

## **Intervention by Ambassador João de Valleria Representative of the Portuguese Government**

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Although painfully aware that I can only dispose of three minutes to express my points of view, I would like first of all to thank the Praesidium, the Secretariat and the members of this Convention for the very useful background notes and contributions which have been circulated.

I understand the need to structure the debate, and will therefore try to address the main points of the questionnaire we have received regarding the missions of Europe.

Let me start by stressing that, as I see it, the end-result of this exercise should simply be to bring forth an ever closer Union of the Peoples and States of Europe; and for this desideratum to take shape and be met, the correct recipe will certainly not be to introduce new obstacles on the road to integration or to weaken or backtrack on its substantiating policies, which form the basis of this Union and without which it would simply turn into an empty shell.

The Union is only endowed with those competencies which Member States have seen fit to forego, and Artº 5 clearly excludes the “KompetenzKompetenz”. This is a basic point which cannot be contested. On the other hand, the exercise – and not, may I stress, the attribution - of competencies must confine itself to the principles of subsidiarity and proportionality, as well as to the general institutional framework laid down in the Treaties for the adoption of each legal act.

The political control which Governments and National Parliaments exercise, the different forms of political, legal and administrative supervision embodied in the community model, the most recent jurisprudence set by the European Court of Justice, all together represent additional guarantees of a

system based on the Rule of Law, in which no possibility exists of arbitrarily disposing of the means to cheat the States out of their prerogatives or to embark upon a centralising spin offensive to national consciences.

There are those, however, who still feel insecure, and therefore advocate as first best solution to decide here and now upon a final distribution of competencies between the Union and its Member States, defining once and for all that which belongs to the community sphere and that which will continue to lie under national responsibility.

This we find particularly difficult – if not virtually impossible – to achieve, especially since most community competencies are shared and not exclusive. And even more so, it would be undesirable, since it would easily turn into a system-break, halting the development and deepening of the integration process, and thereby irreversibly foreclosing the evolutionary nature of the Union.

As I see it, the logic of integration does not derive from an abstract and theoretical scheme, it ultimately finds its roots in the concrete and day-to-day needs of its Citizens, which in turn are determined by circumstances and the challenges deriving from each historic moment

In the same way it would not make sense to set in stone a division of competencies, it would also seem particularly counterproductive to deprive ourselves – through an act I can only qualify as of self-mutilation - of those elements of flexibility, like Article 308, which have been put to good use in the past. To deny the need for evolution and consider that the Union has reached the end of its path would in my view be another way to loose touch with reality and definitively alienate Europe's Citizens.

If, however, a need is still felt to dissipate fears regarding the system's capacity to guarantee a satisfactory control over the exercise of competencies, than the correct answer should, in my view, be sought in another direction, notably:

- in rationalising and clarifying the means, instruments and processes by which community policies are substantiated, and striking the right balance in the degree and intensity of the Union's intervention;
- in seeking a more careful, consistent and precise use of the principle of subsidiarity, while keeping in mind that it is also a dynamic concept which, in determining the most adequate and efficient level at which the exercise of competencies should be undertaken, can be of double-use: not only shedding light on when not to act, or act less intensely, but also on the where and why to act if the pursuit of the common interest so determines.

Let me conclude by saying that what, in my view, our Citizens expect from this Convention is not that it should lay down the foundations of a weakened Europe, one that would abandon its present tasks, shed its current responsibilities and forego its fundamental objectives.

Such a restrictive and selfish approach would indeed be difficult to justify, especially in the light of the unparalleled challenges we are now facing in the fields of internal and external security, globalisation and by way of the enlargement process itself. On the contrary, these now command ambitious leaps in the area of justice, security and freedom, greater coherence and efficiency in our external action and the strengthening of the means at our disposal to reduce the additional heterogeneity introduced in the Community through successive Enlargements.