



# EUI Review

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## *An Appeal for Europe*

# Europe of the Future The Future of Europe

The intention of the meeting which took place at the Badia Fiesolana on 17 and 18 June, was to open-up a broad discussion among intellectuals belonging to various disciplines on the state and the context of the construction of Europe, the participants proposed "An Appeal for Europe".

In the opening address, the President of the Institute, Dr PATRICK MASTERSON, referred to the intentions of its founders in creating the Institute, as a locus for multi-cultural and multi-disciplinary European training. He went on to thank the Italian Ministry for External Affairs, in particular Minister DINI, Secretary General Ambassador VATTANI and the Director General for Cultural Relations whose support was decisive in making possible the meeting.

The first session, "Towards a European public sphere", chaired by YVES MÉNY, director of the Robert Schuman Centre at the EUI, debated the extent to which a European public space actually exists, and what prospects there are for its development in the immediate future. The two position papers, presented by CRAIG CALHOUN of New York University and by VICTOR PÉREZ-DÍAZ of ASP, Madrid, were discussed by STEFANO BARTOLINI (EUI) and IVALYO ZNEPOLSKI (EHESS, Paris and the University of Sofia). Among the themes considered, the most important were the relationship between national public spaces and the potential European public space, the difficulty of creating newspapers and magazines and other truly European media, the limits of public discourse and the risks of regression to semi-public opinion spaces, that is ones reserved to specialized groups.

In the second session, "Europe and the world economy", chaired by GIUSEPPE



BERTOLA (EUI), papers by MARCELLO DE CECCO (La Sapienza University, Rome) and JACQUES LE CACHEUX (Observatoire des Conjonctures Economiques, Paris and University of Pau) were presented. They were discussed by MICHEL AGLIETTA (Centre d'études prospectives et d'informations internationales, Paris), CHARLES GOODHART (London School of Economics), BEATRICE HIBOU (CERI, Paris), SOLI OZEL (Bilgi University, Istanbul) and ALFRED STEINHERR (European Investment Bank, Luxembourg). As well as a lively debate on the Euro, the session included the prospects for developing Europe's role in the regional (Mediterranean and Africa) and world contexts, as one of the three or four principal economic areas that are in an advanced state of formation.

The third session, chaired by JAN ZIELONKA (Schuman Centre and SPS Department,

EUI), was devoted to the question of the "Integration of eastern Europe". The papers of ELEMÉR HANKISS (Hungarian Academy of Social Sciences, Budapest) and ALKSANDER SMOLAR (Stefan Batory Foundation,



Patrick Masterson and Furio Cerutti

Warsaw) were discussed by ELENA BASHKIROVA (ROMIR research group, Moscow), ANTONI KAMINSKI (Polish Academy of Sciences, Warsaw), DARINA MALOVA (Comenius University, Bratislava), and WILLIAM PFAFF (International Herald Tribune, Paris). The session highlighted the multiplicity and diversity of the social, cultural and economic conditions of eastern Europe and the need to differentiate the various levels and the various patterns of integration between the European Union and the different countries of eastern Europe.

In the final session "L'Europa della cultura", chaired by LUISA PASSERINI (EUI), the presentations of ROSI BRAIDOTTI (University of Utrecht) and of RICHARD KEARNEY (University College, Dublin) were discussed by FURIO CERUTTI (University of Florence), SLAVENKA DRAKULIC (Croatia) and LUTZ NIETHAMMER (University of Jena and EUI). The session posed the problems of European cultural identity, of the European cultural heritage and of the critical work necessary to pass it on to the future, of intellectual tradition, mythology and of the commitment to fill in the symbolic deficit of Europe as it exists.

Academics considered specialists in their field, but also exponents of the world of the media, of literature, of finance and business, discussed freely and intensely all the principal problems of contemporary Europe, and the opportunities for development in the immediate and mid-term future. Among them there were rep-

resentatives of disciplines as diverse as philosophy, political science, sociology, economics, history, journalism and linguistics, who hailed from different European countries: Bulgaria, Croatia, France, Germany, Britain, Hungary, Ireland, Italy, Luxembourg, Netherlands, Poland, Russia, Slovakia, Spain, as well as the USA and Turkey.

The discussions were lively and at a high level, often exciting, never specialized, allowing the public to follow the work and to intervene with questions and comments. They highlighted critical points that will require further deepening, for example in smaller-scale workshops that could be held at the EUI in the next few years. Among these "hot" topics one can recall: the creation of European mass communication media; the relationship between Europe and the Mediterranean; the variety of possible forms of integration between East and West; the difference between the European Union and Europe in the broad sense; the difference between European cultural and political identity.



Luisa Passerini and Richard Kearney

Recognizing the foundational character of the conference, all present unanimously considered it useful and capable of inspiring alterations to their future work.

At the end of the conference President MASTERSON presented the "Appeal for Europe", which was adopted by the participants as the conference resolution.

LUISA PASSERINI.

**An Appeal for Europe/Un appel pour l'Europe**  
may be found in all official languages of the European Union  
on the Internet at the following address:  
<http://www.iue.it/General/Conference/Appeals.html>

# An Appeal for Europe

This is an appeal to Europeans today to reaffirm imaginatively the generous ideals which animated the creators of post-war Europe.

These honourable objectives refashioned Europe and redeemed her from dark paths pursued earlier.

Their achievement in terms of peace, prosperity and community, through consensus rather than compulsion, are truly memorable.

However, memories fade and their underlying inspiration needs to be retrieved and re-imagined.

This is not just a politico-economic challenge. It is also, and more fundamentally, an ethical and cultural requirement of Europeans and, in particular, of her artists and intellectuals.

It is, in effect, a call to re-invoke the idea of Europe as a movement of liberation - an aspiration which has inspired Europeans forever and which has so often been betrayed.

Seen as a movement of liberation, Europe is more an unaccomplished history than an ill-defined geography.

It is at once a movement of liberation from and a movement of liberation to. It is movement of liberation from all the grim oppressions which weigh upon us such as poverty, marginalization, terror and intolerance. It is a movement of liberation to achieve personally a full realization of our common humanity.

Most basically, this means advancing our rational capacity and passion for truth and justice. In a word, what is being asked for is a passionate commitment to establishing a European domain of truth and justice.

There are many forms of truth - not just scientific and technological truth. There are the truths of life relating to the domains of culture, morality, art, philosophy and religion, which the European ideal should encompass and value.

Likewise there are many forms of justice which merit the advocacy of Europeans. They include issues of personal rights, of economic, social, political and international justice - matters affecting

regions, minorities, the marginalised - and bearing upon evils such as alienation, persecution, racism, exclusion, and unemployment.

In order to be meaningful for large numbers of people in Europe today, this project of liberation must meet pressing challenges such as:

- To find solutions to the problem of employment, particularly for youth
- To recreate, at various levels, forms of concrete social solidarity, threatened by the crisis of the welfare state
- To foster, through adequate cultural and educational policies, the multiple complementary identities - personal, professional, local and European - which people experience not only between themselves but also within themselves
- To strengthen the Union's capacity to act cohesively in safeguarding and promoting the rights and values which cherishes
- To increase the democratic character of the Union by fostering greater participation of its citizens
- To ensure the administration's accountability and invigorate its ethical sense of being a Civil Service in the service of Europe.
- To promote, in a generous spirit, the further enlargement of Europe.

The work of giving content to the hope for such a Europe must be filtered through the prism of its mutually illuminating cultures and their relationships with other cultures of the world. As Europeans, in dialogue with the peoples of other continents, we advance from diverse, often painful, pre-reflective lived experience, and through different cultural idioms, towards this shared ideal of truth and justice. Its formation bears the traces of its many sources and seeks to express their universal intention in a dialogue which goes beyond their particularity to their full human reach. This appeal calls for a commitment from each according to their distinctive cultural and intellectual resource. It is a multicultural and multiform work in the service of Europe imagined as a liberating movement of truth and justice. It is not an appeal to adhere to an already accomplished European achievement - far from it. It is an appeal to work for the sort of Europe which is not yet, may never fully be, but by which we would wish its institutions judged and its relationships with others conducted.

## Un appel pour l'Europe

Les Européens sont aujourd'hui invités à réaffirmer, en faisant preuve d'inventivité et d'originalité, les idéaux généreux qui ont inspiré les fondateurs de l'Europe de l'après-guerre.

Ces nobles objectifs ont remodelé notre continent et l'ont écarté des chemins obscurs où il s'était égaré auparavant. Les résultats en termes de paix, de prospérité et d'esprit communautaire, obtenus d'ailleurs par le consensus que par la coercition, sont véritablement dignes de rester dans nos mémoires. Mais les souvenirs s'estompent et il est besoin de raviver les idéaux originels en les actualisant.

Le défi n'est pas seulement politique et économique. Il s'agit aussi, et plus fondamentalement, d'une exigence éthique et culturelle pour nous Européens et, en particulier, pour nos artistes et nos intellectuels. Nous voilà en effet invités à retrouver l'idée d'une intégration européenne comprise comme un mouvement de libération - aspiration qui a toujours enflammé l'imagination des Européens, mais qui a si souvent été trahie. Vue sous cet angle, l'Europe est plus une histoire encore en marche qu'une géographie aux contours incertains.

Ce mouvement de libération est tout à la fois un affranchissement et une conquête. Il nous affranchit de toutes les oppressions terribles qui pèsent sur nous, telles que la pauvreté, la marginalisation, le terrorisme ou l'intolérance. La conquête doit donner à chacun d'entre nous la possibilité, dans sa propre vie, de pleinement réaliser son potentiel d'humanité, qui est notre bien commun.

Plus fondamentalement, cela signifie qu'il nous faut développer notre capacité de raisonnement et notre passion pour la vérité et la justice. En d'autres termes, ce défi exige que nous nous engagions résolument en faveur d'une Europe qui soit un havre de vérité et de justice.

La vérité est multiple - elle n'est pas uniquement scientifique et technologique. Il existe des vérités de tous les jours, qui touchent à la culture, à l'éthique, à l'art, à la philosophie et à la religion, et que l'idéal européen devrait intégrer et valoriser.

De même, la justice revêt de multiples formes, que nous avons, en Europe, le devoir de promouvoir. Cette notion recouvre les droits individuels, mais aussi la justice économique, sociale, politique et internationale - autant de questions qui affectent les régions de l'Europe, ses minorités, ses groupes marginalisés - et renvoie à des maux tels que l'aliénation, la persécution, le racisme, l'exclusion et le chômage.

Pour trouver aujourd'hui une large audience sur notre continent, ce projet de libération doit répondre à un certain nombre de défis urgents, à savoir:

- trouver des solutions au problème du chômage, en particulier à l'adresse des jeunes;
- recréer, à divers niveaux, des formes concrètes de solidarité sociale, que la crise de nos systèmes de protection a mise à mal;
- épanouir, par des politiques appropriées en matière d'éducation et de culture, les nombreuses identités qui nous caractérisent en tant que groupe et en tant qu'individu - identités qui sont liées à notre personnalité, à notre activité professionnelle, à notre appartenance à une communauté ou encore à l'Europe, et qui se complètent mutuellement;
- renforcer la capacité de l'Union d'agir avec cohérence pour sauvegarder et promouvoir les droits et les valeurs qu'elle défend;
- rendre l'Union plus démocratique en encourageant la participation de ses citoyens;
- veiller à ce que l'administration de l'Union soit responsable et dynamiser le sens éthique d'une fonction publique qui entend être au service de l'Europe;
- promouvoir, en faisant montre de générosité, le nouvel élargissement de l'Europe.

Cette aspiration à l'avènement d'une Europe construite selon ces principes doit prendre corps en tenant dûment compte des cultures qui s'y côtoient et s'enrichissent mutuellement, ainsi que des liens que celles-ci ont noués entre elles et avec les autres cultures de la planète. En tant qu'Européens et par le dialogue avec les peuples des autres continents, nous cheminons vers cet idéal partagé de vérité et de justice à partir de points de départ différents et d'expériences souvent douloureuses et encore présentes, en exprimant des sensibilités culturelles différentes. Cet idéal porte la trace des nombreuses sources dont il émane, mais il est aussi porteur d'une intention commune sous la forme d'un dialogue qui dépasse les particularités et s'ouvre à toute l'humanité. Cet appel exige de chacun d'entre nous qu'il s'engage, fort de ses ressources culturelles et intellectuelles. Il s'agit d'une entreprise multiculturelle à mener sur plusieurs fronts, au service d'une Europe entendue comme un mouvement de libération au nom de la vérité et de la justice. Cet appel n'est pas une invitation à nous en tenir à l'acquis communautaire - beaucoup s'en faut. C'est une invitation à travailler à l'émergence d'une Europe qui n'existe pas encore, et pourrait bien ne jamais exister complètement, mais sur la base de laquelle nous souhaiterions que ses institutions soient jugées et ses relations avec l'extérieur, conduites.



