

The Future of the Union and the Laeken Declaration

The future of the European Union, the Laeken Declaration, reform of the Treaties and governance were some of the key issues of the European debate in the course of 2001. The Laeken Declaration was part of a new process of Treaty revision set in motion by the Heads of State and Government in Nice. They had just concluded the Treaty of the same name to prepare the European institutions for enlargement to include the Central and Eastern European countries, Cyprus and Malta; accession negotiations are currently underway with these countries.

1. From Nice to Laeken

A declaration on the future of the Union, annexed to the Nice Treaty, called for the organisation of a large-scale debate that had so far been avoided: on the future of Europe after enlargement. In December 2001, the European Council meeting at Laeken (Brussels) concluded with the adoption of a “Declaration” paving the way for the next revision of the Treaties in 2004. The content of the Declaration is important because it contains information about the new method to prepare the next revision of the Treaties. The idea is to establish a Convention bringing together representatives not only of the present EU Member States’ governments and national parliaments, of the European Commission and of the European Parliament, but of all the candidate countries as well.

It will be recalled that at the last Intergovernmental Conference the Benelux countries submitted a memorandum on the Intergovernmental Conference and the future of the European Union, setting out their

position on European Union reform in the medium term. This was to be based on the following two principles: implementation of new reforms in the framework of the existing institutions, and defence of the Community method ⁽¹⁾. Since then, taking up in Nice the idea put forward in September by Belgian Prime Minister Guy Verhofstadt (Verhofstadt, 2000), their timetable had been adopted by the European Union: the broad outlines of the European Union's political future were to be defined before the end of 2001 in the form of a declaration by the Heads of State and Government.

The European Council in Nice also demonstrated the limitations of the intergovernmental method for amending the European Treaties. The alternative was therefore to follow in the footsteps of the Convention that had drawn up the Charter of Fundamental Rights. The European Parliament had already come out in favour of such an approach, as had the University Institute in Florence, which the European Commission had already asked to look into the possible benefits of dividing the Treaties "without departing from the law as it stands", that is, without modifying their content (European Parliament, 2000a and b and European University Institute, 2000).

In a speech delivered in Bruges, Finnish Prime Minister Paavo Lipponen sided with the proponents of the Convention model in proposing that the future European agenda be prepared at a general gathering of governments of the Member States, national parliaments, candidate countries and the institutions of the Union ⁽²⁾. Unlike the European Parliament, according to which the Convention was to be asked to draw up the Union's future Constitution, the assembly proposed by Mr Lipponen was merely involved in preparing the future Treaty. It could be inferred from these proposals that such a Treaty might then be adopted by an Intergovernmental Conference, meeting only briefly to ratify the work already done (although it was of course always possible that the Convention might adopt the new text itself).

¹ CONFER 4787/00 of 19 October 2000.

² *Agence Europe*, No.7882, 17 January 2001.

Governance

“European governance” is a project at the heart of the Commission’s strategic objectives for 2000-2005. However, the context in which the Commission’s proposals were made known last July, in the form of a White Paper, is considerably different from that in which it was announced in 1999 (European Commission, 2001a). This no doubt explains the muted welcome it has received ⁽³⁾. It must be remembered that in early 2000 the Commission made the reform of European governance one of its four strategic objectives. Its White Paper had therefore been awaited for a long time, especially by civil society, since the preparatory work contained a section on “Steering the processes for drawing up and implementing Community rules”, which was dedicated to the idea of a “right of participation” for “civil society” ⁽⁴⁾. Thus, in making his presentation, Romano Prodi identified the establishment of a dialogue with regions and towns and the development of relations with civil society as two sensitive problems.

The European Parliament’s resolution seems to confirm these problems. In particular, the resolution expresses the Parliament’s concern, first of all, about greater involvement by stakeholders in civil society, fearing that might be to the detriment of the procedures and decisions of legislative bodies which possess democratic legitimacy, and secondly about the direct delegation of powers and tasks to bodies and authorities at regional or local level in the Member States (European Parliament, 2001a).

³ *Le Monde*, 8 August 2001.

⁴ According to the White Paper, civil society includes in particular trade unions and employers’ organisations (the “social partners”), non-governmental organisations, professional associations, charities, grass-roots organisations and organisations which involve citizens in local and municipal life, with a particular contribution from churches and religious communities. The Commission also refers to the more precise definition of organised civil society contained in the opinion of the Economic and Social Committee on “the role and contribution of civil society organisations in the building of Europe”, OJ C 329 of 17 November 1999 (page 30).

