs authorities and 'other competent authorities' (Article K.1). The latter, rather open-ended, formulation possibly opens the door to wider participation of the Secret Intelligence Services which may imply less transparency. The deepening of police cooperation finds its basis in a number of new provisions, the most spectacular of which are the possibility of having operational cooperation between competent authorities (Article K.2 (1); the executive cross-border police competences from the Schengen Implementing Agreement will most likely be inserted into this Article), and the assignment of 'operative' powers to Europol and joint 'teams' (respectively Article K.2 (2) (a) and (b)). Apparently, the negotiations on the strengthening of Europol's powers were quite arduous. Although politicians have often said that they absolutely do not want executive powers for Europol liaison officers, the door has been left ajar for a truly executive European police agency. This gives rise to concern, certainly when read in conjunction with the recently signed protocol that assigns immunity to Europol liaison officers. The liaison officers will be subject to fifteen different régimes given the fact that they and their activities will be under the judicial review of the competent national authorities only. Even if these liaison officers have no operational competences, their role in international intelligence-gathering can be decisive in court cases against criminal organizations.

Title VI introduces two new legal instruments, namely decisions and framework decisions, both of which have a binding character (Article K.6 (2)(b) and (c)). Although this implies more distancing from the legal instruments that were originally introduced under the umbrella of European Political Cooperation, considerable vagueness remains about what is to happen with the old battery of 'grey' legal instruments (conclusions, recommendations, resolutions and declarations), and whether the Third Pillar *Acquis* is to be transferred to the new Title. Although it is not written in the Treaty, the instruments that were developed under 'Maastricht' are operational under the rules and conditions of the Maastricht Treaty. The conventions that are currently under negotiation, such as Brussels II,⁶ are problematic because in the new

situation these instruments will be transferred to the First Pillar. If they are not ready before the Treaty of Amsterdam enters into force, these instruments will have to be redrafted and possibly even be renegotiated.

The revamped Third Pillar assigns a larger role to the European Court of Justice and the European Parliament. The competence of the European Court of Justice (Article K.7) has been widened to more legal instruments, as it can now also give preliminary rulings on the validity and interpretation of decisions, framework decisions and conventions. The matter can also be arranged by means of declarations that can be made by individual Member States (Article K.7 (3)). A precedent for this rule was already created with the protocol to the Europol Convention, and this type of arrangement may have an inbuilt capacity to undermine any general competence that the Court may exercise. With regard to some of its other competences it is important to note that an exemption applies, namely that the Court will not be allowed to review the validity or proportionality of operations carried out by the police or other law enforcement agencies (Article K.7 (5)). Hence, official judgements on international criminal investigation activities will remain a matter for the national courts and the European Court of Human Rights.

The European Parliament (Article K.11) will be consulted by the Council before the adoption of a new legal instrument (with the exception of common positions). The EP has to deliver an opinion within three months or less if so laid down by the Council. It is expected that the national parliaments will benefit from this 'scrutiny reserve'.⁷ It is also significant that the EP will have more to say about the operational expenditure of the Third Pillar budget in its competence of budget control authority (Article K.13 (3)).

Progress under the Third Pillar has been rather slow as a consequence of the unanimous voting system and the time-consuming ratification procedures in the Member States. The only Convention – which actually predates Maastricht – which was ready for entry into force by 1 September 1997, is the Dublin Asylum Convention. The IGC has come up with a trick to accelerate the implementation of Conventions. Article K.6 (d) allows entry into force of a convention once adopted by at least half of the Member States (unless conventions provide otherwise). This form of 'rolling ratification' replaces the declarations for the provisional application of conventions.

And then there is Article K.12 (the former Article K.7), which authorizes Member States to make use of institutions, procedures and mechanisms of the Community if they want to establish closer cooperation. Article K.12, which should be seen as an enhancement clause, is considerably longer than the former K.7, and it is larded with all kinds of 'ifs' and 'buts'. The Justice and Home Affairs Council may, for instance, refer authorization to the General Council if one Member State opposes closer cooperation on the basis of a qualified majority vote. What scenario did the

negotiators have in mind when they inserted this condition into the text?

Finally some comforting news for the fans of the famous bridge-provision in the Third Pillar: the *passerelle* has been infused with new life as the old article K. 9 becomes Article K.14.

Concluding Remarks

Gil-Robles, President of the European Parliament, has said that the solution chosen for the Third Pillar is dangerously ambiguous. Intergovernmentalism has triumphed: it is and will be a policy-making process strongly dominated by the Council. This can also be derived from Article 73n, which states that the Council shall take measures to ensure cooperation between the relevant departments of the administrations of the Member States, which can be read as an official impetus for horizontal networking between national bureaucracies and as a reassertion of the (already) strong position of public officials in the Member States.

The question that poses itself is whether the revision of JHA cooperation should be interpreted as the outcome of a belligerent horsetrading exercise. Perhaps unsurprisingly, every Member State got more or less what it wanted, perhaps with the exception of Belgium, which kept insisting on a wider introduction of qualified majority voting. For the time being, and at least not until the Treaty is signed and ratified, no radical changes can be expected within the field of JHA cooperation. Meanwhile, hectic activity has been taking place to amend, refine and renumber the draft Treaty text. Soon after its signature, muscles will be flexed for the hurdled implementation of the protocols, declarations, opt-in clauses and the many 'ifs' and 'buts'. □

NOTES

- ¹ Elsewhere in this EIPASCOPE issue, you will find the contribution of Professor Antonio Bar Cendón, who spoke about legitimacy of the new EU during the IGC-afternoon.
- ² Problems which might result from the improvements in the fields of free movement of persons, asylum and immigration are discussed below.
- ³ It should be noted that the agreement on the reweighting of votes could be operationalized even without convening a mini IGC since article 148.2 EC could be amended by any accession Treaty.
- ⁴ A previous version of this text appears in the *Maastricht Journal of European and Comparative Law*, 1997, Volume 4, Number 3; a longer, adapted version in Dutch will be published in the *Nederlands Juristenblad*. The underlying text refers to SN 3111/97 (Draft of Amsterdam Treaty in final form, 11 July 1997).
- ⁵ *Justice in Europe*, Issue 2, 1997, p. 2.
- ⁶ Draft Convention on the service in the Member States of the European Union of judicial and extrajudicial documents in civil or commercial matters.
- ⁷ *Justice in Europe*, Issue 2, 1997, p. 5. □

La légitimité de l'Union européenne après le Conseil européen d'Amsterdam

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1. Introduction

Le concept de légitimité, tout comme ceux de subsidiarité, de transparence, de démocratie, d'efficacité ou de solidarité, est intimement lié au débat politique ainsi qu'aux formulations juridiques de l'Union européenne (UE). Ce sont là des concepts clés et l'un d'eux, celui de la subsidiarité, est explicitement prévu à l'article 3 B du Traité sur la Communauté européenne (TCE) comme principe juridique régulateur de l'action de la Communauté. En outre, ce sont des concepts qui, conformément aux généralités de la doctrine européenne, sont étroitement reliés, de sorte que l'on ne peut les comprendre isolément que s'ils sont en rapport avec les autres ou que s'ils sont une manifestation ou un prolongement des autres.

Cependant, ces concepts ont acquis en droit communautaire un sens particulier qui les distingue légèrement de la signification qu'on leur attribue généralement dans le langage commun. C'est pourquoi, leur analyse doit se faire uniquement dans cette perspective du droit communautaire, oubliant leur sens commun ou la signification qu'ils ont à l'intérieur d'autres sphères du droit.

Par ailleurs, alors que le contenu substantiel de ces concepts n'est pas nouveau, leur fréquente utilisation dans les textes et documents communautaires est relativement récente et résulte du débat ouvert à la fin des années quatre-vingts sur la réforme des Communautés européennes et de l'accent plus grand mis sur le processus d'intégration européenne. Une union économique aussi profonde que celle qu'autorise déjà l'Acte unique de 1985 ne pourrait pas fonctionner de façon adéquate si elle ne s'accompagnait pas non seulement des mécanismes économiques nécessaires – l'Union économique et monétaire – mais aussi des mécanismes politiques qui sont également requis. C'est ce but qu'a tenté de satisfaire le Traité sur l'Union européenne, adopté à Maastricht en 1991. Pourtant, comme le démontrent les nombreux documents et études publiés depuis lors et même déjà auparavant, les objectifs de démocratie, légitimité, transparence, subsidiarité, efficacité ou solidarité, n'ont pas été pleinement réalisés et continuent à susciter des critiques et débats tous azimuts.

Trois concepts se détachent plus particulièrement ici: ceux de la légitimité, de la transparence et de la subsidiarité. Le concept de subsidiarité prévu à l'article 3 B du TCE (en rapport avec l'article 235 TCE), étant donné sa prévision spécifique dans le traité et sa

configuration juridique, a donné lieu à un traitement spécial et très vaste dans la doctrine, qui dépasse le cadre et l'intention de cet article. Quant au concept de transparence, après la réforme d'Amsterdam, il figurera, dans le sens d'une "ouverture", dans le deuxième alinéa de l'article A du TUE, et sera compris comme l'accès du public à la documentation communautaire, dans le nouvel article 191 A du TCE. Dès lors, nous nous concentrerons ici uniquement sur l'étude de la légitimité de l'UE, telle que l'entend la doctrine communautaire et telle qu'elle ressort de manière implicite de la réforme du traité sur l'Union européenne approuvée lors du Conseil européen d'Amsterdam en juin 1997.

2. Le concept de légitimité

Le terme "légitimité" provient de l'adjectif latin "*legitimus*", lequel, à l'instar de "*legalis*", désignait tout acte conforme à la "*lex*", le droit positif décrété par le législateur compétent ou par les tribunaux de justice. C'est au cours du moyen âge que le christianisme développe le concept de légitimité en l'appliquant, non pas à l'adéquation au droit positif de l'autorité civile, mais à la loi naturelle, expression de la volonté de Dieu. Depuis lors, le concept de légitimité est considéré comme étant un concept qui exprime l'adéquation d'un pouvoir à une valeur ou à un ensemble de valeurs normatives, supérieures au droit positif, qui sont la justification de son existence et de son caractère impératif. Ces valeurs ont été et sont encore nombreuses et diversifiées, en fonction des diverses théories qui ont été élaborées tout au long de l'histoire de l'humanité.

Aujourd'hui, la plupart des conceptions philosophiques, politiques et juridiques, reconnaissent que le concept de légitimité exprime la perception que les citoyens ont du gouvernement de la société, perception qui détermine et conditionne l'obéissance à ce pouvoir de la part des citoyens. Lipset a défini la légitimité comme étant "la capacité du système (politique) d'engendrer et de maintenir la croyance que les institutions politiques existantes sont les plus appropriées pour la société".¹ Et Linz, dans ce même ordre d'idées, la définit comme la "croyance que, malgré leurs défauts et leurs échecs, les institutions politiques sont meilleures que n'importe quelle autre institution que l'on pourrait établir et qu'elles peuvent, par conséquent, exiger l'obéissance".²

Ce concept de légitimité suppose que:

- le concept de légitimité est un concept relatif en substance: (a) il se manifeste en référence à une

valeur ou à un ensemble de valeurs normatives supérieures acceptées par les citoyens; (b) il peut ne pas exister ou exister plus ou moins, dans la mesure où il s'adapte ou non à toutes ces valeurs ou à une partie d'entre elles (comme l'affirme encore Linz, "aucun régime politique n'est légitime pour l'ensemble de la population, ni dans tous ses ordres, ni pour toujours; et probablement seuls peu d'entre eux sont totalement illégitimes et reposent seulement sur la force");³

- les valeurs auxquelles on rattache la légitimité peuvent être très différentes, voire contradictoires (caractère démocratique du pouvoir, efficacité, charisme, etc.); et
- la légitimité n'est que l'un des facteurs qui génèrent l'obéissance au pouvoir politique, et peut se conjuguer avec les autres – acceptation rationnelle, coercition, crainte – pour entraîner cette obéissance.

En tout cas, une chose est sûre: le concept de légitimité, entendu dans cette acception, exprime une relation directe entre le pouvoir politique et les citoyens et, dans ce sens, il a toujours été appliqué à l'Etat ou à des institutions qui impliquent un rapport direct entre le pouvoir et l'individu. En tant que tel, il n'a jamais été appliqué à des organisations internationales, dès lors que les sujets de ce rapport sont l'Etat et non pas les citoyens.

Cependant aujourd'hui on parle de la légitimité de l'Union européenne et de ses institutions, mais dans un sens négatif, c'est-à-dire de l'absence de légitimité en général. Mais de quelle légitimité parle-t-on? Qu'entend-on par légitimité lorsque l'on se réfère à l'Union?

3. La légitimité de l'Union européenne

Si l'on se réfère aux documents communautaires, on remarquera que le concept de légitimité n'est pas utilisé de manière unique et consistante. Le terme légitimité se rattache au concept de démocratie pour former le concept de "légitimité démocratique". Cependant, le terme légitimité se rattache aussi à des concepts tels que l'ouverture et la transparence, l'efficacité des institutions, la subsidiarité, l'extension de la citoyenneté européenne, la codécision, et aussi la qualité – clarté, compréhensibilité, technique législative – des textes juridiques communautaires.⁴ D'autre part, à de nombreuses occasions, l'Union européenne, "bouclant la boucle", se considère elle-même comme une source de légitimité pour les Etats membres et leur ordre juridique.⁵

Dans le premier sens, la "légitimité démocratique" signifie la participation des citoyens à la conduite des affaires de l'Union européenne, à travers l'unique institution représentant directement les citoyens des quinze pays membres de l'Union: le Parlement européen. Il s'agit ici de l'accroissement des pouvoirs du Parlement européen et, plus particulièrement, de l'élargissement de la procédure de codécision

législative.

Dans sa deuxième acception, c'est-à-dire relier le concept de légitimité aux autres concepts mentionnés, elle signifie d'une part une meilleure connaissance et un plus grand contrôle des citoyens sur l'action des institutions communautaires et, d'autre part, et comme résultante de ce premier facteur, l'accroissement de l'appui des citoyens à ces institutions.

Il est évident en tout cas que le concept de légitimité ne peut s'appliquer, sans distinction aucune, à l'ensemble que forme l'Union européenne. L'UE est une entité complexe, faite d'un ensemble de rapports et d'équilibres fragiles, dans laquelle le renforcement d'un élément ne peut se faire qu'au détriment des autres. Ainsi, non seulement le concept de légitimité ne peut s'appliquer que difficilement et de manière unique à tous les aspects de l'Union, mais entendu ainsi sous une forme vague, on ne peut l'accroître en général, étant donné que cela serait contradictoire et mettrait en conflit les divers éléments de l'ensemble communautaire.

Ainsi, si nous comprenons l'Union européenne comme étant un système complexe formé par un élément intergouvernemental, où prédomine la nature internationale de l'Union (le Conseil européen, le Conseil et ce que l'on appelle les deuxième et troisième piliers de l'édifice communautaire), et par un élément communautaire où prédomine le caractère supranational de l'Union (le Parlement européen, la Commission, le premier pilier de l'édifice communautaire), nous nous apercevons que le concept de légitimité – de "légitimité démocratique" – opère de façon différente dans chacun de ces cadres:

- lorsqu'on l'applique au cadre intergouvernemental, le concept de légitimité démocratique se réfère (a) à la représentation que les Etats membres ont ou devraient avoir dans les institutions où ils sont représentés (Conseil européen, Conseil, Commission – seulement à cet effet), (b) au poids de leur voix dans le processus décisionnel, et (c) au rôle des institutions où les Etats membres sont représentés dans l'architecture institutionnelle de l'UE.
- lorsqu'on l'applique au cadre supranational, le concept de légitimité démocratique se réfère (a) à la représentation que les citoyens européens ont ou devraient avoir dans les institutions où ils sont représentés (Parlement européen, parlements nationaux), (b) au rôle des institutions où sont représentés les citoyens dans l'ensemble institutionnel de l'UE, et (c) aux relations entre les citoyens et les institutions communautaires et à la perception que ceux-ci ont de ces dernières.

Ainsi donc, non seulement un renforcement global de la "légitimité démocratique" de la composante intergouvernementale, avec l'accroissement qui en résulte du poids spécifique des institutions où les Etats membres sont représentés en tant que tels, se ferait au détriment de la légitimité démocratique authentique

de l'élément supranational; mais d'autre part, à l'intérieur même du cadre supranational de l'UE, le renforcement du poids spécifique de l'institution représentative communautaire – le Parlement européen – irait à l'encontre du poids spécifique des institutions représentatives nationales, à savoir les parlements des Etats membres.

4. La légitimité de l'Union européenne après la réforme d'Amsterdam de juin 1997

Il n'est pas nécessaire de donner ici une description détaillée de l'ensemble des déficiences ou carences de la légitimité démocratique de l'UE, tant de fois signalées dans les documents communautaires et mises en évidence par la doctrine scientifique.⁶ Il suffit ici, comme point de départ, de souligner que ces déficiences se manifestent dans l'opinion publique communautaire, et que les institutions communautaires se sont elles-mêmes fait l'écho de ce déficit de légitimité et ont essayé de le réduire à travers la réforme des traités.

De même, nul besoin n'est de dire que la carence de la légitimité démocratique de l'UE ne fait que croître ou se fait ressentir avec plus d'acuité, précisément à mesure que s'intensifie le processus d'intégration européenne, par le transfert de pouvoirs et compétences accrus aux institutions communautaires. Pour cela, il a fallu supposer non seulement une perte du pouvoir de décision et de contrôle de la part des institutions des Etats membres – plus particulièrement les parlements nationaux – en faveur des institutions communautaires, mais aussi que ce transfert ne soit pas contrebalancé dans le cadre communautaire par une augmentation parallèle du pouvoir de décision et de contrôle de l'unique instance communautaire de représentation démocratique directe, à savoir le Parlement européen. Cela suppose donc, (a) un renforcement considérable du pouvoir exécutif, tant dans le cadre communautaire, de par le rôle de législateur qu'assume le Conseil – qui représente les gouvernements des Etats membres – que dans l'absolu, de par le rôle que jouent les gouvernements dans l'élaboration et l'application du droit communautaire, dont ils sont les responsables ultimes; et (b) une diminution ou absence du pouvoir de contrôle parlementaire – de par la faiblesse du Parlement européen et l'incompétence des parlements nationaux sur ce terrain – et des citoyens eux-mêmes sur tout le processus politique communautaire.

Dans ce sens, il est extrêmement significatif que le soutien de l'opinion publique européenne au processus d'intégration européenne ait commencé à faiblir juste au moment où cette intégration se faisait plus intense et s'accélérait, tant dans le cadre économique que politique. Ainsi, jusqu'en 1990, l'appui de l'opinion publique au processus d'intégration européenne s'est accru progressivement, pour atteindre son taux le plus élevé cette même année. A ce moment-là, 72% des citoyens européens soutenaient l'appartenance de leur Etat respectif aux Communautés européennes, et 60% considéraient que cela était

bénéfique pour leur pays. Pourtant, après l'adoption du traité de Maastricht en 1991 et les problèmes posés par sa ratification en 1992 et 1993, problèmes sur lesquels vint se greffer la crise monétaire de 1992 ("mercredi noir": le 16 septembre 1992), le taux de ce soutien n'a cessé de baisser. Ainsi, en 1996, seuls 48% des citoyens européens donnaient leur appui à l'appartenance à l'Union européenne et uniquement 42% estimaient que cette appartenance était bénéfique pour leur pays. Si l'on examine les chiffres par pays, l'Irlande serait le pays le plus européen (76% des citoyens soutiennent l'appartenance à l'Union européenne et 86% jugent qu'elle est bénéfique pour leur pays), tandis que la Suède serait le pays le plus anti-européen (seul 27% des citoyens sont favorables à l'appartenance à l'Union européenne et seuls 18% la considèrent comme bénéfique pour leur pays).⁷

Les institutions communautaires ne se sont pas voilé la face devant ce problème et la révision du TUE, prévue à l'article N 2. du traité pour 1996, a été l'occasion de rouvrir le débat, au demeurant jamais clos, sur les déficiences de la légitimité de l'UE. Si l'on prend comme référence systématique les deux acceptions qui résument le concept de légitimité, tel que l'entendent les institutions communautaires, comme étant la participation des citoyens à la conduite des affaires de l'Union européenne à travers le Parlement européen, et comme connaissance, contrôle et soutien des citoyens en ce qui concerne l'action des institutions communautaires, l'on constate que la réforme a été très timide:

- A) Par rapport à la légitimité démocratique proprement dite, si la réforme du traité contient quelques nouveautés dans le domaine de la citoyenneté européenne et la reconnaissance des droits fondamentaux, les changements les plus significatifs ont été enregistrés dans l'accroissement des pouvoirs du Parlement européen, lequel voit s'élargir nettement le cadre du processus de codécision législatif, et, par conséquent, son propre pouvoir normatif.
- B) Par rapport à la légitimité comme résultant de la connaissance, du contrôle et du soutien des citoyens vis-à-vis des institutions communautaires et de leur action, la réforme du traité a été beaucoup plus limitée:
 - a) en ce qui concerne l'ouverture et la transparence des institutions, la réforme se borne à introduire (i) l'ouverture institutionnelle comme un des objectifs poursuivis par l'Union européenne, à l'article A du TUE, et (ii) le droit d'accès aux documents communautaires pour les personnes physiques et morales de l'Union, au nouvel article 191 A du TCE, tout en prévoyant cependant la possibilité qu'un Etat s'oppose à ce que des documents émanant de cet Etat soient communiqués à des tiers (nouvelle Déclaration à l'Acte final du TCE).

La réforme du traité n'a donc repris aucune des autres modifications suggérées en la matière durant

la phase pré-CIG, comme une plus grande ouverture du Conseil lorsqu'il agit en tant qu'organe législateur (séances publiques, explications des votes, etc.).

b) en ce qui concerne l'efficacité des institutions comme source de légitimité, la réforme du traité (i) a réduit à trois le nombre de procédures législatives (avis conforme, codécision et consultation); (ii) elle a élargi le cadre matériel et simplifié les différentes phases du processus de codécision; (iii) elle a repris et inclus dans un protocole du traité les décisions des Conseils européens de Birmingham et d'Edimbourg en matière de subsidiarité; (iv) elle a repris le principe de flexibilité dans le processus d'intégration, en introduisant un nouveau titre dans le traité consacré à ce sujet tout en précisant les limites de cette flexibilité; et, enfin, (v) elle a reconnu la nécessité d'améliorer la législation communautaire en ajoutant au traité des déclarations sur la qualité de la technique législative et sur la simplification et la refonte des traités.

5. Conclusions

On peut conclure de ce qui précède que l'UE souffre effectivement d'une légitimité réduite ou de l'absence de légitimité, tant dans le sens de la légitimité démocratique à proprement parler que dans le sens de la connaissance, du contrôle et du soutien des citoyens vis-à-vis des institutions communautaires et de leur action.

Cette lacune n'a pas été totalement comblée par la réforme opérée par le Conseil européen d'Amsterdam en juin 1997, qui a sensiblement tronqué les attentes et les propositions mises en avant pendant toute la durée de la Conférence intergouvernementale.

L'opinion publique européenne s'éloigne dangereusement des anciennes aspirations d'union. Cependant, ceci n'est pas seulement la conséquence d'un changement d'opinion historique des citoyens européens par rapport à la position qui était la leur il y a encore quelques années de cela; c'est avant tout la conséquence de l'incapacité affichée par les institutions européennes d'informer l'opinion publique et de lui faire parvenir dans toute son intensité et de manière claire le message de son action et de ses objectifs, de la nécessité et du caractère inévitable du processus d'intégration européenne.

Si l'on se réfère une nouvelle fois aux données fournies par *Eurobaromètre*, on constate qu'en 1996, alors que les discussions sur la réforme du traité battaient leur plein, seulement 30% des citoyens européens s'estimaient être bien informés sur l'Union européenne, alors que 68% disaient ne pas être bien informés ou ne pas être informés du tout. Pourtant, cette désinformation n'est pas le résultat d'un désintérêt conscient de la part des citoyens, mais bien la conséquence de l'incapacité des institutions communautaires de les informer. Par ailleurs, pour

cette même période, 67% des citoyens européens disaient effectivement souhaiter obtenir plus d'informations sur l'Union européenne, alors que seulement 30% se disaient satisfaits de l'information qu'ils possédaient.⁸

Le processus d'intégration européenne est donc quelque chose de nécessaire, voire indispensable, pour que l'Europe puisse jouer le rôle qui lui revient dans le concert des nations. Cependant, ce processus d'intégration ne pourra se réaliser et échouera même à la longue s'il ne s'accompagne pas d'un accroissement parallèle de la légitimité de l'Union. Et cette légitimité ne peut plonger ses racines uniquement dans l'efficacité des mesures économiques ou autres communautaires, mais doit être recherchée dans le renforcement du caractère démocratique de l'Union et dans une politique d'ouverture institutionnelle et d'information qui rapproche réellement les institutions communautaires des citoyens, dépassant par là les simples déclarations rhétoriques des textes juridiques.

Comme l'a dit la Commission européenne elle-même dans son rapport pour la Conférence intergouvernementale – et ces mots acquièrent donc plus de valeur venant d'elle – “la démocratie s'étiolle si son fonctionnement n'est pas efficace; et l'efficacité doit trouver sa raison d'être dans la démocratie, à défaut de quoi celle-ci se réduit à une technocratie.”⁹ □

NOTES

- ¹ S.M. LIPSET, *Political Man. The Social Basis of Politics* (New York: Doubleday, 1959).
- ² J.J. LINZ, “Legitimacy of Democracy and the Socioeconomic System”, in M. DOGAN (ed.), *Comparing Pluralist Democracies: Strains on Legitimacy* (Boulder: Westview, 1988).
- ³ J.J. LINZ, *ibid.*
- ⁴ Pour une vision globale de ces concepts par les institutions communautaires, voir: Commission des Communautés européennes, *Rapport sur le fonctionnement du Traité sur l'Union européenne* (Bruxelles, le 10 mai 1995); Conseil de l'Union européenne, *Rapport du Conseil sur le fonctionnement du Traité sur l'Union européenne* (Bruxelles, 1995); Parlement européen, *Rapport sur le fonctionnement du Traité sur l'Union européenne dans la perspective de la Conférence intergouvernementale de 1996* (Luxembourg, le 12 mai 1995); *la Conférence intergouvernementale de 1996: Rapport du Groupe de réflexion* (Bruxelles, décembre 1995).
- ⁵ Commission des Communautés européennes, *Rapport* cité, Avant-propos.
- ⁶ Voir une relation détaillée des déficiences démocratiques de l'UE et un résumé de la doctrine en la matière dans J.H.H. WEILER, “Legitimacy and Democracy of Union Governance” in G. EDWARDS, A. PIJERS (eds.), *The Politics of European Treaty Reform. The 1996 Intergovernmental Conference and Beyond* (London: Pinter, 1997), p. 249-287.
- ⁷ Commission européenne, *Eurobaromètre* n° 46 (Bruxelles, mai 1997).
- ⁸ *Eurobaromètre* n° 46, cit.
- ⁹ Commission des Communautés européennes, *Rapport*, cit., p. 3. □

VISION OR REVISION

Managing Europe's Way to EMU

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1. The Challenge

At first glance and in the general public's perception, the plan for and the pros and cons of *European Monetary Union* (EMU) appear to be derived from the purported dismal and often inconclusive discipline of *economics*. In the face of an, as yet, incomplete European Common Market, confronted with growing global competition and due to serious economic problems in Europe, such as unemployment and structural inertia, the creation of a common currency for Europe seems indispensable to its proponents and an incorrect strategy to its opponents.

At second glance, EMU is much more ambitious and appears to be part of a far-reaching *political* strategy of integration: in the course of its history, the EU has gone through different phases emphasizing different areas of integration. The period between 1957 and 1968, when the members of the then-EEC established their customs union, can be characterized as the phase of *trade-driven integration* (free movement of goods). After a considerable slow-down in integration efforts in the 1970s (mainly due to the collapse of the Bretton Woods system and the two oil crises), there was renewed momentum in the 1980s based on *factor-driven integration* (free movement of capital and labour). These developments were accompanied by ever closer cooperation and integration in a whole series of primarily national policy areas, such as taxation, budgetary, regional, social, environmental, industrial and other policies. The 1990s, eventually, have been characterized by what one might call *money-driven integration*, as laid down in the provisions for EMU in the Maastricht Treaty on European Union. The logical continuation of these long term developments may well imply the striving for Social Union, Fiscal Union and Political Union. In this context it is obvious that the future of European integration will crucially depend on the success or failure of EMU which is due to commence in 1999.