# Le nouvel équilibre institutionnel de l'Union européenne

JOSÉ MARIA GIL ROBLES,  
Président du Parlement européen

Il y a peut-être cinq ans, je faisais un exercice similaire en tant que Président de la Commission institutionnelle en ce même Institut lors d'une rencontre où il y avait, je me rappelle, le professeur Weiler et le professeur García Enterría et on discutait sur l'avenir institutionnel de l'Union. Maastricht venait juste d'être approuvé, et l'on ne pensait pas encore à lancer Amsterdam, et on n'aurait jamais pensé que, cinq ans après, tant de choses se seraient passées en Europe. Même, probablement, dans cette année où nous vivons, 1999, il se sera passé plus de choses que dans les premier vingt ans de la vie de l'Union. Donc, le problème institutionnel de l'Union européenne s'accélère et quand il s'accélère, c'est toujours bon de réfléchir, de penser un peu à ce qui se passe.

Donc, il faut voir maintenant, avec l'entrée en vigueur du traité d'Amsterdam, très récemment, le 1er de ce mois de mai, comment est-ce qu'on peut comprendre les événements qui se succèdent à grande vitesse. L'Union a beaucoup changé depuis sa fondation selon ce double mouvement d'élargissement et d'approfondissement qui caractérisent notre Union européenne depuis sa fondation et qui sont d'ailleurs parallèles, et doivent l'être: dès qu'il y a un élargissement, il y a un approfondissement. Quelque fois c'est juste le contraire, mais les deux sont, en tout cas, intimement liés, parce que, difficilement, l'Union peut s'élargir sans approfondir, sans resserrer les liens existant entre les pays. Et en même temps le Parlement et la Commission se renforcent. Les institutions communautaires se renforcent. On dirait que le Parlement a évolué en renforçant toujours ses pouvoirs,

parce que la raison intime, la raison profonde, c'est que ce renforcement des pouvoirs du Parlement est l'unique façon de réduire le déficit démocratique de la Communauté.

On est parti d'une Communauté intergouvernementale où le pouvoir, depuis le traité de Rome, contrairement au traité de la Communauté européenne du charbon et de l'acier, était concentré sur les représentants des gouvernements, et l'histoire de notre Union est exactement l'histoire de comment on arrache peu à peu une partie de ce pouvoir en faveur des institutions, qui sont spécialement communautaires.

On pourrait donc faire une certaine comparaison avec cette histoire et l'histoire des pays européens qui luttait pour le triomphe du système parlementaire face au roi qui, avant, concentrait en lui tout le pouvoir absolu. La différence c'est que, dans l'Union, cela se passe dans un temps beaucoup plus rapproché. En effet, cette évolution s'est faite en 50 ans, tandis qu'il y a des pays comme la Grande-Bretagne, paradigme de l'évolution parlementaire, où il a fallu près d'un siècle pour arriver au système parlementaire. La conséquence est que très fréquemment, quand on regarde le Parlement, surtout quand les médias regardent le Parlement et parlent du Parlement, on parle d'un Parlement qui est déjà dépassé. C'est un peu comme les astronomes et les étoiles: nous sommes en train de voir une lumière produite il y a plus d'un million d'années et c'est la vision que nous avons d'une étoile.

Parallèlement, on parle très fréquemment de ce Parlement, qui déjà n'est plus le Parlement que la

personne qui parle a connu quelques années avant. Cela explique d'ailleurs beaucoup de surprises quand le Parlement a



José Maria Gil Robles

imposé la démission de la Commission. Certaines personnes comprennent très difficilement comment un Parlement, qui est censé être un Parlement sans pouvoirs, une assemblée parlementaire bonne à amuser les députés, tout d'un coup oblige la Commission à démissionner. C'est un choc pour ces personnes, parce qu'elles n'ont pas suivi la trajectoire de l'évolution du Parlement. Alors, si on regard bien en arrière, le Parlement a obtenu au fil des années un pouvoir de co-décision législative qui couvre maintenant 70% ou 80% de la législation communautaire après Amsterdam, et cela se passe très bien. Il s'agit d'un pouvoir budgétaire qui aboutit à la co-décision en matière de dépenses – nous le verrons – et du contrôle sur l'exécutif communautaire, ce qui est pour moi une des tâches les plus importantes des organisations parlementaires. En fait, les Parlements sont de plus en plus des organes de contrôle et c'est sous l'angle du contrôle qu'on doit étudier la fonction des Parlements dans la politique moderne. Je disais que dans le domaine législatif la procédure de co-décision a très bien marché. Les chiffres sont éloquentes. Depuis 1993, où la procédure est

entrée en fonction, le Parlement européen a reçu plus de 250 propositions dont 130 sont finalisées maintenant. Dans ce contexte, il faut savoir que de ces 130 propositions à la fin seulement 3 ont été rejetées. Pour la plupart de ces propositions on n'a même pas eu besoin d'ouvrir la procédure de co-décision, la procédure de conciliation. Pour environ 70% d'entre elles on a obtenu un accord par la simple double lecture au Parlement et au Conseil. C'est sur les autres propositions qu'il a fallu ouvrir une procédure de conciliation, et seulement dans trois cas cette procédure n'a pas abouti. Donc, on peut dire que le résultat de la co-décision, au lieu de devenir un résultat compliqué, mauvais, inapplicable, comme on avait craint au moment de son insertion au traité de Maastricht, a bien au contraire très bien fonctionné. Il y a eu un effet collatéral, maintenant que les effets collatéraux sont à la mode. L'effet collatéral, c'est que le Parlement a commencé à parler directement avec le Conseil. Il a même influé sur le Conseil pour l'habituer à un genre différent de négociations. Quand la procédure de co-décision a commencé, quand les représentants du Parlement arrivaient à l'aboutissement d'une longue procédure de discussion et de consensus, dont ils avaient une idée très claire en sachant ce qu'ils voulaient obtenir et comment l'obtenir et en connaissant les marges de négociation, le Conseil, au commencement, n'y était pas préparé du tout. Il arrivait qu'on suspende la conciliation tous les vingt minutes pour qu'un ambassadeur – non seulement celui du Danemark – aille communiquer par téléphone une catastrophe à sa capitale et demande ce qu'il pouvait céder et ce qu'il ne pouvait pas céder, et comment il pouvait négocier.

Evidemment, le Conseil s'est accoutumé aussi à cette procédure, à se préparer à l'avance, mais au lieu d'avoir comme intermédiaire la Commission – ce qui s'est passé pendant les premiers quarante ans de la vie de l'Union – le Parlement et le Conseil parlent maintenant en tête-à-tête. Ce qui change déjà, c'est un premier changement de l'équilibre communautaire. La Commission devient de moins en moins, disons, indispensable pour cette fonction-là. Elle n'est plus la médiatrice indispensable de la législation communautaire, qui maintenant se fait entre deux pôles de façon plus rapide. Evidemment, elle peut contribuer, elle fait une contribution importante et elle fait un travail de médiation, mais ce n'est plus un monopole, comme c'était le cas avant.

Deuxième point: je disais que le contrôle est de plus en plus important. Si vous voyez les Parlements dans les démocraties modernes, ils font surtout du contrôle. «Contrôle» cela ne veut pas dire qu'ils emploient la motion de censure; celle-ci n'aboutit presque jamais, sauf s'il y a un changement de majorité. Mais la fonction du Parlement, c'est d'attirer l'opinion publique sur les choses que le gouvernement fait bien, du côté de la majorité, ou sur celles que le gouvernement fait mal, du côté de la minorité ou des minorités, et c'est alors le corps électoral, au moment des élections, qui en tire les

conséquences. C'est donc le Parlement qui exerce un contrôle, celui de comparer les résultats avec les programmes, ce qui est essentiel pour tirer ensuite les conséquences, c'est-à-dire pour arriver à une sanction ou à une confirmation.

Le Parlement européen a de plus en plus augmenté ce rôle. Et c'est une des dispositions du traité de Maastricht qui contient deux dispositions extrêmement importantes. L'une porte sur les commissions d'enquête. Cela a été particulièrement important pour le Parlement au moment de la «vache folle». La «vache folle» a obligé le Parlement européen à utiliser ses pouvoirs de contrôle. Et il a utilisé les pouvoirs de la commission d'enquête de façon très très approfondie. Cela a bien fonctionné et a placé le Parlement à la fin devant le dilemme consistant à limoger la Commission ou non. A ce moment-là le Parlement a décidé d'utiliser le contrôle dans son meilleur sens, à savoir d'éviter, si possible, le dysfonctionnement, c'est-à-dire un contrôle visant à corriger plutôt qu'à sanctionner, et il a dit à la Commission: «Si, dans six mois, vous n'avez pas corrigé ce dysfonctionnement, on vous censurera.» Et il s'est rendu compte que la Commission avait reçu le message. C'est la première fois que les Eurodéputés ont fait mouche, ont eu la sensation de tenir un pouvoir de contrôle dans leurs mains.

La façon de réagir de la Commission a été importante. Cela a été, disons, le premier son de cloche. Le deuxième instrument, c'est la décharge, c'est-à-dire la faculté d'approuver ou de rejeter l'exécution du budget par la Commission européenne. Un premier avertissement a été donné dans le budget spécial de la coopération qui avait déjà été rejeté il y a quelques années, mais c'est avec les conséquences de la «vache folle», qui a souligné les dysfonctionnements dans la Commission, que la décharge du budget '96 s'est convertie en une pierre de touche, que l'exercice du contrôle parlementaire, notamment l'exigence que la Commission accepte le principe de donner au Parlement tous les éléments nécessaires à son contrôle, s'est transformé en la grande bataille de la dernière année.

Il y avait toute une partie de la Commission qui voyait le Parlement comme le petit frère que l'on devait bien évidemment protéger du mauvais loup qu'était toujours le Conseil. Il fallait l'aider et, en contrepartie, le Parlement s'est laissé expliquer exactement ce qu'il fallait faire pour chaque norme légale. Les gens de la Commission savaient bien ce qu'il fallait faire. Passer de cet état à une mentalité voulue par Maastricht et renforcée par Amsterdam, une mentalité de la confiance parlementaire, est extrêmement difficile, extrêmement difficile. Je me rappelle qu'à l'époque de la «vache folle» j'ai vu qu'il y avait là quelque chose qui ne marchait pas, et j'ai invité un jour à déjeuner les Présidents de deux grands groupes, le PPE et le Parti des Socialistes européens, ainsi que le Président de la Commission, M. Santer. Et je leur ai dit: «Écoutez, ce Parlement va être de plus en plus conscient de ses pouvoirs de contrôle.

Donc évidemment, si la Commission réussit à avoir une majorité parlementaire derrière elle, cela va marcher, sinon cela va mal finir.» Et il y a eu, à ce moment-là, non seulement du côté de M. Santer, qui, dans la théorie, l'a très bien compris, mais surtout du côté de certains de ses Commissaires – pas les Commissaires du Sud précisément, mais en particulier certains Commissaires du Nord – et surtout du côté de la bureaucratie de la Commission une incapacité de recevoir le message et de comprendre que la Commission, qui est de plus en plus un gouvernement, a besoin de cette confiance parlementaire. Et c'est là l'origine de la crise que nous traversons. Et elle est plus difficile à résoudre, car il faudra changer la mentalité de la Commission, faire accepter cela, non seulement par les Commissaires, qui vont peut-être être remplacés, mais aussi par les services qui ne vont pas être renouvelés dans la même proportion. Evidemment la résistance à envoyer les éléments de contrôle - après bien des tentatives, même de la part du Président Santer et, à la fin, aussi du Commissaire Likanen, qui ont été parfaitement sabotées par les services - a fini par amener le Parlement à décider de rejeter la décharge en décembre, comme vous le savez.