The Laeken European Council, for its part, simply “welcomed” the Commission White Paper.

According to the Commission, “governance” means “rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence”. The White Paper therefore concerns “the way in which the Union uses the powers given by its citizens”. Based on five political principles – openness, participation, accountability, effectiveness and coherence –, it seeks to guide the Union in organising how it operates and allow changes to be implemented within the framework of the existing Treaties.

Since the process resulting in the White Paper was launched at the start of the year 2000, political developments have “highlighted that the Union faces a double challenge: there is not only a need for urgent action to adapt governance under the existing treaties, but also for a broader debate.” That is probably the explanation for a new consultative process, running until the end of March 2003, on the need for further action, especially by the other institutions and the Member States. It will be followed by a new appraisal report, which ought to provide the basis for implementing the governance agenda with the other institutions.

Taking the principles of the White Paper as a basis, the Commission prepared for the Laeken European Council by putting the emphasis on refocusing the institutions and defending the use of the Community method (see below).

The President of the European Commission, Romano Prodi, also raised the question of the future of the Union when he addressed the European Parliament in February 2001 (Prodi, 2001a). As regards the content, he said that the Commission’s contribution, in its White Paper on governance (see box), would seek to propose “*ways of decentralising the administration of the Union and ways of ensuring that our common policies are applied at the appropriate level as closely as possible to the citizen*”, and not to deliver “*a ready-made ‘charter of competences’ listing the powers and responsibilities of the Union and its Member States*”. As regards the method, he saw an “ongoing dialogue” between the European Council and the

“convention or conference or whatever we choose to call it” as the best way of defining the questions from which institutional perspectives would ultimately emerge.

2. Public disenchantment

The words “future of the Union” also describe the unease European leaders feel about public opinion, which seems to them to be disconnected from Europe’s achievements as compared to their expectations. Those expectations are quite specific: job creation, food safety etc.

As the latest Eurobarometer polls show ⁽⁵⁾, the issues which concern Europe’s citizens are quite different from enlargement or institutional reform. Five themes emerge from their answers about involvement in the “dialogue on Europe”: the fight against unemployment (53%), citizens’ rights (52%), food safety (50%), health (49%) and the environment (48%). But only 26% want to take part in the debate, 62% expressing disinterest. Further, more than 41% have not read or heard anything about the Treaty of Nice. As for their involvement in the political debate about enlargement, 2% of Europeans feel “fully involved”, 11% “fairly involved”, 28% “not very involved” et 57% “not at all involved”. Finally, regarding which countries should be the first to join the Union, the findings are surprising to say the least: after Norway (21%) and Switzerland (21%), which are not candidates, Poland (18%), Hungary (16%) and the Czech Republic (12%) are the three countries given the most support.

It is noteworthy that in answer to the question asked in Eurobarometer in spring 2001 – whom do you trust the most to control the effects of globalisation? –, by far the majority of respondents placed their trust in the European Union (36%), followed by their own government (25%)

⁵ Eurobarometer 2001, Special edition, July 2001 (http://europa.eu.int/comm/dg10/epo/eb/ebrep1/highlightseu_fr.pdf), Eurobarometer spring 2001 (http://europa.eu.int/comm/dg10/epo/eb/eb55/eb55_fr.pdf) and Eurobarometer autumn 2001 (http://europa.eu.int/comm/dg10/epo/eb/eb56/eb56_frfinal.pdf).

and the citizens themselves (22%). Fifteen percent of respondents did not know whom to trust the most. Finally, the results of the autumn Eurobarometer survey renew support for the common foreign policy and the common security and defence policy, which attracted more than 65% (66% and 73% respectively), whereas enlargement scored only 51% (the lowest percentages were in France, 39%, and the United Kingdom, 41%, the Greeks being the most in favour with 74%).

There can be no doubt that, if the Union and its present and future citizens are to be brought closer together, they must first be better informed; otherwise there is no point in politicising the debate, since Europeans seem far from grasping the ins and outs of it. That was one of the central concerns of the Belgian Presidency. It involves in particular a dialogue with the “anti-globalisation” campaigners, described by some as a “new player on the international stage” (Rifkin, 2001); while their methods are questionable, they do have the merit of “helping to counter acquiescence and apathy” (Dahrendorf, 2001).