Unfortunately, the EU is presently being faced not only with serious challenges such as enlargement, reform of the institutions, its fiscal constitution and the distribution of the budgetary burden among the Member States. It is also subject to a deep *crisis of legitimacy*. This crisis may be caused partly by the EU's apparent inability to deal with the major political and economic problems of the continent and partly because Europe seems too distant to the citizens, incomprehensible and intransparent, and characterized by a lack of vision.

Under these – not exactly favourable – conditions, any policies designed to promote the EMU idea must be considered as extremely sensitive. However, during the past two years or so, there appears to be a tendency to *oversell* – and this might carry the unintended consequence of *overkilling* – the EMU undertaking. The promotion strategies – rather than emphasizing the special political features of EMU – are often rightly criticized as being designed like commercials for consumer products.

What is evident to everybody, but what many officials often do not dare to spell out, is that EMU is a – *necessary*, to be sure – *socio-economic experiment*. Regrettably, the credibility of EMU is seriously endangered by official voices omitting to emphasize this fact.

A convincing and more credible strategy would emphasize the following elements: (1) EMU contains risks and opportunities; (2) and so does the world without EMU; (3) Europe undergoes fundamental changes even without EMU, changes which may involve temporary welfare losses; (4) the potential losses from reforms can be minimized, if EMU brings the expected benefits; (5) if not, the situation will not be worse than without EMU. *In theoretical terms*: the convincing argument is not that EMU cannot go wrong and will make everybody better off. What it would be advisable to emphasize is its potential to help bring about the necessary changes by making reforms less painful and by making the social and economic costs of the changes manageable!

It goes without saying that, under the circumstances outlined above, the necessary ingredients to make EMU 'tick' and make it acceptable to the peoples of Europe – the building of consensus on common goals and objectives, common strategies and actions, and the right models of integration – will not be easy to create.

In what follows, I will argue that what is much more important than the widely discussed and the selectively emphasized economic aspects is the politics of EMU. Rather than discussing at length the significance of economic variables, such as deficits, debt, inflation or interest rates, measured in precise figures, what should be discussed is common European interests and ideals. What is crucial is the *convergence of policy models, of the beliefs in the minds of policy makers, and the ideas of social groups and the general public as to where Europe should go from here*.

It appears as if, despite lipservice to the contrary, (a) national positions with regard to EMU still diverge widely in models, beliefs and interests, and (b) often EMU is 'exploited' through 'scapegoating', i.e. by putting the blame for domestic austerity measures on the EMU as a *European* undertaking. This, of course, creates legitimacy problems and causes a lack of popularity *vis-à-vis* a common European currency amongst the national electorates of Europe.

2. Belief Differences and Conflicts of Interests

2.1 Convergence – What Convergence?

As is well known, after a decision by the EU Heads of States and Government in April 1998, EMU is to commence on 1 January 1999 with the irrevocable fixing of exchange rates of those countries found eligible to join a monetary union on the basis of the so-called convergence criteria.* Half a year earlier, the European System of Central Banks

consisting of the European Central Bank (ECB – the decision-making institution) and the National Central Banks – the operating arms of the ECB – will be established. A single European currency, the ‘EURO’, will be introduced as a bookkeeping currency as of 1999 and is intended to replace the national currencies (notes and coins) as legal tender as of 2002.

Contrary to some official pronouncements, the selection of the group of countries to participate in EMU will require much *more* than just a look at the 1997 statistics, in order to check which countries fulfill the entry criteria on the spot. This is linked with two problems: (a) the formulation of the legal text in the Maastricht Treaty leaves quite some leeway for divergent interpretations; (b) the criteria do not exactly betray a compelling economic logic (*Buiter et al 1994; de Grauwe 1994*). Therefore, they will most probably be *interpreted as first proxies* and they will have to be complemented by a well-balanced consideration of economic *and* political factors. Effects on export markets in the non-participating countries as well as existing structures of cooperation (such as the Belgium-Luxembourg monetary union) and political sensitivities (e.g. in Italy and Spain) will certainly have to be taken into account. A politically driven – bargaining – process rather than purely economic considerations will then determine the decision.

If this reasoning is correct, the issue arises as to what functions the convergence criteria really fulfill. Standard arguments hold that if there is a sufficient degree of convergence among national economies, they will neither be subject to asymmetric shocks nor will they require diversified economic policy measures (*Gros 1996*). Therefore, a sufficient (whatever that is) degree of convergence will make it *possible* to run a joint monetary (and economic) policy for the whole of the Union-to-be. In the eyes of the economist the EU is, admittedly, not yet an *optimal* currency area, but it will be able to perform as an *advantageous* currency area (*Commission 1990*). Of course, this requires a careful selection of *structurally close or similar* national economies. Any selection will also make it necessary to solve the ‘insider-outsider’ problem: how to restrict the effect of the reaction of those Member States not found eligible to join the first round of EMU.

The crucial word above is ‘*possible*’. Whether the conduct of a joint optimal economic policy is *plausible* or even *probable* depends on other conditions. *Siebert (1997)* recently pointed out that a Monetary Union would require near-perfect agreement on the *philosophy* on which a common economic and monetary policy is to be founded. In the same vein, he argues that a coherent and jointly accepted *paradigm of economic explanation* is also an indispensable prerequisite. *Gretschmann and Kotz (1997)* argue that the creating of politico-economic *Wahlverwandtschaften (chosen relatives)*, which is an indispensable precondition for EMU, requires much more than what is laid down in the provisions of the Maastricht Treaty and its recent complements like the ‘stability pact’.

If the necessary conditions are not in place, the probability of conflicts over divergent interpretations, assumptions, philosophies and – ultimately – policies will rise sharply in an EMU, no matter what the hard economic criteria suggest. Even if countries have committed themselves to a common set of rules – like the Maastricht Treaty – they may tend to defect and renege once EMU is

in place, provided there is no, or too little, *convergence in the minds of decision makers*.

2.2 Model Uncertainty and Disparate Beliefs

As analysed in the literature on policy coordination in the late 80s (*for an instructive overview see: Bryant 1995*), difficulties can be attributed to four main factors:

- there are different national constraints on the policy instruments available (*limited domain*);
- there is disagreement about the effects (size and degree) of specific policy changes on policy targets (*differences in beliefs*);
- there are cross-border differences in the degree of (inter-)dependence (*differences in spill-over effects*);
- there are different models of how national economies and the global economy work (*model uncertainties*).

Among these factors it is the second and the last which are intertwined and which seem to be of particular salience: decision-makers usually have only limited knowledge about the functioning of their national economies. They know even less about the working of the global economy. This means they are faced with the problem of having to decide between competing models, the properties and premises of which they hardly understand. This is already a bedeviling problem at national level. It will be even harder to solve and more complicated at international level.

The key EMU beliefs are both of an economic and a political character *Dyson (1994:316)*. Below, I have enumerated the most important and disputed beliefs about EMU:

- the belief that fixed exchange rates are superior to floating ones;
- the belief that the long-term costs of devaluation to competitiveness outweigh the benefits;
- the belief in the virtues of unconditional pursuit of price stability;
- the belief in the significance of the gains from eliminating transaction costs of a multiple currency regime;
- the belief in the superior benefits of economic policy coordination;
- the belief in the efficient workings of liberalized financial markets;
- the belief in the superiority of an independent Central Bank;
- the belief in the advantages of tying the hands of national monetary policy;
- the belief that EMU provides an efficient means of controlling the power of Germany;
- the belief that the blueprint for EMU can be implemented without any unintended or counterproductive political side-effects or social costs, etc.

Of course the degree to which individual Member States subscribe to such beliefs varies widely, and consequently their individual commitment and willingness to enter into the EMU process and to accept the structural constraints of an EMU regime are by no means the same.

Taking this gulf into consideration, what then is the real worth of the Maastricht criteria to which politics in Europe so often refers? At first glance they seem meaningless and even intrinsically worthless, since they

will not be able to avoid deep policy differences among EMU members. They make joint policy optimization possible, but only to the extent that convergence of beliefs already exists.

To be even more explicit: The ongoing argument about the deficit ceiling of 3% of GDP, the issue as to whether three percent is 3,0% or 3,5% or otherwise is *absolutely misleading*. The figures are nothing but indicators of the beliefs, of the willingness to follow a generally accepted policy-model, a symbol for joint, non-defective policy behaviour in a Monetary Union.

Therefore, in order to make sense, the criteria require to be reinterpreted: their primary purpose seems to be that they carry some informational value. They may be able to reveal the true preferences, commitments and beliefs of the individual potential EMU Member States. They are intended to serve as an, admittedly imperfect, proxy for creating rational expectations with regard to future economic decision-making of the partner countries. This way, they are a safeguard to optimize mutual (dis)trust and to decide on one's own willingness to commit national interests to the common cause of EMU (Winckler 1995). Their major function is to serve as a signalling device!

3. EMU's Main Political Problem: Scapegoating

The main problem with EMU's popularity can be found in the fact that many Member States' governments have exploited and instrumentalized EMU commitments in order to implement unpopular and austere domestic economic policies in a politically cost-efficient way. Such policies, which would have to be conducted anyway, even without EMU, *can be enforced much more easily* by blaming a supranational body or regime, i.e. the EU. In the framework of the EU, so the argument goes, a country has to comply – willingly or unwillingly – even with undesirable decisions imposed on them externally. This argument is often used by national policy-makers to deflect negative social and political reactions of the losers from the introduction of a particular policy.

This strategy of *externalizing domestic legitimacy costs* can be called '*scapegoating*'. It is exactly this pattern that permeates also the EMU approach. In almost all EU Member States it has been extremely difficult indeed to marshal the domestic political support necessary for implementing unpopular economic measures, such as savings in public budgets, cut-backs in welfare expenditure or deficit reduction and tax reform. The political resistance from vested interests made it very costly to push reforms through. Commitment to EMU as well as compliance with other measures decided in an intergovernmental or supranational institution like the EU, facilitates the taking of unpopular decisions. Membership of such institutions is rational and beneficial -amongst other things – because (a) it allows domestic politics to shift legitimacy losses onto third parties and (b) it furnishes arguments and excuses.

But scapegoating not only helps export political costs, it also contributes to *importing pressure to change*. Such pressure may be necessary in cases where national economies are no longer able to reform themselves, to break rigidities and overcome inertia. Also, from this vantage point, EMU carries some benefits: As several authors have pointed out, EMU – due to the loss of the exchange-rate as an instrument for bolstering adjustment processes – will lead to more competitive pressure, more

mobility, more comparability of prices and wages etc.. Although not all participating countries will frankly subscribe to these objectives, it gives them options which would otherwise not exist. These options would be difficult to create without an external scapegoat: As Marks *et al* (1995) observe, Member States' political executives can hide behind decisions made by the ECB, the Council or the Commission. They can fend off domestic opposition and defuse dissatisfaction by arguing that they are duty bound to adjust to arrangements they cannot change unilaterally. This way, EMU may be used as a *garbage can* (Ostrup 1995) into which Member States 'voluntarily' toss unpopular economic policies in order to avoid their electorates holding them accountable for unpopular actions.

Even though scapegoating helps promote domestic economic reforms and externalizes the political costs incurred, it is not without cost itself: As a matter of fact, externalizing costs onto an international player or regime does not reduce total costs but just shifts, i.e. redistributes, them. If this were to involve diffusion over several parties, it could be considered beneficial due to burden sharing and lower perceptibility. However, in the case of EMU we witness, rather, a concentration and an accumulation of the political costs onto one party (the EU) only, i.e. an increase in perceptibility. This is clearly a major reason for the lack of popular support for European integration among the peoples of Europe.

This may also backfire on the domestic level via the following feed-back loops: the more successful the strategy of scapegoating, the greater the loss of popularity of the European common cause, the more difficult it is to run a successful policy for integration at national level and, consequently, the higher the proclivity of national electorates to fall for nationalistic political ideologies.

4. Regaining Rather than Losing Sovereignty through EMU

Standard arguments against EMU refer to the loss of political sovereignty and the economic steering capacity going with it. However, also this argument clearly misses the point. The nation states of Europe long ago lost a large share of their political sovereignty and parts of their economic power of control over *liberalized and unrestricted global markets* (Gretschmann, Heitzer-Susa 1997, pp. 327-330).

Globalization has changed drastically the context within which national policy-makers operate. Globalization can be characterized as a loss of significance of physical, fiscal, economic, technical, and other such boundaries. It can be described as 'interconnectedness' determined by the degree of 'externalities and spill-overs' resulting from others' decisions. This involves changes in the structure, volume and distribution as well as in the efficiency of national policy-making: traditional deficit spending to stimulate the national economy of a country has become inefficient by leading to higher demand for imports; national tax policy has failed in the face of high international mobility of tax bases; autonomous national monetary policy has been rendered troublesome with perfectly liberalized and voluminous financial markets (US \$ 1,400 billion turnover a day in forex markets). These and other examples demonstrate clearly that, in the face of global interrelatedness, the national capacity to control has been seriously reduced anyhow, i.e. even without political integration.

Against this background, international regimes (such as EMU) must be reinterpreted as *a means of regaining political control* (lost at the national level) at a higher intergovernmental or supranational level. In this vein, EMU will be able to contribute to an *increase rather than to a loss of political sovereignty vis-à-vis* market forces.

This clearly contains as a component the strengthening of Europe's influence *vis-à-vis* the USA and Japan. As a matter of fact, the period between 1950 and the present has been characterized by the monetary hegemony of the US dollar. The USA could afford to neglect the external implications of its domestic monetary policy due to the fact that the export share in US-GDP has remained continuously at no more than about 9%. Therefore, sharp movements of the US \$ (ups and downs) did not really impact on their domestic economic situation. Consequently, the USA adopted an attitude of 'benign neglect' *vis-à-vis* other countries in their foreign economic policy. They abstained from taking into account how non-US currencies were affected by dollar volatility. With a Single European Currency in place, the European economies may be able to form a counterweight challenging the US economic hegemony on the monetary side (Benassy, Italianer, Pissany-Ferry 1994). This will give all European economies and polities a heavier weight in the economic and political conflicts of interest in the 21st century (Benassy-Quere 1996).

5. Conclusion

What our line of argument has displayed is that in fact (monetary) integration has so far not sufficiently overcome national interests and is still embedded in and constrained by disparate (economic) beliefs and ideas of what kind of Europe we should envisage. A fully-fledged and well-functioning EMU would require the political will to steer (fiscal and monetary) politics and policies in line with a, still poorly defined, common interest and a, generally accepted, common model. Considering the lack of these conditions and taking into account the challenges which the Union faces at the turn of the century, the conceptual, theoretical and political foundations on which EMU has been erected still appear rather shaky.

This problem is surely aggravated (a) by the fact that national governments may be inclined to use the *scapegoating* strategy as a means of domestic policy making and (b) by a lack of recognition that EMU does not really involve a loss of material sovereignty in the first place, but rather offers the opportunity of *regaining political and economic steering capacity vis-à-vis* global markets.

It is no minor mishap that the creation of a sufficient degree of convergence in models and beliefs has not occurred on the route to EMU. It is this deficiency that makes the creation of EMU so extremely difficult. The convergence of common ideas and the moulding of a common *European ideal* – today EMU rather presents itself as a series of *national deals* – appears to us the most important cornerstone of a successful EMU. It would give EMU the necessary popular support among the European peoples and the general public and it could help to shape a new vision of European integration, a vision Europe needs so badly on its way to the next millennium. □

NOTE

* The Maastricht Treaty, it will be remembered, stipulated the following conditions for eligibility: an inflation rate of no higher than 1.5 percentage points above the average of the 3 best performing countries; an interest rate (long-term) no higher than 2 percentage points above the average of the 3 best inflation performing countries; a deficit of maximum 3% and a national debt level of 60% of national GDP. Our own calculations and forecast yield the following prognosis for 1997 (see table 1).

Table 1: Criteria – Forecast 1997

Country	Long-Term Interest Rates (10 years Government Bonds)	Deficit	Deficit	Level of
		----- GDP ratios	----- GDP ratios	Public Debts
		1996	1997*	1997*
L	5.54	0.9	0.5	6.8
NL	5.63	2.4	2.3	77.2
F	5.67	4.1	3.3	58.0
A	5.74	4.3	2.0	67.2
D	5.75	3.8	3.3	61.5
B	5.84	3.4	3.0	126.9
FIN	6.13	2.6	2.0	59.4
DK	6.33	1.5	0.5	67.3
IRL	6.50	1.1	1.5	72.0
P	6.54	4.0	3.3	70.0
E	6.68	4.4	3.3	66.2
S	7.03	3.3	2.0	77.0
UK	7.12	4.1	3.0	55.5
I	7.35	6.8	3.5	122.4
GR	9.28	7.4	7.0	109.0
Spread	3.74	6.5	6.5	-

Calculations by author, based on data from EU Commission, OECD, IMF, DB Research.

(* Estimates)

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Judgements Delivered by the Court of Justice of the European Communities in the Period 1 March – 1 July, 1997

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Judgements delivered in the past few months have concerned a diverse range of topics. This article will review some of the more interesting judgements handed down by the Court of Justice in the aforementioned period.

An interesting **institutional question** arose for consideration before the Court of First Instance in *Case T-105/95 WWF UK (World Wide Fund for Nature) v. Commission*, 5 March, 1997. This case concerned **Decision 94/90** on public access to Commission documents and the Code of Conduct on public access to Commission and Council documents.

The Irish government announced a decision to build a visitors' centre in the Burren National Park in the west of Ireland and proposed using structural funds for the project. The Commission subsequently investigated the project but decided that it would not start Treaty infringement proceedings against Ireland. The applicant in the case then addressed a letter to the Commission requesting access to all Commission documents relating to the examination of the project, and in particular concerning the use of structural funds. The Commission refused to supply the relevant documents and the applicant brought an annulment action before the CFI. The first question concerned the legal force of Decision 94/90, while the second concerned the scope of the exceptions provided. With respect to the first issue, the Court considered that although the Commission voluntarily assumed the obligations contained in the decision, it was nevertheless capable of conferring legal rights on third parties, which the Commission is obliged to respect.

In so far as the exceptions are concerned, the Court considered that it is necessary to interpret these in a restrictive fashion and in such a way that they do not render the objective of the Decision impossible to attain. In so far as the mandatory exceptions are concerned, the Commission is obliged to refuse access to documents falling within their scope. On the other hand, where the Commission has discretion as to whether or not to refuse access, it is under an obligation, when exercising this discretion, to strike a genuine balance between the interest of the citizen in obtaining access to the documents and its own interest in protecting the confidentiality of its deliberations.

In cases where the requested documents relate to infringement proceedings, the Commission may refuse access to the documents. However, the Commission cannot confine itself to invoking the possible opening of the infringement procedure as a justification and it is at least required to indicate the reasons why it considers the requested documents to be related to the possible opening of such a procedure. This does not mean that the

Commission must give reasons justifying the confidentiality of every document as this would, in itself, endanger the protection of the public interest.

The principle of non-discrimination embodied in **Article 6 EC** was at issue in *Case C-323/95 Hayes v. Kronenberger GmbH*, 20 March, 1997, which concerned a provision of the German Code of Civil Procedure which provided that foreign nationals who act as plaintiffs in proceedings brought before German courts must give security for costs and lawyers fees. The Court held that such a provision is not in accordance with Community law as it constitutes direct discrimination on the basis of nationality. While the Court recognised that there is a real difficulty in enforcing orders made against non-residents, it refused to consider whether the imposition of security for costs might be necessary in some circumstances as the German rule failed to comply with the principle of proportionality. In particular, the German law imposed different conditions depending on nationality, and failed to secure repayment of judicial costs in all cases, as no security could be imposed on a German plaintiff not residing in Germany and having no assets there. In addition it was disproportionate to the objective pursued as non-German plaintiffs residing and having assets in Germany could also be required to provide security.

Case C-352/95 Phytheron International SA v. Jean Bourdon, 20 March, 1997, concerned the application of Article 7 of the Trade Mark Directive 89/104/EEC. The case concerned the cancellation of a contract for the purchase of a plant health product which was imported to France from Germany but which was originally from Turkey. The purchaser cancelled the order on the grounds that the consignment could not be marketed in France as the owner of the trade mark had apparently not agreed to the same. An action for damages on the ground of wrongful termination of the contract was taken in the national court. A number of questions were referred to the Court of Justice, the answer to which depended on the interpretation of Article 7 of the Trade Mark Directive. Article 7 provides that (1) The trade mark shall not entitle the proprietor to prohibit its use in relation to goods which have been put on the market in the Community under that trade mark by the proprietor or with his consent. (2) Paragraph 1 shall not apply where there exist legitimate reasons for the proprietor to oppose further commercialization of the goods, especially where the condition of the goods is changed or impaired after they have been put on the market.

In its judgement, the Court pointed out that the Directive reiterates the case-law of the Court to the effect that the owner of a trade mark protected by the legislation

of a Member State cannot rely on that legislation to prevent the importation or marketing of a product which has been lawfully put on the market in another Member State by him or with his consent. In addition, the principle of exhaustion of rights laid down in Article 7 applies when the owner of the trademark in the state of import and the owner of the mark in the state of export are the same person or are economically linked. As long as the product has been lawfully put on the market in the Member State from which it has been imported, by the owner of the mark or with the owner's consent, it does not matter that it was manufactured in a non-member country. This also applies to companies in the same group as the owner.

In so far as Article 7(2) is concerned, the Court reiterated previous judgements (see e.g. Cases C-427/93, C-429/93 and C-436/93 *Bristol-Meyers Squibb and Others* 1996 ECR I-3457) to the effect that the principle of exhaustion of rights does not apply where there are legitimate reasons for a trade mark owner to oppose further commercialization of the products. However, the mere addition on the label of information necessary to comply with the legislation of the Member State of import does not constitute a legitimate reason within the meaning of Article 7(2) of the Trade Mark, provided that the label is not so altered that it omits important information or gives inaccurate information and provided its presentation is not liable to damage the reputation of the trade mark and that of its owner

The **Free Movement of Persons and Social Security law** was considered in Case 131/95 *P.J. Huijbrechts* 13 March 1997. This case concerned the application of the Netherlands Law on the Provision of Income for Elderly Unemployed Workers and Unemployed Workers suffering from Partial Incapacity to Work. Ms. Huijbrechts had worked in the Netherlands while living in Belgium. After she was laid off, she received unemployment benefit in Belgium. She subsequently moved to the Netherlands where she continued to receive unemployment benefit from Belgium for a three month period. At the end of this time, she applied for an allowance under Dutch law. Ms. Huijbrechts was refused this allowance as she did not fulfil one of the conditions for benefit. This condition specified that in order to be considered as an unemployed person, the applicant must have received benefit under the statutory unemployed provisions in force in the Netherlands, for the whole period for which the benefit was payable. The national court referred a question to the ECJ in order to determine whether this condition was compatible with Regulation 1408/71. In its judgement, the Court of Justice pointed out that Article 71(1)(a)(ii) of the Regulation provides that frontier workers receive benefit in the state of residence as though it was the State where he was last employed. However this merely suspends the obligations of the State where he was last employed, it does not extinguish them. Consequently, where an unemployed frontier worker settles in the Member State in which he was last employed, the derogation in Article 71(1)(a)(ii) ceases to apply and the State in which the frontier worker was last employed must assume its obligations under the Regulation in relation to unemployment benefit. As a result, unemployment benefit received in the State of Residence under Article 71(1)(a)(ii)

must be taken into account by the State of Employment as if the benefit had been received in that State.

Advocate General La Pergola agreed with the judgement of the Court but linked his decision more specifically to Article 48 and the Free Movement of Workers.

Freedom of establishment was at issue in *Case C-250/95 Futura Participations SA, Singer v. Administration des Contributions* which was decided on the 15 of May last. According to Luxembourgish law, non-resident taxpayers with a branch in Luxembourg may only carry forward previous losses if they fulfil two conditions. In the first place the losses must be economically related to the income earned in Luxembourg. Secondly, during the financial year in which the losses were incurred, the taxpayer is required to have kept and held in Luxembourg accounts complying with the relevant rules in respect of the activities carried out there. The Court was asked whether these provisions were compatible with Article 52 of the Treaty. In relation to the first point, the Court said that the fact that the losses must be economically linked to the income earned in the Member State was in conformance with the fiscal principle of territoriality and did not constitute discrimination. In so far as the second point was concerned, the Court considered that requiring a firm to adopt accounting practises complying with national rules could constitute a restriction within the terms of Article 52 of the Treaty. The Court then went on to consider whether the restriction was justified. While the Court reaffirmed that the effectiveness of fiscal supervision constitutes an overriding requirement of general interest capable of constituting a justification, it considered that in the present case, the national legislation went beyond what was necessary to achieve this goal. The Court felt that it should be sufficient if the non-resident taxpayer be able to demonstrate the amount of the losses he seeks to carry forward and that the ways of proving this should not be limited to those provided by Luxembourgish law.

Competition law was at issue in *Case C-282/95 P, Guerin v. Commission*, 18 March 1997, which concerned the right to bring an action against the Commission for failure to act under Regulation 17 of the Competition rules. Guerin had written to the Commission requesting that the Commission find Volvo France in breach of Article 85 of the Treaty. The Commission considered that the case did not present sufficient Community interest and refused to take an action. Subsequently, the Commission informed Guerin that it was dealing with the same problem in another case and that it would communicate to them the results of the examination. A year later, Guerin had not received a reply and they addressed a formal letter of notice to the Commission in accordance with Article 175 of the Treaty. Subsequently, Guerin brought the case before the Court of First Instance. Following this, the Commission sent Guerin a notification referring to Article 6 of Commission Regulation No 99/63/EEC and informing them that they did not intend to give their complaint individual consideration. The Court of First Instance rejected Guerin's application on the basis that the aforementioned notification constituted a definition of position within Article 175. In addition, it

ruled that an action for annulment under 173 was inadmissible as the letters sent by the Commission to Guerin did not have binding legal effects. In the appeal, the Court upheld the Court of First Instance on these two points. However, in its judgement the Court went on to point out that, following a notification under Article 6, the complainant is entitled to submit written observations. Once that stage of the procedure is completed, the Commission is under an obligation to either initiate a procedure against the subject of the complaint or to adopt a definitive decision rejecting the complaint. This latter course of action may then be the subject-matter of an action for annulment before the Court.

In *Case C-343/95 Diego Cali & Figli Srl v. Servizi Ecologici Porto di Genova SpA (SEPG)* March 18, 1997, the Court considered the application of Article 86 to a body responsible for the surveillance of water pollution and for providing rapid intervention in order to protect maritime areas against any pollution caused by accidental discharges of hydrocarbons into the sea. These activities were carried out under an exclusive concession granted to SEPG by the Port Authorities and fees were collected from the users of the service i.e. vessels which docked at the wharves in order to carry out operations of loading and unloading petroleum products. The Court considered that the SEPG was not an undertaking within the meaning of Article 86 as the task of anti-pollution surveillance is a task in the public interest and forms part of the essential functions of the State. The Court was of the opinion that such surveillance is connected by its nature, its aim and its rules with the exercise of powers relating to the protection of the environment which are typically those of a public authority and which are not of an economic nature justifying the application of the Treaty rules on competition. The fact that SEPG charged fees for its services did not affect the legal status of the activity.

The question of **State aid** was considered by the Court in *Case C-24/95 Land Rheinland-Pfalz v. Alcan Deutschland GmbH*, 20 March 1997. This concerned the extent to which the application of national rules may be relied upon to prevent the recovery of unlawful state aid. The first question dealt with by the Court concerned whether national authorities are required to revoke a decision granting unlawful aid even if the authority has allowed national time limits to elapse. In response to this question, the Court pointed out that the recipient of aid is not in a position of uncertainty after the Commission has taken a decision to the effect that the aid is illegal. As the national authorities have no discretion concerning this matter, the principle of legal certainty cannot be relied upon to preclude repayment of the aid on the grounds that the national authorities allowed national time-limits to elapse.

The second question concerned whether the national authority is obliged to demand recovery of aid even if it is responsible for the illegality of the aid decision to the extent that revocation appears to constitute a breach of good faith towards the applicant. The Court considered that the national authority was obliged to demand recovery on the grounds that the recipient could not have a legitimate expectation that the aid was lawful because the procedure laid down in Article 93 of the Treaty had not been followed.

Case C-355/95 Textilwerke Deggendorf GmbH (TWD) v. Commission, 15 May, 1997 concerned aid granted to TWD by the Federal German Government and by the *Land* of Bavaria. The Commission held that the original aid granted was unlawful as it had not been notified and did not satisfy the conditions set out in Article 92(2) and (3) of the EEC Treaty. However it exempted a subsequent aid plan but instructed the German government to suspend payment until the original illegal aid had been reimbursed. A case was brought against the Commission on the basis that it lacked competence to set out such a condition and that it had breached the division of powers between the Community and the Member States. The judgement of the Court of First Instance subsequently went to the Court of Justice on appeal. The Court upheld the judgement of the CFI and agreed that the new aid could not be compatible with the common market as long as the old unlawful aid had not been repaid, since the combined effects of all the aid was to significantly distort competition in the common market. The Court concluded that in such circumstances, the suspension of payment of the new aid could not be treated in the same way as a simple demand for payment and that the Commission had not acted outside its powers in imposing such a condition.

