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NOTA DE ENVIO

de: Secretariado

para: Convenção

Assunto: Contributo do Professor Doutor Jürgen Meyer, membro da Convenção:
"A Europa Social"

O Secretário-Geral da Convenção recebeu do Professor Doutor Jürgen Meyer, membro da Convenção, o contributo que figura em anexo.

"Social Europe"

1. Solidarity as a value enshrined in the Union

Europe is a community of values. This is particularly true of the fundamental value of solidarity. The German Bundestag has explicitly advocated creating a European Union that, as well as being democratic and capable of taking effective action, is also founded on the principle of solidarity. The Charter of Fundamental Rights of the European Union emphasizes solidarity as a fundamental value and gives it concrete form through fundamental social rights as indispensable defining elements of the European community of values and of the social model on which the European Union is based. The Preamble itself emphasizes that the European Union is founded on the universal value of solidarity. The Charter also, as set out in the Preamble, reaffirms the rights that are enshrined in the Social Charter adopted by the Community and the Council of Europe. Chapter IV of the Charter of Fundamental Rights, entitled "Solidarity", contains 12 articles which relate to the safeguarding of social rights; further social rights and definitions of Community goals are formulated outside the chapter on solidarity. Social rights do occupy a prominent place in the Charter and reflect the EU's understanding of itself as a community of values that has long since transcended a mere economic community.

The Charter of Fundamental Rights of the European Union should form the first part of a European constitution and its Preamble be adopted as the preamble of the constitution. For the purposes of reinforcement, solidarity should be included as a value in Article 2 of the Preliminary Draft Constitutional Treaty. This would make the concept of solidarity even more visible for all EU citizens.

2. Full employment as a goal of the EU and anchoring of the principle of the social market economy

The European Union must continue to adhere to the goals of increasing the employment rate up to full employment, as agreed in Lisbon. Article 3 of the Preliminary Draft Constitutional Treaty should therefore include the goal of full employment in the fourth indent.

It is my firm belief that we should promote and defend our social model, which requires a close link between economic and social coordination. This is the only way we can use the EU's economic potential to secure full employment, a high standard of social protection and approximately the same high quality of life in all regions of the EU. The internal market and social goals should be regarded as insolubly linked elements of the European model of society in a European Union founded on the principle of solidarity. Europe must retain and build on its unique social model as a defining element of a European identity and assert itself in the world as a community of social values in particular.

EU economic policy should be based on the criteria of a social, open and competitive market economy. A social Europe should anchor the principle of the social market economy in its constitution and take into account the social dimension in the definition of the internal market.

3. Powers in the area of social rights

Article 51(2) of the Charter of Fundamental Rights of the European Union states that the Charter does not establish any new powers or tasks for the Community or Union, or modify powers and tasks defined by the Treaties. This includes the area of social rights. This legal position, as defined by the current version of the text, was confirmed by the proposals for drafting adjustments in the horizontal articles of the Charter contained in the final report of the Working Group "Incorporation of the Charter/accession to the ECHR", and reiterated without substantive changes being suggested. The question of changes to EU powers in the area of social rights therefore still requires considerable examination and discussion.

4. The role of the open method of coordination and its place in the Constitutional Treaty

The open method of coordination, a key element of the strategy for employment, economic reform and social cohesion which was adopted at the Lisbon summit in the year 2000, has proved useful in helping to define common aims and indicators of social convergence in various areas of the Member States' common social policy and should therefore continue to be used in the establishment of a more 'social' Europe.

If the open method of coordination is fleshed out and defined in a Constitutional Treaty, as is proposed in the final report of Working Group IX on Simplification, however, it should be made clear that the method is no substitute for Community legislative procedures. Despite its considerable successes in achieving real convergence in various areas of the Member States' social policies, the open method of coordination is a form of intergovernmental cooperation which is seriously lacking in democratic legitimacy. Unlike the procedure for the coordination of national employment policies as prescribed in Articles 128 to 130 of the EC Treaty, the open method of coordination does not involve the participation of the European Parliament. If the open method of coordination is to be enshrined in the Constitutional Treaty, it must therefore involve the European Parliament.

5. Relationship between the coordination of economic policies and the coordination of social policies

The promotion and defence of our European model of society and social welfare depend on the existence of a close link between economic and social coordination. This is the only way in which we can fulfil the economic potential of the European Union to the extent of achieving full employment, a reliable social safety net and the same high quality of life in all

regions of the Union. To this end we need economic and social priorities for the Union as a whole as well as economic, employment, social and environmental policy objectives to which the Member States will commit themselves. The European model of society and social welfare requires the correction of the present asymmetry between the social and economic dimensions of Europe and the recognition of their equal status in a European constitution.