The attitude that should be taken towards these campaigners was given special consideration at the General Affairs Council of 16 July. After noting the measures proposed by the Justice and Home Affairs Council (aimed at stepping up police cooperation when international meetings are held), the Council concluded that “*the political debate on globalisation and the dialogue with European civil society is a task which the European Union must carry out in the coming years so that it can influence its repercussions and fully benefit from its advantages*”. These words moderate those of Belgian Prime Minister Guy Verhofstadt, who, when presenting the Belgian Presidency’s programme to the European Parliament (Verhofstadt, 2001a), expressed the view that globalisation was not “a threat but a boon”.

Another factor likely to impinge on the Union’s future is the Irish “No” to the Treaty of Nice on 7 June 2001. This was all the more troubling because it had seemed so unlikely in a country considered “europhile” and which has benefited so much from its membership of the European Union. It was not the least of the paradoxes to emerge as the European Union embarks on a debate about its future. The “No” vote carried the day in a referendum with a very low turnout of 34.79%. Of

the people who actually bothered to vote, 53.87% rejected the Treaty compared to 46.13% who voted in favour. A second referendum may be held in autumn 2002 after the forthcoming general election. A declaration will probably be added to the Treaty. But in the meantime efforts must be made to explain the European Union, what it does both internally and externally, what its objectives are and how it pursues them.

Coupled with the fears expressed by anti-globalisation groups campaigning for an alternative system, the Irish “No” could in fact prove a valuable lesson. Amidst the proliferation of political statements on Europe, it has to be acknowledged that Union’s *raison d’être* is not being well explained. That is putting it mildly, given the scale of the violence which accompanied the demonstrations during recent major international gatherings (Göteborg European Council in June 2001, G7/G8 meeting in Genoa the following July). Speaking about Europe in purely institutional terms is too technical and too complex to win back popular support; hence recent government statements have begun to include explanations of a more geopolitical and social nature ⁽⁶⁾, in addition to economic arguments. Such pronouncements undeniably have the merit of extending the principle of historical justification to the main economic and political challenges facing the world at the start of the 21st century. These challenges are many and varied: the fact of a globalised economy inevitably takes us to the question of the Union’s role as a player in that globalisation. The EU is capable of tempering that development and, more generally, of encouraging the emergence of a world which is “less unilateral and unipolar” and where it could more easily take its rightful place in maintaining peace and stability. That has been the thrust of recent developments in the European Security and Defence Policy (ESDP), developments which also reveal the need to adopt an appropriate attitude towards the political dimension of

⁶ In particular “*The European Treaties revisited: what role for Europe in the globalised world?*”, António Guterres, Prime Minister of Portugal, President of the Socialist International Conference, at the Walter Hallstein Institute for European Constitutional Law, Humboldt-Universität zu Berlin, Berlin, 7 May 2001.

globalisation. The form the European Union is taking is being emulated elsewhere: many attempts are being made to create economic organisations, such as Mercosur in Latin America, the Association of South East Asian Nations (ASEAN), the Southern African Development Community (SADC) and the recent plans to transform the Organisation of African Unity into an African Union. But none has reached the level of integration symbolised by the single currency and which necessitates the development of a political dimension commensurate with the Union's economic weight.

While the idea of a "European power" is not new, the British Prime Minister was one of the first to voice the necessity of thinking of Europe not as a "superstate" but as a "superpower" by virtue of its economic and political strength (⁷).

It might be added that, if Europe is to become such a power, it must first develop a defence identity and become better represented on the international stage. As other players have stressed, at issue here is the post of High Representative for the Common Foreign and Security Policy, which should, ultimately, be filled by a Vice-President of the European Commission (⁸). Other important but little-discussed matters arise here too, such as the representation of the Member States or the Union within the United Nations Security Council and, at an economic level, within the G7 and G8 etc. (⁹).

⁷ Tony Blair's Speech to the Polish Stock Exchange, 6 October 2000.

⁸ This aspect has been taken up by the European Parliament (European Parliament, 2001b): the role and functions of the High Representative for the CFSP should be assumed by a Vice-President of the European Commission maintaining specific relations with the Council.

⁹ Gastcollege Minister-President Kok over het "Europa van de Toekomst", Universiteit Leiden, 6 June 2001.