A number of decisions were handed down in the field of **social law**. The distinction between statutory and occupational pension schemes was considered in *Case C-147/95 Dimosia Epicheirisi (DEI) v. Evithimos Evrenopoulos* of the 17 April, 1997 which concerned the application of Article 119 EC and Directive 79/7, to the Greek State Electricity Company (DEI). Under Greek law, the DEI is a State *body sui generis*, it enjoys legal personality and for most purposes, it is governed by private law. The DEI insurance scheme was directly created and exclusively regulated by law. DEI and the Greek Government argued that the scheme was a statutory scheme and that Article 119 could therefore not apply to it. In support of this argument, they pointed out that the scheme was directly created and exclusively regulated by statute; that in operating such a scheme the DEI acts as a body governed by public law; the scheme was not created by a unilateral decision on the part of the employer or after negotiation or agreement between management and staff; that the detailed rules for its operation are linked to social policy and not to an employment relationship; that its role is not to supplement another general insurance scheme. However, the ECJ did not accept these arguments and considered that the scheme did fall within Article 119 as the right to a survivors pension under the scheme depended on the beneficiary's spouse being employed by the Company and was therefore linked to the latter's pay.

In this case, the ECJ also dealt with the question of the temporal limitations set out in *Case C-262/88 Barber* 1990 ECR I-1889. In relation to this matter, the Court pointed out in order for the temporal limitations not to apply, the action must have been initiated in accordance with the procedural rules applicable in the Member State concerned.

Case C-66/95 The Queen v. The Secretary of State for Social Security, ex parte Eunice Sutton 22 April 1997, concerned the right to obtain interest on arrears of social security benefit falling within the scope of Council

Directive 79/7. Mrs. Sutton had been discriminated against under the British Social Security regime and had received arrears of payment backdated to 1986. However she was not paid any interest in respect of this sum. The national court asked the Court of Justice whether this was compatible with Article 6 of the Directive. In its response, the ECJ drew a distinction between the current case and Marshall II. In this respect, the Court pointed out that Marshall II concerned the award of interest on amounts payable by way of reparation for loss and damage sustained. The award of interest in such an instance is necessary in order to ensure full compensation of the loss and damage. These considerations do not come into play in cases concerning the right to receive interest on amounts payable by way of social security benefits, as these amounts do not constitute reparation for loss or damage. However the Court did point out that the Member State may remain liable under the Francovich doctrine for any loss suffered as a result of the belated payments.

Case C-180/95 Draehmpael v. Urania Immobilienservice ohG, 22 April 1997, concerned the right to reparation in the event of discrimination as regards access to employment. Mr. Draehmpael was discriminated against in the decision on an appointment to the post of assistant. However his right to compensation depended partially on Community law. The first question referred by the national judge asked whether Directive 76/207 precludes provisions of domestic law which make reparation of damage suffered as a result of sexual discrimination subject to the requirement of fault. The ECJ held that the directive precludes making reparation subject to such a requirement. The national court also raised the issue of whether the Directive precludes provisions of domestic law which place a limit of three months salary on the amount of compensation which may be awarded in sexual discrimination cases. In responding to this question, the Court referred to its judgement in the *Von Colson* case 1984 ECR 1891, where it ruled that if a Member State chooses to penalise the breach of the prohibition of discrimination by the award of compensation, that compensation must not be purely nominal and must in any event be adequate in relation to the damage sustained. While the German government sought to argue that three months salary was not purely nominal, the Court refused to accept this argument. The Court pointed out that the three month ceiling was not imposed for other provisions of domestic civil and labour law and that it consequently breached the requirement that infringements of Community law be punished under conditions analogous to those applicable to infringements of domestic law.

In so far as applicants who were discriminated against in the recruitment procedure but who would not have obtained the position even if the selection process had been free of discrimination are concerned, the Court ruled that reparation may take account of the fact that they would not have been selected anyway and that such applicants cannot claim that the extent of the damage they have sustained is the same as that sustained by applicants who would have obtained the position in the absence of discrimination. In such a situation, the Court did not think that it would be unreasonable for a Member State to lay down a statutory presumption that the damage suffered

may not exceed a ceiling of three months salary. However it is the employer who must adduce proof that the applicant would not have obtained the vacant position even if there had been no discrimination.

Finally the Court held that provisions of national law which placed a limit on the aggregate amount of compensation payable to several applicants discriminated against on grounds of sex, were also in conflict with Community law as similar conditions were not applied to other provisions of domestic civil and labour

Case C-400/95, Elisabeth Larsson, 29 May, 1997 concerned the treatment of illness resulting from pregnancy. Ms. Larsson became ill following her pregnancy, as a result of her pregnancy. Her employer terminated her employment contract on the basis that she would not be able to carry out her work in a satisfactory manner in the foreseeable future. Mrs. Larsson claimed that her dismissal was contrary to Council Directive 76/207 on the implementation of the equal treatment principle as regards access to employment, vocational training and promotion, and working conditions. In its judgement, the Court confirmed its decision in the *Hertz* case 1990 ECR 3979 and held that there is no reason to distinguish between illness attributable to pregnancy or confinement from any other illness and that illness resulting from pregnancy should be treated according to the general rules applicable in the event of illness. Consequently, the Directive does not prevent dismissal based on periods of absence due to illness attributable to pregnancy or confinement.

Case 13/95 Suzen of the 11 March, 1997 concerned the definition of the term 'transfer of undertaking' in Directive 77/187/EEC. The Court was asked whether a situation where a school terminated a cleaning contract with one undertaking and subsequently awarded the contract to another undertaking could constitute a transfer within the meaning of the Directive. The Court considered that the Directive did not apply to such a situation as there had been no transfer of an economic entity. In this respect, the Court pointed out that the mere loss of a service contract to a competitor does not mean that the service undertaking previously holding the contract ceases fully to exist and that there were no grounds for concluding that a business or part of a business belonging to it had been transferred to the new awardee of the contract.

The relationship between Community law and the **European Convention on Human Rights** was considered in *Case C-299/95 Kremzow v. Republic of Austria* 29 May, 1997. In this case, a number of questions referred by the Austrian court concerned the competence of the Court to give a preliminary ruling with respect to the interpretation of all or some of the substantive provisions of the European Convention for the Protection of Human Rights and Fundamental Rights. The Court held that it is not competent to give a preliminary ruling on the interpretation of the Convention when the case at issue before the national court does not fall within the field of application of Community law. □

Newsletter of the Regions in the European Union
Bulletin des Régions de l'Union européenne
Bulletin der Regionen der Europäischen Union

Åland (Ahvenanmaa – FIN)

Roger Jansson

Lantråd för Åland

The Åland Islands (FIN)

Roger Jansson

President of the Åland Islands

Les îles Åland (FIN)

Roger Jansson

Président des îles Åland

Die Ålandinseln (FIN)

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Präsident der Region Åland

Åland (Ahvenanmaa – FIN)

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Lantråd för Åland

Mellan Finland och Sverige ligger Åland, det enda officiellt enspråkiga området i Finland. Åland är ett autonomt, demilitariserat och neutraliserat område vars status vilar på internationell grund. Självstyrelselagen för Åland är en del av den finländska konstitutionen. Lagen reglerar maktfördelningen mellan staten och självstyrelsemyndigheterna och enligt lagen är Åland enspråkigt svenskt.

Åland består av 6.500 öar och skär. Mer än 90 procent av de 25.000 invånarna bor på huvudön där landskapets enda stad, Mariehamn, ligger. Invånarna får till stor del sin utkomst av sjöfart, turism, handel, jordbruk och fiske och ekonomin kan betecknas som god. Befolkningen är mycket homogen, ca 94 procent har svenska som modersmål.

Ett svenskspråkigt samhälle

Åland är inte bara i teorin utan även i praktiken, ett svenskspråkigt samhälle.

Undervisningsspråket i samtliga skolor på Åland är svenska. Finska studeras således som ett främmande språk. I övriga landet är undervisning i det andra inhemska språket obligatorisk men på Åland är finska ett frivilligt ämne. På Åland finns inget egentligt universitet utan den som önskar fortsätta studera efter gymnasiet måste söka sig till universitet och högskolor utanför Åland. Man kan konstatera att ca hälften av de åländska ungdomarna valt att studera i Sverige medan den andra hälften valt att läsa i Finland, framförallt i det svenskspråkiga universitetet i Åbo, Åbo Akademi.

Självstyrelsens historia

Åland tillhörde, liksom övriga Finland, Sveriges rike ända till kriget 1808-1809 då Sverige tvingades avstå Finland och Åland till Ryssland. Åland blev därigenom en del av storfurstendömet Finland. Åland har sedan urminnestider varit svenskspråkigt och liksom i övriga Finland behöll det svenska språket sin starka ställning även under rysk överhöghet.

När det ryska tsardömet började falla i spillror i samband med första världskriget väcktes ett hopp på Åland om återförening med Sverige. De officiella skälen för ålänningarnas strävan till återförening var de språkliga och kulturella banden men givetvis hade även det faktum att det gamla kungadömet tedde sig som mycket stabilt i förhållande till det politiskt mer oroliga blivande Finland, också stor betydelse.

Startskottet för återföreningen gick vid ett möte mellan representanter för de åländska kommunerna i augusti 1917. Vid mötet beslöts att ålänningarna skulle

söka stöd för sina strävanden hos bl.a. den svenska regeringen. Sveriges kung och regering uppvaktades i början av följande år av en åländsk delegation som stöddes av en massadress undertecknad av en överväldigande majoritet av befolkningen.

1 december 1917 utropade Finland sig till självständig republik med hänvisning till rincipen om folkens självbestämmanderätt, samma princip som ålänningarna åberopade till stöd för återföreningen med Sverige. Från finländsk sida var man dock inte beredd att tillmötesgå ålänningarnas önskan om återförening. I stället antog Finlands riksdag år 1920 en självstyrelselag som ålänningarna inte ville acceptera. Lagen presenterades av Finlands dåvarande statsministern Erich vid ett känsloladdat möte från vilket de åländska representanterna avtågade i protest.

På grund av de ansträngda relationerna mellan Sverige och den unga republiken Finland hänsköts Ålandsfrågan på brittiskt initiativ till det nybildade Nationernas Förbund. 1 juni 1921 beslöt NF:s råd att Finland skulle erhålla suveräniteten över Ålandsöarna men befolkningen fick internationella garantier för bevarandet av det svenska språket, kulturen och de lokala sedvänjorna. Samtidigt beslöt Nationernas Förbund att ett avtal om Ålands demilitarisering och neutralisering skulle upprättas för att Åland aldrig på nytt skulle bli ett militärt hot mot framför allt Sverige.

Beslutet i Nationernas Förbunds råd var en kompromiss. Genom beslutet hade ingen av de tre parterna i konflikten blivit helt lottlös. Finland fick suveräniteten över Ålandsöarna, Sverige fick internationella garantier för att Åland inte skulle utgöra ett militärt hot mot Sverige och Åland fick självstyrelsen kombinerad med garantier för språket samt kulturen.

Ingen av de inblandade parterna var vid tiden för Nationernas Förbunds avgörande nöjda med rådets beslut men historien har utvisat att beslutet skulle utgöra en bra grund för framtida goda relationer. I dag är de båda staterna Finland och Sverige tillfreds med lösningen men den kanske mest nöjda parten är ålänningarna själva.

Efter det att självstyrelselagen hade kompletterats med bestämmelser om restriktioner för icke-ofasta vad gäller jordförvärv och rösträtt, förrättades 1922 det första landstingsvalet. Landstinget (som numera benämns lagtinget) sammanträdde till sitt första plenum den 9 juni. Som ett tecken på den förändrade inställningen till självstyrelsen kan nämnas att dagen numera under högtidliga former firas som Ålands självstyrelsedag.

Självstyrelsen

Grunderna för den åländska självstyrelsen regleras i självstyrelselagen. Lagen kan bara ändras genom beslut som fattas av Finlands riksdag i grundlagsenlig ordning med det åländska parlamentets samtycke. Den konstitutionella grunden för självstyrelsen är alltså mycket stark. Nu gällande självstyrelselag är den tredje i ordningen. Den trädde i kraft den 1 januari 1993 och innebar utökad självstyrelse i flera avseenden.

Enligt självstyrelselagen företräds Ålands befolkning av *lagtinget*, det åländska parlamentet, som i sin tur tillsätter *landskapsstyrelsen*, Ålands regering.

Lagtinget, som väljs vart fjärde år, består av trettio medlemmar som representerar olika politiska grupperingar. De politiska grupperna i lagtinget är Åländsk center, Liberalerna på Åland, Frisinnad samverkan, Ålands socialdemokrater och Obunden samling. De politiska grupperna är fristående från utomåländska partier men har naturligtvis ideologiska drag som är gemensamma med motsvarande partier i framförallt Finland och Sverige.

Landskapsstyrelsen, den åländska "regeringen", företräder idag de borgerliga partierna Centern, Frisinnad samverkan och Obunden samling. Landskapsstyrelsen kan ha fem till sju medlemmar och dess ordförande kallas lantråd. Lagtinget tillsätter landskapsstyrelsen enligt parlamentariska principer men parlamentarismen är inte fullständig eftersom någon minoritetsregering inte kan bildas. Landskapsstyrelsen utövar förvaltning på alla de områden där lagtinget har lagstiftningsbehörighet. Landskapsstyrelsens ämbetsverk kommer därigenom att på Åland motsvara ett stort antal statliga myndigheter från statsrådet till olika centrala myndigheter.

Avsikten med självstyrelsen är att ålänningarna själva skall få bestämma om sina inre angelägenheter medan t.ex. utrikespolitiken skall vara densamma för hela landet liksom ett antal andra områden där gemensamma regler anses befogade.

De politiska instrument lagtinget har till förfogande är lagstiftningsrätt och budgetmakt.

I självstyrelselagen finns en uppräkningslista av de områden där lagtinget har lagstiftningsbehörighet. De viktigaste områdena är;

- undervisning och kultur,
- hälso- och sjukvård,
- näringslivets främjande,
- trafiken,
- kommunalförvaltning och
- post- och polisväsende.

På de här områdena kan man säga att Åland närmast fungerar som en självständig stat med egen lagstiftning och förvaltningsapparat.

På områden där lagtinget inte har behörighet gäller rikslagarna på Åland liksom i övriga landet. Exempel på sådana områden är:

- tull- och myntväsendet,

- domstolsväsendet och straffrätten,
- större delen av civilrätten samt
- utrikesförvaltningen.

För att även ålänningarna skall få sitt demokratiska inflytande tillgodosett också på de här områdena har Åland *representation i Finlands riksdag*. Åland utgör i riksdagsval en egen valkrets från vilken en riksdagsledamot utses. För rösträtt och valbaret i riksdagsval, liksom i presidentval, gäller på Åland samma regler som i övriga landet.

Eftersom lagstiftningsrätten är fördelad mellan lagtinget och riksdagen finns det i självstyrelselagen särskilda bestämmelser om *lagstiftningskontroll*. Lagen ger republikens president en vetorätt gentemot åländska lagar men vetot kan inläggas enbart på formella grunder d.v.s. om lagtinget har överskridit sin lagstiftningsbehörighet eller om landskapslagen utgör ett hot mot rikets yttre eller inre säkerhet. Presidenten måste inhämta utlåtande från högsta domstolen innan en lag kan förordnas förfalla.

Eftersom självstyrelselagens regler om fördelning av lagstiftningsrätten lämnar visst tolkningsutrymme förekommer det årligen upp till 10 landskapslagar mot vilka presidenten helt eller delvis inlägger sitt veto. Ett sådant veto väcker inte någon större uppmärksamhet utom i ett fåtal fall som t.ex. då lagtinget medvetet prövat behörighetens gränser.

Eftersom självstyrelsen utgör ett instrument för att bevara det svenska språket och kulturen är lagens *språkbestämmelser* centrala. Enligt självstyrelselagen skall ämbetsspråket vid landskapsmyndigheterna och kommunala myndigheter vara svenska. Även vid statens myndigheter på Åland skall ämbetsspråket vara svenska liksom vid statskyrkan om inte annat stadgas i kyrkolagen som antas av Finlands riksdag i särskild ordning. Finländska medborgare har dock rätt att i egen sak inför domstol och andra statsmyndigheter i landskapet använda finska. Någon motsvarande rätt att använda finska inför myndigheter inom landskapet eller kommunerna finns inte.

Självstyrelselagen stadgar vidare att undervisningsspråket i skolor som bekostas med allmänna medel skall vara svenska om inte annat stadgas i lag som antas av det åländska parlamentet. Eftersom det i den åländska skollagstiftningen sägs att undervisningsspråket skall vara svenska finns det på Åland inte några skolor där undervisningen bedrivs på finska.

Det ekonomiska systemet

Finska staten uppbär allmänna statliga skatter och avgifter på Åland enligt samma regler som i riket. Åland kompenseras genom en s.k. klumpsumma för de uppgifter som landskapet handhar och som annars skulle ha åvilat staten. Klumpsumman överförs till landskapet i efterskott och lagtinget kan fritt förfoga över den i sin budget. Summan utgör 0.45 procent av inkomsterna i statens bokslut med undantag för statens

lån. Överföringen är således en återbetalning till landskapet av delar av de uppburna skatterna och utgör med andra ord inte ett bidrag från staten.

Om den inkomst- och förmögenhetsskatt som betalas på Åland överstiger 0,45 procent av den skatt som betalas i hela riket tillkommer det överstigande beloppet landskapet som skattegottgörelse. Eftersom den åländska ekonomin varit god har landskapet under flera år kommit i åtnjutande av en inte helt betydelslös skattegottgörelse.

De åländska kommunerna har, liksom kommunerna i övriga Finland, egen beskattningsrätt. Grunderna för den kommunala beskattningsrätten finns fastställda i landskapslagstiftning antagen av lagtinget men kommunerna avgör själva med vilken procentsats kommunalskatten skall utgå.

Hembygdsrätten och symbolerna

Det som i självstyrelselagen benämns åländsk hembygd rätt erhålls vid födseln om någondera föräldern har hembygd rätt. Den som flyttar till Åland får hembygd rätt först efter fem års oavbruten bosättning på Åland efter att ha uppvisat tillfredsställande kunskaper i svenska. Endast finska medborgare kan än så länge förvärva hembygd rätt.

Hembygdsrätten är en förutsättning för rösträtt och vallbarhet i lagtingsval. För rösträtt i kommunalval krävs för medborgare i länderna inom Europeiska unionen endast tre års bosättning medan det i övrigt krävs hembygd rätt också för deltagande i kommunalval.

Den befrielse från värnplikt som sammanhänger med Ålands demilitarisering är kopplad till hembygdsrätten. Vidare är hembygdsrätten ett villkor för rätten att bedriva näring på Åland. I syfte att bevara den åländska jorden i den bofasta befolkningens händer är hembygdsrätten också en förutsättning för rätten att förvärva och besitta mark i landskapet. Bröstarvingar i rätt nedstigande led har dock alltid rätt att ärva mark.

Landskapsstyrelsen kan bevilja dispens från kraven på hembygd rätt för näringsrätt och jordförvärv. Åland har sedan 1954 en egen flagga i färgerna blått, rött och gult. I och med den tredje och nu gällande självstyrelselagen blev postväsendet en åländsk angelägenhet. Det statliga postverket hade sedan 1984 gett ut särskilda åländska frimärken men i och med att beslutanderätten i fråga om posten överfördes till landskapet övertog det åländska postverket frimärksutgivningen samtidigt som de finländska frimärkena inte längre blev giltiga på Åland.

Demilitariseringen och neutraliseringen

Åland är demilitariserat, vilket i princip innebär att ingen militär anläggning, verksamhet utrustning eller personal får förekomma på Åland.

När Finland och Åland år 1809 införlivades med det ryska kejsardömet accentuerades Ålands strategiska betydelse. Ögruppen blev det ryska rikets yttersta utpost i väster och låg därtill nära den gamla arvfienden

Sveriges huvudstad Stockholm. Redan på 1820-talet påbörjades därför anläggandet av en stor fästning i Bomarsund på fasta Ålands östra sida. Under Krimkriget angreps och intogs fästningen av trupper från Frankrike och England och vid fredsförhandlingarna i Paris 1856 blev Ålandsöarna för första gången föremål för folkrättslig reglering. Redan i ett tidigt skede erbjöd fransmännen och engelsmännen Åland till Sverige som tackade nej. Eftersom det ryska hotet inte kunde oskadliggöras genom Ålands återförening med Sverige tvingade segermakterna Ryssland att ensidigt förbinda sig att demilitarisera Åland för framtiden. Demilitariseringsförpliktelsen innebar i princip ett befästningsförbud.

När Nationernas Förbund år 1921 fattade beslut om Ålands statstillhörighet bestämdes också att en internationell demilitariserings- och neutraliseringskonvention skulle upprättas. Konventionen var en eftergift gentemot framför allt Sverige och utgjorde en del av den helhetslösning där Nationernas förbund tog hänsyn till alla inblandade, Finland, Sverige och Åland. Genom konventionen, som undertecknades av tio stater, bekräftades demilitariseringen från år 1856, samtidigt som Åland neutraliserades. Genom neutraliseringen skulle Åland inte komma att bli en krigsskådeplats.

Sovjetunionen är inte part i 1921 års konvention. I det s.k. Moskvafördraget om Åland år 1940 och i fredsfördraget i Paris 1947, vilka numera övertagits av Ryssland, finns dock motsvarande bestämmelser om Ålands demilitarisering.

Åland i Norden och Europa

Åland är sedan 1970 medlem i Nordiska rådet. Ålands lagting utser två av rådets sammanlagt 87 medlemmar och de åländska medlemmarna bildar tillsammans med landskapsstyrelsens representanter i rådet en åländsk lagstadgad delegation. Landskapsstyrelsens representanter deltar även i Nordiska ministerrådets arbete. 1997 innehade en åländsk representant för första gången i historien presidentposten i Nordiska rådet. Samarbetet inom Nordiska rådet och Nordiska ministerrådet är för Ålands del mycket betydelsefullt.

Trots att utrikespolitiken hör till rikets behörighetsområde har Åland ändå inflytande i vissa utrikespolitiska ärenden. Enligt självstyrelselagen skall nämligen sådana internationella fördrag som rör frågor som faller inom landskapets lagstiftningsrätt godkännas av lagtinget för att bli gällande även i landskapet. Bestämmelsen har tillkommit i syfte att Ålands självstyrelse inte skall kunna undergrävas genom internationella överenskommelser som Finland ingår.

Ålands möjlighet att ställa sig utanför ett internationellt avtal aktualiserades när Finland skulle ansluta sig till den Europeiska unionen. Från åländsk sida framställdes önskemål i syfte att säkra både den framtida utvecklingen av självstyrelsen och den lokala ekonomins utvecklingsförutsättningar. Åland fick i förhandlingarna gehör för sina önskemål och lagtinget

godkände medlemskapet även för Ålands del.

Ålands förhållande till EU regleras i ett särskilt protokoll som är en del av Finlands anslutningsfördrag och därmed en del av EU:s primärrätt.

Enligt protokollet hindrar medlemskapet inte de åländska reglerna om krav på hembygdsrätt för jordförvärv och etablering. Vidare skall Åland betraktas som ett s.k. tredje territorium som står utanför EG:s regler om harmonisering av indirekta skatter. Åland är således med i tullunionen men står utanför skatteunionen. Det innebär bl.a. att den tax free försäljning som är betydelsefull för trafiken till och från Åland kan fortsätta även efter 1999 när tax free i övrigt försvinner inom EU.

Slutligen innehåller protokollet en bekräftelse av Ålands folkrättsliga status som autonomt, demilitariserat och neutraliserat område.

Genom medlemskapet i EU avstod Ålands lagting, såväl som Finlands riksdag, från en del av sin lagstiftningsmakt. Enligt åländsk mening borde Åland på samma grunder som Finland ha kompensarats för sitt förlorade inflytande genom representation i Europaparlamentet. Finlands riksdags beslut att inte reservera en av Finlands sexton platser i parlamentet för Åland har således från åländsk sida kraftfullt kritiserats.

Ålands deltagande i det nationella beslutsfattandet i EU-ärenden är däremot väl tillgodosett. Nya regler har införts i självstyrelselagen som i frågor som rör Åland ger landskapsstyrelsen rätt till information och visst inflytande i såväl den nationella förberedelseprocessen som i fråga om tillämpning av EG:s gemensamma politik.

Exemplet Åland

Idag är det flesta konflikterna i världen, och särskilt i Europa, interna konflikter baserade på historiska, religiösa och språkliga motsättningar i stället för konflikter stater emellan.

På Åland har vi erfarenhet av att kinna fungera som inspiration och kanske t.o.m. som modell för nationell och internationell konfliktlösning. Under de senaste åren, speciellt efter det kalla krigets slut och Sovjetunions kollaps, har vi blivit föremål för ett växande intresse från politiker, journalister, tjänstemän och forskare som har studerat vår automa, demilitariserade och neutraliserade status. Bland de områden som har visat intresse vill jag nämna Nagorno-Karabach, Moldavien, Georgien, forna Jugoslavien, Falklandsöarna. Även internationella organisationer såsom FN och OSCE har visat intresse.

Den åländska lösningen kan aldrig som sådan appliceras på ett annat problem. Av Ålandsexemplet kan man dock lära att en minoritet från början inte behöver få allt den önskar om det finns möjligheter för en framtida positiv utveckling av förhållandet mellan stat och minoritet. Den internationella bakgrunden och Sveriges fortsatta intresse av självstyrelsens utveckling samt Rysslands intresse av

demilitariseringen har också relevans.

Av intresse är också självstyrelselagens straka ställning i den finländska konstitutionen liksom de fruktbara relationer mellan finländska och åländska myndigheter som utvecklats genom åren. Finland har dessutom förunnat ålänningarna viktiga symboler som lett till att autonomin och känslan för densamma förstärkts bland ålänningarna. Flaggan, självstyrelsegården, frimärkena, ordet "Åland" på pärmen av ålänningarnas pass och övertagandet av den statliga radio- och tv-verksamheten på Åland är exempel på sådana symboler.

Åland har, delvis på grund av självstyrelsen, en god ekonomi och har den största produktiviteten per person in hela landet. Ålänningarna är, och har under de senaste årtiondena varit, nettobetalarare i förhållande till staten.

Ålänningarna har även uppnått visst inflytande på det internationella planet. Medlemskapet i Nordiska rådet och Nordiska ministerrådet, den speciella statusen inom EU och självstyrelselagens bestämmelser med krav på lagtingets samtycke för ikraftträdandet av vissa internationella bestämmelser kan nämnas som exempel.

Ålänningarna har erfarenhet av 75 år av självstyre och 141 år av demilitarisering – en erfarenhet som vi mer än gärna delar med oss av.

oooOOOooo

Roger Jansson

- Född: den 9 augusti 1943
- Hemort: Mariehamn
- Utbildning: Diplomekonom
- Medlem av Ålands lagting, 1.11.1979-23.11.1995
 - Ordförande för finansutskottet: 1.11.1983-31.10.1987
 - Andre vicetalman: 1.11.1982-31.10.1983; 1.11.1991-23.3.1994
 - Talman 23.3.1994-22.11.1995
- Medlem av Ålands landskapsstyrelse: 23.11.1995-
- Utsedd av lagtinget till lantråd (landskapsstyrelsens ordförande) f.o.m. 23.11.1995.
- Förtroendeuppdrag: Olika uppdrag i kommunalpolitiken i Mariehamns stad. Medlem av stadsfullmäktige 1972-1975; 1980-1987; 1994-
- Stadsstyrelsens ordförande: 1.1.1988-31.12.1993.
- Politisk tillhörighet: Frisinnad samverkan ☐

The Åland Islands (FIN)

Roger Jansson

President of the Åland Islands

Brief description

Between Finland and Sweden lies Åland, the only officially monolingual region in Finland. Åland is an autonomous, demilitarised and neutral region guaranteed under international law. The Autonomy Act for Åland is part of the Finnish Constitution. The Act governs the distribution of competences between the State and the self-governing bodies, and according to this Act Swedish is Åland's official language.

Åland consists of 6,500 islands and skerries. More than 90% of the 25,000 inhabitants live on the main island on which Mariehamn, the only town in the area, lies. The inhabitants' main sources of livelihood are seafaring, tourism, trade, agriculture and fishing. The economic situation can be considered as good. The composition of the population is very homogeneous and the mother tongue of about 94% of the inhabitants is Swedish. The Åland Islands lie halfway between the metropolitan regions of Sweden and Finland, and in view of the interest in weekend and holiday cottages there is a strong pressure on Åland land.