La Commission, à la veille de ce vote important, a fait une grande gaffe, la plus grande qu'elle ait pu commettre, car normalement les Parlements sont comme les éléphants: ils sont généralement pacifiques et il faut les irriter beaucoup pour qu'ils se fâchent, mais une fois fâchés, c'est très difficile de les faire revenir en arrière. Alors la Commission a fait la plus grande gaffe: elle a envoyé une lettre à tous les parlementaires en disant: «Si vous rejetez la décharge, cela veut dire que vous n'avez pas confiance en nous et que vous devriez présenter une motion de censure», ce qui était parfaitement logique, mais c'était un défi, un défi logique. Et, évidemment, le Parlement a réagi en acceptant le défi. Le jour suivant le Parlement non seulement a rejeté la décharge, mais a présenté, c'est-à-dire les groupes politiques ont présenté, deux motions de censure, non seulement une, mais deux motions de censure. Une motion de censure pour obtenir un vote positif, parce qu'il n'y a pas de motion de confiance dans le système parlementaire européen. La tentative d'une motion de censure du Parti des Socialistes européens était un vote de confiance à l'envers, en perdant la motion de censure; mais l'autre était une vraie motion de censure qui voulait aller jusqu'au bout et qui est allée jusqu'au bout. Et, certainement, au mois de janvier les esprits étaient suffisamment surchauffés pour savoir que cette motion de censure avait une possibilité d'aboutir.

En fait la motion de censure des socialistes a été retirée à la suite d'une proposition de créer un comité d'experts indépendants, ce qui est une solution assez bien comprise en général dans les pays anglo-saxons et très peu comprise dans les pays latins, qui n'ont pas la tradition des comités d'experts indépendants, solution qui devrait permettre au Parlement d'échapper à une accusation. L'accusation, c'est de se laisser emporter par des raisons purement électorales, à proximité des élections.

On a donc désigné ces cinq experts du plus haut niveau et le résultat est le même résultat que dans l'histoire du prince qui était nu. Personne n'était capable de lui dire qu'il était nu, jusqu'au moment où ce petit enfant a dit «mais il est nu». Alors, ce comité d'experts indépendants a simplement indiqué ce qui se passait à la Commission, c'est-à-dire l'état de non-contrôle et l'état de dysfonctionnements plus ou moins grands; enfin que ce n'était pas un système de corruption généralisée, il ne faut pas dire cela, mais que c'était évidemment un état de non-contrôle. L'autorité politique ne contrôlait plus la bureaucratie communautaire, et ils ont dit avec ces lettres-là qu'il n'y avait pas de contrôle, donc il ne pouvait pas y avoir de responsabilité et qu'il y avait un énorme déficit d'«accountability» dans le système. Ce qui a immédiatement provoqué la démission collective de la Commission. C'est le même système qu'un vote de censure. Il ne serait pas passé si l'on n'avait pas su qu'en janvier le vote de censure avait reçu pour la première fois une énorme quantité de voix, ce qui ne s'était jamais passé dans l'histoire communautaire.

Le groupe socialiste a décidé de changer son vote en vue d'un rapport d'experts, le vote de censure était acquis, et la Commission, intelligemment, a décidé de devancer la sanction en partant d'elle-même. Il y a donc un changement qualitatif. Pour la première fois on a vu que l'organe de contrôle était disposé à exercer ses facultés, et il faut bien savoir que, une fois qu'un Parlement prend l'habitude de mordre, c'est un peu comme les fauves: ils sont parfaitement disposés à maintenir leur comportement si on leur offre encore du sang en perspective. Donc, il faudra maintenant que la Commission se place dans l'optique parlementaire, c'est-à-dire dans l'optique d'avoir la confiance du Parlement.

Je l'ai dit quand j'ai rencontré Prodi, qui est un bon ami, je lui ai dit: «Ecoute, tu as deux problèmes maintenant: le premier, c'est de choisir une bonne Commission, de t'imposer aux Etats pour choisir une bonne Commission capable de fonctionner en équipe; le deuxième, c'est de nourrir une majorité parlementaire pendant les cinq années à venir, parce qu'il ne s'agit pas seulement de passer le vote en septembre, qui sera un vote difficile si la Commission n'est pas bien choisie, mais de sauvegarder pendant cinq ans ce mécanisme de confiance parlementaire, cette transparence devant le Parlement». Or je pense que c'est essentiel pour l'Union Européenne, cette évolution. Il faut qu'elle établisse maintenant un nouvel équilibre qui n'est pas dans le sens du même équilibre qui existe entre les Etats membres, entre le gouvernement et son Parlement. Car il faut bien savoir que dans l'Union il y a deux légitimités, deux canaux de légitimité: il y a d'un côté le canal populaire à travers le Parlement européen, et de l'autre côté le canal national qui, dans le Conseil, a une autre légitimité. Donc il existe une situation comme celle de nos pays au milieu du siècle dernier, où le roi avait encore un grand pouvoir, parce qu'il conservait une partie importante de sa légitimité. Ou prenons par exemple la France où le Président de la République, qui est élu directement, a sa

propre légitimité tout comme le Parlement. Donc, là le gouvernement se trouve dans une situation de fusible: s'il arrive à mettre d'accord les deux sources de légitimité, il vit confortablement; s'il n'arrive pas à les mettre d'accord, il brûle tout simplement, et ce sera là une autre difficulté pour Prodi. Il doit non seulement s'assurer une majorité au Parlement mais aussi au Conseil, et il doit arriver à placer le Conseil dans sa ligne politique.

Mais c'est ce qui s'est fait essentiellement pendant le siècle dernier, ce qui a fait la grandeur du leadership parlementaire. Les grands leaders parlementaires ont été ceux qui ont su fixer des objectifs, fixer des lignes politiques et réunir derrière eux leurs forces au Parlement, dans une politique qui pouvait être acceptée par le chef de l'Etat, qui puisse donc être acceptée maintenant par le Conseil dans l'Union européenne. C'est le grand défi pour le Président de la Commission dorénavant. Il ne faudra pas seulement élaborer des idées sur la direction que doit prendre l'Union européenne, il faudra deux choses: un leadership, qui soit accepté par le Parlement et par le Conseil, ce qui nécessite de regarder vers l'avenir et de faire des propositions d'avenir et en même temps d'assurer une bonne gestion transparente qui puisse être acceptée par les organes de contrôle.

Ce n'est pas facile, mais c'est ce qu'un bon gouvernement doit en tout cas faire. Vous voyez que ce nouvel équilibre est plein de possibilités, mais aussi plein de dangers. On ne peut pas penser que dorénavant l'Union européenne soit simplement une organisation complètement pacifiée à l'intérieur. Le bon vieux temps où tout le monde était ami à Bruxelles et se trouvait dans une petite ambiance, un petit cercle où tout le monde se connaissait, où tout le monde œuvrait dans le même sens pour construire l'Union européenne encore à ses débuts, où tous étaient dans la même barque, ce temps est désormais complètement révolu. Il faut maintenant se placer dans l'optique du pouvoir, d'un vrai pouvoir, parce que l'Union a de plus en plus de pouvoir. Et du moment qu'elle a de plus en plus de pouvoir, ses institutions se placent dans l'optique du pouvoir. Elles cherchent à obtenir, chacune, une partie plus importante du pouvoir et se trouvent pourtant dans un équilibre, qui, comme tous les équilibres parlementaires, est un équilibre instable.

Il est très difficile de prévoir le futur et je suis d'ailleurs un très mauvais futurologue. Je dirai simplement que la solution viendra probablement, comme dans les Etats membres, d'un renforcement des partis politiques européens, parce que c'est la solution à ce problème de «linkage» entre les diverses institutions. Cette situation d'équilibre à la fin est le résultat, dans tous nos pays, d'un renforcement des structures des partis, ce qui ne s'est pas produit aux Etats-Unis, simplement parce que là il n'y a pas de confiance parlementaire, donc les chefs de gouvernement n'ont pas visé cette assurance qui consiste à tenir un parti dans ses mains, qui leur garantit et la majorité et le contrôle de toutes les insti-

tutions. Je me souviens que lors d'un sommet européen, au moment où s'est produite la crise de la Commission, un chef de gouvernement a dit: «Mais comment cela s'est produit? Cela ne se serait jamais produit chez nous. Comment a-t-on pu laisser échapper le contrôle sur nos parlementaires?», ce qui veut dire que les chefs de gouvernement vont tenter de récupérer le contrôle sur leurs parlementaires. C'est tout à fait clair. Seulement ils ont un petit problème: ils doivent se mettre d'accord sur la question de savoir qui d'entre eux va avoir le contrôle sur les parlementaires, car on ne peut pas avoir un vrai contrôle sur les parlementaires et contrôler les partis à quinze, et, donc, ils doivent se mettre d'accord d'abord entre eux pour avoir des partis qui soient réellement dans une seule, qu'en tant qu'ils seront à quinze le Parlement restera encore avec beaucoup de liberté et donc avec beaucoup de possibilités d'utilisation. Mais c'est dans ce sens-là que l'évolution va aller. Dans toute structure politique, quand il y a une institution qui change, qui prend un nouveau rôle, les autres aussi doivent assumer un nouveau rôle. La Commission va le faire avec Monsieur Prodi, mais le Conseil se voit maintenant dans la nécessité de faire ce qu'on n'a pas fait à Amsterdam, c'est-à-dire de faire un Conseil qui fonctionne, un Conseil qui ait cette double fonction de chef d'Etat et de Sénat, ce qui est difficile à faire pour un seul organe, qui suive une direction qui soit beaucoup plus efficace qu'une présidence changeant tous les six mois, qui établisse son propre système plus efficace de préparation des travaux et renforce ce qui est déjà en train de se produire, c'est-à-dire ces réunions des Chefs d'Etat et de Gouvernement préalables aux décisions importantes des Conseils sur une base politique, c'est-à-dire sur la base de leurs clivages politiques pour renforcer leur appartenance politique et arriver de plus en plus non à des négociations à quinze Etats, mais à des négociations de deux/trois blocs politiques.

Voilà ce qu'on peut jusqu'ici, en se basant sur l'histoire de l'évolution parlementaire, prédire pour notre Union européenne. Il y a eu pas mal d'événements dans cette année. Si on réfléchit bien, depuis qu'on a commencé, on a eu l'introduction de l'Euro, on a eu la crise de la Commission, on est arrivé à un accord sur l'Agenda 2000, on a un nouveau traité qui entre en vigueur et on a eu une guerre, ce qui nous interroge sur la nécessité d'une politique étrangère et de sécurité commune. Et, probablement, le reste de l'année sera aussi plein d'événements qui iront dans le sens de dynamiser cette Commission. C'est une étape qui pour tout studieux est une étape exaltante de voir comment les institutions évoluent, et également pour moi, qui ai été à ce moment non seulement studieux, mais aussi acteur et qui ai donc pu faire cet exercice un peu schizophrénique d'être acteur et en même temps analyste de ce que j'étais en train de faire du point de vue de la science politique. Je dois dire que cela a été une période absolument exaltante et intéressante.



# Working Together to Build the Europe of the 21st Century



Dr Masterson welcomes Romano Prodi



Romano Prodi and Mario Soares

On 25 and 26 June the European Movement met at the Institute for a conference on "Objective 2002: Working Together to Build the Europe of the 21st Century". The conference focused on some of the major issues confronting the European Union: institutional reforms, enlargement, the challenges of EMU and unemployment.

Dr MASTERSON welcomed high-ranking participants such as ROMANO PRODI, President-elect of the European Commission and MARIO SOARES former President of Portugal and President of the European Movement.

## Foreign Trade Ministers of the European Union will Meet at the EUI

Following the recent ministerial meeting in Berlin on 15 May 1999, the Finnish Minister for Foreign Trade, KIMMO SASI, announced that, in the Finnish six months' presidency of the European Union, an informal meeting of Foreign Trade Ministers of the 15 would be held at the European University Institute. The initiative to hold the meeting at the European University Institute comes from the Italian Minister for Foreign Trade, PIERO FASSINO. At the meeting, Foreign Trade ministers of the 15 will compare ideas with an eye to developing the Community position for the third ministerial conference of the World Trade Organization, to be held in Seattle at the end of the year, and for the Millennium Round, the new multilateral trade negotiations due to begin next year. This will complete the course of developing the Union's negotiating position began at the European University Institute on the occasion of the Euroworkshop held at the Badia Fiesolana in November 1997 at which European Commission Vice-President Sir LEON BRITTAN for the first time launched the idea of the Millennium Round.