3. The Laeken Declaration

A few weeks after the September 11 terrorist attacks in New York, three of the “wise persons” surrounding Belgian Prime Minister Guy Verhofstadt joined ten other public figures in a resounding cry entitled “A Wake-up Call for Europe”, which was officially forwarded to the Prime Minister and the President of the European Commission ⁽¹⁰⁾.

The document notes that, despite a satisfactory bill of health, Europe is suffering from a sluggishness which enlargement will only make worse. The verdict is clear: “*Divided over Economic Monetary Union as well as over defence, Europe can agree neither on the objectives and methods of integration, nor on what more is needed in order to make a success of enlargement?*”. The document goes on to say in particular that “*the European Union must reinforce its internal cohesion if it is to complete its task*” and that it “*must also become an international player and one which is both truly global and influential*”.

Reading between the lines, this document raises a central question for interpreting the content of the Laeken Declaration: namely whether the Fifteen, and more specifically the European Council, will be able to reach agreement on what the Belgian Prime Minister calls “targeted” questions (Verhofstadt, 2001b).

Although the principle of a Convention was agreed back at the informal European Council in Ghent, the European Parliament was not happy about its nature or its role, which, in the Ghent version, was to put forward a list of options with minority and majority support. The European Parliament thought the Convention should “*draft a single comprehensive proposal which should be the sole basis for negotiation and decision-making at the IGC*” (European Parliament, 2001c). Moreover, at a meeting the EP organised with representatives of the parliaments of the Member States and candidate countries, a questionnaire was submitted

¹⁰ A Wake-up Call for Europe, signed by Giuliano Amato, Etienne Davignon, Jean-Luc Dehaene, Jacques Delors, Felipe Gonzalez, Roy Jenkins, Helmut Kohl, Maria Lourdes Pintassilgo, Jacques Santer, Helmut Schmidt, Mario Soares, Peter Sutherland and Karel Van Miert.

to participants on the distribution of powers between the EU and the Member States. It comprised six questions formulated by French MEP Alain Lamassoure (PPE-DE): How do we stand vis-à-vis the “*acquis communautaire*”? How do we stand vis-à-vis the Treaty? Should the hierarchy of Community law be dealt with, at least to the extent of distinguishing between “political decisions” and “technical decisions”? What are the implications for the decision-making system? Should Article 308 ⁽¹¹⁾ be done away with? Should the level of the regions and other territorial bodies be mentioned? Will controls on the exercise of powers be discussed ⁽¹²⁾?

Yielding ground slightly in this debate while nevertheless seeking to make it part of the debate on European governance, in early December the European Commission stated that “*dominant trends and more isolated positions must be brought out*” in the Convention’s recommendations (European Commission, 2001b). The Convention’s task was to define credible guidelines so that an enlarged Europe would be capable of pursuing political integration.

When reporting on the Laeken European Council to the European Parliament, the President of the EU Council, Louis Michel, had stressed that “*the Convention will retain the final word regarding its agenda*” and that “*it would serve no purpose to seek to box it into a predefined mandate*” ⁽¹³⁾.

For its part, the European Trade Union Confederation (ETUC) recognised, in a resolution adopted in October, the need to adopt a genuine constitution. But it had reservations about the Commission’s proposal that the existing Treaties should be divided into two, feeling that the Treaties were in fact an “*entity reflecting the progressive evolution of the*

¹¹ This article gives the Community some room for manoeuvre in running the internal market, by allowing it to consider taking measures (acting unanimously) for purposes not provided for in the EC Treaty.

¹² Questionnaire on the distribution of powers between the European Union and the Member States, EP 304.265, 15 June 2001.

¹³ Speech by Mr Louis Michel to the European Parliament “Presentation of the Laeken European Council”, 28 November 2001.

European integration project” (ETUC, 2001). The ETUC’s priorities were as follows:

- the European social model, including the principles of services of general interest, must be anchored in the constitution; the social union/employment policy and the economic and monetary union must be integrated on an equal footing;
- the EU Charter of Fundamental Rights, including transnational trade union rights, must be made legally binding and incorporated as a cornerstone in the EU constitution. In preparation for that, the ETUC proposes that the Laeken European Council initiate a dynamic monitoring procedure with a view to its future evolution and improvement;
- the Constitution and the political treaty must recognise and strengthen the social partners’ autonomy and role as co-regulator at all levels, and hence the development of a European industrial relations system.

The ETUC also called for the European social partners to be involved in the Convention on a permanent basis as observers, given that they represent crucial socio-economic interests and their role is institutionalised by the Treaty.

