

Speech by Mr Józef Oleksy, Representative of the Sejm of the Republic of
Poland at the plenary session of the Convention
Brussels, 27 February 2003

The general structure of the text drafted by the Presidium surely meets the requirement of simplification and clarity. That is a positive aspect. At the same time an overall assessment of the substance can only be made in reference to the second Part of the Constitution, where most of the clarifications will be included.

On values, objectives and fundamental rights

A reference to the spiritual dimension should be made along the values listed in article 2. Or, this could be done in the text of the Preamble of the Constitution, which in my view would even be a better solution.

Respect of the richness of cultural diversity is a matter of general concern and therefore it should not only be linked with the area of freedom, security and justice as it is proposed in article 3.

The Charter of Fundamental Rights should become an integral part of the Constitution. Consequently, many of the general rules and basic rights should not be reproduced in the text of the Constitution for the second time.

On competences

A clear definition of the fundamental principles governing the limits of the competences between the Union and the Member States has to be welcomed. The principles of conferral, subsidiarity, proportionality and loyal cooperation put together in one article are much more understandable.

I would however suggest to go further and to establish a link between each of the principles and the rules for the application of those principles. Because in fact, art. 8 and 9 concern the same matter. In such a way, the definition would be combined with the explanation.

The proposal to list three main categories of competence is an attempt to clarify the complex matter of division of power in the EU. But this should be done with

precaution. I would point out three problems: one is the risk of rigidity of such a catalogue. A majority of the Convention members has already voiced fears of such a rigidity when the Union would not be able to act properly in the future. Second, we have to see the scope of different areas of competence and this will only be possible in the second part of the Constitution. And finally, the current place, which is given in the Treaty to the coordination of economic policies and the common foreign and security policy is not clear. Should that be perceived as a shared competence or rather as a supporting action? If the list of competences is to be maintained those two specific areas should in my view become part of the shared competences.