

Working Group XI

Working Document 10

Working Group XI “Social Europe”

Subject: **Replies to questions 4-7 of the Mandate
by Mr Antti Pelttomäki and Ms Riitta Korhonen**

Members of Working Group XI on “Social Europe” will find hereafter a paper by
Mr Antti Pelttomäki and Ms Riitta Korhonen, alternate members of the Convention.

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To the Working Group on Social Europe

Replies to questions 4–7 presented by the Secretariat of the Convention working group XI on "Social Europe" (document CONV 450/02)

Question 4. The role of the open method of coordination in the Constitutional Treaty

(The fourth question is about the role, which could be given to the open method of coordination and its possible place in the Constitutional Treaty)

The method of open coordination has been introduced into cooperation on social protection. Experience suggests that its various forms require improvement and that more flexible and much lighter procedures are needed.

There is no need to introduce open coordination to all areas that already have a legal framework defined for legislative purposes.

If it is deemed necessary that the method should be provided for in the Treaty, as is proposed by working group IX in its report, the provisions must be kept very general in nature. For instance, the Treaty could include a provision on a flexible method of cooperation between Member States, the implementation of which would be decided by the European Council separately in each individual case.

Question 5. The link between economic policy and social policy coordination

(The fifth question is about the link which could have been established between economic policy and social policy coordination.)

Under article 99, Member States shall consider their economic policies a matter of common interest and will coordinate their economic policies. Such coordination is

based on the single currency and said common interest. Treaty regulations support the reinforcement of economic stability and sustainability. This in turn will help to support improvements in social security and its funding taking long-term challenges into account.

Social policy falls under each Member State's discretionary authority and is not coordinated at the Union level as is economic policy. The question seems to imply the contrary, however. There is no need to alter the relevant Treaty regulations that have a direct bearing on employment policy, social protection and social security, nor is there any need to complement the Treaty's provisions with regulations on the relationship between economic and social policies, which might obscure the Member State's discretionary authority and the basic fact that social policies come under that authority. In Article 3 of the preliminary draft of the Constitutional Treaty, where is mentioned promotion of a high level of social protection, might be included also cooperation on social protection. This would underline the importance of this process.

The independent status of economic policy coordination, employment strategy and cooperation on social protection should be secured in the future as well. With regard to employment policy, the Treaty should continue to require that the aim of a high level of employment must be taken into account in the planning and implementation of community policies and actions.

Question 6. Decision-making procedures

(The sixth question regards procedures: to what extent should co-decision and qualified-majority voting be extended to matters for which unanimity is currently required?)

As the Union is about to enlarge, Finland has been prepared to increase the use of qualified-majority voting with regard to articles 42 and 137, excluding work permit and social security issues.

Only directives that establish a minimum level may be issued under article 137. To protect the autonomy of Member States and social partners, it is important that this is not changed.

Article 308 has been applied in the case of the right of personnel of various types of European companies to participate in decision-making, because there is a commonly

acknowledged need to achieve total harmonization. A separate legal framework can be established for these issues and provisions could be laid down with a qualified majority using the co-decision procedure. This could also resolve the dispute with the EP.

With regard to the employment process, at no time should it be provided for that the EP should take part in the evaluation of action plans concerning employment and in the processing of recommendations issued to Member States. This is more about political dialogue than legislation. Any opportunity for legislative harmonization has been excluded.

It is justifiable to hear the EP's opinion when European-level agreements between social partners are enforced. There is no justification for the co-decision procedure, however, because the question is about enforcing a decision, which means that its content cannot be changed.

Question 7. Role of the social partners

(The seventh question is about the role of the social partners. Title VI of the preliminary draft Constitutional Treaty deals with the democratic life of the Union. Should the role of the social partners appear in Title VI and, if so, what should this role be?)

The Constitutional Treaty should make reference to cooperation with social partners and call attention to the need to honour the autonomy of social partners and other non-governmental organizations.

With regard to employment and other working life related issues, the social partners play a special role compared with other NGOs because of their related agreement-making. Under the section on the employment committee, the Treaty provides for hearing the social partners in the context of the employment process.

In the forthcoming Constitutional Treaty, the obligation to hear the social partners and other NGOs could be entered in a general form which refers to hearing at the appropriate levels.