This request was subsequently taken up in the social partners’ joint contribution to the Laeken European Council (ETUC *et al.*, 2001). In it the ETUC⁽¹⁴⁾, UNICE/UEAPME and CEEP advocate strengthening the social dialogue and social consultation procedures in the EU. They voice their support for the five principles set out in the European Commission’s White Paper on governance, while drawing attention to the need to take account of the specificities of the European “social dialogue”. They point out that the term “social dialogue” in fact refers to three types of activity, namely tripartite concertation (exchanges between the social partners and the European public authorities), consultation of the social partners (activities of advisory committees

¹⁴ With the Eurocadres/CEC liaison committee.

and official consultations pursuant to Article 137 of the EC Treaty), and social dialogue proper (bipartite work by the social partners, whether or not prompted by the Commission's official consultations under Articles 137 and 138 of the EC Treaty).

The social partners also want to see this distinction promoted in the candidate countries in order to foster genuine autonomous social dialogue. And they ask that, in continuation of the Lisbon strategy, the Standing Committee on Employment be replaced by a *“tripartite concertation committee on growth and employment which would be the forum for concertation between the social partners and the public authorities on the overall European strategy defined in Lisbon”*. They also announce the definition of a programme of work requiring *“regular social dialogue meetings and/or summits”*. On this occasion the ETUC and CEEP sent a joint letter to the Council, calling for a framework directive on services of general economic interest in the EU.

4. Content of the Laeken Declaration

According to the conclusions of the European Council, the Laeken Declaration and the prospects it opens up *“mark a decisive step for the citizen towards a simpler Union, one that is stronger in the pursuit of its essential objectives and more definitely present in the world. In order to ensure that preparation for the forthcoming Intergovernmental Conference is as broadly-based and transparent as possible, the European Council has decided to convene a Convention, with Mr. V. Giscard d'Estaing as President and Mr. G. Amato and J.L. Debaene as Vice-Presidents”*. All the candidate countries will take part in the Convention. In parallel with its proceedings, a Forum will make it possible to give structure to, and broaden, the public debate on the future of the Union that has already begun.

The Declaration adopted in Laeken, annexed to the European Council conclusions, paves the way for fresh institutional reform of an unprecedented kind, in that the groundwork will be done by a Convention composed of representatives of national governments, the European Parliament and the national parliaments of both the Member States and the candidate countries, as well as the European Commission.

Various questions have been identified as requiring answers, given that “the European institutions must be brought closer to (its) citizens” and that Europe needs to shoulder its responsibilities in “*the governance of globalisation*”. These questions will serve as a backdrop to the deliberations of the Convention. An Intergovernmental Conference will then be convened, although its precise timing has yet to be announced. The process could ultimately result in the adoption of a Constitution.

In a nutshell, the principal elements of the Declaration, which contains three main chapters, are: *Europe at a crossroads; Challenges and Reforms in a renewed Union; and Convening a Convention on the future of Europe.*

The formulation of the questions is preceded by another hazardous undertaking: an analysis of the Union’s strengths and weaknesses.

5. The Union’s strengths and weaknesses

The final version of the first section “Europe at a crossroads” takes stock of the European Union’s strengths and weaknesses. This chapter of the Laeken Declaration has undergone the greatest number of modifications, most notably because its initial pessimistic tone and its apparently over-federalist message was rejected by, amongst others, UK Prime Minister Tony Blair (whose latest statements form part of his effort to convince the British public of the merits of the single currency and of Europe, the aim being to ensure that the “yes” vote carries the day in a referendum to be held on this matter in the near future) (Blair, 2001).

The text acknowledges that “the European Union is a success story”. Europe is nevertheless facing a democratic challenge. Whereas citizens undoubtedly support the Union’s broad aims, “*they do not always see a connection between those goals and the Union’s everyday action. They want the European institutions to be less unwieldy and rigid and, above all, more efficient and open. Many also feel that the Union should involve itself more with their particular concerns, instead of intervening, in every detail, in matters by their nature better left to Member States’ and regions’ elected representatives. This is even perceived by some as a threat to their identity. More importantly, however, they feel that deals are all too often cut out of their sight and they want better democratic scrutiny*”.