On December 6, 1917, Finland had proclaimed itself an independent republic, by virtue of the same principle of national self-determination which was being invoked by the Ålanders. However, the Finns were not prepared to comply with the Ålanders' demand for reunion with Sweden. Instead they could envisage giving the Ålanders a certain form of internal self-government, entailing the right of having their own legislation. An Autonomy Act for Åland was prepared in all haste and was adopted by the Finnish Parliament on May 6, 1920.

Decision by the League of Nations

The Åland question placed a great strain at times upon relations between Sweden and the young Republic of Finland. With a view to disposing of the matter by peaceful means, Great Britain took the initiative of referring the Åland Islands question to be decided by the newly-formed world organisation, the League of Nations, with headquarters in Geneva. Having established that it was competent to deal with the matter, the League of Nations dispatched a Commission of Inquiry to Sweden and Finland.

The League Council delivered its resolution on June 24, 1921. Sovereignty over the Åland Islands was awarded to Finland. At the same time the Council decided that fresh guarantees should be granted to the Ålanders and be inserted in the 1920 Autonomy Act. The Council also decided to commence negotiations as soon as possible for contracting an international treaty on the demilitarization and neutralization of Åland. In addition, the Council gave Finland and Sweden directives to negotiate how the guarantees envisaged by the Council of the League of

Nations should be achieved. This was done, and three days later, on June 27, 1922, the Council inserted the Åland Agreement in its minutes. This document, together with the decision of the League Council, forms the foundation of Åland Autonomy under international law. The most important guarantees in the Åland Agreement, the principles of which still apply today, were these:

1. The teaching language in Åland schools is to be Swedish. In the new Autonomy Act of 1991 this provision is made more concrete by means of a rule that the language of education shall be Swedish in schools maintained by public funds or subsidised from such funds.
2. Right of owning land in Åland shall be reserved to the Ålanders themselves. This principle was carried into effect in 1975 in new legislation replacing an out-of-date law. Under this new law any person not possessing Åland right of domicile, and any company or organisation, including those domiciled in Åland, must apply to the Åland Government for a permit in order to acquire land in Åland.
3. The right of voting in local elections and elections to the Åland Parliament shall be reserved to the resident population. This is effected by allowing only persons with the above-mentioned right of domicile to vote in such elections. Right of domicile is possessed by all children whose father or mother possesses such right. Finnish citizens moving to Åland are granted right of domicile upon application, provided they have lived in Åland for five years and have adequate knowledge of Swedish.
4. Only a person who is accepted by the Ålanders themselves may be appointed County Governor, that is, the highest representative of the Republic of Finland in Åland. Before appointing a County Governor, the President of Finland consults the Speaker of the Åland Parliament, who submits proposals for suitable candidates after discussions with members of the Åland Parliament.

After the settlement of the Åland question through the decision of the League of Nations, the guarantees negotiated by Finland and Sweden and sanctioned by the League of Nations were inserted into the special so-called Guarantee Act which was passed by the Parliament of Finland.

The development of society, especially during the 1960s and 1970s, made it soon necessary to revise the 1951 Autonomy Act. The current Autonomy Act, dated 16 August 1991, came into force on 1 January 1993. The Autonomy Act is adopted by the Parliament of Finland with the Approval of the Åland Parliament.

Spheres of competence Åland – Finland

The Autonomy Act provides the framework of Åland's self-government. Its fundamental principle is to give the Ålanders as great a freedom to manage their internal affairs as is possible with regard to 'the internal and external security of the country' to borrow the wording of the Autonomy Act. The autonomy Act specifies the spheres in which the Åland Legislative Assembly, '*Lagting*', has the right to pass laws. Some of the most important spheres are:

- education and culture;
- the police service
- local district administration
- health and medical services
- social legislation
- the postal service
- promotion of industry
- internal communications
- tenancy
- the right of broadcasting radio and television programmes

We may say that in these spheres Åland functions in just about the same way as a miniature independent state with its own legislation and administrative machinery.

In the spheres where the '*Lagting*' has legislative competence, the laws adopted by the '*Lagting*' apply in Åland, not any corresponding laws adopted by the Parliament of Finland. In sector where the '*Lagting*' does not possess legislative competence, the laws of Finland apply in Åland just like in the rest of the country. Examples of such sectors are:

- constitutional laws and deviations from them
- customs and monetary services
- courts of justice and the penal code
- most aspects of civil law, like family, inheritance and commercial law
- land law
- labour legislation with the exception of collective pay agreements
- the foreign service and frontier guard service

To enable it to take part in national-wide issues, Åland has a representative in the parliament of Finland, who is elected in the same way as other members of parliaments. In such elections Åland forms a separate constituency.

Composition of the Åland Parliament and how it functions

Legislative competence in Åland within the spheres of competence of the Autonomy is exercised by the Autonomy Parliament, the '*Lagting*'.

The Åland Parliament, the Legislative Assembly, consists of 30 members, elected for a period of four years by means of secret, proportional ballot. Persons of 18 years of age and over, who possess Åland right of domicile are entitled to vote and to stand for election. The political groups in Åland are independent from the parties in Finland but have ideological principles in common with equivalent groups in neighbouring countries. The last election was held in October 1991. The Åland Centre obtained 10 seats, the Liberals of Åland seven, the Moderates or Conservatives ('*Frisinnad samverkan*') six

seats, the Åland Social Democrats four, and the Independent Group three seats. At present four of the 30 members are women.

Financial principles of self-government

The other main duty of the Åland Parliament, besides legislation, is to exercise economic authority. In the revision of the Autonomy Act in 1993 the greatest changes took place just in economic relations between Åland and Finland.

Under the rules applying during the first seventy years of the Autonomy, the Åland Delegation exercised strict subsequent checks on the use of allocations in the Åland budget. The result was that in practice Åland was much tied to the structure of outlays in Finland, thereby having limited budgetary power.

Under the new Autonomy Act too, State taxation is a matter for the Finnish authorities. Taxes to the State, customs and excise duty and other charges are collected from Ålanders under the same rules applying to other citizens and associations in Finland. These funds go to the Finnish State Exchequer.

Affairs managed by the Autonomy authorities are such as would have devolved upon the Finnish State authorities if the Åland autonomy did not exist. To finance these affairs Åland receives a form of tax refund from the State (0.45% of the State budget). The money annually allocated in its budget by the Parliament of Finland for transfer to Åland is sometimes misconstrued as a State subvention of Åland. That is not the case.

Symbols of Autonomy

Since 1954 Åland has a flag of its own, a blue-yellow-red Nordic cross flag. Åland postal administration has been issuing its own stamps. Finnish postage stamps cannot be used any longer in Åland.

Language provisions

The Åland Agreement of June 27, 1922 committed Finland to guaranteeing the Ålanders the preservation of their Swedish language. So it is natural for language provisions to hold a central place in the autonomy system.

Åland is a unilingually Swedish region in all respects. The official language in the Executive Council and in local district and State administration is Swedish. When authorities in Finland correspond with those in Åland, they are obliged to use Swedish. However, in law courts and other State instances Finnish speakers are entitled to use their own language.

The State is obliged to see that its officials in Åland master Swedish, and that necessary information not only from authorities but also as far as possible concerning goods and services is available in Swedish.

The language of instruction in schools is Swedish. This naturally does not prevent Finnish being taught as a subject like other languages in the Åland schools. A knowledge of Swedish is a requirement for a person being granted Åland right of domicile.

International relations of Åland

In 1970 Åland obtained its own representation in the Nordic Council. Since 1980, the Åland Parliament has had the right to elect two full members of Finland's

delegation to the Nordic Council.

Many Nordic meetings, including several sessions of the Nordic Council in its entirety, have been held in Åland during the course of the years, with the government of Åland taking part in meetings of the Nordic Council of Ministers.

As far as Finland and also Åland are concerned, the present decade has brought about an even greater focus upon European matters. The EEA Treaty with its principles of the four freedoms was contracted in 1992, and shortly afterwards preparations began for Finland's entry into the EU.

If Finland commences negotiations with a foreign state in matters belonging to the competence of Åland, the Government is obliged to inform the Executive Council. In that way the Åland authorities may have opportunities to influence the contents of the agreements while they are being prepared.

Åland and International Agreements

According to the Autonomy Act, foreign policy falls within the authority of the Republic of Finland. Åland has therefore no authority to enter into international agreements on its own.

But Åland is not totally without influence in international affairs. If an international treaty entered into by Finland contains a provision which is in conflict with the Autonomy Act or if the treaty contains a provision which falls within the authority of Åland, the Legislative Assembly must approve such a provision for it to be valid in Åland.

The President has to seek the consent of the Legislative Assembly to international agreements. There are about ten such cases every year. So far agreements have contained regulations for the avoidance of double taxation or regulations relating to social security. The Assembly has given its consent more or less as a matter of routine.

The Autonomy Act also contains provisions which enable the Government of Åland to approach authorities of the Republic of Finland and propose negotiations about new treaties.

The Åland model

For many observers Åland has been viewed as an exemplary model of the relationship between a sovereign State and a minority.

Our experience in Åland is that we can function as an inspiration and even a model for national and international conflict-solving and minority and regional autonomy solutions. During the last few years, and especially following the end of the Cold War and the collapse of the Soviet Union, we have been subject to growing interest from politicians, journalists, civil servants and scientists who have studied our self-government, demilitarisation and neutralisation from many different aspects.

Among the states, areas and minorities that have shown interest I wish to mention the parties in the Israel-Palestine conflict, the severe conflict between Azerbaijan and Armenia with relation to Nagorno-Karabach, the Russian minority problem in Moldova, the various conflicts in Georgia, the former Serbian minority in Krajina in Croatia and other conflicts in the former Yugoslavia, Argentina with relation to the Falkland

Islands, the Hungarian minorities in Romania, the Assembly of CIS (former Soviet, now independent states), not to mention the UN, the OSCE and others.

With respect to the Åland model, we would like to quote the Deputy Secretary-General of the UN in Geneva, Mr Vladimir Petrovsky, who, when visiting Åland in 1995, stated that:

'The UN is very interested in the Åland Island case. For the World Organisation, which today is involved in preventive diplomacy in about 80 crises, any success story is of great value.'

Åland and the European Union

Åland's autonomy made it possible for the Ålanders to make their own decision about joining the European Union or not after Finland had decided to join. The Legislative Assembly of Åland resolved that Åland should also join the EU, since it was given special legal exemptions which safeguard its autonomy and the population's livelihood.

Åland in the EU

When Finland was preparing its application for membership of the EU, Åland put forward certain desiderata that it saw as important for the safeguarding of Åland's autonomy and the future development of its economy. The negotiations between Finland and the European Union resulted in a treaty of accession which, from the point of view of Åland, must be regarded as successful. In other words, Åland was given a sympathetic ear by the EU.

When Finland became a member of the EU, Åland was granted the right still to apply the stipulations restricting the acquisition of land and the right of establishing business to persons with Åland right of domicile. Åland is also excepted from harmonizing turnover and selective tax and other indirect taxes. This will make it possible to retain for the time being the important tax-free benefits in sea services to Åland which are so vital to its transport economy. A record in the protocol in conjunction with Finland's joining the EU notes that Åland 's autonomy is guaranteed in the constitutional laws of Finland and rests upon a basis of international law through international decisions and agreements. This should be regarded as a very significant international confirmation of Åland 's special status.

Åland's relation to the European Union's legal system is regulated by a special protocol, known as the *Åland Protocol*. The Protocol is included in Finland's Treaty of accession and is thus part of the EU's primary laws. This means that the provisions of the protocol cannot be altered by EU regulations, directives or resolutions, but that an amendment must be approved by all the member states jointly. The Åland Protocol has thus a very strong formal position within the EU's legal system.

According to the Åland Protocol, membership of the EU does not prevent Åland from retaining its domicile status requirement for the purchase of land, for the right of establishment and for the right to provide services in Åland.

Furthermore, Åland is to be classified as a so-called third territory, which remains outside the application of the EU's harmonisation directive for indirect taxation.

This exemption makes tax-free sales possible between Sweden and Åland even after the abolition of such sales in the EU in 1999. It further makes tax-free sales between Åland and Finland possible. The aim of this exemption is to maintain the future viability of the Åland economy.

The taxation provision contains two so-called safety clauses which enable the EU to take measures to annul the exemption if it no longer appears justifiable. The safety clauses in combination with the regulations requiring the right of domicile for the purchase of land and the establishment of a business make it difficult for Åland to develop into a tax haven. There is, of course, no political will in Åland to create such a situation.

The introduction to the Åland Protocol refers to Åland's position in international law as an autonomous, demilitarized, and neutral territory.

In addition to the Åland Protocol, the member states of the EU have committed themselves in a *special declaration* to respecting the regulations governing franchise and eligibility in local council elections in Åland. Furthermore, in a *unilateral declaration* the Government of Finland has confirmed Åland's special status in international law. Thus Åland's autonomy, its demilitarized status, and its neutrality have been confirmed both in the Åland Protocol and in a declaration by the Government of Finland.

Åland's Influence in the EU

The question of ensuring that Åland has sufficient influence in EU matters is regarded by the EU as an internal Finnish issue.

On joining the EU, Åland, like Finland surrendered some of its legislative power. The view in Åland is that Åland, like Finland, should have been compensated for this loss of authority by being given representation in the European Parliament. However, the Finnish Parliament resolved not to allocate any of its sixteen seats in the European Parliament to Åland, a decision which Åland opinion has labelled as unacceptable.

On the other hand, Åland's participation in the national decision-making process relating to the EU is satisfactorily provided for. New rules have been introduced into the Autonomy Act which give the Government of Åland the right of access to information about business which is in preparation in the EU's institutions, if such business is of special importance to Åland. The Government also has the right to participate when such business is being prepared in the Finnish Council of State. Furthermore, the Autonomy Act empowers the Government of Åland to formulate Finland's response in so far as it concerns the application of common EU policy in Åland. The Autonomy Act also gives the Government of Åland the right to choose a representative for the EU's regional committee.

To enable Åland to participate in the Finnish Parliament's discussions of issues of European integration, the legislation on parliamentary procedure has been amended to allow Åland's member always to be present at the meetings of the Grand Committee. Each ministry also has a civil servant with special responsibility for EU parliamentary business which concerns Åland. Finally, the Government of Åland has its own special adviser at Finland's permanent representation in Brussels.

The Implementation of the Åland Protocol

The question of how the exemption from the harmonization of taxation contained in the Åland Protocol is to be implemented is still open. According to the present autonomy legislation, it falls to the Republic of Finland to legislate on both direct and indirect state taxation. The Finnish Parliament has not as yet resolved to use the opportunity to introduce the special legislation or taxation that the Åland Protocol allows for.

The technical solution chosen to enable tax-free sales to continue has brought with it certain disadvantages for Åland. Because Åland as a third territory is outside the taxation union, a tax border with the EU came into being which threatened to put Åland producers at a competitive disadvantage. However, a special law passed by the Finnish Parliament removed for the time being the border formalities for the trade between Åland and Finland, but in the trade with the rest of the EU the tax border involves formalities which are at variance with the trade formalities within the rest of the EU and which put producers in Åland to some extent at a competitive disadvantage.

The EU decision

The decision by the legislative Assembly to seek EU membership was preceded by an advisory referendum. In the referendum 74% voted for membership on the conditions laid down in the Åland Protocol. After that the Legislative Assembly resolved with 26 votes to 4 to follow Finland's example and seek membership of the European Union.

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Some Personal and Political Data on the President of the Åland Islands

Mr Roger Jansson, President of the Åland Islands, was born on 9 August 1943 and lives in Mariehamn. He has a degree in economics and is a member of the *Frisinnad samverkan* party (Free Alliance Party). He has been Head of the Government of the Åland Islands since 23 November 1995.

A brief outline of his political career is given below.

He was member of the Legislative Assembly of the Åland Islands from 1 November 1979 until 23 November 1995. From 1 November 1983 until 31 October 1987 he was Chairman of the Finance Committee. He was First Deputy Speaker of the Legislative Assembly from 1 November 1982 until 31 October 1983 and from 1 November 1991 until 23 March 1994.

He also held the post of President of the Legislative Assembly from 23 March 1994 until 22 November 1995.

He was a member of the Town Council of Mariehamn in 1972, 1975, from 1980 until 1987 and in 1994, and was Chairman of the Town Board from 1 January 1988 until 31 December 1993. □

Les îles Åland (FIN)

Roger Jansson

Président des îles Åland

Brève description

Les îles Åland, situées entre la Finlande et la Suède, sont la seule région officiellement unilingue de la Finlande. Les îles Åland sont une région autonome, démilitarisée et neutre dont le statut repose sur des accords internationaux. La loi sur l'autonomie des îles Åland fait partie de la constitution finlandaise. La répartition des compétences entre l'Etat et les organes autonomes est réglée par la loi et les îles Åland sont de langue suédoise en vertu de cette loi.

Les îles Åland se composent de 6.5000 îles et récifs. Les 25.000 habitants que compte Åland vivent pour plus de 90% sur la principale île où se trouve la seule ville du territoire, Mariehamn. Les habitants vivent principalement de la navigation maritime, du tourisme, du commerce, de l'agriculture et de la pêche. La situation économique peut être qualifiée de bonne. La composition de la population est très homogène et près de 94% des habitants ont le suédois comme langue maternelle.

Le 6 décembre 1917, la Finlande se proclama république indépendante, en vertu du même principe d'autonomie nationale invoqué par les habitants des îles Åland. Cependant, les Finlandais n'étaient pas disposés à accéder à la demande de réunion des îles Åland à la Suède. En revanche, ils pouvaient envisager de donner aux habitants des îles Åland une certaine forme d'autonomie interne, comportant le droit à leur propre législation. C'est ainsi qu'une Loi sur l'autonomie fut préparée en toute hâte et fut adoptée par le Parlement finlandais le 6 mai 1920.

Décision de la Société des Nations

La question des îles Åland fut parfois source de grande tension entre la Suède et la jeune République de Finlande. En vue de trouver une solution pacifique à ce litige, la Grande-Bretagne prit l'initiative de soumettre cette question à l'arbitrage de l'organisation internationale nouvellement créée, la Société des Nations, dont le siège était sis à Genève. Ayant établi sa compétence pour trancher cette question, la Société des Nations envoya une commission d'enquête en Suède et en Finlande. Le Conseil de la Société fit connaître sa décision le 24 juin 1921 et la souveraineté sur les îles Åland fut accordée à la Finlande. En même temps, le Conseil décida qu'il fallait donner de nouvelles garanties aux habitants de ces îles et que ces garanties devaient être introduites dans la Loi sur l'autonomie de 1920. Le Conseil décida aussi de commencer les négociations le plus rapidement possible pour la conclusion d'un traité international sur la démilitarisation et la neutralité des îles Åland. En outre, il donna à la Finlande et à la Suède des directives de négociation pour savoir comment obtenir les garanties envisagées par le Conseil de la Société des Nations. Cela étant fait, le 27 juin 1922 le Conseil introduisit l'Accord sur l'Åland dans son compte rendu de séance. Ce document ajouté à la décision du Conseil de la Société des Nations, forment la base de l'autonomie des îles Åland en droit international. Les principales garanties contenues dans l'Accord sur les îles Åland, dont les principes sont

encore d'application aujourd'hui, étaient:

1. La langue de l'enseignement dans les écoles aux îles Åland est le suédois. Dans la nouvelle loi sur l'autonomie d'Åland, cette disposition est davantage précisée par une règle stipulant que la langue de l'enseignement dans les écoles financées entièrement ou partiellement par les fonds publics est le suédois.
2. Le droit de propriété de biens fonciers est réservé aux habitants des îles Åland. Ce principe a pris effet en 1975 dans une nouvelle législation remplaçant une loi devenue caduque. Cette nouvelle loi stipule que toute personne ne jouissant pas du droit de domicile aux îles Åland, et toute société ou organisation, y compris celles domiciliées aux îles Åland, doivent solliciter auprès du gouvernement de la province une licence pour l'acquisition de biens fonciers dans cette province.
3. Le droit de vote aux élections locales et aux élections au parlement des îles Åland est réservé à la population résidente. Toute personne jouissant du droit de domicile susmentionné est autorisée à voter lors de ces élections. Le droit de domicile est accordé à tout enfant dont le père ou la mère possède le droit de domicile aux îles Åland. Les citoyens finlandais qui s'installent aux îles Åland se voient accorder le droit de domicile sur demande, à condition d'avoir eu leur résidence principale et habituelle dans la province au moins pendant cinq ans sans interruption et qu'ils possèdent une connaissance satisfaisante de la langue suédoise.
4. Seule une personne qui a été acceptée par les habitants des îles Åland peut être nommée au poste de gouverneur de la province, c'est-à-dire le plus haut représentant de la République de Finlande aux îles Åland. Avant de nommer un gouverneur de la province, le Président de la Finlande consulte le président du parlement d'Åland qui soumet des propositions de candidats valables après discussion avec les membres du parlement d'Åland.

Après le règlement de la question des îles Åland par la décision de la Société des Nations, les garanties négociées par la Finlande et la Suède et sanctionnées par la Société des Nations furent introduites dans la Loi de garantie qui fut adoptée par le Parlement de Finlande.

A la suite de l'évolution rapide de la société, surtout dans les années '60 et '70, il devint bientôt nécessaire de réviser la Loi sur l'autonomie de 1951. L'actuelle Loi sur l'autonomie qui date du 16 août 1991, est entrée en vigueur le 1er janvier 1993 et fut adoptée par le parlement finlandais avec l'accord du parlement des îles Åland.

Domaines de compétence Åland-Finlande

La Loi sur l'autonomie offre le cadre de l'autonomie des îles Åland. Son principe fondamental consiste à donner aux habitants de ces îles la plus grande liberté possible pour gérer leurs affaires internes en tenant compte de "la sécurité interne et externe du pays", pour reprendre les termes de la loi. Cette Loi sur l'autonomie précise les domaines dans

lesquels l'Assemblée législative des îles Åland, le "*Lagting*", a le droit de légiférer. Parmi ces domaines, les plus importants sont:

- l'enseignement et la culture,
- les services de police,
- l'administration locale de district,
- la santé publique et les services médicaux,
- la législation sociale,
- les services postaux,
- le développement de l'emploi,
- les communications internes,
- le droit d'émission radiophonique.

On peut dire que dans ces domaines les îles Åland fonctionnent de la même façon qu'un Etat miniature indépendant doté de sa propre législation et ayant son propre appareil administratif.

Dans les domaines qui ressortissent à la compétence législative du *Lagting*, ce sont les lois adoptées par le *Lagting* qui sont d'application dans les îles Åland et non pas les lois correspondantes adoptées par le parlement finlandais. Dans les domaines qui échappent à la compétence législative du *Lagting*, les lois de la Finlande s'appliquent aux îles Åland tout comme dans le reste du pays. Parmi ces secteurs, notons:

- la promulgation, l'amendement, l'interprétation ou l'abrogation d'une loi constitutionnelle ainsi que la dérogation à une loi constitutionnelle;
- les services douaniers et monétaires;
- les tribunaux et le code pénal;
- la plupart des aspects du droit civil, comme le droit de la famille, le droit sur l'héritage et le droit commercial;
- la législation sur les étrangers; etc.

Afin de pouvoir participer aux discussions sur des questions nationales, les îles Åland ont un représentant au parlement finlandais qui est élu de la même façon que les autres membres du parlement. Pour ces élections, les îles Åland constituent leur propre circonscription.

Composition et fonctionnement du Parlement des îles Åland

Dans les îles Åland, la compétence législative sur les matières relevant de la compétence de l'autonomie est exercée par le parlement autonome appelé le *Lagting*.

Le parlement de îles Åland, l'Assemblée législative, se compose de 30 membres, élus pour une période de quatre ans au scrutin secret et proportionnel. A le droit de vote et d'éligibilité toute personne âgée de 18 ans ou plus, qui possède le droit de domicile aux îles Åland. Les groupes politiques sont indépendants des partis politiques en Finlande mais ont des principes idéologiques en commun avec les groupes correspondants dans les pays limitrophes. Les dernières élections remontent à octobre 1991. Le *Åland Centre* a obtenu 10 sièges, les Libéraux sept, les Modérés ou Conservateurs ("*Frisinnad samverkan*") six sièges, les Sociaux-démocrates quatre, et le Groupe des indépendants, 3 sièges. Actuellement, 4 des 30 membres que compte le *Lagting* sont des femmes.

Principes d'autonomie financière

L'autre principale tâche du parlement des îles Åland, en dehors de la législation, est d'exercer l'autorité économique. Dans la révision de la Loi sur l'autonomie en 1993, les principaux amendements portaient précisément sur les relations économiques entre les îles Åland et la Finlande.

Selon les règles appliquées pendant les 70 premières

années d'autonomie, la délégation des îles Åland a exercé des contrôles successifs stricts sur l'utilisation des affectations dans le budget des îles Åland. Le résultat était que dans la pratique cette province était beaucoup plus liée à la structure des dépenses en Finlande et que son pouvoir budgétaire était par conséquent restreint.

En vertu de la nouvelle Loi sur l'autonomie, la fiscalité de l'Etat est à présent une question qui relève des autorités finlandaises. Les impôts à payer à l'Etat, les droits de douane et d'accises et autres taxes à payer par les habitants des îles Åland sont perçus en vertu des mêmes règles qui s'appliquent aux autres citoyens et associations en Finlande. Ces fonds vont à la Trésorerie finlandaise.

Les domaines gérés par les autorités autonomes sont les mêmes que ceux qui auraient été transférés aux autorités publiques finlandaises si l'autonomie des îles Åland n'existait pas. Pour financer ces domaines, les îles Åland reçoivent une certaine forme de remboursement d'impôts versés de la part de l'Etat (0,45% du budget de l'Etat). Les sommes que le parlement finlandais affecte chaque année dans son budget pour être transférées aux îles Åland sont parfois considérées à tort comme étant une subvention de l'Etat aux îles Åland, ce qui n'est absolument pas le cas.

Symboles d'autonomie

Depuis 1954, les îles Åland possèdent leur propre drapeau qui est recouvert d'une croix nordique bleu-jaune et rouge. D'autre part, l'administration des postes des îles Åland émet ses propres timbres et les timbres finlandais ne peuvent plus être utilisés dans les îles Åland.

Dispositions relatives à la langue

L'Accord sur les îles Åland du 27 juin 1922 obligeait la Finlande à garantir aux habitants des îles Åland le maintien de leur langue, le suédois. Il est donc normal que les questions linguistiques occupent une place centrale dans le système d'autonomie.

Les îles Åland sont une région unilingue de langue suédoise à tous les égards. La langue officielle au Conseil exécutif et dans l'administration locale de district et de l'Etat est le suédois. Lorsque les autorités finlandaises correspondent avec les autorités des îles Åland, elles sont tenues d'utiliser le suédois. Cependant, tout citoyen finlandais a le droit d'utiliser le finnois devant un tribunal de la province et devant les autres autorités nationales. L'Etat doit veiller à ce que ses fonctionnaires travaillant dans les îles Åland maîtrisent le suédois et que les informations nécessaires concernant les marchandises et les services soient, dans la mesure du possible, communiquées en langue suédoise. De même, le Conseil des ministres est chargé de veiller à ce que les réglementations qui doivent être respectées dans la province soient disponibles en langue suédoise.

La langue de l'enseignement dans les écoles est le suédois. Bien entendu, cela n'empêche pas que le finnois soit enseigné dans les écoles des îles Åland au même titre que d'autres matières. La connaissance du suédois est requise pour toute personne qui demande le droit de domicile dans les îles Åland.

Les relations internationales des îles Åland

En 1970, les îles Åland obtinrent leur propre représentation au Conseil nordique. Depuis 1980, le Parlement des îles Åland a reçu le droit d'élire deux membres à part entière au sein de la délégation de la Finlande auprès de ce Conseil.

Plusieurs réunions du Conseil nordique se sont tenues dans les îles Åland au cours de ces dernières années et le

gouvernement des îles Åland a participé aux réunions du Conseil des ministres nordique. En ce qui concerne la Finlande et les îles Åland, l'actuelle décennie a vu les questions européennes occuper une place toujours plus grande. Le Traité EEE avec ses principes des quatre libertés fondamentales, fut adopté en 1992, et peu de temps après la Finlande commença les préparatifs pour son adhésion à l'UE.

Le Conseil exécutif de la province doit être informé des négociations de la Finlande en vue d'un accord avec un Etat étranger s'il s'agit de questions relevant de la compétence des îles Åland. De cette façon, les autorités des îles Åland peuvent influencer le contenu des accords pendant la phase de préparation.

Les îles Åland et les accords internationaux

La Loi sur l'autonomie stipule que la politique étrangère relève de l'autorité de la République de Finlande. C'est pourquoi, les îles Åland ne sont pas habilitées à conclure des accords internationaux de leur propre initiative.