EU:n jäsenvaltioiden ulkomaankauppaministerit tapaavat Euroopan yliopistoinstituutissa määrittelläkseen EU:n kannan WTO:n vuosituhannen neuvottelukierrosta silmälläpitäen. Suomen ulkomaankauppaministeri KIMMO SASI ilmoitti 15. päivänä toukokuuta 1999 pidetyn Berliinin ministeritapaamisen jälkeen, että Suomen EU puheenjohtajakauden aikana tullaan järjestämään epävirallinen jäsenvaltioiden ulkomaankauppaministereiden tapaaminen Euroopan yliopistoinstituutissa. Aloitteen kokouksen järjestämisestä Euroopan yliopistoinstituutissa teki Italian ulkomaankauppaministeri PIERO FASSINO. Tapaamisen aikana jäsenvaltioiden ulkomaankauppaministerit tulevat vertailemaan ideoitaan muodostaakseen Yhteisön neuvotteluposition sekä Maailman kauppajärjestön (WTO) Seattlessa vuoden lopussa järjestettävää kolmatta ministerikokousta että ensi vuoden alussa alkavia uusia monenvälisiä kauppaneuvotteluita (Vuosituhannen neuvottelukierros) varten. Tämä tapaaminen viimeistelee Euroopan yliopistoinstituutissa aloitetun Euroopan Unionin neuvotteluposition kehittämisen: Euroopan komission varapuheenjohtaja Sir LEON BRITTAN esitti idean Vuosituhannen kierroksesta ensimmäisen kerran Badia Fiesolanassa marraskuussa 1997 järjestetyn Eurotyöryhmän puitteissa.

Visit by the Swedish Agency for Administrative Development, the Statskontoret.

## Skräddarsytt seminarium för det svenska Statskontoret

Fredagen 18 juni fick EUI besök av en delegation från det svenska myndigheten för förvaltningsutveckling, det s k Statskontoret. Myndigheten, vilken understödjer den svenska regeringen i arbetet med att ompröva, styra och effektivisera statlig och statligt finansierad verksamhet, förbereder ett omfattande projekt rörande effekterna av den Europeiska unionens beslutsprocess på svensk förvaltning. Ett projekt som i sin tur kan förväntas påverka den svenska regeringens målsättning med europeisk förvaltningspolitik och organisation.

Mot denna bakgrund anordnade Professor Yves Mény, chef för EUIs Robert Schuman Center, och Carl Fredrik Bergström, doktorand vid EUIs juridiska avdelning, ett särskilt

endagsseminarium. Seminariet, vilket kallats European Construction in Progress: Comitology, Agencies and the Role of the National Administration var upplagt med målsättningen att tillhandahålla besökarna en bred analys av aktuella förändringar i EUs förvaltningsstruktur men också för att adressera de frågor som enligt de ansvariga är mest angelägna. Bidrag i detta avseende lämnades av Carl Fredrik Bergström ('recent issues of Community institutional development: Comitology and decentralised agencies') och professor Jacques Ziller, EUI's juridiska avdelning ('the Swedish system of government in a comparative perspective: how agencies are intertwined with other unique features'). Som ett komplement till den mer allmänna diskussionen presenterade även Jean Monnetforskaren Ellen Vos, en fallstudie från ett pågående projekt vid RSC.

Utöver intresset för det behandlade temat bör besöket ses som ett uttryck för ett växande svenskt intresse för EUIs forskningskapacitet. Möjligheten till framtida samarbete i konkreta utredningsfrågor uppmuntrades därför i de mer allmänna presentationer som gavs av EUIs president Patrick Masterson och Professor Yves Mény.

Besökarna från det svenska Statskontoret tycktes mycket inspirerade av såväl seminariet som utsikten för framtida samarbete. Inte överraskande var de även hänfödda över forskningsmiljön, en underbar lunch i Sala Rossa, en öl (eller två) i Bar Fiasco samt ett oförglömligt möte med det italienska cucina casalinga hos Alessis.

On Friday 18 June, the EUI was visited by a delegation from the Swedish Agency for Administrative Development, the Statskontoret. The Agency, which provides its government with analyses for decision-making, is about to commence in-depth research on the future EU administrative policy. As it appears, the Swedish Government intends to focus efforts for the years to come on promoting at European level a Swedish administrative model of decentralized agencies.



Participants of the seminar

Against this background a one-day seminar was prepared by Prof. YVES MÉNY, Director of the Robert Schuman Centre, and CARL FREDRIK BERGSTRÖM, researcher at the EUI Law Department. The seminar, titled

European Construction in Progress: Comitology, Agencies and the Role of the National Administration, was designed so as to present the visitors with an analysis of current changes in the EU administrative policy but also to focus on a number of questions which according to the organizers need to be addressed. Presentations to this end were made by CARL FREDRIK BERGSTRÖM ('recent issues of Community institutional development: Comitology and decentralized agencies') and Prof. JACQUES ZILLER, Law Department ('the Swedish system of government in a comparative perspective: how agencies are intertwined with other unique features'). As a supplement to the more general presentations the Jean Monnet Fellow Dr ELLEN VOS presented a case study from the project she is currently working on with the RSC. In addition to the specific theme of the seminar, one reason for the visit can be found in an increasing Swedish awareness of and interest in the EUI's research capacity. The possibility of future collaboration in concrete projects was therefore encouraged in presentations by the President, Dr. PATRICK MASTERSON, and by Prof. YVES MÉNY.

The visitors from the Swedish Agency for Administrative Development were very inspired by the seminar and indeed with the prospect for further co-operation. Not surprisingly, they were also astonished with the venue, a delicious lunch in the Sala Rossa, a beer (or two) in the Bar Fiasco and an encounter with the Italian cucina casalinga at Alessi.

CARL FREDRIK BERGSTRÖM

# Le département droit et les nouvelles technologies: L'utilisation d'Internet pour l'enseignement et la recherche

Deux expériences significatives ont été lancées pendant l'année 1998-1999 en vue de développer l'utilisation d'internet aussi bien pour l'enseignement que pour la recherche.

Le prof. FRANCIS SNYDER a créé, avec l'aide de COSIMO MONDA, assistant de recherche, un site spécialement consacré à son séminaire d'automne "Globalization and International Trade Law: European Union and China" (<http://www.iue.it/LAW/globalisation>). Internet a permis la mise à disposition des chercheurs de textes autrement introuvables. La reproduction directe de textes de littérature grise, la création de liens permettant un accès direct à tous les sites pertinents permettent en quelques clics d'accéder aux textes qui peuvent ensuite être téléchargés et imprimés. Le site s'est avéré un stimulant pour la recherche, ses utilisateurs étant poussés à creuser des questions comme ils n'auraient sans doute jamais pu le faire sur la base des seules ressources papier ou cd-rom habituelles. Le Forum est un moyen privilégié d'échanges entre le professeur et les chercheurs, que ce soit pour des indications de méthodes, l'annonce du calendrier ou, surtout, pour permettre des échanges sur les questions examinées entre les différentes séances de séminaire. De plus, le site a pu être consulté de partout dans le monde, et en particulier par des chercheurs chinois aussi intéressés par le sujet que leurs homologues à européens. C'est une première tentative d'enseignement virtuel à l'IUE.

Au deuxième trimestre, le prof. JACQUES ZILLER a également mis en place, toujours avec l'aide de COSIMO MONDA, un site particulièrement consacré à son séminaire de droit public comparé sur la Ratification du Traité d'Amsterdam - The Ratification of the Amsterdam Treaty (<http://www.iue.it/LAW/amsterdam>). L'idée de ce site était notamment née de la constatation qu'il était presque impossible de trouver sur le net un tableau à jour et suffisamment précis dans ces informations qui permettrait de savoir où l'on en était de la ratification du traité: en janvier 1999 il était encore impossible de savoir si le traité entrerait en vigueur le 1er mai, le 1er juin, après l'été ou pas du tout. De même il n'était pas possible de disposer des textes de toutes les constitutions des États membres en un seul volume, dans les langues de travail les plus courantes en Europe, et incluant une mise à jour. Le site met à la disposition des chercheurs tous ces documents ainsi qu'une importante sélection de liens permettant d'accéder aux sources de droit institution-

nelles et universitaires de tous les États membres de l'Union et des institutions européennes. Il offre un certain nombre d'instruments à valeur ajoutée tels que des sélections de dispositions constitutionnelles pertinentes, des mises à jour permanentes ou des documents indiquant la voie à suivre pour avoir des informations parlementaires ponctuelles non directement disponibles. Un certain nombre de travaux du sémi-



Les professeurs Ziller et Campana

naire sont également accessibles, tels que les plans détaillés ou textes complets d'exposés des chercheurs et du professeur, et même des enregistrements réalisés en séminaire. Il s'agit d'un site expérimental, qui servira de base à deux développements: le projet de recherche comparatif du Prof. ZILLER sur la "consolidation des droits publics européens", et les séminaires de droit communautaire et de droit public comparé de l'année 1999-2000.

Les juristes de l'IUE sont naturellement conscients des problèmes de droit de la propriété intellectuelle liés à l'utilisation d'internet. Ces deux expériences ont montré qu'il était possible de trouver des solutions appropriés notamment par l'utilisation de clés d'accès pour les utilisateurs. Ces expériences ont été par ailleurs présentées au Conseil Académique et au Conseil de recherche, pour recommandation aux autorités de l'IUE d'élaborer une politique de l'Institut pour encourager et stimuler l'enseignement et la recherche interactifs accompagnée de la mise à disposition de ressources spécifiques pour ces expériences et développement.

JACQUES ZILLER

19 avril

## La responsabilité en droit comparé

Le 19 avril s'est déroulé à la Villa Schifanoia, sous la présidence du Professeur MARIE-JEANNE CAMPANA, un workshop consacré à la responsabilité civile en droit comparé.

Le thème choisi a suscité un très vif intérêt parmi les chercheurs du département juridique, non pas parmi ceux-là seuls dont les recherches ont partie liée avec la responsabilité, mais aussi parmi ceux qui savent l'actualité d'un tel sujet.

La responsabilité civile est depuis près d'un siècle en constantes mutations. Des sources nouvelles de dommages liées notamment au développement des technologies, conduisent à repenser les liens entre la culpabilité et la réparation. La notion de faute, ancestrale et fondatrice, se voit concurrencée par la figure de l'accident. Au coeur de la responsabilité juridique se trouvent désormais non plus seulement le sujet, l'individu coupable, mais aussi l'événement, la réalisation d'un risque.

Outre ces transformations concernant le critère de l'imputabilité du dommage à un "responsable" désigné, les contours de la responsabilité sont également affectés par l'évolution du droit des contrats, et notamment par le renforcement et la complexité des liens noués durant la période de la négociation. La doctrine est ainsi appelée à échafauder les piliers d'une responsabilité pré-contractuelle.

Pour ce travail de théorisation des mutations, un regard tourné vers d'autres systèmes, provenant de traditions juridiques différentes, s'impose. Lui seul permet une mise en abîme des questions inédites que rencontre aujourd'hui la responsabilité civile. Lui seul ouvre la voie à une possible harmonisation des droits.

Sur un sujet aussi vaste et mouvant il fallait donc multiplier les points de vue, les croiser aussi. C'est à cet objectif ambitieux que s'est astreinte le Professeur CAMPANA qui a voulu briser les frontières entre responsabilité contractuelle et délictuelle, entre droit privé et droit public, entre systèmes juridiques.

Ce sont ainsi trouvés réunis et appelés à une réflexion commune le Professeur ANNA DE VITA (Université de Florence), pour un regard de droit civil comparé, le Professeur DENIS MAZEAUD (Université de Paris II Panthéon-Assas), spécialiste du droit des obligations, le Professeur RAYMOND LEGEAS (Université de Poitiers), spécialiste notamment de droit de la responsabilité civile, le Professeur JACQUES ZILLER (IUE) enfin, dont les perspectives de droit administratif comparé ont largement contribué à étayer le débat.

A ces éminents spécialistes, il faut encore ajouter les noms du Professeur MIGUEL RODRIGUEZ-PINERO (Jean Monnet Fellow, IUE), d'ANTHONY CHAMBOREDON (chercheur, 2ème année, IUE), et de SOPHIA ABOUDRAR-RAVANEL (chercheur, 2ème année, IUE) qui, en qualité de discutants, ont pu participer activement à la discussion, optimisant ainsi les fruits de leurs propres travaux.

"Sécurité avant le contrat, insécurité des avants-contrats", tel est, sous la forme d'une devise aussi percutante que pertinente, l'enseignement que l'on retiendra de l'intervention du Professeur DENIS MAZEAUD consacrée à la responsabilité pré-contractuelle en droit comparé.

*Sécurité avant le contrat.* La période de négociation extra-contractuelle est aujourd'hui dominée par un principe de bonne foi: exigence de transparence, exigence de cohérence dans la négociation. Loin d'être l'ennemi de la liberté contractuelle, ce nouvel impératif de loyauté en constitue au contraire le cadre et les conditions de son épanouissement. Le rapport entre loyauté et liberté se révèle être un rapport de complémentarité.