However, *“the image of a democratic and globally engaged Europe admirably matches citizens’ wishes. (...) What citizens understand by ‘good governance’ is opening up fresh opportunities, not imposing further red tape. What they expect is more results, better responses to practical issues and not a European superstate or European institutions inveigling their way into every nook and cranny of life. In short, citizens are calling for a clear, open, effective, democratically controlled Community approach, developing a Europe which points the way ahead for the world. An approach that provides concrete results in terms of more jobs, better quality of life, less crime, decent education and better health care. There can be no doubt that this will require Europe to undergo renewal and reform”*.

6. Challenges and reforms

The questions raised in the second chapter of the Laeken Declaration, *“Challenges and reforms in a renewed Union”*, go further than the topics covered in Nice. These questions addressed, inter alia, the division of competence between the European Union and its Member States, the role of national parliaments, simplification of the Treaties and the status of the Charter of Fundamental Rights. These are open and sometimes contradictory questions. For example, the Declaration asks *“how to ensure that a redefined division of competence does not lead to a creeping expansion of the competence of the Union (...)”* while ensuring at the same time *“that the European dynamic does not come to a halt”*. It states that *“in the future as well the Union must continue to be able to react to fresh challenges and developments and must be able to explore new policy areas”*, while asking whether there is a need to review, for example, Article 308, which affords the Community some leeway in running the internal market by allowing it to take appropriate measures for action not envisaged by the EC Treaty. This is probably the price to be paid for enabling each of the fifteen delegations to defend a text likely to be interpreted positively by each of the Member States.

7. Division of competence

Mainly in response to concerns expressed by the German Länder, the division of competence is the number one concern. It is no longer a matter (as suggested by an earlier version) of *a new but rather of a better division and definition of competence in the European Union*.

A first set of questions asks how the division of competence can be made more transparent. A second series aims to determine whether there needs to be any reorganisation of competence “*within this new framework and while respecting the ‘acquis communautaire’*. (...) *How can citizens’ expectations be taken as a guide here? What missions would this produce for the Union? And, vice versa, what tasks could better be left to the Member States? What amendments should be made to the Treaty on the various policies? How, for example, should a more coherent common foreign policy and defence policy be developed? (...) How can economic-policy co-ordination be stepped up?*”. There is also the question of how to ensure that a redistribution of competence “*does not lead to a creeping expansion of the competence of the Union or to encroachment upon the exclusive areas of competence of the Member States and, where there is provision for this, regions. How are we to ensure at the same time that the European dynamic does not come to a halt? In the future as well the Union must continue to be able to react to fresh challenges and developments and must be able to explore new policy areas. Should Articles 95 and 308 of the Treaty be reviewed for this purpose in the light of the ‘acquis jurisprudentiel’?*”

8. Instruments

It is not just a matter of trying to determine “who does what”, but also of simplifying the Union’s instruments, the question here being whether they “*should not be better defined and whether their number should not be reduced. (...) Should a distinction be introduced between legislative and executive measures? Should the number of legislative instruments be reduced: directly applicable rules, framework legislation and non-enforceable instruments (opinions, recommendations, open co-ordination)? Is it or is it not desirable to have more frequent recourse to framework legislation, which affords the Member States more room for manoeuvre in achieving policy objectives? For which areas of competence are open co-ordination and mutual recognition the most appropriate instruments? Is the principle of proportionality to remain the point of departure?*”

9. Legitimacy

The premise lying behind the questions formulated in this section is the need to examine the role of national parliaments, which “*also contribute towards the legitimacy of the European project*”. This exercise might be one of several initiatives taken to “*develop a European public area*”.

An initial set of questions concerns the legitimacy of the Union's three major institutions: the European Commission, the Parliament and the Council. The issues raised here include whether or not to directly elect the European Commission President, whether or not to extend the right of co-decision, reviewing the manner of electing Members of the European Parliament, creating a European electoral constituency or retaining national constituencies, transparency of meetings of the Council (in its legislative capacity) and whether or not they should be public, access to documents, and the balance and reciprocal control between the institutions.

The second set of questions, centring on the role of national parliaments, asks whether they should be represented in a new institution, and examines their role in areas of European action in which the European Parliament has no competence, as well as in the division of competence, for example through preliminary checking of compliance with the principle of subsidiarity.

The third set of questions relates to improving the efficiency of decision-making and the workings of the institutions in a Union of some thirty Member States. These questions range from an extension of qualified majority voting to whether the six-monthly rotation of the Presidency of the Union should be maintained; they include simplification and acceleration of the co-decision procedure, and the deepening of European foreign policy (synergy between the High Representative and the competent Commissioner), and external representation of the Union in international fora.

