

CONVENTION WORKING GROUP " SOCIAL EUROPE "

VALUES, OBJECTIVES, COMPETENCES

MESSAGE TO MR KATIFORIS

The working group should aim at suggesting short, sharp, simple and balanced proposals

As agreed during the meeting of the working group on 11 December 2002, the text on values and objectives of the EU in the constitutional treaty should be short, sharp and simple. It should also be balanced (i.e. fully reflect the fact that there can be no social progress without a sound economic basis).

UNICE believes that the constitutional treaty should spell out

- the common values on which the EU is built,
- the objectives it pursues, and
- the competences the EU has to adopt policies in order to reach these objectives.

The treaty should not include social aspirations without giving all the necessary attention to economic considerations. Failing that, the EU would end in a position where it is unable to reach its objectives.

Article 2 should stick to a limited number of values

As far as values are concerned, UNICE broadly supports the proposals made in article 2 of the draft constitutional treaty. In order to be sharp and simple, article 2 should stick to a limited number of common values on which the European Union is founded. Notions such as democracy and rule of law, respect of human dignity (or dignity of the person), tolerance, solidarity and liberty would belong in such an article.

Objectives should be treated in a separate article (see remarks below).

Fundamental rights: discussions on the charter should not be re-opened

The draft constitutional treaty contains a specific section on fundamental rights. An appropriate formula will have to be found for article 6 when referring to the integration of the Charter so as to clearly convey the remit of the charter (addressed to EU institutions and Member States when implementing a European law). Having noted the recommendations of the working group on the Charter, UNICE believes that the discussions on the charter now belong in the praesidium and the plenary of the Convention. The working group on Social Europe should not seek to re-open them.

Objectives: the working group should regroup texts scattered in present treaties

UNICE agrees with those who stressed that, with regard to objectives, the working group should essentially regroup texts scattered in different parts of current treaties, rewording them into constitutional language, if necessary.

Striking the right balance between social aspirations and economic considerations is of particular importance when defining objectives.

UNICE believes that the objectives defined in the current Treaties

- strike the right balance between social, economic and environmental aspects, and
- express logical links between objectives and powers to act at EU level.

It therefore agrees that the notions like “sustainable development” and “economic and social cohesion” should be taken over in a new article on EU objectives. However, it has strong doubts on a number of other proposals made during the meeting on 11 December.

Firstly, it was suggested to replace existing references to a “high level of employment” by “full employment” and to introduce references to a “competitive social market economy”. UNICE does not believe that introducing new notions that can be interpreted in very different ways will help clarifying the EU objectives.

The formulations of article 2 of the Treaty of the European Union and article 2 of the treaty on the European Community are clearer and more balanced. UNICE therefore recommends to regroup objectives in one article, which would refer to the promotion of

- a high level of employment and of social protection,
- equality between women and men,
- sustainable and non-inflationary growth,
- a high degree of competitiveness,
- convergence of economic performance,
- a high quality of the environment,
- the raising of standards of living and quality of life

and link these objectives to

- the establishment of a common market, an economic and monetary union, and
- the implementation of common policies or activities in accordance with the EU competences.

Secondly, it was suggested by some members that a specific reference to services of general interests should be included in the EU objectives. In UNICE’s view, the existence of efficient services of general interests is a means towards achieving the EU objectives of economic and social cohesion. Since, article 16 of the TEC recognises their place in promoting territorial and social cohesion, its content should be taken over at an appropriate place in the new constitutional treaty but it should not be an objective in itself.

Thirdly, some members suggested that, in addition to values and objectives, the constitutional treaty should also include principles to be mainstreamed in all policies. UNICE is not in favour of such a proposal. It would unnecessarily complicate the treaty. Moreover, defining principles to be mainstreamed amounts to entering into discussions on the content of policies (whereas the working group remit is focussed on constitutional matters).

EU competences with regard to social policy do not need to be extended

As recalled on 11 December 2002, all EU competences in the social field were either shared or supplementary. The dividing line was usually the following:

- shared competences for legislative competences (article 137 of the Treaty),
- complementary competences for employment (article 128) or education and training (articles 139 and 140).

The EU can act through various channels (legislation, support for or coordination of Member States' policies, financial support through the European Social Fund or other structural funds, etc.). Today's social Europe encompasses 230 legally binding texts at EU level and highly developed national systems for social protection, labour law, industrial relations, etc.

UNICE agrees that in an enlarged Europe, QMV should be the rule for issues relating free movement of people (i.e. article 42 of the Treaty).

However, the reasons why unanimity is required in the Council for some areas such as social security continue to be valid after enlargement. These areas are characterised by important national specificities. UNICE does not believe that the double objectives of promoting a high level of employment and a high level of social protection can be met by allowing the EU to intervene in the definition of national social security systems. The very delicate nature of these issues, notably in terms of financial equilibrium, requires particular caution when they are addressed at EU level. Unanimity ensures that this caution is exercised.

Similarly, the reasons why it is provided that the EU may not legislate on remuneration, strikes and lockouts remain valid after enlargement. UNICE is therefore strongly opposed to the suggestion to delete article 137 paragraph 6 of the TEC.

The role of social partners should be recognised

Articles 138 and 139 of the treaty define the rules applicable to consultation of the social partners on issues of social policy, negotiations between them at EU level and implementation of the agreements they conclude. These articles have been conceived to:

- protect the autonomy of the social dialogue, and
- allow the development of a negotiated area at EU level while respecting the diversity of national industrial relations systems and the division of tasks between social partners and the legislator in Member States.

Articles 138 and 139 should be taken over as they stand in the new treaty. Lastly, the preliminary draft constitutional treaty contains an article on participative democracy (article 34). It would be useful for this article to recognise the particular role of the social partners, for instance through addition of an explicit reference to articles 138 and 139 of the treaty.