*Insécurité des avants-contrats.* Le principe de l'exécution forcée, de traditionnel est devenu archaïque. Aujourd'hui domine une vision économique et pragmatique du contrat, qui tend à conférer à l'octroi de dommages et intérêts une fonction pleinement satisfaisante.

Les commission Lando et Unidroit, qui toutes deux réfléchissent aux conditions d'une harmonisation possible du droit au niveau européen, se font également l'écho de ces tendances lourdes du droit de la responsabilité civile.

L'harmonisation du droit, tel est précisément l'objectif qui conduit le Professeur ANNA DE VITA à s'intéresser au droit privé des contrats et de la responsabilité quasi-délictuelle, dans une perspective comparatiste. Sa réflexion concernant *The Tort System in a Comparative Perspective: Basic Features and Contemporary Issues* s'inscrit dans un projet plus vaste: celui de "faire gagner en souplesse l'identité juridique de chaque Etat". A cette fin, une interrogation sur les caractères fondamentaux des divers systèmes juridiques doit permettre l'élaboration d'une "théorie générale supranationale".

Dans la perspective d'une harmonisation des droits, l'étude de la responsabilité civile s'avère particulièrement pertinente. Matière très humaine, au fait de notre



quotidien, elle constitue un puissant révélateur de la manière dont chaque système juridique envisage les conditions d'épanouissement de l'individu. Ses règles sont le fruit d'une dialectique toujours renouvelée entre des choix moraux et des impératifs économiques.

Comment et pourquoi les divers systèmes juridiques tracent-ils la frontière de la responsabilité civile? Si les outils diffèrent, le but est commun.

Le système français repose sur une clause générale: la faute constitue la condition première de la responsabilité civile. L'Allemagne adopte quant à elle une forme de "pluralisme restreint", l'idée d'une "protection différenciée des droits". Le partage entre la protection inconditionnelle des biens juridiques fondamentaux et la réparation limitée aux seuls actes illicites relève essentiellement d'une oeuvre prétorienne. Enfin, le Tort Law fait sien l'idée d'un "pluralisme illimité", la question majeure étant celle de savoir si la conduite d'un tel ouvre droit à une action au profit d'un tel autre.

Mais au delà de la diversité des moyens, les systèmes juridiques évoqués se rejoignent dans leur finalité: tous sont animés désormais d'une attention accrue et irréversible envers les victimes.

Proposer une lecture des disparités qui tendent à les transcender suppose donc d'avoir toujours présent à l'esprit les fins visées par les divers systèmes normatifs étudiés. Une approche comparatiste fonctionnelle et téléologique s'impose pour qui veut participer au très vaste projet d'une harmonisation effective des droits au sein de l'Europe.

Le droit comparé de la responsabilité du fait d'autrui, dont les traits actuels ont été brossés avec brio par le professeur RAYMOND LEGEAIS, exemplifie cette tendance partagée au renforcement des droits de la victime.

La place faite à la responsabilité du fait d'autrui est très largement dépendante de l'état des structures sociales et économiques, ainsi que de facteurs idéologiques et culturels. Aussi varie-t-elle sensiblement d'un droit à l'autre. La comparaison est ici encore la clef d'une juste compréhension des mécanismes normatifs et des rationalités qui les portent.

Si certains systèmes juridiques se montrent relativement restrictifs dans l'admission de la responsabilité pour autrui, d'autres au contraire admettent de longue date un principe général de responsabilité du fait d'autrui reposant sur une présomption de faute.

Ainsi, alors que le Tort law reste attaché à un système de responsabilité pour faute prouvée, le BGB allemand admet au contraire un principe général de responsabilité du fait d'autrui à la charge des personnes exerçant un contrôle et une surveillance sur autrui. Quant au droit français de la responsabilité pour autrui, il s'inscrit aujourd'hui dans une tendance renforcée à la protection

de la victime, qui se voit garantie dans ses droits à réparation par un régime de responsabilité de plein droit.

Cette évolution du droit français vers l'admission d'un principe général de responsabilité sans faute pourrait trouver un écho favorable dans des systèmes juridiques voisins qui, préoccupés du sort de la victime, cherchent à se départir des limites propres à la responsabilité subjective fondée sur la faute.

A ces diverses questions regardant le droit privé de la responsabilité civile, il fallait encore ajouter, pour que cet enchâssement de regards soit pleinement fructueux, le point de vue du publiciste. Et devant un auditoire aussi diversifié, s'imposait l'esprit de synthèse du Professeur JACQUES ZILLER pour dépeindre avec une telle précision la situation complexe de l'administration face à la question de sa responsabilité.

La responsabilité de l'administration en droit comparé, tel est donc le thème ambitieux choisi pour clore cet atelier. L'administration doit-elle être traitée différemment des personnes privées s'agissant des conditions d'engagement de sa responsabilité? A quelles conceptions de la responsabilité publique font écho les immunités et les dualités de juridictions? A ces questions, les réponses varient, bien entendu, selon les systèmes: le droit de la responsabilité de l'administration est organisé diversement selon les pays. Et l'on a présent à l'esprit à cet égard l'opposition traditionnelle entre droit français et droit anglais, le premier consacrant en 1873 le principe de l'autonomie des règles régissant la responsabilité de la puissance publique; le second celui d'un droit commun. Les différences s'accusent encore, selon que l'on envisage la question de la responsabilité personnelle des agents de l'administration, ou celle de la responsabilité de l'administration elle-même.

C'est pourquoi, là encore, il sera judicieusement fait appel au droit comparé pour traiter des trois faces essentielles de la responsabilité publique: la question de ses fondements, celle de ses fonctions, celle, enfin, de sa procédure. Des ces différences concernant le régime de la responsabilité, l'on perçoit que c'est en réalité l'entière question de la division formelle du droit public et du droit privé qui est en jeu. Sous jacente donc à l'étude comparée de la responsabilité de l'administration, une analyse systémique comparée est en germe.

On l'aura compris, cet après midi aura été riche d'enseignements et de perspectives nouvelles. Le choix d'un regard comparatiste pour se saisir d'un tel sujet, la variété des disciplines représentées, le foisonnement des points de vue des divers intervenants, magistralement orchestrés par le professeur MARIE-JEANNE CAMPANA, en somme tous les ingrédients étaient réunis pour que cet atelier suscitât un vif intérêt au sein de l'auditoire.

SOPHIA ABOUDRAR-RAVANEL

3-4 June

## Founding Mothers of Equality in Europe Mères Fondatrices de l'égalité en Europe

The conference "Founding Mothers of Equality in Europe", organised by Professor YOTA KRAVARITOU of the Law Department, took place in the Villa Schifanoia on 3 and 4 June.

The conference, marking Prof. Kravaritou's farewell to the Institute and, only temporarily we hope, of gender studies in the Law Department, rested on two main axes.

The first axis, which was dealt with on Thursday afternoon and Friday morning in the contributions by OLWEN HUFTON, ELIANE VOGEL, FRANÇOISE COLLIN, SYLVIE CHAPERON, PAOLA DI CORI, SOPHIA ABOUDRAR and ANYA HAENSCH, consisted of retrieving the work of women who laid the foundations for modern thinking on equality between women and men. The second axis could be deemed a specific instance of the general quest for the "founding mothers of equality", since it was devoted to gender studies at the EUI. This second issue was handled on Friday afternoon with contributions of former and current female professors and researchers who have been working on, or are interested in, issues of equality, YOTA KRAVARITOU, DONATELLA DELLA PORTA, GLORIA BARTOLLETTI, GISELA BOCK, OLWEN HUFTON, LUISA PASSERINI, ELISABETTA ADDIS, BARBARA MACLENNAN, DAWN LYON, MARÍA JOSÉ GONZALEZ, ALANA LENTIN, DOLORES MORONDO, ALMUT HÖFFERT and AXELLE REITER. There were also contributions by members of the staff, in charge of services that have great relevance for gender studies at the Institute: COLETTE KLEEMAN, JEAN-MARIE PALAYRET and PILAR ALCALA.

Both aspects of the conference raised interesting questions about gender studies and the presence of women in the construction of ideas, specially the construction of the

European Union. The first part, of more theoretical character, tried to challenge and to provoke our thinking on the position of women in Europe. Generally agreed statements such as "Women have no past", or, "Europe has no founding mothers", were turned into interrogations, to impel us to retrieve the life and work of women who did participate in laying the essential foundations of the idea of Europe. The debates during the conference brought out not only the landmark cases of MARY WOLLSTONECRAFT or SIMONE DE BEAUVOIR, but also HANNAH ARENDT, CLARA ZETKIN and OLYMPE DE GOUGES. URSULA HIRSCHMANN was a leading member of "Femmes d'Europe" that favoured the idea of a European Union along with the sometimes forgotten wives and female friends of the founding fathers of Europe.

Those statements lead us to question and reflect on the presence (and absence) of women in the political sphere, in the realm of the media, in the communication of ideas and in the academic world. Moreover, they should prompt the debate, as this conference has done, on the future of women's studies, on the strategies to be developed and new elements of concern.

The debate on the past and the future of gender studies at the EUI was an illustrative example of the theoretical discussions of the two preceding sessions. From the founding of the Institute, the discrepancy between the images of equality conveyed, and the actual experience of pursuing gender studies was described by women of the different waves: the spontaneity of the "Good News" journal (1984-85) reflecting the daily concerns of female students but also theoretical and political interests; the establishment of a funded seminar within the European

Cultural Centre, which turned out to have only a precarious existence; the emergence of gender studies in the Department of History; the excitement and achievement of the European Forum on Gender and Time; the interdisciplinary working group seminars and the stagnation and lack of funding of recent years. The experience of women's groups and studies at the Institute is, thus, composed both of difficulties within the official life curricula and activities on the one hand, and the stubborn instinct for survival of the successive women's groups, on the other; of the amazing amount of work done and, alas, of its dispersion and clandestine exile in unidentified "magazzini"; of the difficulties for raising funds and interest and of the projects for the future.

Among the projects discussed were the creation of an archive of the material produced by the different women's groups, seminars and forums, the creation of a "gender website", and the creation of a network of former and current female professors and researchers working on, or interested in, women's studies. With that purpose, everybody is warmly encouraged to get in contact and give notice of any material that they might have in their possession or any addresses they might know of, so that these projects can be started off as soon as possible.

The aim is still to bring forward women and their needs and desires, to include these needs and desires in the everyday-life of the Institute and its academic events. We must find a way that equally avoids ghettoisation, oblivion and assimilation, that creates a space both for women to talk and to talk about women within the mainstream activities and events of the Institute.

DOLORES MORONDO TARAMUNDI

# Law and Love

The conference on "Law and Love in the European Union", organized by Professor YOTA KRAVARITOU, took place at Villa Schifanoia on 14 and 15 December 1998.

The conference which was part of a larger project directed by Professor KRAVARITOU, on "Law and Love in the European Union", focused mainly on the following issues: a) to which extent do legal rules determine individuals' subjectivity? b) Does the law create or simply recognise already existing affective bonds? and c) What are the consequences of the juridification of affective bonds?

Questions like these do not merely touch upon the fields of family, labour, penal, or European Community law. They are interwoven with our approach to what the law is. Responding to such questions means challenging the conceptions which are dominant in legislation and jurisdiction at a national and European level.

If we consider that contemporary trends in legal reasoning focus not only on the text of the law, but also

highlight aspects of legal decisions that are external to the law, like principles or the reasonableness of the solution, then the contribution of such attempts is very fruitful. They make evident that any attempt to



Professor Yota Kravaritou

focus on these issues needs to take into consideration questions about the policy of the law, questions that are not linked to a natural state of affairs but to a wider context which constitutes law and simultaneously is also constituted by law.

On the first day the following papers were presented: ZENON BANKOWSKI (University of Edinburgh), Love Law and Legality; MARINA CALLONI

(LSE), Images of Love: Emotional Ties and Legal Constraints; HARRY WILLEKENS (University of Antwerp), Law, Love and Family, and PATRIZIA CALLEFATO (University of Bari), La legge, il corpo, l'amore.

There were also contributions by KARL KLARE (EUI, visiting) and ELENA PULCINI (University of Florence). On the second day papers were given by MARINA GRAZIOSI (University of Camerino) on Dall'amore al delitto, JEAN MARC BERAUD (University of Lyon 2) on La harcelement sexuel en France, MARK BELL (EUI) on the Shifting Conceptions of Sexual Discrimination, ALISIA RIVAS VAÑO (EUI) on Amour et homosexualité and SALLY SHELDON (Keel University) on Legislating Love; Reconceiving Relationships. LUIGI FERRAJOLI (University of Camerino) and MASSIMO LA TORRE (EUI) also made contributions. The introduction and the conclusions to both sessions were presented by YOTA KRAVARITOU.