10. Simplification of the Treaties

The questions addressed with a view to Treaty simplification are posed in incremental fashion: first, simplifying them without changing their content, reviewing the distinction between the European Union and the Communities, the division into three pillars; second, reorganisation of the Treaties (whether to distinguish between a basic treaty and the other treaty provisions, modification of revision procedures); thirdly, whether or not the Charter of Fundamental Rights should be included in the basic treaty and whether the European Community should accede to

the European Convention on Human Rights. This process could lead in the long run to the adoption of a Constitution.

11. The Convention

The convening of the Convention is the cornerstone of the Declaration. Its final composition came as a surprise in Laeken. It was well known that the Chairman needed to be a key European figure of unquestionable authority, but the Declaration added two Vice-Chairmen. The Praesidium, whose task is to prepare for the Convention's deliberations, is composed of twelve members. In addition to the Chairman and the two Vice-Chairmen, it includes representatives of all the governments holding the Council Presidency during the Convention (Spain, Denmark and Greece), two national parliament representatives, two European Parliament representatives and two Commission representatives. The candidate countries (including Turkey) are entitled to thirty-nine representatives out of a total of 105 (one government representative and two national parliament members). They take a full part in the proceedings of the Convention and its deliberations without, however, being able to prevent any consensus which may emerge among the Member States.

Three representatives of the Economic and Social Committee, and three representatives of the European social partners, are invited to attend as observers, along with six from the Committee of the Regions (appointed by the Committee of the Regions from the regions, cities and regions with legislative powers), and the European Ombudsman. The Presidents of the Court of Justice and of the Court of Auditors may be invited by the Praesidium to address the Convention.

Finally, "citizens" are involved by means of a "Forum (...) opened for organisations representing civil society (the social partners, the business world, non-governmental organisations, academia etc.)". It takes the form of a structured network of organisations receiving regular information on the Convention's proceedings. Their contributions serve as input into the debate. Such organisations may be heard or consulted on specific topics in accordance with arrangements established by the Praesidium.

12. From the Convention to the next IGC

In contrast to the statements made by politicians following the closure of the Laeken European Council and, in particular, that of the German Chancellor, describing the moment as historic, we should note the words of Professor Franklin Dehousse (University of Liège, Belgium), who dubbed the Laeken Declaration “biodegradable”. He said it was a mere announcement which would not make up for the Treaty’s shortcomings and which demonstrated the continuing reluctance of several heads of government to tackle the implications of enlargement in a serious manner ⁽¹⁵⁾. Nonetheless, following broad-based support in the international press, Members of the European Parliament likewise gave the Laeken Declaration a positive reception at an extraordinary session held in Brussels on 17 December.

The Laeken Declaration has the merit of committing to paper an alternative to the traditional method of negotiating European treaties. It also temporarily puts an end to several taboos. In fact, the Treaty simplification exercise may well lead ultimately to the adoption of a Constitution. The Declaration also raises the question of a directly elected President of the European Commission, but it is at the same time riddled with ambiguity.

The presentation of the Convention’s deliberations will be determined by its working methods: either a single document resulting from decisions reflecting a consensus among all of its members and consequently a common vision, or else a number of options reflecting majority and minority opinions. Only the former outcome could really be taken into consideration by the Heads of State and Government at the next IGC.

In practice, the time-span running from the end of the Convention’s deliberations (one year after its launch, *i.e.* 1 March 2003) and the presentation of the outcome to the spring or June European Council (under the Greek Presidency in any event) until the convening of the

¹⁵ *La Libre Belgique*, 17 December 2001.

next IGC will likewise serve as an initial indication of the change in the method of reviewing the Treaties. Some advocate allowing six months to elapse before the IGC is convened; others would prefer it to be convened rapidly, that is, in autumn 2003. They include the European Parliament, which is asking for the IGC to close no later than December 2003 under the Italian Presidency (European Parliament, 2001d). Another indication of the change of method will be the way the content of the Convention's deliberations is received by the European Council, which will convene the next IGC, defining its terms of reference and date of conclusion.

As to the link between the Convention and the future IGC, the Parliament considers that, "*after the work of the Convention has been wound up, the Praesidium should participate fully and actively at all stages and levels of the IGC which is to ratify the reform of the Treaties prepared by the Convention*" (European Parliament, 2001d). At the plenary session of the European Parliament in Brussels on 28 November 2001, the President of the European Commission, Romano Prodi, spoke out in favour of the Chairman of the Convention participating in the IGC ⁽¹⁶⁾.