Cependant les îles Åland ne sont pas totalement sans influence dans les affaires internationales. Si un accord que la Finlande a conclu avec un Etat étranger comporte une disposition contraire aux dispositions de la Loi sur l'autonomie ou si l'accord comporte une disposition dans une question relevant de la compétence des îles Åland, l'Assemblée législative doit, pour que cette disposition entre en vigueur aux îles Åland, approuver l'acte par lequel elle entre en vigueur.

Le Président doit obtenir le consentement de l'Assemblée législative pour des accords internationaux. Des cas de ce type se présentent environ dix fois par an. Jusqu'ici, les accords portaient sur des règlements destinés à éviter la double imposition ou sur des règlements relatifs à la sécurité sociale. L'assemblée législative a donné son consentement plus ou moins comme une simple affaire de routine.

La Loi sur l'autonomie contient aussi des dispositions qui autorisent le gouvernement des îles Åland à proposer aux autorités compétentes de la République de Finlande des négociations sur un accord avec un Etat étranger.

Le modèle des îles Åland

L'expérience nous a montré que les îles Åland peuvent être une source d'inspiration, voire un modèle, pour la résolution de conflits au niveau national et international et pour trouver des solutions à des problèmes d'autonomie régionale ou de certaines minorités. Au cours de ces dernières années, et surtout à la suite de la fin de la Guerre froide et de l'effondrement de l'Union soviétique, les îles Åland ont fait l'objet d'un intérêt toujours plus grand de la part des responsables politiques, journalistes, fonctionnaires et scientifiques qui ont étudié leur statut d'autonomie, de zone démilitarisée et leur statut de neutralité sous différents aspects.

Parmi les Etats, domaines et minorités qui se sont intéressés au cas des îles Åland, signalons les parties au conflit israëlo-palestinien, le sérieux conflit qui oppose l'Azerbaïdjan à l'Arménie sur la question du Nagorno-Karabach, le problème de la minorité russe en Moldova, les différents conflits en Géorgie, l'ancienne minorité serbe en Krajina en Croatie, et d'autres conflits dans l'ex-Yougoslavie, en Argentine au sujet des îles Malouines, les minorités hongroises en Roumanie, l'Assemblée de la CEI (ancienne Union soviétique, à présent des Etats indépendants), pour ne pas mentionner l'ONU, l'OCSE, etc.

Pour ce qui est du modèle des îles Åland, on peut citer ici le Secrétaire général adjoint de l'ONU à Genève, M.

Vladimir Petrovsky, qui, lors d'une visite qu'il effectua aux îles Åland en 1995, déclara:

“L'ONU s'intéresse beaucoup au cas des îles Åland. Pour l'organisation mondiale, qui est engagée aujourd'hui dans des actions de diplomatie préventive dans près de 80 foyers de crise, tout exemple de réussite revêt une grande valeur”.

De nombreux observateurs considèrent les îles Åland comme un modèle exemplaire de relations entre un Etat souverain et une minorité.

Les îles Åland et l'UE

L'autonomie des îles Åland a permis aux habitants de ces îles de prendre leur propre décision quant à savoir s'il fallait ou non adhérer à l'Union européenne après la décision de la Finlande de devenir membre de l'UE. L'Assemblée législative des îles Åland se prononça en faveur de l'adhésion des îles Åland à l'UE, étant donné que celles-ci se virent accorder des dérogations juridiques spéciales qui sauvegardent leur autonomie et les moyens d'existence de leurs habitants.

La décision de l'assemblée législative d'adhérer à l'UE fut précédée d'un référendum consultatif. A l'issue de ce référendum, 74% de la population se prononça en faveur de l'adhésion aux conditions stipulées dans le protocole sur les îles Åland. Ensuite, l'assemblée législative, par 26 voix contre 4, décida de suivre l'exemple de la Finlande et d'adhérer également à l'UE.

Les îles Åland dans l'UE

Au moment où la Finlande préparait sa candidature d'adhésion à l'UE, les îles Åland firent part de certains desiderata qu'elles estimaient importants pour préserver l'autonomie des îles et le développement futur de leur économie. Les négociations entre la Finlande et l'Union européenne débouchèrent sur un traité d'adhésion qui, du point de vue des îles Åland, peut être considéré comme réussi. En d'autres termes, les îles Åland se virent accorder une oreille complaisante par l'UE.

Lorsque la Finlande adhéra à l'UE, les îles Åland furent autorisées à continuer à appliquer les stipulations restreignant l'acquisition de biens fonciers et le droit d'exercer une activité économique ou commerciale aux personnes jouissant du droit de domicile dans les îles Åland. Ces îles sont exemptées de l'harmonisation de l'impôt sur le chiffre d'affaires et d'autres impôts indirects, ce qui leur permet pour l'instant de maintenir les importants bénéfices hors taxe de leurs services maritimes qui sont d'une importance vitale pour leur économie des transports. Une note dans le protocole joint au texte d'adhésion de la Finlande à l'UE rappelle que l'autonomie des îles Åland est garantie dans les lois constitutionnelles de la Finlande et repose sur le droit international à travers des décisions et accords internationaux. Cette note doit être vue comme une confirmation internationale très importante du statut spécial des îles Åland.

Les rapports des îles Åland avec le système juridique de l'Union européenne sont réglés par un protocole spécial, appelé le “Protocole sur les îles Åland”. Ce protocole est inclus dans le traité d'adhésion de la République de Finlande à l'UE et fait dès lors partie du droit primaire de l'UE. Cela signifie que les dispositions du protocole ne peuvent être modifiées par des règlements, directives ou décisions communautaires, mais que toute modification requiert l'approbation conjointe de tous les Etats membres. Le

Protocole sur les îles Åland jouit donc d'un solide statut au sein du système juridique de l'UE.

Selon ce protocole, la participation à l'UE n'interdit pas aux îles Åland de maintenir leur exigence de citoyenneté régionale pour les personnes qui souhaitent acquérir et détenir des biens immobiliers dans les îles Åland, et les personnes physiques qui veulent y exercer le droit d'établissement et de prestation de services.

En outre, le territoire des îles Åland doit être considéré comme territoire tiers, qui est exclu du champ d'application de la directive communautaire sur l'harmonisation des législations des Etats membres relatives aux taxes et autres formes de fiscalité indirecte.

Cette exemption autorise les ventes hors taxe entre la Suède et les îles Åland, et cela même après l'abolition de ces ventes dans l'UE en 1999. En outre, elle autorise les ventes hors taxe entre les îles Åland et la Finlande. Le but de cette dérogation est de maintenir une économie locale viable dans les îles Åland.

La disposition sur la fiscalité contient deux clauses de garantie qui autorisent l'UE à prendre des mesures en vue d'annuler la dérogation si elle estime qu'elle ne se justifie plus. Ces clauses de garantie, combinées aux règlements exigeant le droit de domicile pour l'acquisition de biens immobiliers et l'établissement d'une entreprise font qu'il est difficile pour les îles Åland de se transformer en un paradis fiscal. Bien entendu, il n'y a pas non plus de volonté politique de créer une telle situation aux îles Åland.

L'introduction du protocole sur les îles Åland fait référence au statut de ces îles en droit international comme territoire autonome, démilitarisé et neutre.

Outre le Protocole sur les îles Åland, les Etats membres de l'UE se sont engagés dans une déclaration spéciale à respecter les règlements régissant la franchise et l'éligibilité aux élections du conseil local aux îles Åland. Par ailleurs, dans une déclaration unilatérale, le gouvernement de Finlande a confirmé le statut spécial des îles Åland en droit international. L'autonomie des îles Åland, leur statut démilitarisé et leur neutralité ont donc été confirmés à la fois dans le Protocole sur les îles Åland et dans une déclaration du gouvernement finlandais.

L'influence des îles Åland dans l'UE

L'UE considère que le fait de garantir aux îles Åland une influence suffisante sur les questions européennes est une question interne à la Finlande.

Lors de leur adhésion à l'UE, les îles Åland, tout comme la Finlande, ont dû abandonner une part de leur pouvoir législatif. La vue qui prévaut aux îles Åland est que cette province, tout comme la Finlande, aurait dû être compensée pour cette perte d'autorité par l'octroi d'une représentation au sein du Parlement européen. Toutefois, le parlement finlandais a décidé de n'accorder aux îles Åland aucun des seize sièges qu'il a au sein du Parlement européen, décision que l'opinion publique aux îles Åland qualifie d'inacceptable.

D'autre part, la participation des îles Åland au processus décisionnel national relatif à l'UE fait l'objet de plusieurs dispositions. De nouvelles règles ont été introduites dans la Loi sur l'autonomie qui donnent au gouvernement des îles Åland le droit d'accès à l'information sur les dossiers en préparation dans les institutions communautaires lorsque ces dossiers présentent une importance particulière pour les îles Åland. Le gouvernement a aussi le droit de participation lorsque ces affaires sont discutées au sein du Conseil d'Etat finlandais. En outre, la Loi sur l'autonomie autorise le gouvernement des îles Åland à formuler la réponse de la

Finlande dans la mesure où elle concerne l'application d'une politique communautaire commune aux îles Åland. La Loi sur l'autonomie accorde aussi au gouvernement des îles Åland le droit de choisir un représentant pour le Comité des régions de l'UE.

Pour que les îles Åland puissent participer aux discussions du parlement finlandais sur des questions relatives à l'intégration européenne, la législation sur la procédure parlementaire a été modifiée pour permettre au membre des îles Åland d'être toujours présent lors des réunions du Grand comité. Chaque ministère possède aussi un fonctionnaire doté d'une responsabilité spéciale pour les affaires parlementaires européennes qui touchent les îles Åland. Enfin, le gouvernement des îles Åland possède son propre conseiller spécial au sein de la représentation permanente finlandaise à Bruxelles.

La mise en oeuvre du Protocole sur les îles Åland

La question de savoir quelles sont les modalités à suivre pour appliquer la dérogation de l'harmonisation des législations des Etats membres relatives à la fiscalité contenue dans le Protocole sur les îles Åland reste ouverte. Selon l'actuelle législation sur l'autonomie, c'est à la République de Finlande qu'il incombe de légiférer sur la fiscalité directe et indirecte de l'Etat. Le Parlement finlandais n'a jusqu'ici pas encore saisi l'occasion pour introduire la législation ou la fiscalité spéciale autorisée par le Protocole sur les îles Åland.

La solution technique retenue pour autoriser encore les ventes hors taxe a entraîné certains inconvénients pour les îles Åland. Etant donné leur statut de territoire tiers qui les exclut du champ d'application de l'union fiscale, l'on a introduit une frontière fiscale avec l'UE qui menaçait de mettre les producteurs des îles Åland dans une situation de désavantage compétitif. Toutefois, une loi spéciale adoptée par le parlement finlandais a supprimé pour l'instant les formalités aux frontières pour les échanges entre les îles Åland et la Finlande, mais pour les échanges commerciaux avec le reste de l'UE, la frontière fiscale implique des formalités qui diffèrent des formalités commerciales applicables au reste de l'UE et qui représentent, dans une certaine mesure, un désavantage compétitif pour les producteurs des îles Åland.

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Quelques données personnelles et politiques relatives au Président des îles Åland

M. Roger Jansson, président des îles Åland, est né le 9 août 1943 et vit à Mariehamn. Il est titulaire d'un diplôme d'économie. M. Jansson appartient au parti *Frisinnad samverkan* (Parti de l'Alliance libre) et est à la tête du gouvernement des îles Åland depuis le 23 novembre 1995.

Sa carrière politique est résumée ci-dessous.

Membre de l'assemblée législative des îles Åland du 1er novembre 1979 au 23 novembre 1995. Président de la commission des finances, du 1er novembre 1983 au 31 octobre 1987. Il a été le premier vice-président de l'assemblée législative du 1er novembre 1982 au 31 octobre 1983 et ensuite du 1er novembre 1991 au 23 mars 1994.

Il a occupé aussi le poste de président de l'assemblée législative du 23 mars 1994 au 22 novembre 1995.

Il a été membre du Conseil municipal de Mariehamn en 1972, en 1975, de 1980 à 1987 et depuis 1994. Il a également occupé la fonction de président de la Commission municipale du 1er janvier 1988 au 31 décembre 1993. □

Die Ålandinseln (FIN)

Roger Jansson

Präsident der Region Åland

Zwischen Finnland und Schweden liegt Åland, die einzige offiziell einsprachige Region Finnlands. Åland ist eine autonome, entmilitarisierte und neutrale Region, deren Status auf internationaler Grundlage beruht. Das Autonomiegesetz für Åland ist Teil der finnischen Verfassung. Das Gesetz regelt die Kompetenzverteilung zwischen dem Staat und den Selbstregierungsorganen, und gemäß dieses Gesetzes ist Åland allein schwedischsprachig.

Åland besteht aus 6.500 Inseln und Schären. Die 25.000 Einwohner wohnen zu über 90 % auf der Hauptinsel, auf der die einzige Stadt des Gebietes, Mariehamn, liegt. Die Einwohner leben überwiegend von der Seefahrt, vom Tourismus, dem Handel, der Landwirtschaft und Fischerei. Die wirtschaftliche Situation ist als gut zu bezeichnen. Die Zusammensetzung der Bevölkerung gestaltet sich sehr homogen, etwa 94 % der Einwohner haben Schwedisch als Muttersprache.

Die schwedischsprachige Gemeinschaft

Åland ist nicht nur in der Theorie, sondern auch in der Praxis eine schwedischsprachige Gemeinschaft. Die Mehrzahl der Åländer ist allein schwedischsprachig.

Die Unterrichtssprache ist in allen åländischen Schulen Schwedisch. Finnisch wird somit als Fremdsprache unterrichtet. In allen anderen Landesteilen ist der Unterricht in der jeweils anderen Landessprache verpflichtend vorgeschrieben, in Åland ist er dagegen freiwillig.

Åland verfügt nicht über eine eigene Universität, so daß alle, die nach dem Besuch des Gymnasiums ihren Bildungsweg fortsetzen möchten, Universitäten oder Hochschulen außerhalb Ålands besuchen müssen. Festzustellen ist, daß die jugendlichen Åländer etwa zur Hälfte den weiteren Bildungsweg in Schweden absolvieren, während sie zur anderen Hälfte in Finnland studieren, vor allem an der schwedischsprachigen Universität in Åbo, Åbo Akademi.

Die Geschichte der Selbstregierung

Wie das übrige Finnland, gehörte auch Åland bis zum Krieg 1808-09, in dem Schweden gezwungen wurde, Finnland und Åland an Rußland abzutreten, dem Königreich Schweden an. Mit der Abtretung wurde Åland zum Teil des Großfürstentums Finnland. Åland ist seit Menschengedenken schwedischsprachig. Wie im übrigen Finnland behielt die schwedische Sprache ihre starke Stellung auch unter der russischen Oberhoheit bei.

Als die russische Zarenherrschaft während des ersten Weltkrieges ihr Ende nahm, weckte dies in Åland Hoffnungen auf eine Wiedervereinigung mit Schweden. Als offizielle Begründung für das Streben der Åländer nach einer Wiedervereinigung wurden die sprachlichen und kulturellen Bande angeführt, natürlich kam jedoch auch der Tatsache, daß das alte Königreich sich im Verhältnis zu dem politisch unruhiger bleibenden Finnland

als erheblich stabiler zeigte, starke Bedeutung zu.

Der Startschuß für das Streben nach Wiedervereinigung ging von einem Treffen von Vertretern der åländischen Kommunen im August 1917 aus. Auf dem Treffen wurde beschlossen, daß die Åländer Unterstützung für ihre Bestrebungen unter anderem bei der schwedischen Regierung suchen sollten. Zu Beginn des nächsten Jahres machte eine åländische Delegation dem König und der Regierung ihre Aufwartung, die vom einem von einer überwältigenden Mehrheit der Bevölkerung unterzeichneten Ersuchen unterstützt wurde.

Im Dezember 1917 erklärte sich Finnland mit Hinweis auf das Prinzip des Selbstbestimmungsrechts der Völker zur unabhängigen Republik, mit Hinweis also auf das gleiche Prinzip, das auch die Åländer in ihrem Streben nach Wiedervereinigung mit Schweden in Anspruch nahmen. Auf finnischer Seite war man jedoch nicht bereit, dem åländischen Wunsch nach Wiedervereinigung entgegenzukommen. Statt dessen nahm das finnische Parlament im Jahre 1920 ein Autonomiegesetz an, dem zuzustimmen die Åländer jedoch nicht bereit waren. Das Gesetz wurde von dem damaligen finnischen Staatsminister Erich angelegentlich eines gefühlsgeladenen Treffens vorgestellt, das die åländischen Vertreter im Protest verließen.

Aufgrund der angestregten Beziehungen zwischen Schweden und der jungen Republik Finnland wurde die Ålandfrage auf britische Initiative an den neugegründeten Völkerbund verwiesen. Im Juni 1921 beschloß der Rat des Völkerbundes, daß Finnland die Souveränität über die Ålandinseln übertragen werden sollte, die Bevölkerung erhielt jedoch internationale Garantien im Hinblick auf die Bewahrung der schwedischen Sprache, der Kultur und der lokalen Gebräuche. Gleichzeitig beschloß der Völkerbund, daß ein Abkommen über die Entmilitarisierung und Neutralisierung Ålands getroffen werden sollte, um so zu verhindern, daß Åland jemals erneut zu einer Bedrohung vor allem für Schweden werden könnte.

Der vom Rat des Völkerbundes gefaßte Beschluß stellte einen Kompromiß dar, aus dem keine der drei an dem Konflikt beteiligten Parteien gänzlich ohne Gewinn hervorging. Finnland erhielt die Souveränität über die Ålandinseln, Schweden internationale Garantien, daß Åland keine militärische Bedrohung für Schweden darstellen würde, und Åland erhielt die Selbstregierung zusammen mit Garantien für den Erhalt der Sprache und der Kultur.

Keiner der beteiligten Partner war zu der Zeit, als der Völkerbund seine Entscheidung fällte, mit dem Beschluß des Rates zufrieden. Die Geschichte hat jedoch gezeigt, daß der Beschluß eine geeignete Grundlage für gute künftige Beziehungen bilden sollte. Heute sind beide Staaten, Schweden und Finnland, mit der Lösung zufrieden, der vielleicht zufriedenste Partner sind jedoch die Åländer selbst.

Nach dem das Autonomiegesetz um restriktive Bestimmungen hinsichtlich des Landerwerbs und des Stimmrechts von Nichtansässigen ergänzt worden war, wurden 1922 die ersten Wahlen zum regionalen Parlament (*landting*) durchgeführt. Das *landting*, dessen Bezeichnung heute *lagting* lautet, trat am 9. Juni zu seiner ersten Plenarsitzung zusammen. Es kann als ein Zeichen für die veränderte Einstellung zur Selbstregierung betrachtet werden, daß dieser Tag heute als Tag der Autonomie Ålands feierlich begangen wird.

Die Selbstregierung

Die Grundlage für die åländische Selbstregierung bildet das Autonomiegesetz. Das Gesetz kann nur durch Beschluß des finnischen Parlaments geändert werden, wobei verfassungsgemäß zudem die Zustimmung des åländischen Parlaments erforderlich ist. Die Selbstregierung basiert somit auf einer starken verfassungsmäßigen Grundlage. Das derzeit geltende Autonomiegesetz ist das dritte seiner Art. Es trat am 1. Januar 1993 in Kraft und sieht in vielerlei Hinsicht erweiterte Selbstregierungsbefugnisse vor.

Das Autonomiegesetz sieht die Vertretung der åländischen Bevölkerung durch das *lagtinget*, das åländische Parlament vor, das seinerseits die *landskapsstyrelsen*, die åländische Regierung, ernennt.

Das *lagting*, das alle fünf Jahre gewählt wird, setzt sich aus dreißig Mitgliedern zusammen, die verschiedene politische Gruppierungen vertreten. Die im *lagting* vertretenen Gruppierungen sind das *Åländsk center*, *Liberalerna på Åland*, *Frisinnad samverkan*, *Ålands Socialdemokrater* und *Obunden samling*. Die politischen Gruppierungen sind unabhängig von außerhalb von Åland bestehenden Parteien, natürlich bestehen jedoch ideologische Gemeinsamkeiten mit entsprechenden Parteien vor allem in Finnland und Schweden.

Die *landskapsstyrelse*, die åländische "Regierung", wird derzeit von den bürgerlichen Parteien *Åländsk center*, *Frisinnad samverkan* und *Obunden samling* gebildet. Die Regierung hat fünf bis sieben Mitglieder. Ihr Präsident trägt den Titel *lantråd*. Die Regierung wird vom *lagting* gemäß parlamentarischer Prinzipien ernannt. Der Parlamentarismus ist jedoch nicht vollständig ausgebildet, da keine Möglichkeit zur Bildung einer Minderheitsregierung besteht. Der *landskapsstyrelse* obliegt die Verwaltung in allen Bereichen, in denen das *lagting* über Gesetzgebungskompetenzen verfügt. Die Regierungsverwaltung in Åland muß daher einer Vielzahl staatlicher Behörden entsprechen, vom Ministerrat bis hin zu verschiedenen Zentralbehörden.

Hinter der Selbstregierung steht die Absicht, den Åländern selbst die Möglichkeit zu geben, über ihre inneren Angelegenheiten zu bestimmen, während z. B. die Außenpolitik für den ganzen Staat einheitlich sein soll, wie auch gemeinsame Regelungen in einigen anderen Bereichen als berechtigt betrachtet werden.

Das *lagting* verfügt als politische Instrumente über eine Gesetzgebungskompetenz und Finanzhoheit.

Im Autonomiegesetz werden die Bereiche aufgeführt, in denen das *lagting* die Gesetzgebungskompetenz besitzt. Die wichtigsten Bereiche sind:

- Bildung und Kultur,
- Gesundheits- und Krankenwesen,
- Wirtschaftsförderung,
- Verkehrswesen,
- Kommunalverwaltung und
- Post- und Polizeiwesen.

In diesen Bereichen funktioniert Åland nahezu wie ein unabhängiger Staat, mit eigener Gesetzgebung und eigenem Verwaltungsapparat.

In den Bereichen, in denen das *lagting* nicht über Kompetenzen verfügt, gelten die finnischen Gesetze auf Åland genau wie in allen anderen Landesteilen. Als Beispiel für diese Bereiche seien hier angeführt:

- das Zoll- und Münzwesen,
- das Gerichtswesen und Strafrecht,
- weite Teile des Zivilrechts sowie
- die Verwaltung der Außenpolitik.

Um den Åländern die Sicherstellung ihres demokratischen Einflusses auch in diesen Bereichen zu ermöglichen, ist Åland auch *im finnischen Parlament vertreten*. Åland bildet bei den Parlamentswahlen einen eigenen Wahlkreis, der ein Parlamentsmitglied entsendet. Hinsichtlich des Stimmrechts und der Wählbarkeit bei den finnischen Parlamentswahlen wie auch bei der Präsidentschaftswahl gelten in Åland die gleichen Bestimmungen wie in den anderen Landesteilen.

Da sich die Gesetzgebungskompetenz auf das *lagting* und das nationale Parlament verteilt, enthält das Autonomiegesetz besondere Bestimmungen zur *Gesetzgebungskontrolle*. Das Gesetz räumt dem Präsidenten der Republik ein Vetorecht gegenüber åländischen Gesetzen ein, das jedoch nur aus formellen Gründen ausgeübt werden kann, d. h. im Falle, daß das *lagting* seine Gesetzgebungskompetenzen überschritten hat oder das regionale Gesetz eine Bedrohung für die äußere oder innere Sicherheit des Staates darstellt. Der Präsident muß eine Entscheidung des höchsten Gerichtshofs einholen, bevor ein Gesetz außer Kraft gesetzt werden kann.

Da die Bestimmungen des Autonomiegesetzes sicherlich einen Auslegungsspielraum belassen, kommt es jährlich bis zu 10mal vor, daß der Präsident gegen ein Regionalgesetz ganz oder teilweise ein Veto einlegt. Meist weckt ein solches Veto keine größere Aufmerksamkeit. Eine Ausnahme besteht nur bei einer geringen Anzahl von Fällen, z. B. wenn das *lagting* bewußt die Grenzen seiner Rechtsetzungsbefugnisse erprobt.

Da die Selbstregierung ein Instrument zur Bewahrung der schwedischen Sprache und Kultur darstellt, sind die *Sprachbestimmungen* des Gesetzes wesentlich. Gemäß dem Autonomiegesetz ist die Amtssprache der Regional- und Kommunalbehörden Schwedisch. Auch in den staatlichen Behörden in Åland ist als Amtssprache Schwedisch vorgesehen, genau wie in der Staatskirche, falls das Kirchengesetz, das vom finnischen Parlament in besonderer Ordnung angenommen wird, nichts anderes vorsieht. Finnische Mitbürger haben allerdings das Recht in eigenen Angelegenheiten vor Gericht oder anderen zentralstaatlichen Behörden in der Region die finnische Sprache zu verwenden. Ein entsprechendes Recht zur Verwendung der finnischen Sprache innerhalb der Regional- oder Kommunalbehörden besteht nicht.

Das Autonomiegesetz legt fest, daß die Unterrichtssprache an den aus öffentlichen Mitteln getragenen Schulen Schwedisch ist, falls die vom åländischen Parlament angenommenen Vorschriften nichts anderes vorsehen. Da das in Åland erlassene Schulrecht Schwedisch als Unterrichtssprache vorsieht, gibt es in Åland keine Schulen, in denen in Finnisch unterrichtet wird.

Das Wirtschaftssystem

Die allgemeinen Steuern und Abgaben werden in Åland nach den gleichen Vorschriften wie auf dem Festland durch den finnischen Staat erhoben. Zum Ausgleich erhält Åland einen sogenannten Pauschalbetrag zur Wahrnehmung der Aufgaben, die andernfalls dem Staat obliegen würden. Der Pauschalbetrag wird nachträglich an die Region transferiert. Das *lagting* kann in seinem Haushalt frei über diesen Betrag verfügen. Der Betrag macht 0,45 % der Schlußbilanz der Staatseinnahmen ohne Berücksichtigung der Staatsanleihen aus. Die Überweisung stellt somit eine nachträgliche Rückzahlung eines Teils des Steueraufkommens an die Region dar und ist mit anderen Worten kein Beitrag seitens des Staates.

Übersteigt die Einkommens- und Vermögenssteuer, die in Åland gezahlt wird, um 0,45 % die Steuern, die im gesamten Staat gezahlt werden, erhält die Region die Differenz als Steurrückvergütung. Die gute wirtschaftliche Situation Ålands führte dazu, daß die Region in vielen Jahren den Bezug einer nicht ganz unwesentlichen Steurrückvergütung verzeichnen konnte.

Die åländischen Kommunen verfügen wie alle finnischen Kommunen über ein eigenes Besteuerungsrecht. Dieses kommunale Besteuerungsrecht ist dem Grundsatz nach in vom *lagting* erlassenen regionalen Rechtsvorschriften geregelt, die Kommunen legen die prozentuale Höhe der Kommunalsteuer jedoch selbst fest.

Einwohnerrecht und Symbole

Das in dem Autonomiegesetz so genannte åländische Einwohnerrecht wird mit der Geburt erteilt, wenn ein Elternteil dieses Einwohnerrecht besitzt. Wer nach Åland zuzieht, kann das Einwohnerrecht erst erwerben, wenn er fünf Jahre lang ununterbrochen seinen Wohnsitz in Åland hatte und zufriedenstellende Schwedischkenntnisse aufweisen kann. Bisher können nur finnische Mitbürger das Einwohnerrecht erwerben.

Das Einwohnerrecht stellt die Voraussetzung für das Stimmrecht und die Wählbarkeit bei den Wahlen zum *lagting* dar. Für ein Stimmrecht bei den Kommunalwahlen müssen Mitbürger aus Ländern der Europäischen Union nur drei Jahre in Åland ansässig sein, während ansonsten das Einwohnerrecht auch für eine Teilnahme an den Kommunalwahlen erforderlich ist.

An das Einwohnerrecht ist auch die Befreiung vom Wehrdienst gekoppelt, die mit dem entmilitarisierten Status von Åland zusammenhängt. Ferner ist das Einwohnerrecht in Åland Voraussetzung für eine Gewerbeerlaubnis. Da man den åländischen Grund in Händen der ansässigen Bevölkerung halten möchte, ist das Einwohnerrecht auch Voraussetzung für Grunderwerb und -besitz in der Region. Leibeserben in gerader Linie haben jedoch immer das Recht, Grund zu besitzen.

Die Regionalregierung kann Ausnahmen von dem Erfordernis des Einwohnerrechts für den Erhalt einer Gewerbeerlaubnis und für den Grunderwerb gewähren. Genehmigungen zum Ankauf von Land, um einen festen

Åland verfügt seit 1954 über eine eigene Flagge in den Farben blau, rot und gelb.