CHRISTOS PAPASTYLIANOS

## La base de données sur la PESC est maintenant accessible sur le site de l'Institut universitaire européen

La base de données EFPB ("European Foreign Policy Bulletin") regroupe l'ensemble des documents à caractère public adoptés par les institutions européennes dans le cadre de la PESC, et auparavant dans le cadre de la coopération politique européenne.

C'est de loin l'instrument le plus performant dans ce domaine. En effet: elle contient l'ensemble des documents relatifs à la politique étrangère depuis 1985; elle regroupe dans un seul site tous les documents pertinents (déclarations de la Présidence, discours dans les enceintes internationales, actions communes, réponses aux questions parlementaires, etc.).

La base de données est accessible sur le site Web de l'Institut (<http://www.iue.it/EFPB/Welcome.html>). Les documents sont disponibles en anglais; l'extension à d'autres langues officielles de l'Union est à l'étude.

## White Men Abroad: Europeans in Colonial Societies (19-20th Centuries)

In the framework of his seminar on Social and Political History of Institutions, XIX-XX century, Prof. RAFFAELE ROMANELLI organized the workshop “White men abroad. Europeans in colonial societies (19-20th centuries)”, held on 18 May 1999 at the History Department.

The workshop aimed to provide an overview of recent historical research in the field of social and cultural history of European colonial settlements. Over the last decades this field of international studies has been strongly influenced by at least three historiographical changes: the fading of monocausal interpretations of imperialism, the strengthening of non-European (i.e. African, Asian) historical research, and the diffusion of social and cultural historiography in the field of overseas history.

New research, especially in British and French contexts, has made possible the writing of new general works, which appeared over the last decade. The workshop intended to offer a first opportunity for discussion on this historiographical change, while considering the possibility of in future organizing a more comprehensive conference on the topic. The general historiographical overview was followed by papers on different case studies.

In the morning session, RAFFAELE ROMANELLI and NICOLA LABANCA (University of Siena) outlined the general issues of the workshop, emphasizing the relevance of the building/shaping of social spaces in overseas European communities. The focus was the social, demographic and cultural composition of these communities. The concept of contamination between different cultural identities, European and native, emerged as one of the most important historical points to be analysed in this context. Andrew Porter, (King’s College, London) examined the question of power, culture and religion in the study of British empire, with particular attention on shifts in the historiographical debate. NICOLA LABANCA focused on the Italian case, analysing the question of imperialism from a demographic perspective. LABANCA’S interven-

tion was a deconstruction of the traditional historical interpretation of Italian imperialism as a result of demographic expansion: the so-called “expansion of the poor”. LABANCA demonstrates that more than an historical reality the emphasis on overpopulation was a propaganda strategy. SØREN DALSGAARD (EUI) presented two case studies concerning the Danish view of Indian reality. Reading the memories of two Danes who went in India in the mid 19th century, he gave an account of the prejudices and the ideas through which they viewed Indian society.



In the afternoon session, the main focus of discussion was the “other”, both as image and as object. CHRISTIAN WINDLER’S (EUI) paper was an analysis of European diplomacy, focused on the Ottoman Empire in the 17th-18th centuries.

WINDLER’S point of view was the attention to linguistic and symbolic exchanges and communication that took into account both perspectives, of European foreigners dealing the country, and of Ottomans dealing with other nations. SANDRINE LEMMAIRE (EUI) concentrated her analysis on the image of “the European men” in the iconography of colonial propaganda, from the mid-19th century till decolonization. The portraits she presented appeared at the same time as a projection and unveiling of the European self.

With the last two presentations we returned to the Italian case. GIUSEPPE FINALDI (EUI) examined the representation of Italians in novels, songs, ballads and poems during the period of the First African war at the end of the 19th century. The last paper of DANIELA FINALDI (EUI) followed the representation of the colonial encounter/conflict in Italian newsreels from the fascist period to the end of the sixties.

The ensuing discussion underlined the possible connection between the study of colonialism and the study of contemporary European identity.

EMMANUEL BETTA



# Disciplining the Bodies: Between Religion, Science and the Law in the 19th Century

Prof. RAFFAELE ROMANELLI and EMMANUEL BETTA organized a workshop entitled “Disciplining the bodies: between religion, science and the law in the 19th century”, which took place in the History Department on 10 and 11 May, in connection with RAFFAELE ROMANELLI’S seminar, Social and Political History of Institutions, XIX-XX century.

This workshop aimed at contributing to the discussion on the historical nature of the body within the framework of a growing historical field focusing on the investigation of the body in its historical, sociological and anthropological implications. “Disciplining the bodies” intended to offer a space for discussion and analysis of the implications and heuristic possibilities of the body as an historical object.

It was an opportunity to confront a variety of research conducted in the European University Institute and in other Universities. In their papers the contributors looked at the body from various perspectives. The 19th century was chosen as the focus of the workshop, as being a period of transformations and experimentations of knowledge and practices about the body, when the space of emergency and discussion on the body changed radically. The body became invested with different discourses of science and morality: not only medicine and biology, but also anthropometry, psychology, demography, having a considerable impact on religion, philosophy and law.

In the framework of this wider “discourse of the body” the attention was focused on two aspects. The first was the genetic moment of the human being, this is to say the moment in which the “body” starts to exist. In this area religion and medicine had the most important role. The second point was the “mature body” as the object of construction of hygienistic utopias towards

the end of the century; in this case political discourse and the State also played an important role.

PETER BECKER (EUI) and MAURIZIO MORI (University of Milan) presented some general remarks in the first

session of the workshop about the “discourse of the body”.

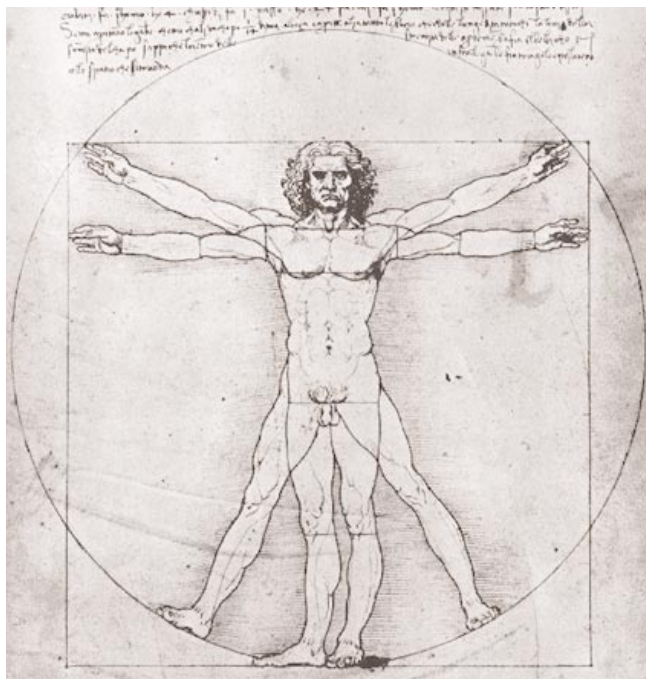
PETER BECKER analysed the construction of a particular version of the body, the “deviant body”, the object of analysis for criminology and the law, with a comparison between two influential criminologists, CESARE LOMBROSO and HANS GROß. Numbers, statistics, measurements and the connection between moral values and social norms emerged clearly from his presentation.

Invested with a disciplining role, these various measurements of the body provided the basis for a social and political science of the “deviant body”, which had strong influences on practices and law.

MAURIZIO MORI dealt with the “discourse on the body” from the perspective of contemporary bioethical discourse. Following the birth of bioethics in the 1970s as a defined discourse, he isolated some of its elements and features. The bioethical discussion elected two fundamental moments in the life of a human being as its objects: the beginning and the end. In this sense some dis/continuities emerged especially on abortion and euthanasia, two social and moral problems that are both new and old.

After this first discussion on general issues, the second session was devoted to research papers. EMMANUEL BETTA (EUI) presented the question of therapeutic abortion and of the identity of the foetus, a major point of discussion for contemporary legal and bioethical discourse. The central point of the presentation was the moment of normation of “therapeutic abortion” in the last part of the 19th century by the Catholic

*continued on p. 19*



# The Trilogy: Representation, Media and Historiography

During the spring semester 1999 a triptych of complementary workshops addressing controversial relationships between media, representation, and the epistemological status of historiography was organised by Professor BO STRÅTH within the framework of the project "The Cultural Construction of Communities in the Process of Modernization".

The trilogy began with an overview of these issues in the workshop "Art and Fact Possibilities of Representation" ([www.iue.it/Personal/Strath/Conferences/artfact.htm](http://www.iue.it/Personal/Strath/Conferences/artfact.htm)). This event, organized in a co-operative effort with researchers at the Institute, provoked them to question possibilities of representation in direct reference to their own research projects by questioning history as a science by juxtaposing it with history, as an art (not necessarily a literal art), where art was proposed as a method of expression for historians in the light of the postmodern challenge.

From this more general beginning the focus of the series sharpened in the workshop "One Film – Many Histories: An Inquiry into the Film, Before the Rain" ([www.iue.it/Personal/Strath/Conferences/rain.htm](http://www.iue.it/Personal/Strath/Conferences/rain.htm)). The film *Before the Rain* was chosen as this workshop's point of departure because it was conceived as a challenge to everybody who is interested in the field of film and

history. Moreover the workshop made the protopolitical aspects of both filmmaking and history writing bitterly evident. The film, which narrates a conflict between Albanians and Orthodox Slavs in Macedonia, was screened and discussed in the presence of its director and screenwriter MILCHO MANCHEVSKI while NATO bombed Yugoslavia. This workshop pointed to the crucial and active role that intellectuals play, and/or should play in the contemporary political debate enlivening the discussion on the Balkan Conflict at the EU.

The trilogy was concluded with the workshop "Between Fascism and The Euro: Mass Media and the Invention of European Historical Identity" ([www.iue.it/Personal/Strath/Conferences/fasceuro.htm](http://www.iue.it/Personal/Strath/Conferences/fasceuro.htm)), where by focusing on the cases of Germany and Italy, and, specifically, on the inter-related issues of fascist representations of the past and the representation of Nazi-Fascism in the post-war era, this workshop attempted to explore these questions of the role of epochal events and mass-mediatic representations in connection to post-historicist theories of historical agency, representation, and consciousness. A main goal was to open a channel of communication with scholars interested in discussing the intersection between "coming to terms with the past", building a more democratic

present, and imagining the different shapes that the European polity might acquire in the near future.

In another vein, within the framework of the flexibility project, the workshop "Transferring/Transforming Productive Models: Americanization and its Limits in Postwar Europe and Japan" investigated the conditions and consequences of cross-cultural transfer. ([www.iue.it/Personal/Strath/Conferences/transmod.htm](http://www.iue.it/Personal/Strath/Conferences/transmod.htm)). The point of departure was the book *Americanisation and Its Limits: Reworking US Technology and Management in Postwar Europe and Japan* edited by JONATHAN ZEITLIN and Gary HERIGEL (forthcoming OUP). The workshop's goal was to develop a new comparative analysis of the attempted transfer and diffusion of American production ideas to postwar Europe and Japan, stressing the difficulty of translating and emulating models.

Further information on the trilogy "Representation, Media and Historiography" and on "Transferring/Transforming Productive Models" including papers to download and pages from other conferences are available at the above mentioned addresses and in the archive of Prof. STRÅTH's homepage ([www.iue.it/Personal/Strath/pconfworksh.htm](http://www.iue.it/Personal/Strath/pconfworksh.htm)).

JAMES KAYE

## Nouveau guide des Archives historiques des Communautés européennes

Les Archives historiques de l'Institut viennent de publier le guide des Archives historiques des Communautés européennes. Cette cinquième édition, enrichie et mise à jour, offre en une cinquantaine de pages un grand nombre d'informations utiles concernant les heures d'ouverture, les conditions d'accès et de consultation. Elle présente surtout un panorama complet des fonds institutionnels (Commission, Conseil des ministres, Parlement européen, Comité économique et social, etc.), des dépôts privés de mouvements, organisations (ESA, OECE/OCDE) et personnalités (Altiero Spinelli, Etienne Hirsch, Emile Noël, Pierre Uri) qui ont contribué ou contribuent au processus de l'Europe en formation.