By way of a conclusion

Will the Laeken Declaration remain in the European Union's collective memory? Will the members of the Convention be able to distil a vision of Europe's future from the sometimes contradictory questions contained in it? If a common vision does emerge, what will become of this document? Will it serve as the basis for negotiating the future IGC? How soon after the end of the Convention's proceedings will the IGC be convened? Will the Chairman of the Convention be invited to it?

Only the future will tell whether the Laeken Declaration paves the way for a real change in the method of negotiating the Treaties and whether, in other words, it really does lay the foundations for a fully fledged constitutionalisation of the Union.

¹⁶ *Agence Europe*, No.8101, 29 November 2001.

Will this process succeed in making the EU institutions capable of operating with more than 25 members? Even if it does, there will still have to be agreement on the project for Europe. When Commission President Romano Prodi recognised in Paris at the end of May 2001 ⁽¹⁷⁾ that “*the international and internal conditions for the real politicisation of the European integration process have now been met*”, he also spoke out in favour of a European tax, though he did not go into details. The following November, he also referred to “*the reunification of Europe and economic and monetary union as a means of speeding up economic and social progress*”, and he defended the Community method as “*the recipe for a form of integration which is both supranational and also respectful of the nations and states*” (Prodi, 2001b). At the same time, he spoke of a “*code of conduct which is fully consistent with the economic policy of the euro area and reassures the public and the markets that alongside the system of management of the currency by the European Central Bank there is an effective mechanism for managing the economy*”.

What stance will be taken by those governments which are the least in favour of building the European Union’s political dimension (Denmark, Sweden and the United Kingdom)? Together with the forthcoming crucial elections in France (presidential election in 2002) and Germany (general election scheduled for autumn 2002), the changing position of the Italian leadership vis-à-vis the United States and the European Union, as well as the question of whether or not Irish public opinion will rally to the European cause, will all affect the outcome of a debate which must still, let us not forget, result in a decision taken by “common accord”. What attitude will the future new members take within the Convention?

What will the final outcome be? In other words, what will be the future of the European treaties? Ought they to be consolidated into two texts, one comprising a “*basic treaty*”, and the other the “*other provisions and those concerning specific policies*” which may be amended by a simplified procedure as proposed in the report by the “*three Wise Men*” (Dehaene *et*

¹⁷ “For a strong Europe, with a grand design and the means of action”, Institute of Political Studies (Institut d’études politiques), Paris, 29 May 2001.

al., 1999) and backed by the European Commission ⁽¹⁸⁾? Or should they be replaced by a “Constitutional Pact” or a Constitution with the present Charter of Fundamental Rights perhaps forming the preamble (Badinter, 2000) or first chapter?

On a different note, how will an enlarged Europe be financed? How will the future members cope with the inevitable reforms? Will the European Union have a genuine common foreign policy? Will the future of the Union be shaped by closer co-operation among the States which have adopted the single currency? What role will be played by public services? In any event, what place will the European Union reserve for the solidarity which has been characteristic of its structural and agricultural policies? Will the European Union have the means to mitigate the most adverse effects of economic globalisation? Will it be able to offer a political response to these economic challenges?

The weeks leading up to the introduction of euro notes and coins – the most tangible sign of the level of European integration achieved – opened up a debate which had been on the cards since 1999, in respect of the gaps existing in the field of economic governance. The scope of that debate will widen as interest grows in the three members of the EU which have not for now adopted the single currency. But its scope will also widen in the wake of the work done by the Convention in preparation for new institutional reforms and by the civil society Forum, both of which will

¹⁸ “Adapting the institutions to make a success of enlargement. Contribution by the European Commission to preparations for the Intergovernmental Conference on institutional issues” and “A basic Treaty for the European Union” (European Commission, 1999 and 2000) where the Commission, refusing to comment on the options contained in the first study forwarded to it by the European University Institute, Florence, in May 2000, gives its general support to the aim of producing a reorganised treaty “without departing from the law as it stands”. The report and the model basic treaty for the European Union can be found on the Commission’s website: http://europa.eu.int/comm/igc2000/offdoc/repoflo_en.pdf and http://europa.eu.int/comm/igc2000/offdoc/drafttreaty_en.pdf.

undoubtedly draw attention to the importance of developing the social dimension of the European Union.

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