Mit dem dritten und derzeit geltenden Autonomiegesetz wurde das Postwesen zum åländischen Kompetenzbereich. Die staatliche Post hatte seit 1984 verschiedene åländische Briefmarken herausgegeben, doch als das Beschlußrecht über das Postwesen der Region übertragen wurde, übernahm die åländische Post die Briefmarkenausgabe und finnische Briefmarken verloren auf Åland ihre Gültigkeit.

Entmilitarisierung und Neutralisierung

Åland ist ein entmilitarisiertes Gebiet, was im Prinzip bedeutet, daß keine Militäranlagen, keine militärische Tätigkeit oder militärische Ausrüstung auf Åland vorhanden sein dürfen und sich kein Militärpersonal dort aufhalten darf.

Als Finnland und Åland 1809 an das russische Zarenreich fielen, gewann Åland an strategischer Bedeutung. Die Inselgruppe wurde zum äußersten Vorposten des russischen Reiches im Westen und lag dazu in der Nähe der Hauptstadt des alten Erbfeindes Schweden Stockholm. Bereits im zweiten Jahrzehnt des letzten Jahrhunderts wurde daher mit dem Bau einer umfangreichen Befestigungsanlage in Bomarsund begonnen, um die östliche Seite Ålands zu sichern. Während des Krimkrieges wurde die Festung von französischen und englischen Truppen eingenommen und anlässlich der Friedensverhandlungen im Jahre 1856 in Paris wurden die Ålandinseln zum erstenmal Gegenstand einer völkerrechtlichen Regelung. Schon zu einem frühen Zeitpunkt boten die Franzosen und Engländer Åland Schweden an. Da die russische Bedrohung nicht durch eine Vereinigung Ålands mit Schweden abgewandt werden konnte, zwangen die Siegermächte Rußland die einseitige Verpflichtung einer zukünftigen Entmilitarisierung Ålands auf. Die Verpflichtung zur Entmilitarisierung enthält im Grundsatz ein Befestigungsverbot.

Als der Völkerbund 1921 den Beschluß über die Staatszugehörigkeit Ålands faßte, wurde auch ein internationales Abkommen über die Entmilitarisierung und Neutralisierung vorgesehen. Das Abkommen war vor allem ein Zugeständnis gegenüber Schweden und stellte einen Teil der Gesamtlösung dar, die der Völkerbund im Hinblick auf alle beteiligten Parteien, Finnland, Schweden und Åland traf. Durch das Abkommen, das von zehn Staaten unterzeichnet wurde, wurde die Entmilitarisierung des Jahres 1856 bekräftigt sowie Åland zum neutralen Gebiet erklärt. Durch die Neutralität sollte verhindert werden, daß Åland zum Kriegsschauplatz wurde.

Die Sowjetunion hatte an dem Abkommen von 1921 keinen Anteil. In dem Moskauer Friedensvertrag über Åland aus dem Jahre 1940 und in dem Friedensvertrag von Paris von 1947, der die Übernahmen durch Rußland aufführt, finden sich jedoch entsprechende Bestimmungen über die Entmilitarisierung Ålands.

Åland im Norden und in Europa

Åland ist seit 1970 Mitglied des Nordischen Rates. Das åländische Parlament entsendet zwei der insgesamt 87 Mitglieder des Rates und die åländischen Mitglieder bilden zusammen mit den Vertretern der Regionalregierung im Rat gesetzlich eine åländische Delegation. Die Vertreter der Regionalregierung haben auch an der Arbeit des Nordischen Ministerrates teil. 1997 hatte geschichtlich erstmals ein åländischer Vertreter den Vorsitz des Nordischen Rates inne. Der Zusammenarbeit im Nordischen Rat und im Nordischen Ministerrat kommt von åländischer Seite große Bedeutung zu.

Obwohl die Außenpolitik in den Kompetenzbereich des Staates fällt, übt Åland in gewissen außenpolitischen Bereichen einen Einfluß aus. Gemäß dem Autonomiegesetz sind nämlich internationale Verträge, die Fragen berühren, die unter die Gesetzgebungskompetenz der Region fallen, vom *lagting* zu bestätigen, bevor sie auch in der Region Gültigkeit erlangen. Diese Bestimmung wurde vorgesehen, damit die Selbstregierung Ålands nicht durch internationale

Übereinkommen, die von Finnland eingegangen werden, untergraben werden kann.

Die Möglichkeit Ålands, an einem internationalen Abkommen nicht teilzuhaben, gewann anlässlich des Beitritts Ålands zur Europäischen Union an Aktualität. Von åländischer Seite wurden Wünsche vorgebracht, um die zukünftige Entwicklung der Selbstverwaltung und die Voraussetzungen für die Entwicklung der lokalen Wirtschaft sicherzustellen. Die åländischen Wünsche fanden in den Verhandlungen Gehör, und das *lagting* verabschiedete die Mitgliedschaft auch Ålands.

Ålands Beziehung zur EU wird in einem gesonderten Protokoll geregelt, das Teil des finnischen Beitrittsvertrages ist und somit zum Primärrecht der EU gehört.

Dem Protokoll zufolge steht die Mitgliedschaft nicht den åländischen Bestimmungen über das Erfordernis des Einwohnerrechts bei Grunderwerb und Niederlassung entgegen. Zudem soll Åland hinsichtlich der EU-Vorschriften über die Harmonisierung der indirekten Steuern als ein sogenanntes Drittlandsgebiet betrachtet werden. Åland ist demzufolge Mitglied der Zollunion, nicht aber in der Steuerunion. Dies beinhaltet u. a., daß der steuerfreie Verkauf, der für den Verkehr von und nach Åland bedeutungsvoll ist, auch nach 1999 fortgesetzt werden kann, wenn ansonsten keine Steuerfreiheit mehr in der EU vorhanden sein wird.

Schließlich beinhaltet das Protokoll eine Bestätigung des völkerrechtlichen Status Ålands als autonomes, entmilitarisiertes und neutrales Gebiet.

Durch die Mitgliedschaft in der EU trat das åländische *lagting* genau wie der finnische Reichstag einen Teil seiner Gesetzgebungsbefugnisse ab. Nach åländischer Meinung hätte Åland genau wie Finnland für den verlorenen Einfluß durch eine Vertretung im Europäischen Parlament entschädigt werden sollen. Der Beschluß des finnischen Reichstags, keinen der sechzehn finnischen Plätze im Parlament für Åland zu reservieren, stieß daher in Åland auf heftige Kritik.

Die åländische Beteiligung an der nationalen Beschlußfassung in EU-Angelegenheiten wurde hingegen hinreichend sichergestellt. Das Autonomiegesetz wurde um neue Bestimmungen ergänzt, die der Regionalregierung in Fragen, die Åland betreffen, ein Recht auf Information sowie einen gewissen Einfluß im Rahmen des nationalen Vorbereitungsprozesses und der Anwendung der gemeinsamen EG-Politik einräumen.

Åland als Beispiel

Heute sind die meisten Konflikte weltweit, und insbesondere in Europa, keine Konflikte mehr zwischen Staaten, sondern interne Konflikte, die auf historischen, religiösen und sprachlichen Gegensätzen beruhen.

Wir verfügen in Åland über einige Erfahrung darin, einen Gedankenanstoß zu bieten oder vielleicht sogar als Modell zur Lösung nationaler und internationaler Konflikte zu dienen. Während der letzten Jahre, insbesondere nach Ende des kalten Krieges und dem Zusammenbruch der Sowjetunion, sind wir zum Gegenstand eines wachsenden Interesses von Politikern, Journalisten, Verwaltungsbeamten und Forschern geworden, die sich mit unserem autonomen, entmilitarisierten und neutralen Status beschäftigt haben. Neben anderen Gebieten, die Interesse gezeigt haben, sind Nagorni-Karabach, Moldawien, Georgien, das frühere Jugoslawien und die Falklandinseln zu nennen. Auch internationale Organisationen wie die UN und die OSZE haben Interesse gezeigt.

Die åländische Lösung läßt sich nicht direkt auf ein anderes Problem übertragen. Aber aus dem Beispiel Ålands kann man doch lernen, daß die Forderungen einer Minderheit nicht von Beginn an vollständig erfüllt sein müssen, da Möglichkeiten für eine künftige positive Entwicklung des Verhältnisses zwischen dem Staat und der Minderheit bestehen. Der internationale Hintergrund, das fortgesetzte Interesse Schwedens an der Entwicklung der Autonomie und das Interesse Rußlands an der Entmilitarisierung sind ebenfalls von Bedeutung.

Von Interesse sind ferner die starke Stellung des Autonomiegesetzes in der finnischen Verfassung sowie die fruchtbaren Beziehungen zwischen den finnischen und åländischen Behörden, die sich im Laufe der Jahre entwickelt haben. Finnland hat zudem den Åländern wichtige Symbole zuerkannt, durch die die Autonomie und das Identifikationsvermögen der Åländer mit dieser gestärkt wurden. Die Flagge, die Gebäude der Selbstregierungsorgane, die Briefmarken, das Wort "Åland" auf der Deckseite des Passes der Åländer und die Übernahme der Zuständigkeit für die staatlichen Radio- und Fernsehsender in Åland sind Beispiele für solche Symbole.

Åland verfügt, teils aufgrund der Selbstregierung, über eine gute Wirtschaftssituation und die höchste Pro-Kopf-Produktivität im Land. Die Åländer sind und waren während der letzten Jahrzehnte Nettozahler im Verhältnis zum Staat.

Die Åländer konnten auch auf internationaler Ebene einen gewissen Einfluß gewinnen. Die Mitgliedschaft im Nordischen Rat und im Nordischen Ministerrat, der Sonderstatus innerhalb der EU und die Bestimmungen des Autonomiegesetzes, die eine Zustimmung des *lagting* vor Inkrafttreten bestimmter internationaler Regelungen erforderlich machen, sind hier als Beispiele zu nennen.

Åland verfügt über 75 Jahre Erfahrung mit der Selbstregierung und 141 Jahre Erfahrung mit der Entmilitarisierung – eine Erfahrung, die wir gerne mit anderen teilen.

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Einige Daten zur Person und zur politischen Laufbahn des Präsidenten der Region Åland

Der Präsident der Region Åland, Herr Roger Jansson, wurde am 9. August 1943 geboren und lebt in Mariehamn. Er graduierte in Wirtschaftswissenschaften. Herr Jansson gehört der Partei *Frisinnad samverkan* an und ist seit 23. November 1995 Präsident der åländischen Regionalregierung.

Nachfolgend einige Daten zu seiner politischen Laufbahn:

- Mitglied des Regionalparlaments der Region Åland, 1.11.1979-23.11.1995
 - Vorsitzender des Finanzausschusses 1.11.1983-31.10.1987
 - Erster stellvertretender Präsident des Regionalparlaments 1.11.1982-31.10.1983, 1.11.199-23.3.1994
 - Präsident des Regionalparlaments 23.3.1994-22.11.1995
- Mitglied des Stadtrates von Mariehamn 1972-1975, 1980-1987 und seit 1994
- Vorsitzender des Stadtrates 1.1.1988-31.12.1993. □

Statistik- Åland 1996
Åland in figures 1996
Åland dans les chiffres 1996
Åland in Zahlen 1996

**Befolkningsandel med hänsyn till ålder/Population by Age/
 Population par tranche d'âge/Bevölkerung nach Alter: 31.12.1960-1995, %**

Ålder/Age/ Age/Alter	1960	1970	1990	1995
0-14	24.7	22.1	18.1	18.7
15-84	64.1	64.7	65.1	65.0
65-	11.2	13.2	16.8	16.3

Utbildning/Education/Enseignement/Erziehungswesen: 1994-1995

	1994	1995
Grundskolor/Comprehensive schools/Ecoles primaires/allgemeinbildende Schulen	28	29
– antal elever/pupils/nombre d'élèves/Schüler	2,553	2,749
Antal elever i gymnasieskola/Pupils in upper secondary school/Ecoles secondaires supérieures/Schüler in der gymnasialen Oberstufe	374	367
Folkskolor antal elever/Vocational schools/Ecoles professionnelles/berufsbildende Schulen	9	11
– antal elever/pupils/nombre d'élèves/Schüler	1,021	1,042

Område/Area/Superficie/Oberfläche

Land/Land/Terre/Land	1,527 km ²
Vatten/Water/Eau/Wasser	6,258 km ²

Distrikt/Districts/District/Bezirke

Städer/Towns/Villes/Städte	1
Bysamhällen på huvudön Åland/ Rural districts on Mainland Åland/ districts ruraux sur la terre ferme d'Åland ländliche Bezirke Hauptinsel/	9
Skärgården/Archipelago/ Archipel/Archipel	6

**Anställda inom industri/Employed by Industry/
Employés dans l'industrie/Erwerbstätige: 1980-1993**

	1980		1995		1993	
	Antal/ Number/ Nombre/ Zahl	%	Antal/ Number/ Nombre/ Zahl	%	Antal/ Number/ Nombre/ Zahl	%
Jordbruk/ Agriculture/Agriculture/ Landwirtschaft	1,628	15.3	1,524	13.4	1,219	10.6
Tillverkning/Manu- facturing/Ind.manufact./ verarbeitende Industrie	1,001	9.4	1,147	10.4	1,129	9.7
Byggsektorn/ Construction/Construction/ Baugewerbe	638	6.0	660	5.6	624	5.4
Handel/Trade/ Commerce/Handel	1,667	15.7	1,639	14.4	1,524	13.2
Bank/Banking/ Banques/Banken	517	4.9	739	8.5	851	7.3
Transport/Transport/ Transport/Güterverkehr/	2,423	22.8	2,280	20.1	2,107	18.2
Service/Services/ Services/Dienstleistungen	2,663	25.1	3,255	28.7	3,466	29.9
Okända/Unknown/ Inconnus/unbekannt	70	0.7	101	0.9	660	5.7
Totalt/total/total/gesamt	10,607	100.0	11,345	100.0	11,580	100.0

**Ålands handelsflotta/The Merchant Fleet of Åland/
Flotte marchande d'Åland/Handelsflotte Ålands: 1994**

	Antal fartyg/Number of vessels/Nombre de navires/ Zahl der Schiffe	Bruttovikt/Gross tonnage/ tonnage brut/ Bruttoregister-tonnage
Flagg under Åland, Island och Finland/ Fleet under the flag of the Åland Island and Finland/Flotte sous pavillon d'Åland et de la Finlande/Flotte unter der Flagge der Ålandinseln und Finnlands	30	328,408
fartygspassagerare/passenger ferries/ ferries passagers/Passagierfähren	9	229,781
utländsk flagga/under foreign flag/ pavillon étranger/unter ausländischer Flagge	c. 13	c. 588,076
Motorfordonfartyg/Road ferries/ Ferries routiers/Straßenfähren	9	5,387

**Skattebara inkomster/Income Subject to Local Taxes/
Revenus soumis à l'impôt local/ kommunalsteuerpflichtiges Einkommen: 1993**

	Inkomst, antal personer Income, number of persons/ Revenu, nombre de personnes/ Einkommen, Personenzahl	Medelinkomst/ Average, taxable Income/ Revenu moyen imposable/ Durchschnitt, steuerpflichtiges Einkommen (FLM)
Bysamhällen (huvudön)/Rural districts (Main Island)/Zones rurales (principale île) ländliche Bezirke (Hauptinsel)	10,057	84,626
Skärgård/Archipelago/ Archipel/Archipel	2,072	77,781
Mariehamn	8,842	102,883
Hela Åland /Whole of Åland/ Tout Åland/Åland insgesamt	20,971	91,599

Bofast Befolkning/Resident Population/Population résidente/Einwohnerschaft: 1.1.1980-1996

Distrikt/District/Bezirk	1980	1990	1995	1996
Bysamhällen (huvudön)/ Rural districts (Main Island)/ Zones rurales (principale île)/ ländliche Bezirke (Hauptinsel)	10,647	11,703	12,290	12,350
Skärgården/Archipelago/ Archipel/Archipel	2,422	2,405	2,439	2,434
Mariehamn	9,535	10,119	10,429	10,418
Hela Åland/Whole of Åland/ Tout Åland/Åland insgesamt/	22,604	24,227	25,158	25,202

Reports on the European Cohesion Forum, Brussels and on the European Summit of the Regions and Cities, Amsterdam

Eduardo Sánchez Monjo

Coordinator of Regional Cooperation, EIPA, Maastricht; Director, ECR, Barcelona

Two important events for the subnational administrations of the EU (cities and regions) took place within the last few months, each one pursuing different objectives and thus being held in a different context. A brief summary of these two meetings, which are of particular interest to all those who have an interest in the process of European construction with respect to the regions, is given below.

1. The first meeting, entitled '**The European Cohesion Forum**', organised by DG XVI of the European Commission, was held at the Palais des Congrès in Brussels from 28-30 April 1997 and brought together almost 1,000 participants and leading experts and practitioners from many EU Member States.

The object of the Forum was to introduce the first cohesion report on economic and social cohesion as presented by the European Commission to the European Parliament in November 1996 and, at the same time, to encourage comments and suggestions from political representatives from the regional level and from experts working in this area in their respective administrations so that DG XVI can, if necessary, take them into account in the future in order to improve on the shaping and management of structural policy.

The Forum consisted of 12 workshops which, taking the various objectives of Community structural policy as a starting point, examined the role of infrastructure and productive investment in regional development, that of human resources and other Community policies with regard to cohesion, the principle of partnership, programming, the concentration of resources and the improvement of productivity.

It is not possible here to give an exhaustive list all of the aspects dealt with during the lively debates which took place at the Forum. However, some of the topics under debate were: reducing the number of objectives for the Regions in the Structural Funds, simplifying procedures and improving efficiency, monitoring projects and programmes as well as reinforcing controls, granting more financial resources, finding ways of improving the system of partnership or association, allocating funds to those who need them most, the influence of Community policy on national training policies, reducing unemployment and social exclusion, defining priorities in EU policy with regard to cohesion, infrastructure, training human resources, ways for the regions to define their training needs as

well as the role of training in regional development, the advantages of programming and the concentration of resources, the focus of Community policy and the future challenges to be faced by the EU with a view to the years 2005-2010, globalisation, enlargement, the EMU, etc.

2. The second meeting was entitled '**The European Summit of the Regions and Cities**'. It was organised by the Committee of the Regions (CoR) and held from 15-16 May 1997 in Amsterdam. This meeting was also a landmark occasion, bringing together numerous political representatives from virtually all the regions and cities of the EU in the magnificent buildings of the former Amsterdam Stock Exchange. The summit served to highlight the willingness of the regions and cities to fully participate in the process of European construction by virtue of the real and effective application of the principle of subsidiarity.

The Final Declaration of the summit, which revealed many regional demands but at the same time was pro-European in content, was submitted by the Dutch Presidency so that its contents could be considered before the conclusion of the Intergovernmental Conference (IGC).

In a nutshell, the various topics dealt with as part of the summit revolved around the issues of cooperation and complementarity between the various administrative levels. The most cited phrase of the summit should also be mentioned, confirming the willingness to see: 'more Europe, but also more regions and more closeness'.

Nevertheless, as the conclusion of the IGC became imminent, it was clear that the initial expectations of the regions were not to be completely fulfilled. The text which was finally approved at the IGC and which will be included in the future Treaty of Amsterdam only refers to some of the recent requests made by the regions and cities to those bodies which represent them to the highest degree i.e. the CoR and the Assembly of European Regions (AER). Those aspects and points incorporated into the IGC are, amongst others, an increase in the areas in which the Commission and the Council must consult the CoR, the increased administrative autonomy of the CoR from the Economic and Social Committee, and the recognition of the important role which the regions play in cross-border cooperation.

Another concept dealt with at length in the context

of the summit was that the process of European construction should be a step by step but also irrevocable one, involving the full participation of the regions and cities.

The importance of these two events is self-evident since they are reference points for the future. In this context, EIPA's Antenna in Barcelona, the European Centre for the Regions (ECR), in its aim to serve the subnational authorities of the EU and European institutions, furthers this cause through its training activities and also by means of definite action which is closely linked to the events outlined above.

On the one hand, the ECR has contributed by circulating the document in question, the 'First Cohesion Report on Economic and Social Cohesion', by means of a series of three seminars which it has organised and which are financed by DG XVI of the European Commission. These seminars involve the participation of experts from the European Commission as well as those responsible for regional administration. Participants are invited to give their opinion in order to improve the shaping and management of regional

policy in the EU. The first of the three seminars has already taken place and the results were judged to be of significance for Community experts and participants.

In addition, being aware of how important training is for regional and local administrations, the ECR has presented the CoR with a 'Eurotraining' project for political representatives and regional and local civil servants responsible for European affairs. The progressive and inevitable increase in the responsibilities and activities of the regional and local administrations of the EU makes it necessary to provide them with the necessary expertise to face the challenges of the Europe of the future. The object of the project is to compile a working document which will be used as the basis for an interregional conference aiming to identify priority areas with respect to training on European affairs. The conclusions of this conference will then possibly be incorporated into the working document and, using the conclusions drawn, it will be possible to design a training schedule for European affairs for political representatives and those civil servants responsible for European affairs in the local or regional administrations of the EU. □

Announcement:

'Eurotraining of Regional and Local Authorities in the EU'

On 27 June 1997, the Commission 6 on Education and Training of the Committee of the Regions gave its support to the project entitled 'Eurotraining of Regional and Local Authorities in the EU' as presented by the European Institute of Public Administration in Maastricht (NL), the College of Europe in Bruges (B) and the European Centre for the Regions (E). This project aims to identify and act upon training needs with respect to European issues among civil servants and political representatives at regional and local level in the European Union.

The project is divided into three phases. An initial phase will be devoted to a study on 'Eurotraining'. For this purpose, the regions and municipalities represented within the Committee of the Regions will receive a detailed questionnaire on the situation and training needs with respect to European affairs in their respective administrations. On the basis of the results of this questionnaire a working document will be drawn up on the 'Eurotraining' of the regional and local administrations of the European Union.

In the second phase of the project and on the basis of this document an interregional conference will be organised on 'Eurotraining of Regional and Local Authorities in the EU', to be held in mid-1998. The object of this study and of the conference is to identify

priority areas with respect to the training of those responsible for European affairs and politicians at the local and regional level in the EU. The discussions will be of a political as well as an academic and practical nature. The results will be incorporated into the initial working document in order to compile a study to be published at a later date.

Finally, in the third phase, which in fact represents the actual launch of the project, a training programme will be organised to commence at the end of 1998, with specific activities adapted to the conclusions drawn regarding training needs with respect to European issues that will have been identified during the study and the conference.

The European Institute of Public Administration, the College of Europe and the European Centre for the Regions, with the support of Commission 6 on Education and Training of the Committee of the Regions, will provide the core base from which a network of contacts and relations will be established with regional and European institutions that deal with training on European issues. In the next issue of this Newsletter, further information will be provided on the project and on the planned timetable for the interregional conference on 'Eurotraining of Regional and Local Authorities in the EU'. □

Rapports sur le Forum sur la cohésion, Bruxelles et sur le Sommet des villes et régions d'Europe, Amsterdam

Eduardo Sánchez Monjo

Coordinateur de la coopération régionale, IEAP, Maastricht; Directeur, CER, Barcelone

Deux importants événements concernant les administrations infranationales (villes et régions) de l'UE se sont déroulés il y a quelques mois de cela; chacun d'eux poursuivait des objectifs différents et, par conséquent, ils se sont tenus dans des contextes différents. Nous donnons ci-dessous un bref résumé de ces deux réunions qui présentent un intérêt particulier pour tous ceux qui s'intéressent à la construction européenne sous l'angle des régions.

1. Le premier événement, le **“Forum européen sur la cohésion”**, organisé par la DG XVI de la Commission européenne, s'est tenu à Bruxelles au Palais des Congrès du 28 au 30 avril 1997 et a accueilli près de mille participants et d'éminents experts et techniciens provenant de plusieurs Etats membres de l'UE.

L'objectif du forum était de faire connaître le Premier rapport sur la cohésion économique et sociale que la Commission européenne a présenté en novembre 1996 au Parlement européen, et, en même temps, de susciter des commentaires et suggestions de la part de représentants politiques de niveau régional et d'experts travaillant dans ces domaines dans leurs administrations respectives afin que la DG XVI puisse, le cas échéant, en tenir compte à l'avenir pour améliorer la conception et la gestion des politiques structurelles.

Le forum comportait 12 ateliers qui ont analysé, à partir des divers objectifs de la politique structurelle communautaire, le rôle des infrastructures et des investissements productifs dans le développement régional, le rôle des ressources humaines et des autres politiques communautaires dans la cohésion, le partenariat, la programmation, la concentration et l'amélioration des rendements.

Il serait utopique de vouloir mentionner ici tous les aspects qui furent traités lors des débats qui ont animé ce forum. Cependant, à titre d'exemple, on peut citer quelques-uns d'entre eux: la réduction du nombre des objectifs pour les régions dans les Fonds structurels, la simplification des procédures et l'amélioration de l'efficacité, le suivi de projets et programmes ainsi que le renforcement des contrôles, la dotation de plus de ressources économiques, les voies à suivre pour améliorer le système de partenariat ou d'association, l'affectation des fonds aux populations les plus démunies, l'influence des politiques communautaires sur les politiques nationales de formation, la réduction du chômage et de l'exclusion sociale, la définition des objectifs prioritaires des politiques de l'UE en matière

de cohésion, les infrastructures, la formation des ressources humaines, les voies à suivre par les régions pour définir leurs besoins en matière de formation ainsi que le rôle de la formation dans le développement régional, les avantages de la programmation et de la concentration, l'accent des politiques communautaires et les défis futurs de l'UE à l'horizon 2005-2010, la mondialisation, l'élargissement, l'UEM, etc.

2. Le deuxième événement concerne le **“Sommet européen des régions et des villes”** organisé par le Comité des régions (CdR), qui s'est tenu les 15 et 16 mai 1997 à Amsterdam. Cette réunion fut également un important événement qui réunit de très nombreux responsables politiques provenant de pratiquement toutes les régions et villes de l'UE dans les magnifiques bâtiments de l'ancienne Bourse d'Amsterdam (NL). A cette occasion on a pu constater la volonté des régions et des villes d'être bien présentes dans le processus de construction européenne à travers l'application réelle et effective du principe de subsidiarité.

La déclaration finale du sommet, reprise dans un document revendicatif, mais en même temps pro-européen, fut transmise par la Présidence néerlandaise pour qu'il en soit tenu compte avant la conclusion de la Conférence intergouvernementale (CIG).

S'il fallait résumer ici en quelques mots les différents thèmes abordés lors des discussions du sommet, je citerais la coopération et la complémentarité entre les différents niveaux d'administration, en y ajoutant la phrase qui fut entendue le plus souvent: “la volonté d'avoir plus d'Europe, mais avec plus de régions, plus de villes et plus de proximité et de subsidiarité”.

Toutefois, les attentes initiales des régions ont été sensiblement réduites à mesure que l'on se rapprochait de la conclusion de la CIG. Le texte approuvé finalement dans la CIG et qui figurera dans le futur Traité d'Amsterdam ne reprend que quelques-unes des revendications adressées ces derniers temps par les régions et les villes à leurs instances les plus représentatives: le Comité des régions (CdR) et l'Assemblée des régions d'Europe (ARE). Les aspects et les points qui ont été incorporés dans la CIG sont, entre autres, les suivants: un accroissement des domaines pour lesquels la Commission et le Conseil doivent consulter le CdR, une autonomie administrative croissante du CdR par rapport au Comité économique et social, et la reconnaissance du rôle pertinent que les

régions jouent dans la coopération transfrontalière.

Un autre concept largement entendu lors du sommet fut que la construction européenne doit progresser pas à pas, mais irrémédiablement, avec la pleine participation des régions et villes.

L'importance de ces deux événements est évidente, car ils constituent des points de repère pour l'avenir. Dans ce cadre, l'Antenne de l'IEAP à Barcelone, le Centre européen des régions (CER), dans son souci d'être au service des autorités infranationales et des institutions de l'UE, contribue, entre autres activités de formation, par des actions concrètes, qui sont étroitement liées aux événements relatés ci-dessus.

D'une part, le CER contribue par la diffusion du document en question, le "Rapport sur la cohésion économique et sociale", à travers la réalisation d'une série de trois séminaires financés par la DG XVI de la Commission européenne, avec la participation d'experts de la Commission européenne et de responsables des administrations régionales qui sont invités à donner leur avis afin d'améliorer la conception et la gestion des politiques régionales de l'UE. Les

résultats du premier séminaire ont été jugés pertinents pour les experts communautaires et les participants.