Pour obtenir l'ouvrage, disponible en langues française, anglaise, italienne et allemande, adresser sa demande aux Archives historiques, Piazza Edison 11, 50133 Firenze, tel. 0554685626, fax 055573728, e-mail: [archiv@datacomm.iue.it](mailto:archiv@datacomm.iue.it)

# A Series of Lectures on Writing the History of Europe

Many histories of Europe have appeared recently or are under preparation, revealing various conceptions of Europe and a variety of ways of feeling European. A redefinition of the notion of Europe is taking place, in connection with the process of European integration as well as with the changes in the geopolitical division of the world into areas or regions. These historical phenomena make the question of writing the history of Europe today particularly complex and require innovative approaches in facing this task.



Professors Passerini, Mazover (University of Sussex), Romanelli und Stráth

The Department of History and Civilization has organized a series of lectures to pose and debate these problems. Historians from various countries and continents were invited to give a first series of talks in spring 1999. Their titles conveyed a sense of how problematic a subject this is today.

Prof. ROBERT FRANK, from the Université de Paris I, spoke of “Les difficultés d’écrire l’histoire de l’Eu-

rope: un acte scientifique ou idéologique?”, illustrating the long term French tradition in writing European history and the heated debates which took place in France in the last few years around this theme, connected with different cultural and

political positions taken by various historians.

ANTONY MOLHO, from Brown University, presented a picture of the historians, views on Europe from North America: “Europe in the USA”, an approach which is very helpful in order to overcome national and regional divisions and consider Europe as a whole.

Finally, MARK MAZOWER, from the University of Sussex and Princeton University, posed the question “Does 20th-century Europe have a history?”, taking into consideration the specificity of our century, related to war and totalitarianism on the European territory. The series will continue in autumn 1999.

LUISA PASSERINI

*continued from p. 17*

## Disciplining the Bodies...

Church, which constructed the “life of the foetus” as the absolute value which had to guide every therapeutic action. This principle still informs the Catholic moral position.

A view on the origin of the discourse on “discipline of the body” was offered by CLAUDIO POGLIANO (University of Turin). He followed the origins of anthropometry, the measurement of bodies, up to the first attempts in the 17th and 18th centuries. In particular, he presented, with some slides, the ways in which “scientists” of the past tried to define regularities, statistical averages on which to construct the differences between the races. This tendency had its climax in the 19th century, with the explosion of sta-

tistics as the basis of scientific knowledge.

In the last session of the workshop MASSIMILIANO PANARARI (EUI) dealt with the “discourse of the body” from the perspective of political intervention, describing hygienism as the science of complexity. He focused on the hygienistic policies which emerged in Europe in the last part of the 19th century, particularly in France and Italy. The politics of hygienism revealed a contradiction between two conceptions of science, one attempting to comprehend all social and cultural aspects of the society; the other accepting the idea of an autonomous complexity of society that could not be simplified.

The last intervention, by MICHELE NANI (University of Venice), was focused on the intersection between the discourse of science and the State in 19th-century Italy. In this sense nationalism, war and the politics of work were the context in which emerged the work of an Italian physician, ANGELO MOSSO, who examined the “body at work”, that is to say the changes and modifications the body endures when at work.

The papers stimulated a wide discussion, which offered many suggestions and possibilities for further research and analysis.

EMMANUEL BETTA

Michael Keating presents his research

## Territorial Politics and the Construction and Reconstruction of Political Space

I have been appointed to a chair in 'regions' in the Department of Social and Political Science and my various research projects revolve around territorial politics and the construction and reconstruction of political space. My recent work has focused on the apparent paradox of the re-emergence of territory, in the political, economic, cultural and sociological sense, at the same time as globalization and European integration. The state appears to be both integrating supranationally and disintegrating subnationally. I have been arguing that this is neither as paradoxical, nor as new as many people have assumed, but that social science has been too fixated on the nation state as its primary unit of analysis to appreciate this.

**The first project** is on the politics of multinational states, the second on region-building and economic development, and the third on policy diffusion.

For many years, modernization theories predicted the end of nationalism under the impact of state consolidation and the spread of markets and universal value systems. I have argued in the past that many of these theories conflated the rise of the large nation-state with the spread of universal values, and were uneven in their normative treatment of big state nationalism on the one hand, and minority nationalism on the other. More recently, the same argument has returned, in the form of globalization theories, predicated on the rise of integrated markets, the hegemony of liberal democratic values and the rise of social individualism. Yet all over the world we are seeing a resurgence of nationalist politics, challenging the dominance of large states. Proliferation of nation states provides no answer to this prob-

lem, since redrawing borders merely creates additional problems. In any case, the traditional state form is rapidly being superseded, especially in Europe. We therefore need to think about multinational politics in a new way.

My approach has three dimensions. A historical dimension looks at the history of multinational states, drawing on 'revisionist' historiography which breaks with state-centric or teleological 'national' histories and sees the management of multiple nationalities and territorial complexity as a continuing task of states. I am also interested in revisiting the doctrine of 'historic rights' as a way of thinking about complex state forms, bounded sovereignty, and negotiated order.

The second dimension is normative, looking at problems with asymmetrical state forms, such as those emerging in the United Kingdom, Belgium and, to some extent, Spain and Canada. Already I have shown that these states and always have been rather asymmetrical; the question is what degree and what sorts of asymmetry are tolerable in a liberal democracy and welfare state.

The third dimension is about the emergence of new transnational regimes, at global and continental level, and the possibilities they present for shared sovereignty and for stateless nations to express themselves and enhance their autonomy, short of secession. Of particular interest are free trade regimes and international rights regimes. There is a strong focus on the European Union and I am arguing that Europe provides a promising framework for the coexistence of multiple identities and forms of limited sovereignty. The condition is that it does not become a 'nation-

state' itself but does develop, in addition to a market, a social space and a common framework of rights.

**The second project** stems from work I have been doing over the years on regionalism and, more immediately, from an invitation from the government of Flanders to look at the relationship of culture to regional economic development. This draws on recent literature in economic sociology, on the 'learning region', 'social capital' and the 'associational economy'. The work soon departed from 'culture' as an explanation of economic success and failure, to focus on institution-building, leadership and mobilization.

With my colleagues SEAN LOUGHLIN (Cardiff) and KRIS DESCHOUWER (Brussels), I am looking at two regions in each of three countries, all with a distinct identity and elements of distinct culture, but with very different economic fortunes and experiences of institution-building. They are Catalonia and Galicia in Spain; Flanders and Wallonia in Belgium; and Brittany and Languedoc-Rousillon in France. In each case we look at cultural values and stereotypes; languages and their use; institutions and institutional performance; interest organization and collaboration; political leadership, discourse, symbolism and mobilization; and policy. We are not convinced by recent work which argues that regional development is 'path dependent' and regions' future determined by things that happened in the remote past. Rather we see regions as territorial systems of action which are continually being built and rebuilt. Our final aim is to discern the scope for policy to turn regions onto a virtuous growth path.



# Earnings Inequality in Portugal: The Relevance and the Dynamics of Employer Behaviour

Thesis defended September 1997

In the early nineties, expanding research on earnings inequality, mainly in the USA and the UK, led to the claim that “within a decade, earnings inequality grew from a lightly studied branch of labour economics to a major research area. The reality of increased inequality was one major reason.” [Levy and Murnane, 1992: 1334]

Subsequent research revealed that this trend towards rising labour market inequality was not confined to the United States and the United Kingdom, but was widespread, having hit economies with contrasting wage setting institutions. The consequences of wage inequality, unemployment and social exclusion are far-reaching, ranging from the links between the labour market and crime, more deeply studied in the USA, to the obstacles to social cohesion stressed in Europe.

The thesis dealt with labour market inequality in Portugal, an econ-

omy with a high level of earnings dispersion — slightly lower than the United States, usually taken as the paradigm of an unequal labour market, similar to the United Kingdom, but higher than countries such as Canada, and much higher than Australia, the former West Germany or Sweden. Moreover, inequality increased sharply in Portugal during the 1980's and early 90's, particularly after 1986, when the economy began to recover and real wages were rising. This change in inequality reinforced the main characteristic of the earnings distribution at the beginning of the decade — a stretched top, where dispersion increased remarkably.

Having first concentrated on the explanation of this trend, the thesis then progressed to check the impact of employer wage policies. That is an approach less often found in the literature, which has traditionally concentrated on the relevance of worker attributes — such as gender and schooling — as determinants of wage dispersion.

Two hypotheses for the explanation of the rise in wage dispersion were dismissed for the Portuguese case. In certain countries, the entry into the labour market of the baby boom generation resulted in a sharp rise in the supply of educated workers, which showed signs of a declining rate of growth afterwards. That slowdown in the rate of growth of the supply of skilled workers would have led to the rise of their relative wages. However, the explanation for the rise in labour market inequality based on demographic forces is not relevant for the Portuguese case.

Similarly, the increased openness of the economy and changes in the pattern of international trade did not have a relevant impact on relative wages in Portugal. Indeed, no major changes in the industrial composition of the workforce can be detected. Moreover, the slight changes that have occurred were not biased towards sectors requiring workers with higher qualifications, but have instead favoured

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*continued from p. 20*

## Territorial Politics ...

**The third project**, also with Sean Loughlin, looks at policy learning and diffusion in the area of regional development. We have observed a tendency for regional policy makers to adopt a new discourse, based on a new paradigm about regional development. This shifts the focus away from diversionary state policy, grants and infrastructure, towards human resources, endoge-

nous development, social capital and decentralized approaches. The research examines the diffusion of this new model, through the EU's regional policies, inter-regional associations, academic networks and consultants. It then looks at the reception of the new ideas in specific regions. We hypothesise that the new ideas will be contested within the regions themselves.

They may be taken up by ‘modernisers’ with an interest in challenging existing power structures and ways of distributing resources; they may be rejected; or they may be adopted as rhetoric by old elites as a way of maintaining existing structures and distributive mechanisms.

MICHAEL KEATING

more traditional activities. As such, explanations for the rise in inequality that rely on shifts in the employment structure also have to be dismissed.

Evidence on Portugal lends support to the idea that forces operating within industries have contributed to switch the relative demand in favour of highly qualified workers. Technical progress is a major candidate under this set of explanations. During the decade, an upgrading of the quality of the labour force took place, accompanied by rising returns to worker qualifications, thus suggesting that sharp shifts in the demand for labour favoured workers with higher qualifications. This selective rise in demand was associated with the modernisation taking place in the Portuguese economy, and the mediation provided by institutions with explicit concerns for inequality-reduction (trade unions in particular) was unable to offset the rise in inequality. Nonetheless, tougher minimum wage legislation had, from 1983 to 1986, a narrowing effect on the earnings distribution, through its direct impact on the lower part of the distribution.

A shift in the emphasis of the analysis leads to the most challenging issue — opening the black-box to look inside the firm. Pinpointing the contrasts and the changes in company wage policies can shed some light on the mechanisms that employers have used to cope with the restructuring taking place in the economy, which have resulted in rising labour market inequality.

Results reveal that differences across employers' pay policies are important, and they account for a remarkable share of the wage dispersion. Moreover, they concern every parameter of the pay policy, as the returns to schooling, tenure,

labour market experience, as well as the penalty imposed on women and newly-hired workers present significant variability across firms.

Wage divergence across firms rises particularly sharply with the schooling of the workers, reflecting the existence of a certain consensus regarding the productive usefulness of low schooling levels, but widely diverging judgements on the productive advantages of higher levels of schooling. Also for more experienced workers, wage inequality across firms is more pronounced than for workers with low levels of experience. More qualified workers — along these two dimensions of their human capital — therefore seem to have more to gain from being choosy when searching for a job, whereas at the bottom of the qualification ladder, a strategy of 'take whatever job you're offered' seems to be less detrimental. Firms seem, on the other hand, to converge on the type of tenure-based wage progression mechanisms they impose, though from remarkably different entry wages.

The productive usefulness of human capital acquired on the market place seems to deserve a more unanimous judgement on the part of employers than does the usefulness of the human capital acquired on the school benches. A comment often heard about the educational system in Portugal, regarding its too general nature and its inability to provide specific skills directly usable in the productive process, may help interpret this situation. While some employers may value the ability to learn what high educational levels may provide, others instead seem to consider the productive skills of workers with high educational levels rather low.

There is a particular logic binding together the pay policies of differ-

ent firms. Firms with a more educated labour force, those larger ones, where gross labour productivity is higher, and those in manufacturing, reward their workforce better, through higher returns on qualifications and experience.

