

**Personal remarks by Professor Danuta Hübner,  
Representative of the Government of Poland to the European Convention.  
Plenary Session, 27-28 February 2003.**

Distinguished President of the Convention,  
Dear Colleagues,

Let me begin by saying that I consider the draft 16 articles of the future Constitutional Treaty presented to us on the 6<sup>th</sup> of February by the Praesidium as a solid attempt at extracting the very essence out of our previous discussions in the plenary. What needs to be underlined is that this proposal generally corresponds to the description given in the draft structure of the Treaty presented in October last year and that it also takes into consideration most of the recommendations of our eleven working groups.

Having said that and bearing in mind the number of amendments submitted to the Secretariat, it is my belief that the task of coming up within the next four months with a single final text will be a very challenging indeed. I would therefore like to make some comments on the way we will proceed with the suggested amendments to the Treaty articles. Since the Convention is to prepare a draft Constitutional Treaty on the basis of a broad consensus, it is essential that relevant procedures be established which will enable the views of all members of the Convention to be fully reflected. Therefore I am of the opinion that there will have to be sufficient time to prepare and discuss amendments to any proposals made by the Praesidium in the framework of the entire Convention.

All Convention members have constituencies that need to be consulted. I share the view of those who believe that a week's notice is insufficient for such consultations, especially since the preference of many delegates would be to contact each other first and to eventually table joint amendments. To ensure the continued transparency of the proceedings in the Convention, I would propose that the possibility is

considered of extending the time for the tabling of amendments to the text prepared by the Presidium as well as to the successive articles.

What I would also consider as useful is the creation of additional possibilities for discussion among all Convention representatives, such as working circles devoted to a certain set of articles.

Establishing well in advance of the plenary sessions of the Convention a clear road map for our further work would be absolutely needed. A possibility for additional plenary meetings, if so requested by the Convention members, should not be excluded. It is my belief that it would be essential to return to the texts previously discussed, should in the delegates' opinion the drafting of further articles of the Treaty render this necessary.

And I would like to underline here that a green light for any part of the Treaty which is under making at the moment can only be conditional upon the possibility of a revision at a later stage, when the entire text has been prepared. It is impossible to take a final decision on just one part of the Treaty, not knowing what will be the shape of the rest of it.

Mr President,

Following my comments presented in writing, I would like to concentrate on three main issues.

First of all, as far as the establishment of the European Union is concerned, I am in favour of referring to the principle of an ever closer Union. It is a long-established concept in the history of European integration and we should maintain it in the Constitutional Treaty. It reflects the dynamics behind the European project without necessarily drawing any *finalité politique* which might well be premature. On the other hand, I have reservations about using the word "federal" to denote administration of certain competencies of the Union for there are many interpretations of the concept of federalism. There are different models of a federal system of government in the Union itself. Hence we should avoid a concept which does not necessarily bring us together around a shared understanding of our goals and objectives.

Another issue that I would like to mention at this point concerns the values of the Union. There is so far no mention of the European religious heritage in the draft. There is a broad debate on the subject and not all delegates believe that a reference to religious heritage should be made in the main part of the Treaty. My personal view is that without such a reference, the Constitutional Treaty will not be complete. Religions and Christianity among them have been part and parcel of our continent's history. Respect for pluralism of opinion can very easily go together with a recognition of the role of religion, for example in the Preamble to the Treaty.

A very important decision will have to be made with reference to the Charter of Fundamental Rights. I strongly believe that given its very nature as well as its profound significance to our citizens, the Charter should be fully incorporated in the first part of the Treaty. In line with recommendations of the Working Group II on this issue, one should assume that by doing so there would be no danger of conferring any new competencies on the Union. There will also be a need to examine thoroughly the implications of the Charter's incorporation with the view to finding a solution ensuring legal security and certainty. It is my belief that the horizontal articles of the Charter need to be amended in line with conclusions of the Working Group and I encourage further work to that effect.

Mr President,

I understand that the proposal concerning the division of competencies submitted for our consideration is a result of a difficult search for compromise between those who believe that a fully enumerated list of competencies should be inserted into the Treaty and those who opt for more flexibility in this respect.

Recalling our debates during the first phase of the work of the Convention, the listening phase, we should not forget that the absolute majority of the delegates spoke against a rigid catalogue of competencies and opted for ensuring as much flexibility in this respect as possible. At the same time, the Laeken Declaration called on the Convention to explain to the citizens the roles and tasks of the various actors in the Union. It is equally true that people want to know who does what in the Union. My own proposal is to focus on defining categories of competence, rather than

insisting on having a rigid catalogue. By doing so we would concentrate on the objectives to be achieved and avoid the arbitrary character of ascribing the Union's actions to separate categories. It is my concern that once we begin analysing the respective competencies one-by-one, we will have to introduce so many exemptions that the initial objective of making things understandable to the citizen will not have been fulfilled. The second best option to limiting ourselves to defining categories of competence would be to introduce into the Treaty only the list of exclusive competencies. This is the approach applied in the Polish Constitution. However, such an option has some weaknesses. People may justifiably believe that the Union is involved only in the areas where it has exclusive competencies. Therefore the option of defining categories of competencies in the first part of the Constitutional Treaty, with the description of the Union's policies in its second part, seems to be the best one by far.

Mr President,

As far as Art. 16 is concerned, let me, Mr. President, praise the Praesidium for skilfully drafting the flexibility clause. The proposed procedure will in my view be an important basis for the Union's adaptation to the new challenges and realities. We need flexibility and the Art. 16 contains all the necessary elements for making it operational.

Thank you.