D'autre part, conscient de l'importance de la formation pour les administrations régionales et locales, le CER a présenté au CdR un projet sur "l'Euroformation" pour les représentants politiques et les fonctionnaires régionaux et locaux chargés des questions européennes. L'augmentation progressive et inéluctable des responsabilités et des activités des administrations régionales et locales de l'UE fait ressortir la nécessité de les doter des capacités nécessaires pour faire face aux futurs enjeux européens. L'objectif du projet est d'élaborer un document de travail qui servira de base à une conférence interrégionale destinée à identifier les grandes lignes d'action en matière d'Euroformation. Les conclusions de cette conférence seront ensuite éventuellement incorporées dans ce document et, forts de ces constatations, l'on élaborera un plan de formation sur des questions européennes pour les représentants politiques et les fonctionnaires chargés de questions européennes dans les administrations locales et régionales de l'UE. □

Annnonce:

“Euroformation des administrations régionales et des villes de l'Union européenne”

Le 27 juin dernier, la commission 6 "Education et formation" du Comité des régions a donné son soutien au projet relatif à "L'Euroformation des administrations régionales et des villes de l'Union européenne" présenté par l'Institut européen d'administration publique de Maastricht (NL), le Collège d'Europe de Bruges (B) et le Centre européen des régions de Barcelone (E). Ce projet vise à identifier et à agir sur les besoins en Euroformation des fonctionnaires et représentants politiques de niveau régional et local dans l'Union européenne.

Ce projet est structuré en trois phases. Une phase initiale consacrée à une étude sur l'Euroformation. A cette fin, les régions et communes représentées au sein du Comité des régions recevront un questionnaire détaillé sur la situation et les besoins en formation sur des questions européennes de leurs administrations respectives. A partir des réponses fournies à ce questionnaire, nous élaborerons un document de travail sur l'Euroformation des administrations régionales et locales dans l'Union européenne.

Au cours de la deuxième phase du projet et nous appuyant sur ce document, nous organiserons à la fin du premier semestre 1998 une conférence interrégionale sur "L'Euroformation des administrations régionales et des villes de l'Union européenne". L'objectif de l'étude et de la conférence est d'identifier les domaines prioritaires pour la formation des responsables

politiques et des fonctionnaires chargés des dossiers européens dans les administrations régionales et locales de l'UE. Les discussions se feront tant sous l'angle politique que sous l'angle académique et pratique. Leurs résultats seront consignés dans le document de travail initial afin d'élaborer une étude qui sera publiée par la suite.

Enfin, dans la troisième phase, qui représente en fait le véritable lancement de ce projet, nous organiserons un programme de formation qui pourra être lancé fin 1998, avec des activités concrètes adaptées aux conclusions tirées sur les besoins en Euroformation qui ont pu être identifiés à la fois lors de l'étude et à la suite de la conférence.

L'Institut européen d'administration publique, le Collège d'Europe et le Centre européen des régions, avec l'appui de la commission 6 "Education et formation" du Comité des régions, constituent le noyau de base à partir duquel un réseau de contacts et de relations sera tissé avec les institutions régionales et européennes qui s'occupent de la formation sur des questions européennes. Dans le prochain numéro de ce Bulletin, nous vous fournirons de plus amples informations sur ce projet ainsi que sur le calendrier prévu pour la tenue de la conférence interrégionale consacrée au thème de "l'Euroformation des administrations régionales et des villes de l'Union européenne". □

Bericht über das Europäische Kohäsionsforum in Brüssel und den Gipfel der Regionen und Städte in Amsterdam

Eduardo Sánchez Monjo

Koordinator der Zusammenarbeit im Bereich Regionalpolitik, EIPA, Maastricht; Direktor, ECR, Barcelona

Vor wenigen Monaten haben zwei Veranstaltungen stattgefunden, die für die regionalen und kommunalen Gebietskörperschaften in der EU von Bedeutung sind. Die beiden Veranstaltungen verfolgten unterschiedliche Zielsetzungen und fanden daher in einem unterschiedlichen Kontext statt. Nachfolgend möchten wir aufgrund ihrer Relevanz für alle aus regionaler Sicht am Aufbau Europas interessierten Personen eine kurze Darstellung der beiden Veranstaltungen geben.

1. Die erste der beiden Tagungen, das **“Europäische Kohäsionsforum”**, wurde von der GD XVI der Europäischen Kommission vom 28. – 30. April 1997 im Kongreßpalast in Brüssel abgehalten. An der Tagung nahmen etwa tausend Teilnehmer sowie namhafte Experten und Fachleute aus verschiedenen Mitgliedstaaten teil.

Ziel des Forums war es, den 1. Bericht über den wirtschaftlichen und sozialen Zusammenhalt vorzustellen, den die Europäische Kommission im November 1996 dem Europäischen Parlament vorgelegt hatte, und gleichzeitig die Anmerkungen und Vorschläge der regionalen politischen Vertreter und Fachleute zu erhalten, die in ihrer jeweiligen Verwaltung in diesen Bereichen arbeiten. Hierdurch sollte der GD XVI die Möglichkeit gegeben werden, die Stellungnahmen bei der zukünftigen Konzeption und Verwaltung der Strukturpolitik zu berücksichtigen.

Das Forum gliederte sich in 12 Arbeitsgruppen, die ausgehend von den verschiedenen Zielen der Strukturpolitik der Gemeinschaft die Rolle der Infrastruktur, der Produktivinvestitionen in die regionale Entwicklung, der Humanressourcen und der weiteren Gemeinschaftspolitiken hinsichtlich des Zusammenhalts untersuchten und sich mit der Partnerschaft, der Programmplanung und der Konzentration und Verbesserung der Ergebnisse beschäftigten.

Es würde zu weit führen, hier alle Aspekte der vielschichtigen, von den Referenten und Teilnehmern an dem Forum aufgebrachten Diskussionen behandeln zu wollen. Beispielhaft sollen hier jedoch die folgenden Punkte aufgeführt werden: Reduktion der Anzahl an Zielen im Rahmen der Strukturfonds, Vereinfachung der Vorgehensweise und Erhöhung der Effizienz, die begleitende Verfolgung von Projekten sowie die Verstärkung von Kontrollen, die Ausstattung mit besseren wirtschaftlichen Ressourcen, die Wege zur Verbesserung des Systems der Partnerschaft oder Assoziierung, die Zuweisung von Mitteln an die Bevölkerung in den am stärksten benachteiligten Gebieten, der Einfluß der Gemeinschaftspolitiken auf die nationale Bildungspolitik, die Reduzierung der Arbeitslosigkeit und des sozialen Ausschlusses, die Festlegung prioritärer Ziele der Gemeinschaftspolitik im Bereich Kohäsion, die Infrastruktur, die Ausbildung der Humanressourcen, die

von der Region zur Ermittlung ihres Bedarfs an Maßnahmen im Bildungsbereich anzuwendenden Verfahren und die den Bildungsmaßnahmen zukommende Rolle bei der regionalen Entwicklung, die Vorteile der Programmplanung und der Konzentration, die Schwerpunktbildung bei den Gemeinschaftspolitiken und die künftigen Herausforderungen an die EU im Zeitraum 2005-2010 – Globalisierung, Erweiterung, Währungsunion usw.

2. Die zweite Tagung war der **Europäische Gipfel der Regionen und Städte** der EU, der vom Ausschuß der Regionen (AdR) durchgeführt wurde und am 15./16. Mai 1997 stattfand. Auch hierbei handelte es sich um eine wichtige Veranstaltung, die in großer Zahl politische Entscheidungsträger aus fast allen Regionen und Städten der EU in den ehrwürdigen Gebäuden der alten Börse von Amsterdam (NL) zusammenbrachte, um der Bejahung des europäischen Aufbauprozesses und dem Willen zur Präsenz der Regionen und Städte durch eine wirkliche und effektive Anwendung des Subsidiaritätsprinzips Ausdruck zu verleihen.

Die Abschlusserklärung des Gipfels, ein forderndes, gleichzeitig aber auch durch einen klaren europäischen Willen geprägtes Dokument, wurde der niederländischen Präsidentschaft zur Berücksichtigung vor Abschluß der Regierungskonferenz überreicht.

Will man die vielen wichtigen Fragen, die während des Gipfels erörtert wurden, in wenigen Worten zusammenfassen, so sind vor allem die Zusammenarbeit und die Komplementarität zwischen den Verwaltungsebenen zu nennen, zusammen mit einer Formulierung, die mehrmals wiederholt wurde und sich auf den Wunsch nach *“mehr Europa, aber verstärkt mit den Regionen und Städten und mit einer größeren Nähe und Subsidiarität”* bezieht.

Die anfänglichen Erwartungen der Regionen nahmen mit dem zunehmenden Fortschreiten der Regierungskonferenz spürbar ab. In dem Text, der schließlich von der Regierungskonferenz verabschiedet wurde und der künftig Teil des Vertrages von Amsterdam sein wird, finden sich nur einige der Forderungen wieder, die in jüngerer Zeit von den Regionen und Städten und ihren wichtigsten Vertretungsorganen – dem AdR und der Versammlung der Regionen Europas (VRE) – vorgebracht wurden. In die Regierungskonferenz wurden unter anderem die folgenden Aspekte und Punkte eingebracht: eine Erweiterung der Bereiche, in denen der Ausschuß der Regionen von der Kommission und vom Rat gehört werden muß, eine zunehmende Verwaltungsautonomie des AdR gegenüber dem WSA und die Anerkennung der bedeutenden Rolle der Regionen bei der grenzüberschreitenden Zusammenarbeit.

Die Notwendigkeit eines schrittweisen, aber nunmehr

unverschiebbaren Aufbaus Europas unter voller Beteiligung der Regionen und Städte stellt eine weitere, auf dem Gipfel häufig vertretene Auffassung dar.

Die Bedeutung dieser Veranstaltungen spricht für sich, da sie als Bezugspunkte für die Zukunft dienen werden. In diesem Zusammenhang wird die Außenstelle des EIPA in Barcelona, das ECR, – neben der Durchführung weiterer Fortbildungsmaßnahmen im Rahmen der von ihm übernommenen Verpflichtung zur Unterstützung der subnationalen Verwaltungen in der EU und der europäischen Institutionen – durch zwei konkrete Projekte, die mit den genannten Veranstaltungen in enger Verbindung stehen, seinen Beitrag leisten.

Das erste Projekt ist im Zusammenhang mit der Veröffentlichung des bereits genannten “Berichts über den wirtschaftlichen und sozialen Zusammenhalt” zu sehen und besteht aus einer Serie von drei Seminaren, die durch die GD XVI der Europäischen Kommission finanziert werden und an denen Fachleute der Europäischen Kommission und Mitarbeiter der regionalen Verwaltungen teilnehmen, um ihre Stellungnahmen zur Verbesserung der Konzeption und Verwaltung der Regionalpolitiken der EU abzugeben. Die Ergebnisse des ersten Seminars waren für die Fachleute der Gemeinschaft und die

Teilnehmer aufschlußreich.

In dem Bewußtsein, wie wichtig Fortbildung für die regionalen und lokalen Verwaltungen ist, hat das ECR dem AdR einen Projektentwurf zur Fortbildung in europäischen Fragen von politischen Vertretern und regionalen und kommunalen öffentlichen Bediensteten vorgelegt, die mit europäischen Fragen befaßt sind. Das zunehmende und unaufhaltsame Anwachsen von Zuständigkeiten und Tätigkeitsbereichen der regionalen und kommunalen Verwaltungen der EU bringt die Notwendigkeit mit sich, den Mitarbeitern dieser Verwaltungen die erforderlichen Fähigkeiten zu vermitteln, um den künftigen europäischen Anforderungen gerecht zu werden. Ziel des Projektes ist es, zunächst ein Arbeitsdokument auszuarbeiten, auf dessen Grundlage dann eine interregionale Konferenz abgehalten wird. Die Konferenz soll es ermöglichen, die Leitlinien für ein Tätigwerden im Bereich der Fortbildung in europäischen Fragen zu ermitteln. Die Ergebnisse der Konferenz sollen dann gegebenenfalls in das Arbeitsdokument integriert und anhand der Folgerungen aus dieser Studie soll schließlich ein Fortbildungsprogramm in europäischen Fragen für politische Vertreter und die in den regionalen und kommunalen Behörden mit europäischen Fragen befaßten Bediensteten ausgearbeitet werden. □

Ankündigung:

“Europa-Fortbildung im Bereich der regionalen und kommunalen Verwaltungen in der Europäischen Union”

Am 27. Juni dieses Jahres hat die Fachkommission 6 “Bildung und Ausbildung” des Ausschusses der Regionen dem Projekt “Europa-Fortbildung im Bereich der regionalen und kommunalen Verwaltungen in der Europäischen Union” ihre Unterstützung zugesichert, das vom Europäischen Institut für öffentliche Verwaltung in Maastricht (NL), dem College of Europe in Brügge (B) und dem Europäischen Zentrum der Regionen in Barcelona (E) vorgestellt wurde. Das Projekt sieht vor, den Bedarf an Europa-Fortbildung von öffentlichen Bediensteten und regionalen und kommunalen politischen Vertretern in der Europäischen Union zu ermitteln sowie in diesem Bereich Maßnahmen zu ergreifen.

Das Projekt gliedert sich in drei Phasen. Während der ersten Phase wird ein Bericht über die “Europa-Fortbildung” erstellt. Hierzu werden die Regionen und Gemeinden, die im Ausschuß der Regionen vertreten sind, einen detaillierten Fragebogen über den Stand und den Bedarf an Fortbildung in europäischen Fragen in ihrer Verwaltung erhalten. Auf der Grundlage der Ergebnisse dieses Fragebogens soll ein Arbeitsdokument über die “Europa-Fortbildung” in den regionalen und kommunalen Verwaltungen in der Europäischen Union erstellt werden.

Während der zweiten Phase des Projektes und auf der Basis dieses Dokuments wird dann gegen Ende der ersten Jahreshälfte 1998 eine interregionale Konferenz über die “Europa-Fortbildung im Bereich der regionalen und kommunalen Verwaltungen in der Europäischen Union” stattfinden. Ziel der Studie und der Konferenz ist es, prioritäre Bereiche für die Fortbildung der mit europäischen

Fragen befaßten Mitarbeiter der Verwaltungen und der Politiker auf regionaler und kommunaler Ebene in der EU zu ermitteln. Die Thematik wird sowohl aus politischer wie auch aus wissenschaftlicher und praktischer Sicht erörtert werden. Die Ergebnisse der Diskussion werden dann in das Arbeitsdokument aufgenommen, um so zu einer Studie zu gelangen, die zur späteren Veröffentlichung vorgesehen ist.

In einer dritten Phase, die in gewisser Weise die Aufnahme der eigentlich durch dieses Projekt verfolgten Zielsetzung bedeutet, soll schließlich ein Fortbildungsprogramm entwickelt werden, das Ende 1998 aufgenommen werden kann und aus konkreten Maßnahmen bestehen wird, die den während der Studie und der Konferenz ermittelten Erfordernissen einer Europa-Fortbildung angepaßt sein werden.

Das Europäische Institut für öffentliche Verwaltung, das College of Europe und das Europäische Zentrum der Regionen werden unterstützt von der Fachkommission 6 “Bildung und Ausbildung” des Ausschusses der Regionen den Grundkern darstellen, von dem ausgehend ein Netz an Kontakten und Beziehungen zu den europäischen und regionalen Institutionen, die sich mit der Europa-Fortbildung beschäftigen, aufgebaut werden soll. In der nächsten Ausgabe dieses Bulletins werden wir weitere Informationen zu diesem Projekt veröffentlichen sowie die für die Veranstaltung der interregionalen Konferenz über die “Europa-Fortbildung im Bereich der regionalen und kommunalen Verwaltungen in der Europäischen Union” vorgesehene Terminplanung. □

ANNOUNCEMENT/ANNONCE

European Centre for the Regions (ECR) Seminars/ *Séminaires du Centre européen des Régions (CER)*

‘The First Economic and Social Cohesion Report, 1996’ ***“Premier rapport sur la cohésion économique et sociale 1996”***

This project is subsidized by DG XVI of the European Commission/
Ce projet est subventionné par la DG XVI de la Commission européenne

Barcelona/Barcelone,

7-9 July 1997; 29-30 September 1997; 8-9 October 1997

7-9 juillet 1997; 29-30 septembre 1997; 8-9 octobre 1997

The European Institute of Public Administration-European Centre for the Regions (EIPA-ECR) in Barcelona approached the Directorate General for Regional Policy of the European Commission (DG XVI) with a view to organizing a series of three seminars on ‘The First Economic and Social Cohesion Report, 1996’ to be held on three occasions. This Report raises some controversial issues and suggests a possible future direction for Structural Policy. The DG XVI, aware of the extreme importance of the issue, has decided to support this EIPA-ECR initiative.

The aim of these Seminars is to spread knowledge and understanding about the aforementioned Report, to foster communication, the exchange of ideas and experience amongst the regions as well as between the regions and the European Commission, to consider new approaches to EU structural policies and to hold an in-depth debate on the future of structural policy, mainly regarding partnership, subsidiarity, cohesion and so on.

DG XVI is particularly interested in gauging the opinion of regional experts regarding Structural Policy. Furthermore, regional public administrations should contribute to the ongoing debate concerning the future of Structural Policy on the basis of both the principle of subsidiarity and their direct knowledge of their own situation.

Each Seminar will last for two days. Regional experts will be expected to present the status of their region as far as the Structural Funds are concerned and discuss their concerns and proposals for the future development of these Funds with representatives from DG XVI. The Speakers will be DG XVI experts.

The outcome of each activity will be a report on the main issues raised as well as the ideas, presentations and proposals expressed during the seminars. A final report will eventually be prepared on the basis of the results obtained.

There will be some 25 participants per Seminar. The groups will be organized so that they include representatives from different countries and from Objective 1 and 2 regions.

L’Institut européen d’administration publique-Centre Européen des Régions (IEAP-CER) situé à Barcelone, a proposé à la Direction générale chargée de la Politique régionale de la Commission européenne (DG XVI), d’organiser un séminaire consacré au “Premier rapport sur la cohésion économique et sociale 1996”, qui sera répété à trois reprises. Ce rapport soulève un certain nombre de questions controversées tout en avançant plusieurs orientations possibles pour la future politique structurelle. Consciente de l’importance capitale de ce thème, la DG XVI a décidé de soutenir cette initiative de l’IEAP-CER.

Les objectifs de ces séminaires sont de diffuser la connaissance du rapport susmentionné et d’en améliorer la compréhension, de favoriser la communication et l’échange d’idées et d’expériences entre les régions elles-mêmes, ainsi qu’entre les régions et la Commission européenne, en vue de considérer de nouvelles approches à l’égard des politiques structurelles communautaires et d’avoir un vaste débat de fond sur l’avenir des politiques structurelles, notamment sous l’angle du partenariat, de la subsidiarité et de la cohésion.

Plus spécifiquement, la DG XVI souhaite connaître l’avis des experts régionaux en matière de politique structurelle. Par ailleurs, conformément au principe de subsidiarité, les administrations publiques régionales devraient, à partir de leur propre réalité, alimenter le débat en cours sur l’avenir de la politique structurelle.

Chaque séminaire durera deux jours. Les experts régionaux présenteront la situation dans leurs régions respectives concernant les fonds structurels et débattront avec les représentants de la DG XVI de leurs préoccupations et propositions pour le développement futur de ces fonds. Les orateurs seront des experts de la DG XVI.

A l’issue de chaque activité, un rapport sera rédigé sur les principales questions soulevées, sur les idées, constatations et propositions avancées durant les séminaires. L’intention est d’élaborer, à la fin du cycle, un rapport final sur la base des résultats obtenus.

Chaque séminaire comptera quelque 25 participants. Les groupes seront organisés de façon à avoir des représentants venant de différents pays et de différentes régions Objectif 1 et Objectif 2.



ANNOUNCEMENTS / ANNONCES

Seminar / Séminaire

European Negotiations / *Négociations européennes*

Maastricht

29 September-3 October and 17-21 November 1997; 9-13 February, 15-19 June,
5-9 October and 23-27 November 1998/

*du 29 septembre au 3 octobre et du 17 au 21 novembre 1997; du 9 au 13 février, du 15 au 19
juin, du 5 au 9 octobre et du 23 au 27 novembre 1998*

This seminar practises the strategies and tactics relevant to European negotiation situations and examines ways in which to promote their efficient conduct. It is intended for civil servants from Member States and Community institutions and is of a highly practical and interactive nature. While providing a theoretical framework, the seminar is above all designed to help participants improve their negotiations skills. An added value is the multinational composition of the group which provides participants with a rare opportunity to explore and develop together the vast potential inherent in the unique process of European negotiations.

Ce séminaire met en pratique les stratégies et tactiques pertinentes pour des situations de négociation européenne et examine les moyens d'en accroître l'efficacité. La nature de ce séminaire destiné aux fonctionnaires des Etats membres de l'UE et des institutions communautaires est fortement pratique et interactive. Parallèlement à cet objectif qui vise à fournir un cadre théorique, le séminaire est avant tout conçu pour aider les participants à améliorer leurs aptitudes de négociation. La composition multinationale du groupe est une valeur ajoutée et offre aux participants une occasion unique d'explorer ensemble le vaste potentiel inhérent au processus de négociations européennes.

For more information and application forms, please contact:

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Transatlantic Challenges in a New Strategic Environment

Maastricht, 16-17 October 1997

Seminar to celebrate ten years of cooperation between EIPA and Brookings

In 1997 it will be exactly ten years since the European Institute of Public Administration (EIPA), Maastricht, and the Brookings Institution, Washington D.C., first launched their annual seminars whereby US officials come to Maastricht and Brussels to learn about the EU and transatlantic relations and officials from the EU Member States go to Washington D.C. to study the US government system and transatlantic relations. Over the years more than 400 officials from both sides of the Atlantic have taken part in the programme.

To celebrate this event, both institutions have decided to organize a two-day seminar, entitled 'Transatlantic Challenges in a New Strategic Environment'. The seminar will take place in Maastricht on 16 and 17 October. It will focus on how the transatlantic relationship has adjusted itself to the new international environment and explore how it can be developed further, within both traditional and new areas of cooperation.

For practical information and registration forms, please contact:

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Seminar on the New Treaty of Amsterdam

Colloquium

Colloque

Managing the New Treaty on European Union: Coping with Flexibility and Legitimacy

Maastricht, 27-28 November 1997

The European Institute of Public Administration is organizing a colloquium on the managerial aspects of the new Treaty on European Union. The prospect of enlargement has presented the IGC-negotiators with the challenge of designing a treaty in which the reinforced institutional unity has a proper balance of flexibility and legitimacy.

On the first day of the colloquium, prominent speakers from various European institutions will give presentations on the outcome of the Intergovernmental Conference. On the second day, participants can sign up for three workshops in which the challenges of flexibility and legitimacy for each of the three pillars of the Union will be discussed and introduced separately by experts in the relevant fields.

EIPASCOPE readers who are interested in participating or in receiving more information about the event should contact Ms Winny Janssen (tel: +31-43-329 6320; e-mail: wja@eipa.nl) or Ms Joyce Groneschild (tel: +31-43-329 6357; e-mail: jog@eipa.nl); fax: +31-43-329 6296.

Gérer le nouveau Traité sur l'Union européenne: l'importance d'allier flexibilité et légitimité

Maastricht, les 27 et 28 novembre 1997

L'Institut européen d'administration publique organise un colloque sur les aspects managériaux du nouveau Traité sur l'Union européenne. Dans la perspective de l'élargissement, les négociateurs de la Conférence intergouvernementale (CIG) se sont vus confrontés au défi de concevoir un traité alliant flexibilité et légitimité dans le contexte d'une unité institutionnelle renforcée.

Au cours de la première journée du colloque, d'éminents orateurs issus de différentes institutions européennes feront des interventions sur les résultats de la Conférence intergouvernementale. Durant la deuxième journée, les participants pourront s'inscrire à trois ateliers où les défis liés à la flexibilité et à la légitimité seront débattus pour chacun des trois piliers de l'Union et introduits séparément par des spécialistes en la matière.

Les lecteurs d'EIPASCOPE qui souhaitent participer à ce colloque ou recevoir un complément d'information peuvent s'adresser à Mme Winny Janssen (tél.: +31-43-329 6320; e-mail: wja@eipa.nl) ou à Mme Joyce Groneschild (tel: +31-43-329 6357; e-mail: jog@eipa.nl); fax: +31-43-329 6296.

Sixth Colloquium

Schengen's Final Days? Incorporation into the New TEU, External Borders and Information Systems

Maastricht, 5-6 February 1998

As we anticipated in our announcement of the sixth Schengen colloquium in the previous edition of EIPASCOPE, the proposal to incorporate the Schengen *Acquis* into the new Treaty on European Union was indeed adopted at the Amsterdam Summit. Preparations to pave the way for this incorporation are already underway. The main questions to be dealt with at the next Schengen Colloquium are therefore how this incorporation has been negotiated, how the Schengen Protocol will be implemented and how the Schengen Secretariat will be integrated into the EU Council Secretariat.

The other major topic of the sixth Schengen Colloquium concerns the relation between the Schengen Information System, SIRENE and data protection issues. Furthermore, separate lectures will address topics such as security arrangements at the external borders of the Schengen area, asylum issues, control by national parliaments, progress in the free movement of persons, and the Belgian Presidency programme for the first half of 1998.

For more information and registration forms, please contact
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Colloquium

Enforcement in the Internal Market

Maastricht, 12-13 January 1998

With the increasing number of EU *New Approach* trade directives becoming mandatory, concern is growing about the enforcement of such legislation and the affixation of the CE marking. Critics argue that if compliance is to be encouraged and the level playing-field achieved, proper and uniform enforcement of EU directives must be actively promoted – NOW!

To increase awareness and understanding of the issues involved in order to help make the Internal Market work, The European Institute of Public Administration is holding a Colloquium on Enforcement in the Internal Market at its premises in Maastricht on 12 and 13 January 1998.

The aim of the Colloquium, which will be conducted in English, is to bring together representatives with senior policy-making responsibilities from the EU Commission, government and industry to exchange views and experiences from which major concerns and policy issues to be raised with the Commission and elsewhere may be identified.

EIPA is honoured to announce that Lord Simon of Highbury, Minister for Trade and Competitiveness in Europe at the Department of Trade and Industry in London, will make a keynote address to launch the Colloquium. Other speakers will come from a variety of backgrounds covering the legal aspects as well as the practicalities of actual enforcement both for business and enforcement agencies.

For more information and registration forms, please contact:

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Training-Seminar

Innovation Policy and Strategy for the Regions of Europe

Barcelona, 10-13 November 1997

Innovation is the *oil for the engine* of today's European economic development. It is therefore of particular importance for regional and local players and their decision-making bodies. Both an innovative policy and a strategic decision-making process for the implementation are crucial instruments for the private as well as the public sector in the regions of the future. Being aware of how to create and to apply innovation policy and of current EU initiatives and programmes will open up opportunities to promote regional economy and business, to make use of new resources and to foster regional cooperation.

The European Centre for the Regions (ECR), EIPA's Antenna in Barcelona, will carry out an activity in which public policy makers from the European regional and local levels as well as regional area managers who are open to innovation will be trained in how to pursue regional innovation policy for their needs and demands in order to cope with these trends and developments.

The seminar '*Innovation Policy and Strategy for the Regions of Europe*', which will take place on 10-13 November 1997 at ECR-Barcelona and be conducted in English, will be a highly interactive one involving full participation. Presentations and lectures followed by case studies and discussions will give the participants the possibility to exchange views and experiences both with experts from different institutions and with colleagues from other Member States.

For more information and registration forms, please contact:

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Comités et comitologie dans le processus politique de la Communauté européenne

Committees and Comitology in the Political Process of the European Community

Ausschüsse und Komitologie im politischen Prozeß der Europäischen Gemeinschaft

Maastricht, 25-30 January 1998

Maastricht, 20-25 September 1998

Les comités jouent un rôle essentiel dans les différentes phases du processus politique de la Communauté européenne dans la mesure où ils participent à l'élaboration, la décision et la mise en oeuvre des politiques communautaires. Plus précisément, les comités experts ou consultatifs assistent la Commission dans le processus législatif; les groupes de travail ou comités du Conseil préparent les décisions des ministres; et, dans le processus de mise en oeuvre, les comités désignés sous le nom de "comitologie" contrôlent la mise en oeuvre du droit communautaire.

Ce séminaire vise à aider les fonctionnaires des Etats membres et des institutions communautaires à mieux comprendre le rôle exercé par ces comités dans le processus décisionnel d'un point de vue à la fois théorique et pratique. La première partie du séminaire sera consacrée à une typologie des comités – sur la base de leur fonction dans le processus décisionnel – et sera suivie d'exercices de simulation et d'études de cas des différents types de comités en vue d'illustrer le rôle qu'ils jouent dans le processus d'élaboration de politiques ainsi que leur mode de fonctionnement.