The social policy of the Union has already been upgraded by virtue of the inclusion of a solidarity chapter in the European Charter of Fundamental Rights and its anticipated incorporation into the Constitutional Treaty. The fundamental social rights contained in the Charter of Fundamental Rights play a primary role in the European value system and should serve as the basis for the effective development of a bedrock of social law in the new second part of the Constitutional Treaty and for a European model of society and social welfare in which freedom and social justice are guaranteed in equal measure.

There is a need for better synchronization of the various coordination processes in the domains of economic, employment and social policy. The integrated European approach to economic and social renewal that was adopted to this end in the conclusions of the Lisbon summit should be supported. I believe it is less useful, however, to ‘blend together’ all the objectives in the aforementioned policy areas into a single construct, as with the proposed integration of social objectives into the broad guidelines of economic policy referred to in Articles 98 and 99(2) of the EC Treaty (‘broad guidelines of economic *and social policy*’). Nevertheless, consideration could be given to the question of whether and in which areas ‘broad guidelines of social policy’ – corresponding to the ‘broad guidelines of economic policy’ as defined in Article 99(1) of the EC Treaty – could be regarded as matters of common concern for the Community and the Member States. A particularly apt catalyst for the coordination of economic and social policies is employment policy, which relates to core elements of both economic and social objectives. Employment policy, with its aim of full employment, which is to be enshrined in the Constitutional Treaty as a new objective of the European unification process, must be regarded as a key area of European political activity, an engine of political progress. The promotion of employment is a responsibility that must become part of every political portfolio.

6. Extension of co-decision procedure and qualified-majority voting

After enlargement, the European social model must remain intact and be further developed. Given the level of economic integration that has now been achieved, the efforts to create a 'social Europe' can no longer be devoted to the pursuit of purely national solutions. In order to eliminate the 'social deficit' in Europe, co-decision and qualified-majority voting should therefore become the norm in every area of social policy in which the Community is empowered to legislate, especially since the sole purpose of its legislative activity in this domain is to go on developing the policy of setting minimum standards. Under the Maastricht Agreement on Social Policy, the purpose of these minimum social standards is to enshrine throughout the Union a set of employment and welfare safeguards which all Member States can be reasonably expected to guarantee. These standards must be so formulated that they do not overstretch the resources of the economically weaker countries but still lead to social progress in as many Member States as possible. Care must also be taken to ensure that European legislation does not diminish higher social standards set by individual Member States but offers scope for every State to improve its social safety net.

The powers vested in the Community by the EC Treaty in the domain of social policy should therefore be unequivocally assigned to the competence category of common policies: qualified-majority voting and co-decision would thus be introduced for decisions concerning protection against dismissal, representation of interests and conditions of employment for nationals of non-EU countries. The foundations of such a reform have already been laid in the Treaty. Lastly, we must not entirely rule out the possibility of considering the introduction of common minimum standards or 'social convergence criteria' in the hitherto excluded area of the social security and social protection of employees (Article 137(4), first indent, of the EC Treaty as amended by the Treaty of Nice). The fact is that matters concerning the modernisation of the system of social protection are already subject to majority voting, and related areas of competence should, for functional reasons, be governed by the same decision-making procedure.

7. Role of the social partners

Instead of being controlled by edicts from Brussels, the European reform process should be driven by dialogue and the creation of networks comprising decision-makers and representatives of interested parties at every level. The domain of European social policy may be regarded as a model for the ongoing development of a multilayered democracy, since the Union assigns a key role to the representatives of management and labour (the ‘social partners’) in this domain and makes special efforts to encourage dialogue between them (the ‘social dialogue’) as a core element of the European social model. This should also be reflected in a European constitution. The social partners should be involved from the earliest possible stage in all decision-making processes in the field of social policy and in preparations for the annual spring summit on European social policy; in this way, they would play an even more prominent role than hitherto in the development of a European social policy. Moreover, they should also make full use of the considerable participatory powers vested in them at the European level by Articles 137 to 139 of the EC Treaty. The enshrinement of the social dialogue in the Constitutional Treaty is an affirmation of the subsidiarity principle in the realm of social policy and is therefore of crucial importance in the establishment of European civil and social rights in a Union bound by the principle of the widest possible involvement of its citizens in decisions affecting their own lives. The role of the trade unions and their right to organise themselves internationally as well as the role of the employers’ organisations and other members of the social partnership should be explicitly recognized.
