

FORWARDING NOTE

from Secretariat

to The Convention

Subject : Text forwarded by Ms Anne Van Lancker and other members of Convention working group on "Social Europe"

The Secretary-General of the Convention has received from Ms Anne Van Lancker and other members of the Convention working group on "Social Europe" the attached letter addressed to the Praesidium.

Brussels, 20th May 2003

Dear Mr. President,
Dear Praesidium Members,

As members of the Convention working group on "social Europe", we are concerned by the fact that the large consensus from this working group, that was confirmed during the plenary debate, has not been sufficiently taken into account in the draft articles of the Constitution, proposed to the Convention by the Praesidium. We have also observed that the actual drafting of part I of the Constitution by the Praesidium runs in some cases contrary to the actual *acquis* in the Treaties.

Therefore, we urge you, Mr. President and the Praesidium Members, to take the conclusions of the working group on social Europe fully into consideration whilst amending the draft Articles of the Constitution. We especially ask you to take the following points into consideration:

1. The draft of Article 2 from the Praesidium integrates the values of solidarity, tolerance and justice in the second sentence, but does not mention the values of equality and social justice as recommended by the working group on social Europe.
2. The draft of Article 3 from the Praesidium takes on board the requests of the working group to integrate into the Unions objectives, sustainable development, full employment, social justice, economic and social cohesion, equality between men and women. But the Praesidium does not integrate the concept of a social market economy, the quality of work, life long learning, the high degree of social protection, social inclusion, non-discrimination, children's right, the high level of health, the social services or the services of general interest, as suggested by consensus by the working group on social affairs.
3. The working group stipulates that "*a substantial number of members of the social Europe working group propose the introduction of a so-called horizontal clause on social values¹ in the Constitutional Treaty*", but the Praesidium did not take this proposal into account. We would like to highlight the fact that this issue was dealt with during the additional plenary meeting of the Convention on 5th March 2003, and that the Chairman concluded that a relative consensus about the principle of mainstreaming merited a re-examination of the text by the Praesidium.
4. The draft of title VI "democratic life of the Union" does not mention the role of the social partners, nor of social dialogue. Nevertheless the social Europe working group reached a consensus on the role of the social partners which "*should be recognised explicitly in Title VI of the draft Treaty and that provision should be made for consulting management and labour in all fields concerning them*". On the other hand, we welcome the fact that in article 34 the role of civil society is recognised.
5. The proposal from the Praesidium on Article 10.3 and Article 13 only deals with co-ordination of economic policies, without taking into account the opinion from the working group on social Europe, nor the existing *acquis* from the Amsterdam treaty. In fact, the Amsterdam Treaty already gave the Union the competence to coordinate the employment policies of Member-States. According to the conclusions of the working group on social Europe, most members recommend that the procedure related to the Spring

¹ We would like to take this opportunity to remind you of the text of the concrete proposal: "*In all activities falling within its competence, the Union shall aim to eliminate inequalities as well as discrimination on the basis of racial or ethnic origin, religion or beliefs, disability, age or sexual orientation, to promote equality between men and women, to promote full employment and a high level of social protection, protection of human health, advancement of education and training, and to guarantee universal accessibility of services of general interest which are financially viable, of high quality and organised on the basis of solidarity by the individual Member States*".

European Council, "*should include not only the Broad Economic Policy Guidelines and Employment guidelines, but also all other aspects of social policy to which the open method of co-ordination is applied*".

6. Regarding the Open method of Co-ordination, the majority of the working group requested the insertion into the Treaty of a horizontal provision defining the open method of co-ordination and its procedure. We would like to underline that the working group on simplification also concluded that Constitutional status should be assigned to the open method of co-ordination.

We urge the Praesidium to reconsider its decision not to introduce the open method of coordination in the Constitution and to create a "*cercle de reflexion*" with the explicit mandate of formulating a concrete draft. Several proposals were introduced by the secretariat of the Convention, by the working group on social affairs, by the social working group and also by the working group on simplification

7. On the possible extension of co-decision and qualified majority voting to areas where unanimity is required at present, the working group confirmed the conclusions of the working group on simplification, that co-decision with qualified majority voting should become the rule for the adoption of legislative acts. According to Article 13 and 42 (TEC), it was clear that most members of the group pleaded for co-decision with QMV to be applied to these Articles.

On Article 137, the majority "*agreed that a better clarification of the scope of European action could be envisaged in order to facilitate general use of qualified majority voting*."

8. The Praesidium's draft of title 3 regarding the competencies of the Union does not mention the existing competencies of non-discrimination, equality between men and women, nor the services on general interest.

The working group on social Europe also suggests that the current Article 152 should be reviewed in order to give the Union more competencies in the field of public health, to cover matters such as grave cross-border threats, communicable diseases, bio terrorism and WHO Agreements. The question as to whether the current Article 16 TEC should be amended to become a legal basis concerning services of general interest, should be considered by the Convention.

We strongly urge you to take on board the above conclusions, reached by compromise, of the working group on Social Europe.

Anne Van Lancker, Johannes Voggenhuber (*), Sylvia-Yvonne Kaufmann, Georgios Katiforis, Maria Berger, Helle Thorning Schmitt, Ben Fayot, Renée Wagener, Lone Dybkjaer, Proinsias De Rossa, Eva Lichtenberger, Elio Di Rupo, Carlos Carnero Gonzalez, Marie Nagy, Emilio Gabaglio, Caspar Einem (*), Olivier Duhamel, Hildegard Puwak, Jurgen Meyer, Pervenche Beres, Eleni Mavrou, Lenka Rovna, Adrian Severin, Vytenis Andriukaitis, Hanja Maij-Weggen, Alberto Costa, Josep Borrell, Jacques Santer (*).

Non-members of the Convention: Theo Bouwman (chairman of the committee on employment and social affairs of the European Parliament), Bartho Pronk (coordinator PPE-ED of this committee), Stephen Hughes (coordinator PES of this committee), Elspeth Attwooll (coordinator ELDR), Jean Lambert (coordinator Greens-EFA), Herman Schmid (coordinator GUE in the committee)

(*) Voggenhuber, Einem and Santer make a reservation on point 6 on the open method of coordination.