Cette approche alliant discussions théoriques et apprentissage interactif donnera aux participants l'occasion d'améliorer leurs connaissances théoriques et pratiques du travail des comités sous tous les angles du processus d'élaboration et de mise en oeuvre des politiques communautaires.

En janvier, la langue de travail du séminaire sera l'anglais. En septembre, les langues de travail du séminaire seront le français, l'anglais et l'allemand.

Si vous souhaitez obtenir de plus amples informations ou recevoir un formulaire d'inscription, veuillez contacter:

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

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

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

In the January seminar the working language will be English, in the September seminar English, French and German.

For more information and registration forms please contact:

Ausschüsse spielen in verschiedenen Phasen des politischen Prozesses in der Europäischen Gemeinschaft eine wichtige Rolle. Sie sind an der Erarbeitung, Entscheidung und Umsetzung von EG-Politik beteiligt: Beratende Ausschüsse oder sogenannte Expertenausschüsse helfen der Kommission bei der Ausarbeitung von Rechtsakten, Arbeitsgruppen oder Ausschüsse des Rates bereiten Ministerentscheidungen vor, sogenannte „Komitologie“-Ausschüsse überwachen die Umsetzung von EG-Recht.

Das Seminar richtet sich an Bedienstete der Mitgliedstaaten und Gemeinschaftsinstitutionen, die ein besseres Verständnis der Bedeutung und Funktion erlangen möchten, die diese Ausschüsse im politischen Prozeß sowohl aus theoretischer als auch aus praktischer Sicht spielen. Im ersten Teil des Seminars wird eine Einteilung der Ausschüsse, basierend auf ihrer Funktion im Entscheidungsprozeß, entwickelt. Im Anschluß daran verdeutlichen Simulationen und Fallstudien zu den verschiedenen Ausschußtypen die Arbeitsweise und die Rolle, die diese im politischen Prozeß spielen.

Die Verbindung von theoretischer Diskussion und interaktivem Lernen gibt den Teilnehmern die Möglichkeit, ihr theoretisches und praktisches Wissen über Ausschüsse in allen Bereichen der Rechtsetzung und Umsetzung von EG-Politiken zu erweitern.

Im Januar wird die Arbeitssprache des Seminars Englisch sein. Arbeitssprachen des Seminars im September werden Englisch, Französisch und Deutsch sein.

Weitere Informationen und Anmeldeformulare erhalten Sie bei:

Sound and Efficient Management of Expenditure in the European Union (SEM 2000) / *Gestion saine et efficace des dépenses dans l'Union européenne (SEM 2000)*

Maastricht

5 and 6 March 1998 / *les 5 et 6 mars 1998*

The European Commission has launched an initiative on sound and efficient (financial) management in an effort to instil a new financial and resource management culture into the Community as a whole. Under this initiative, the Member States will be more strongly involved in a drive to improve financial management, particularly in view of the fact that more than 80 % of EU expenditure is effectively administered in the Member States. This mainly concerns Community expenditure under the Common Agricultural Policy and the Structural Policy.

Furthermore, the SEM 2000 initiative relates to the role of the European Court of Auditors and the European Parliament in their competence as budgetary authorities. The efficiency, effectiveness, control and audit of financial expenditure, as well as the combating of financial irregularities and fraud, require the reinforcement of interinstitutional relationships among EU institutions, between EU institutions and the Member States, and between the relevant institutions within the Member States. Meanwhile, the SEM 2000 Personal Representatives Group has agreed that there is a clear common interest between the Commission and the Member States to improve the rate of recovery of own resources and reduce or eliminate fraud and irregularities in existing systems. For this purpose, the Commission is looking into the possibilities of joint audit initiatives and other effective measures such as computerization.

The European Institute of Public Administration has followed these developments with great interest, particularly since various reforms that may result from the SEM 2000 initiative will have implications for public administration at European, national, regional and even municipal level. EIPA has decided that it would be a good idea to expand its research in the area of financial management. This will be undertaken by Roger Levy of Robert Gordon University, Aberdeen, who will be spending six months as a visiting professor at EIPA.

Furthermore, EIPA is organizing an open activity on the Sound and Efficient Management initiative. A colloquium will be held on 5 and 6 March 1998, which will focus on the initiative itself and also on how the EU budget actually works, the coordinating role of the European Commission, value-for-money auditing in the EU, the (de-)centralization of EU expenditure and the management of fraud control at various levels of administration.

Accordingly, EIPA invites officials involved in managing EU funds, auditors, accountants, legal officials, specialized academics, and all others who have a special interest in the subject matter of the colloquium to join in a debate which can throw more light onto the machinery of EU expenditure and which can deliver further practical solutions for a more efficient management structure.

For further information, please contact:

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La Commission européenne a lancé une initiative portant sur une gestion (financière) saine et efficace dont le but est d'introduire une nouvelle culture de gestion financière et des ressources dans l'ensemble de la Communauté. Cette initiative prévoit une implication plus grande des Etats membres dans le souci d'améliorer la gestion financière, étant donné que plus de 80% des dépenses de l'UE sont effectivement gérées dans les Etats membres. Il s'agit essentiellement des dépenses de l'UE dans les domaines de la politique agricole commune et de la politique structurelle.

Par ailleurs, l'initiative SEM 2000 fait référence au rôle de la Cour des comptes européenne et du Parlement européen en leur qualité d'autorités budgétaires. L'efficacité, l'efficience, le contrôle et l'audit des dépenses financières, de même que la lutte contre les irrégularités financières et la lutte antifraude, exigent un renforcement des relations interinstitutionnelles, entre les institutions de l'UE, entre celles-ci et les Etats membres, et entre les institutions compétentes dans les Etats membres. Entre-temps, le Groupe de représentants personnels du SEM 2000 a reconnu qu'il était dans l'intérêt commun de la Commission et des Etats membres d'améliorer le niveau de récupération des ressources propres et de réduire ou d'éliminer la fraude et les irrégularités que l'on rencontre dans les systèmes en place actuellement. A cette fin, la Commission examine actuellement les possibilités d'initiatives d'audit communes et d'autres mesures efficaces, telles que l'informatisation des procédures.

L'Institut européen d'administration publique a suivi ces développements avec grand intérêt parce qu'il sait qu'un certain nombre de réformes qui résulteront de l'initiative SEM 2000 ne manqueront pas d'avoir des répercussions pour l'administration publique aux niveaux européen, national, régional et même municipal. L'IEAP a estimé qu'il serait bon d'étendre sa recherche dans le domaine de la gestion financière. Cette initiative sera donc entreprise par Roger Levy de la Robert Gordon University of Aberdeen, qui passera six mois en tant que professeur invité à l'IEAP.

Par ailleurs, l'IEAP organise une activité ouverte sur l'initiative d'une gestion saine et efficace des dépenses. Un colloque se tiendra donc à cet effet les 5 et 6 mars 1998; il sera consacré à l'initiative elle-même, mais aussi au fonctionnement du budget de l'UE dans la pratique, au rôle de coordination de la Commission européenne, à l'audit de la qualité des dépenses dans l'UE, à la (dé)centralisation des dépenses de l'UE et à la gestion du contrôle des fraudes à différents niveaux de l'administration.

L'IEAP invite les fonctionnaires impliqués dans la gestion des fonds communautaires, les auditeurs, les comptables, les juristes, les universitaires spécialisés et toute autre personne intéressée par le sujet du colloque à participer à un débat qui permettra de mieux appréhender les rouages du système de dépense de l'UE et de dégager des solutions pratiques en vue d'établir une structure de gestion plus efficace.

Si vous souhaitez obtenir plus d'informations sur ce colloque, prière de contacter:

EIPA NEW PUBLICATIONS!

**‘Managing European Environmental Policy:
The Role of the Member States in the Policy Process’**

97/05

Christoph Demmke (ed.)

EIPA 1997, 255 pages

ISBN 90-6779-111-3

NLG 65

An adapted version will be available in German

European integration is still associated with the loss of sovereignty of the Member States, the centralization of tasks and competences in ‘Brussels’, bureaucratization, long and complicated decision-making processes and over-regulation through thousands of (unnecessary) regulations and directives which the Member States have to implement and apply.

The role of national administrations within the decision-making process has received very little attention from the scientific sector. This book aims to explore the role and importance of Member State administrations in the decision-making process at three different stages of that process:

- the preparatory phase in the European Commission;
- the decision-making phase within the Council; and
- the implementation phase at European and national level.

Furthermore, the impact of the process of European integration within the environmental sector will be analysed whilst focusing on the duties and obligations of the Member States in the enforcement process.

**‘Free Trade Agreements and Customs Unions: Experiences, Challenges
and Constraints’**

97/Tacis

Madeleine O. Hosli and Arild Saether (eds)

Co-published by Tacis services DG IA, European Commission, Brussels

and the European Institute of Public Administration, Maastricht, the Netherlands

Tacis/EIPA 1997, 316 pages

ISBN 90-6779-108-3 (EIPA)

NLG 25 (to cover postage and packing)

Only available in English

Some free trade agreements and customs unions have existed for many years, whilst others are still being created. This volume compares the various existing arrangements in terms of institutional structure, scope and practical experience. Particular emphasis is placed on older integration systems within Western Europe, such as those in the framework of the European Community (now the European Union) and the European Free Trade Association (EFTA), and developments among the New Independent States (NIS) which have emerged from the former Soviet Union. The volume also contains overviews of the theory of preferential trade agreements, from both an economic and a political perspective, and outlines the institutional structure of other regional agreements, such as the Central European Free Trade Association (CEFTA), the North American Free Trade Association (NAFTA) and the Association of South-East Asian Nations (ASEAN), describing how these work in practice.

The volume is largely a product of the European Commission’s Tacis seminars programme. More specifically, it originates from a series of seminars organized for officials from the NIS in cooperation with the European Institute of Public Administration (EIPA) in Maastricht, the Netherlands. It provides information and advice for the government representatives of the NIS, for example with respect to the need for regional integration to be compatible with multilateral trade rules, particularly in view of the future possibility of several of the NIS joining the World Trade Organization (WTO). The publication is also of interest to students and academics studying various different regional integration arrangements, how these work in practice and the challenges they currently face.

Institutional News

* Board of Governors

- **Mrs Hilary DOUGLAS**, Head of the Civil Service Employer Group (Cabinet Office, Office of Public Service) has left her post at the UK Cabinet Office to take up an appointment as Director of Personnel Support and Services at the Department for Education and Employment. **Mr John BARKER** will take over as Mrs Douglas's successor as from 22 September 1997 and consequently will become the UK representative on EIPA's Board of Governors.
- **Mr Eric NIEHE**, who usually represents **Mr Sjoerd GOSSES** as Dutch Board Member, has been appointed Ambassador of the Netherlands to Hungary. He will assume his new post in September 1997.

* Scientific Council

- **Professor António F. CORREIA DE CAMPOS**, President of the Instituto Nacional de Administração (INA) in Coimbra (P), has been appointed as a member of EIPA's Scientific Council, succeeding **Prof. Dr João José R. FRAÚSTO DA SILVA**, former President of INA.
- **Professor Anargyros PASSAS**, Secretary-General of the National Centre of Public Administration in Athens (GR) has been appointed as member of EIPA's Scientific Council replacing **Professor Theodossis PALASKAS**, former Director of the National School of Public Administration.

* Director-General

- **Mrs Isabel CORTE-REAL** has been awarded the high Portuguese distinction of '*Medalha de Ouro de Mérito Municipal de Câmara – Municipal de Oeiras*' (Gold Medal for Merit from the Municipality of Oeiras). The ceremony took place in Oeiras in June 1997 and her eldest son received the award on her behalf.

EIPA Staff News

* Newcomers at EIPA

- **Mr Serge Estgen** (L) joined EIPA Luxembourg on 15 April 1997 as Lecturer
- **Mr Kari-Pekka Mäki-Lohiluoma** (FIN) joined EIPA Maastricht on 1 June 1997 as Senior Lecturer
- **Mr Sanoussi Bilal** (CH) joined EIPA Maastricht on 1 July 1997 as Lecturer
- **Mr Pavlos Pezaros** (GR) joined EIPA Maastricht on 1 July 1997 as Associate Professor
- **Dr Franck Petiteville** (F) joined EIPA Maastricht on 1 September 1997 as Lecturer
- **Dr Christina Leitner** (A) joined EIPA Maastricht on 15 September 1997 as Senior Lecturer

EIPA's website can be found at www@eipa.nl

At this moment it contains the following information:

- General information on the Institute
- Staff members
- Activities, publications and the full text of the previous issues of EIPASCOPE
- Information and Documentation Services catalogue
- Contact addresses, including our branches in Luxembourg and Barcelona, and the representative office in Brussels

Le site web de l'IEAP figure sous l'adresse www@eipa.nl
Actuellement, ce site contient les informations suivantes:

- Informations générales sur l'Institut
- Membres du personnel
- Activités, publications et texte intégral des anciens numéros d'EIPASCOPE
- Catalogue des Services Information et Documentation de l'IEAP
- Adresses de contact, dont celles de nos antennes à Luxembourg et à Barcelone, ainsi que de notre bureau de représentation à Bruxelles.

European Commission and Rio Group Ambassadors meet at EIPA for an update on CEFIR

On 9 July 1997, EIPA hosted an informative meeting between the Ambassadors of the Rio Group in Brussels and representatives of the European Commission about the achievements of the Training Centre for Regional Integration (CEFIR) since its establishment in Montevideo in March 1993.

CEFIR was created for the purpose of implementing the EU-Rio Group Training Programme for Regional Integration, signed between the European Commission and the member countries of the Rio Group and entrusted to EIPA in 1992. Its aim is to contribute to strengthening the capacity for the practical implementation of the regional integration projects being pursued amongst the members of the Rio Group. In the first four years of its existence, CEFIR has

organised some 35 seminars and 18 other training activities, involving a total of 3,214 participants. In addition, 21 working papers have been produced and new training installations have been built, including a Documentation Centre and video conference facilities. In 1998, a Diploma of Advanced Studies of CEFIR will be offered for the first time.

At the meeting, proposals were submitted for the consolidation of CEFIR, in accordance with the declaration of the EU-Rio Group Ministerial meeting in Noordwijk, held on 9 April 1997. All parties involved showed their satisfaction as to the work carried out so far, as well as their support and interest for the future projects to be developed by CEFIR.

From bottom, left to right:

Ambassador Dauster (Brazil); Ambassador Martínez (National Coordinator Rio Group, Paraguay); Ms Corte-Real (Director-General, EIPA); Mr Abadía (Rio Group Desk, European Commission); Mr Anderson (Peru); Mr Guglielmi (Venezuela); Mr Grandi (Director CEFIR, Co-Director EU-Rio Group Training Programme); Mr Best (Co-Director EU-Rio Group Training Programme, EIPA); Ambassador Armendáriz (Mexico); Ambassador Uranga (Argentina); Ambassador Pinoargote (Ecuador); Mr Aschentrupp (Mexico); Ambassador Cáceres (Paraguay); Ambassador Vargas (Colombia); Ambassador Salamín (National Coordinator Rio Group, Panama); Ambassador Valles (Uruguay); Ambassador Ramírez (Panama); Ambassador Arenas (Chile); Ms Barragán (EU-Rio Group Programme, EIPA); Ms Barletta (Panama); Ms Vara Arribas (Deputy to the Co-Director EU-Rio Group Programme, EIPA)

ATTENTION!

EIPA's mailing list has encountered some problems – some names have been deleted from the list, while others are no longer correct. Please e-mail Caroline Diemel or Marita Bremen on CDI@eipa.nl or MBR@eipa.nl with any irregularities you uncover.

Thanking you in advance.

La liste d'adresses de l'IEAP a connu quelques problèmes : certains noms ont été effacés de cette liste et d'autres ne sont plus corrects. Nous vous serions reconnaissants de bien vouloir informer par e-mail Caroline Diemel ou Marita Bremen sur CDI@eipa.nl ou MBR@eipa.nl de toute erreur que vous pourriez remarquer dans vos coordonnées. Merci d'avance pour votre aide.

Prix Alexis de Tocqueville 1997

L'année 1997 marque la sixième édition du Prix Alexis de Tocqueville.

Tous les deux ans, l'IEAP décerne ce prix qui porte le nom du comte Alexis de Tocqueville (1805-1859), à une ou plusieurs personnalités, voire à un groupe de personnes, qui se sont distinguées par leur travail et leur engagement particuliers dans le domaine de l'amélioration de l'administration publique en Europe.

Le premier Prix Alexis de Tocqueville (lancé en 1987) fut décerné le 24 février 1988 à Lord Rayner qui reçut cette distinction pour avoir introduit une méthode de modernisation particulière dans l'administration centrale et le *Civil Service* au Royaume-Uni, méthode qui pouvait être également utile à toutes les administrations publiques dans la Communauté européenne.

Le 12 octobre 1989, le *deuxième Prix Alexis de Tocqueville* fut attribué à S.E. Otto von der Gablentz pour ses idées et contributions innovantes, tant dans ses publications que dans ses activités, en faveur de la modernisation du fonctionnement du corps diplomatique dans le cadre des relations bilatérales entre les Etats membres de la CE.

En 1991, lors de la *troisième édition du Prix Alexis de Tocqueville*, le Prix récompensa un groupe de huit hauts fonctionnaires français, dont quatre avaient rédigé le rapport de la Commission sur le 10ème Plan sur l'efficacité de l'Etat, et les quatre autres avaient eu une influence déterminante sur le renouveau du service public en France. Ce groupe se composait de: M. François de Closets, M. Hubert Prévot, M. Robert Fraisse, M. Gérard Metoudi, Mme Sylvie François, M. Bernard Pêcheur, M. Philippe Bélaival et M. Serge Vallemont.

En 1993, le Prix, qui en était à sa *quatrième édition*, fut décerné à M. Hans A.P.M. Pont (Directeur général de la gestion et de la politique du personnel du service public au ministère néerlandais de l'Intérieur) pour sa contribution personnelle à la réforme de la structure des relations professionnelles dans la fonction publique aux Pays-Bas. Cette évolution qui se caractérise par une «normalisation» des relations professionnelles implique l'abolition du statut juridique spécial des fonctionnaires. Un pas important sur la voie du processus de modernisation fut réalisé en février 1993 par l'introduction d'un nouveau système de consultation pour la fixation des conditions de travail dans la fonction publique néerlandaise.

A la suite de l'adhésion de l'Autriche, de la Finlande et de la Suède à l'Union européenne, le Conseil d'administration et le Conseil scientifique de l'IEAP

ont souhaité décerner le Prix Alexis de Tocqueville 1995 à trois personnalités de ces pays qui ont contribué activement à l'adhésion de leur pays respectif à l'UE. Les lauréats du Prix Alexis de Tocqueville 1995 étaient:

- *pour l'Autriche*: Dr Gerhart Holzinger, Directeur de la section Service constitutionnel à la Chancellerie fédérale. M. Holzinger s'est distingué par son engagement en faveur de l'adhésion de l'Autriche à l'UE et, en particulier, par sa précieuse contribution dans la préparation de l'administration publique autrichienne à l'adhésion à l'UE.
- *pour la Finlande*: M. Juhani Kivelä, Sous-secrétaire d'Etat permanent au Ministère des Finances. M. Kivelä a joué un rôle important dans la modernisation de la fonction publique finlandaise et s'est montré particulièrement actif pour l'établissement de relations avec des institutions de développement et de recherche administratifs dans les Etats membres de l'UE.
- *pour la Suède*: M. Bo Riddarström, en sa capacité d'ancien Sous-secrétaire pour l'Administration publique au Ministère des Finances. M. Riddarström travaille depuis 1989 à des réformes dans le domaine de la gestion financière et de la gestion publique. Ses travaux ont été d'une grande importance pour le renouveau en cours de l'administration publique suédoise et pour la préparation de la Suède à son adhésion à l'UE.

Le choix du Professeur Sabino Cassese (I) comme lauréat du Prix Alexis de Tocqueville 1997 emporte un accord unanime qui s'explique par une appréciation extrêmement élevée pour ses capacités scientifiques et professionnelles. Le Professeur Cassese est considéré comme étant l'un des scientifiques les plus renommés dans le domaine de l'administration publique et un éminent spécialiste en droit public administratif. En outre, il a apporté d'importantes contributions à l'amélioration de l'administration publique européenne et pendant la période où il exerça la fonction de ministre (sans portefeuille), il fut l'un des principaux artisans de la réforme de l'administration publique italienne et opéra des changements fondamentaux. En bref, on peut dire que le Professeur Cassese est un scientifique et un praticien de dimension européenne, et il faut souligner que ses qualités sont reconnues également aux Etats-Unis où il a réalisé à de nombreuses reprises des travaux scientifiques fort appréciés.

La cérémonie de remise du Prix est prévue pour le 14 novembre 1997 au siège de l'IEAP à Maastricht. □

Alexis de Tocqueville Prize 1997

1997 marks the sixth occasion that the Alexis de Tocqueville Prize will be awarded.

Every two years EIPA awards this prize, named after Count Alexis de Tocqueville (1805-1859), to one or more, or even to a group of persons, whose work and commitment have made a considerable contribution to improving public administration in Europe.

The first Alexis de Tocqueville Prize (introduced in 1987) was awarded on 24 February 1988 to Lord Rayner. He received this distinction for having introduced a special method of modernizing the central government and Civil Service of the United Kingdom, but a method which could also be of use to public administrations within the European Community.

On 12 October 1989 the Prize was awarded for the *second time* to H.E. Otto von der Gablentz for his innovatory ideas and contributions, both in his published works and activities, to the modernization of the operations of the diplomatic corps within the framework of bilateral relations between EC Member States.

In 1991, *the third Alexis de Tocqueville Prize* went to a group of eight French officials, four of whom were charged with drafting the report of the Commission on the '10ème Plan sur l'efficacité de l'Etat', while the others exerted determining influence on the reorganization of the public service in France. This group consisted of the following people: Mr François de Closets; Mr Hubert Prévot; Mr Robert Fraisse; Mr Gérard Metoudi; Ms Sylvie François; Mr Bernard Pêcheur; Mr Philippe Bélaival and Mr Serge Vallemont.

In 1993, the Prize was awarded for the *fourth time* to Mr Hans A.P.M. Pont (Director-General for Management and Personnel Policies for the Civil Service at the Ministry for Home Affairs of the Netherlands) for his personal contribution to the modernization of industrial relations in the civil service in the Netherlands.

This development which can be characterized as 'standardization' entails the abolition of the special legal position of civil servants. An important step in the modernization process was made in February 1993 when a revised consultation system for the conditions of employment in the civil service was introduced.

It was the wish of EIPA's Board of Governors and Scientific Council – in the light of the accession of Austria, Finland and Sweden to the European Union –

to award the 1995 Alexis de Tocqueville Prize to persons, one from each of the three new Member States, who have been active in the accession of their countries to the EU. The laureates were:

- *For Austria:* Dr Gerhart Holzinger, Head of the Constitutional Service Department in the Federal Chancellery. Mr Holzinger has distinguished himself by his committed work for Austria's accession to the EU and in particular by his extremely valuable contribution towards preparing Austria's public administration for EU membership.
- *For Finland:* Mr Juhani Kivelä, Permanent Under-Secretary of State at the Ministry of Finance. Mr Kivelä has been prominent in the modernization of the Finnish civil service and has been active in establishing relations with administrative development and research institutions in the Member States of the EU.
- *For Sweden:* Mr Bo Riddarström in his former capacity as Under-Secretary for Public Administration in the Ministry of Finance. Mr Riddarström has been working since 1989 on reforms in the field of financial management as well as public management. This work has been important for the on-going renewal of Swedish public administration and the preparation for EU membership.

There has been unanimous agreement to award the 1997 Alexis de Tocqueville Prize to Professor Sabino Cassese (I). This agreement is based on the following motivation: an overall extremely high regard for his scientific and professional capacities. Professor Cassese is considered to be one of the most highly respected scholars in the field of public administration and an outstanding scholar in public and administrative law. Furthermore he has made important contributions in the field of European public administration and during the period that he has been Minister (without portfolio) involved in the reform of public administration in Italy, he carried out sweeping changes. In short: he is considered to be a scientist and practitioner of European character and he has moreover successfully carried out scientific work in the United States on numerous occasions.

The Ceremony is scheduled to take place in the EIPA premises in Maastricht on Friday, 14 November 1997. □

EIPA Provisional Programme of Activities

October 1997 – December 1997

OCTOBER

02/03.10.1997	(C)	Seminar: European Environmental Policy for the Dutch Ministry of VROM	<i>Maastricht</i>
03.10.1997		Presentation of the European Centre for the Regions (ECR) to the Regional Representations in Brussels (by invitation)	<i>Maastricht</i>
06/10.10.1997	(C)	Seminar: European Law – Institutions and Practices, PHARE Programme for Czech Republic	<i>Luxembourg</i>
06/10.10.1997	(C)	Seminar: Banking and Finances in the framework of Regional Integration (EU-Rio Group Training Programme), Special Programme for the European Commission	<i>Montevideo</i>
07/09.10.1997	(C)	Second Part German Länder Seminar in collaboration with the Hochschule für Verwaltungswissenschaften in Speyer	<i>Speyer</i>
08/10.10.1997	(C)	Séminaire sur le 1er rapport sur la cohésion économique et sociale 1996, programme pour la DG XVI de la Commission européenne	<i>Barcelona</i>
08/10.10.1997	(C)	Seminar for the Dutch Ministry for Social Affairs	<i>Maastricht</i>
12/13.10.1997	(C)	Seminar: Preparing British Public Servants for the Presidency of the Council of the European Union, Special Programme for the Permanent Representation of the UK to the European Union	<i>Maastricht</i>
14/15.10.1997	(C)	Seminar: Preparing British Public Servants for the Presidency of the Council of the European Union, Special Programme for the Permanent Representation of the UK to the European Union	<i>Maastricht</i>
16.10.1997	(C)	Séminaire: L'union économique et monétaire, organisé pour l'Institut de Formation Administrative	<i>Luxembourg</i>
16/17.10.1997	(C)	Seminar: The Institutions of the EU, Policy-Making and Implementation Process, Special Programme for IDHEAP	<i>Solothurn</i>
16/17.10.1997	(O)	Seminar: 'Transatlantic Challenges in a New Strategic Environment' to celebrate ten years of cooperation between EIPA and Brookings Institution (Washington D.C.) 97/109/1	<i>Maastricht</i>
17.10.1997	(C)	Projet de formation aux affaires européennes de cadres administratifs des pays d'Amérique latine pour le Centre des études européennes à Strasbourg	<i>Maastricht</i>
20/21.10.1997	(O)	Séminaire: Le droit communautaire des marques 97/408/1	<i>Luxembourg</i>
21/22.10.1997	(C)	Seminar: EG-Recht und -Politik, Special Programme for IDHEAP	<i>Solothurn</i>
21.10/08.11.1997	(C)	Cátedra Itenerante 'Integración Económica y Globalización: la Unión Europea, la Comunidad Andina y el Mercosur', Special Programme for the European Commission <i>Santafé de Bogotá, Panamá, Lima, Santiago de Chile</i>	
23/24.10.1997	(C)	Seminar: The Institutions of the EU, Policy-Making and Implementation Process, Special Programme for IDHEAP	<i>Solothurn</i>
27/30.10.1997	(C)	Visit to the European Institutions, Special Programme for IDHEAP	<i>Brussels</i>
27/28.10.1997	(O)	Séminaire: Les aspects pratiques des marchés publics communautaires 97/409/1	<i>Luxembourg</i>
29/31.10.1997	(C)	Seminar: Committees and Comitology in the Political Process of the EC, Special Programme for Prime Minister's Office Iceland	<i>Reykjavik</i>
October 1997/ June 1998	(O)	Mastère en études juridiques européennes 97/425/1	<i>Luxembourg</i>

NOVEMBER

03/07.11.1997	(C)	Seminar: Towards Membership, Strategic Decisions along the way (in collaboration with the Netherlands Institute of International Relations Clingendael)	<i>Maastricht</i>
05/07.11.1997	(C)	Seminar: The Institutions of the EC, Policy-Making and Implementation Process, Special Programme for the Verwaltungsakademie (Austria)	<i>Vienna</i>
06.11.1997	(O)	Seminar: The European Ombudsman, the Committee on Petitions and the Temporary Committees of Inquiry of the European Parliament 97/410/1	<i>Luxembourg</i>
06/07.11.1997	(C)	Directors' Programme for the Dutch Ministry for VROM	<i>Maastricht</i>
10/12.11.1997	(C)	Seminar: Public Procurements, in the framework of Programme Approximation of Legislation in the Slovak Republic	<i>Bratislava</i>
10/13.11.1997	(C)	Länderrecht und EU, Seminar für das österreichische Bundeskanzleramt	<i>Luxembourg</i>
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