

THE CONTRIBUTION OF THE ROMANIAN GOVERNMENT REPRESENTATIVE,
MRS. HILDEGARD PUWAK, MINISTER OF EUROPEAN INTEGRATION,
TO THE WORKING SESSION OF THE
CONVENTION ON THE FUTURE OF EUROPE
APRIL 15-16, 2002

Mr. Chairman,

Ladies and Gentlemen,

I am honored to present you a few reflections and a point of view referring to topics that are as much challenging as complex, and caused numerous debates in Romania, both in the specialized academic milieu and the civil society spheres. Even if these discussions shaped up in numerous answers, they don't differ substantially, but they converge towards the image that Romanians have on the future of the European Union.

In our opinion, the issues which are on the Convention agenda - the responsibilities of the Union, its legal statute to be obtained, the simplifying of the Treaties, including the perspective for a *Constitutional Treaty*, and a better definition and delimitation of competencies- have as common denominator the need to improve the functioning and action capability of the European Union, and to simplify and update the working methods. Starting from these coordinates, we would like to draw up some possible options.

Any endeavor to answer properly the questions on the missions of the European Union should begin with the expectations of the citizens. Thus, it is necessary that the objective of this attempt envisage to get closer to our citizens, in order to transform the decision making process in a clearer, more transparent and more coherent one.

Having this starting point in mind, the exercise to define and delimit the European Union's competencies ceases to be an abstract task and becomes more a matter of political vision. Europe's missions should continue to be those of ensuring peace and security internally, and to project them abroad, guaranteeing a fair access to prosperity, seeking in the same time to achieve the highest degree of cohesion and promoting the European common values.

All that, cannot be accomplished on its own. Only together can they be achieved. They mean a comprehensive community external policy, encompassing a European diplomacy, a trade policy, a development policy; also to communitarise the internal and external security, and to develop the common defence capability and the common border police. These missions translate into protecting the Internal Market acquis, accomplishing the economic union, fiscal harmonisation, and an economic growth balanced by the social dimension and the environment protection.

In order to ensure the legal certainty a distinction imposes itself between the objectives and the competencies of the Union; also, the process of differentiation of these competencies might have to use the *material* and *functional* criteria.

In a broader context, we consider that the very same grounds of precision recommend the setting up of a hierarchy of the Community norms and a clearer distinction between its different legal instruments as well as the clarification of the notions of legislative and executive power, at the Community level.

The endeavor of delimitation of competencies should reflect a compromise between two requisites: on one hand, the need for clarity and transparence, which would assume a precise delimitation of competencies, as much as possible, and the demands of multi-level governance, which would impose a dynamic allocation of the prerogatives, in concordance with the principles of subsidiarity and proportionality, on the other hand.

The new global context and the new dimensions of the Union, together with the successful integration process, makes us emphasize the necessity to strengthen the capacity to act at the community level. In order to ensure the capacity to deliver the results, the Union must consolidate and develop, if necessary, its exclusive competencies and to rationalize the various forms in which the concurrent competencies are exercised. Our endeavor should aim to organize all the possible instruments that are provided by the treaties. A clear-cut description of the powers is thus welcome.

Therefore, a possible solution could consist in setting up a flexible catalogue of competencies together with the constitutional formalization of the principles of

subsidiarity and proportionality. Based on the criterion of material and functional repartition, the catalogue would comprise the exclusive competencies of the Union, the concurrent and complementary ones as well as the domains that should remain under the exclusive competence of the member states.

We should however avoid the risk that a definitive establishment of the competencies, based on the specific necessities required by a certain moment along the European construction, becomes a barrier in the evolution of the Union. We think that the inclusion of an evolutionary clause deemed to authorize a regular review of the list in the competencies catalogue, could represent a solution destined to accommodate the relatively rigid delimitation of responsibilities between the Community and its Member States to the dynamism of the European architecture.

On the other part, inasmuch as the allocation of competencies not only represents a question of repartition, but also supposes the political management of the transfer of prerogatives, a flexible definition and delimitation of the competencies between the Union and the member states seems to be the appropriate solution. Such an option would necessarily assume a consolidated application of the principles of subsidiarity and proportionality.

In the body of the single future treaty, the subsidiarity and proportionality would have to be set forth as political principles endowed with a constitutional value. Since the delimitation of competencies involves a political approach, but one that is legally coded, the viability of the competencies demarcation system would extensively depend upon the efficiency of the jurisdictional mechanisms destined to ensure the correct application of the principle of subsidiarity.

The objective necessity of a clearer, more precise and updated delimitation of the competencies between the Union and the member states should be accompanied with the political and legal guarantees that would allow the building of a supple and flexible cooperation framework between the Union and the member states. Such an option would correspond to the evolution of the European model based on the duality between integration and the preservation of national identity.

Notwithstanding the technical and legal means of repartition of the competencies, the transparency and quality of the administration of the European system largely depend upon the degree of cooperation between the European partners. To this view, the delimitation of competencies should embed a cooperation method.

One last remark: the precise ways of delimitation of competencies between the Union and its member states would have to be so conceived as to avoid being an obstacle to the further development of the Union. To the same extent or maybe for this very reason, they would not allow for a regressive approach prone to the re-nationalization of some Community policies.

Ladies and Gentlemen,

In this spirit, we wish to cooperate with the distinguished representatives to this Convention, in order to find the best solutions of the problems concerning the future of Europe. We cherish the hope that these solutions would be of such nature as to contribute to an increased solidarity within the European area.

Thank you.