Major changes have occurred in company wage policies. They reflect the restructuring taking place in the economy, with traditional wage progression mechanisms, mainly based on seniority, losing their relevance, in favour of a much steeper school-based wage progression system. Employers seem to be attaching more relevance to workers who hold general skills and more flexible aptitudes, and they are now less keen on promoting long term employment relationships. Indeed, changes in the returns to tenure had an equalising impact on the distribution, while the rise in the penalty on women workers, and in particular the sharp rise in the returns to schooling, have determined the rise in overall labour market inequality.

To the extent that rising inequality — in particular, increasing returns to schooling and skill — has been signalling the lack of an adequate labour force to promote economic change, investment in schooling and vocational training becomes a crucial issue, not just for equity reasons, but also for growth and economic modernisation imperatives.

#### References

LEVY, FRANK; MURNANE, RICHARD J. (1992) "U.S. earnings levels and earnings inequality: a review of recent trends and proposed explanations." *Journal of Economic Literature*, 30(3): 1333-1381.

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(See also p. 51)

# Le Monde

## Quel futur pour l'Europe? Pour une Europe puissance complète

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Depuis le traité de Maastricht – il y a sept ans déjà – les Etats membres de l'Union européenne sont censés se doter d'une politique étrangère et de sécurité commune. La Commission de Bruxelles ne s'étant vu attribuer aucun rôle important dans ce domaine, c'est à un "Monsieur PESC" nommé par le Conseil de l'U.E. que doit revenir la responsabilité cruciale de l'initiative et de la coordination. Mais il n'a toujours pas été nommé, et après la piètre performance de l'U.E. dans la première phase des guerres yougoslaves, la guerre du Kosovo se déroule dans un étonnant mélange d'impréparation (de l'OTAN), de confusion quasi-aboulie (à Washington) et d'absence (de l'U.E.). Certes, les principaux pays européens membres de l'OTAN contribuent leurs instruments propres à la cacophonie présente – mais chacun semble jouer une partition distincte, ce qui fait qu'ils n'ont, faute d'unité, ni le poids nécessaire pour influencer et guider une diplomatie américaine livrée aux improvisations ni, faute d'une organisation de défense commune, les moyens de reconnaissance, de renseignement et de transport et les armes avancées nécessaires pour renforcer l'action américaine et donner à l'Europe l'autorité dont sa contribution au règlement de cette tragédie aurait besoin.

L'Europe ne pourra pas toujours compter, pour le règlement militaire et diplomatique des conflits qui la menacent à ses frontières ou autour de la Méditerranée, sur une Amérique dont les impulsions, loin d'être impérialistes, restent

généreuses dans le domaine des droits de l'homme et dans la lutte contre les tyrans enclins au génocide, mais dont les réflexes, après la fin de la guerre froide, vont de plus en plus dans le sens de la réduction maximale des risques pour les soldats américains à l'étranger – ce qui crée une effarante contradiction entre les buts et les moyens, ainsi qu'une autre contradiction fréquente entre les objectifs et les seuls moyens autour desquels existe un consensus américain: les sanctions économiques et les bombardements aériens.

Qu'est-ce donc ce qui empêche l'U.E. de se donner les moyens, soit d'avoir sa propre politique diplomatico-stratégique (alors qu'elle a depuis des années sa propre politique économique extérieure) soit d'imprimer sa marque à une politique atlantique que les Etats-Unis dominant, non du fait de leurs ressources ou de leur sagesse, mais parce qu'ils n'ont pas de contreponds? Deux facteurs sont particulièrement importants. Les "grands" de l'U.E. – la France et la Grande Bretagne, qu'une Allemagne réunifiée où renaît le sens des intérêts nationaux (ce qui n'a rien de scandaleux) est en train de rejoindre, ont, dans le passé, préféré agir séparément plutôt que de subordonner leurs intérêts à l'inaction collective ou à une diplomatie du plus petit commun dénominateur, résultats probables de la règle de l'unanimité. Quant aux membres moins importants de l'Union, beaucoup d'entre eux préfèrent une Europe du bien-être et de la puissance économique – une Europe "puissance civile" – à une Europe-puissance tout court,

### What Future for Europe?

On the initiative of the Italian Ministry of Foreign Affairs and in co-operation with Le Monde, La Stampa, Frankfurter Allgemeine Zeitung and El Pais, the Robert Schuman Centre has organized a series of lectures around the general question 'What Future for Europe?'

The speakers (in chronological order) who have so far contributed are: JOSEPH H. H. WEILER, Harvard, GIULIANO AMATO, EUI, YVES MÉNY, EUI, SERGIO ROMANO, Milano, (see articles published in EUI Review Autumn 1998 and Spring 1999) DAVID MARQUAND, Oxford, Mme. DELMAS-MARTY, Paris, STANLEY HOFFMANN, Harvard and WOLFGANG STREECK, Köln.

A final conference was organized by Prof. LUISA PASSERINI on 17-18 June 1999. See also pp. 1ff

qui risque d'imposer des charges impopulaires en matière de dépenses militaires et des risques en matière d'action diplomatique. Cela est particulièrement le cas de certains des membres récents de l'Union, et de certains des candidats à l'élargissement. Ils ne sont pas fâchés de laisser au grand frère américain les soucis de la puissance, les dépenses qu'elle entraîne, et la charge de la protection de l'Europe: attitude commode, qui permet à un angélisme de bonne conscience de survivre, et aussi (comme on le voit chez certains

des Verts en Allemagne) de critiquer les Etats-Unis lorsqu'ils se salissent les mains. Parmi les "moins Grands", quelques-uns verraient d'un bon oeil une dose de politique étrangère commune, mais refusent toujours de constituer une identité de défense européenne même au sein de l'OTAN – soi-disant pour ne pas faire double emploi, ou pour ne pas encourager Washington à l'isolationnisme, alors que c'est l'impuissance collective européenne qui risque de l'y pousser, et qu'une diplomatie sans armes – comme l'a montré jadis le sort de la déclaration de Venise sur le conflit israélo-palestinien – est vouée à la déclamation et à la déploration.

L'Europe "civile" a pu se faire par l'action des gouvernants et des hommes d'affaires. L'Europe-puissance ne pourra pas de faire sans une sorte de prise de conscience européenne dans les peuples – ce qui suppose des efforts innovateurs pour créer un "espace public" européen, où seront discutés les problèmes communs que posent, non seulement la monnaie et le marché uniques et la globalisation, mais aussi les conflits qui entourent cette Europe en formation. Jusqu'à présent,

l'U.E. n'est qu'une juxtaposition d'espaces publics nationaux, avec des institutions communes superposées. Des listes proprement multi-nationales au lieu des listes nationales aux élections pour le Parlement européen, des débats sur des sujets et entre des citoyens européens à la télévision ou dans la presse, une ouverture "européenne" dans les programmes et le personnel enseignant, pourraient faire naître cet espace commun.

Mais pour que s'y développe une diplomatie et une défense communes, il ne suffira pas de la nouvelle entente franco-britannique consacrée à St. Malo, que l'Allemagne vient de joindre à Brème: il faudra bien, et vite, en venir à l'abandon de la règle de l'unanimité – sans quoi un "petit" qui craindrait l'eau froide, ou un "grand" qui préfère nager seul mais loin, pourrait tout bloquer (de plus, il sera nécessaire que l'U.E. puisse agir même si certains de ses nouveaux ou futurs membres préfèrent s'abriter derrière leur neutralité ou leurs angoisses). Il faut avoir les moyens de ses buts: si l'on comprend qu'aucun des Etats-nations d'Europe n'a plus, à lui seul, la puissance nécessaire pour peser sur le destin du monde ni

pour assurer le sien, et que sa meilleure chance est d'imposer sa marque dans la politique commune, il devient évident que, comme pour la constitution du marché unique et de l'Union monétaire, il faudra marcher à la majorité qualifiée (tout en gardant la formule du compromis de Luxembourg imposé par de Gaulle, lorsque des intérêts nationaux vitaux sont évidemment en jeu). Enfin, dernière condition: le choix d'un "M. PESC" qui aura un poids politique réel (ce qui n'est pas le cas de la plupart des hauts fonctionnaires). Il devra venir d'un pays qui a les habitudes, l'expérience et les ambitions de la puissance, donc l'autorité nécessaire pour traiter d'égal à égal avec les dirigeants de Washington, de Moscou et de Pékin. L'Europe ne doit pas rester un géant économique et un nain diplomatique et militaire: à la longue ses faiblesses dans ces domaines là saperont sa force dans les autres.

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## Villa La Fonte

As the Institute's expanding scholarly and archival activities require additional space, the Institute obtained a lease on a villa in the vicinity of its other buildings, Villa La Fonte. The Villa La Fonte, not far from the San Domenico Convent, will house Fellows and staff of the Robert Schuman Centre and some collections of the Historical Archives of the European Communities.





# What Future for Europe?

## Towards A United Jerusalem

### A European Perspective

Prof. JOSEPH H.H. WEILER  
Harvard Law School

One of the worst legacies of Netanyahu was his ability, through insidious campaign rhetoric (Barak will divide Jerusalem...) to re-open the Jerusalem issue with which he badgered Rabin and battered Peres and to force Barak into repeated public declarations of his commitment to a "United Jerusalem under Israeli Sovereignty."

I grew up in Jerusalem in the border neighborhood of Abu-Tor. Barbed wire divided our neighborhood in two. We would watch with curiosity Arab life behind the barbed wire and strain our eyes (with longings) to Mt Zion and the Temples behind these. In June 1967 Jerusalem was united, temporarily!

Today I split my time between Boston and Jerusalem. Thirty-two years after the Six Day War Jerusalem is as divided as if the barbed wires were never removed. The deepest divisions remain those between Arab and Jew. It is divided politically: Most Arabs did not exercise the right to obtain Israeli citizenship which was conditioned on giving up their Jordanian nationality – a condition not imposed on, say, the many American Jews living in Jerusalem who obtain Israeli citizenship with ease. Arabs, thus, cannot and do not, participate in the Israeli political life of the city. It is divided spiritually, by suspicion and hatred, by those who believe it is their eternal capital and for whom the large Arab minority are at best just that – guests in one's home and those who continue, and will continue, to feel dispossessed. Who is right? Who is wrong? That is beyond the point – it is an empir-

ical sociological fact that I am establishing. Jerusalem is also divided, yes, physically. How so? Large areas of East Jerusalem and of the Arab quarters in the Old City, are de facto No-Go areas for most Jews (unless their name is Ariel Sharon and they have constant body guards and police and army protection). The Jewish Quarter is, it is embarrassing to admit, a neo-Ghetto with little contact or shared communal life with adjacent quarters. The NO-GO areas are the result, in part, of fear: When I take my five children to pray at the Wailing Wall, we stick to routes well guarded by Israeli soldiers. It is in part a result of self-exile: I avoid the West Bank and large areas of Jerusalem not because I do not think I belong there – they are part of my patria, the land of my ancestors in the most strict sense – but because I cannot bear the palpable (and understandable) hatred of others who feel too, with equal force, that it is their ancestral land and patria. I do not wish my young children to experience this hatred so directly; I tire of explaining.

I would like to live in a United Jerusalem. What, then, has all this to do with Europe? A great deal. Post World War II Europe offers so many interesting lessons in the Architecture of Peace. If there was a hatred comparable to post-Intifada Israel, it was hatred to Germans in post Occupation France. And yet it is against that hatred that Jean Monnet made his famous, fatal, Declaration. Europe is also the world's laboratory of all manner of formulae for Shared Sovereignty, of the Successful Babel, of States which have kept a strong sense of national identity and con-

trol over their affairs, and yet, functionally, share their sovereignty over so many sectors when it is in their interest to do so. The paradox of Jerusalem is that it will not be truly united until its sovereignty is shared among Arabs and Jews; until all its inhabitants can feel ownership, joint ownership, over its blood covered sacred stones. Until the quotidian can eventually take over from the symbolic, because the symbolic will have been required. There will not be a united Jerusalem until the Palestinians, whose independence is just a matter of time, can, too, proclaim Jerusalem as their capital. Which precise mechanism is something we can leave to the political technicians after the Statesmen have taken their decision. Some very creative suggestions (the Abu-Dis Formula) have already been discussed. Europe is the proof that the technologies exist. Difficult, impossible, a dream? Is that not what the 'nay sayers' said in reaction to the Monnet-Schumann programme? Was not that the reaction Herzl faced upon proclaiming his dream of a Jewish State? The alternative to this dream is a nightmare.

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# Quel futur pour l'Europe?

## Vers un droit pénal européen

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Le débat est enfin lancé sur la construction d'un droit pénal européen. L'accent est généralement mis sur la protection des intérêts financiers de l'Europe et le projet dit Corpus juris, présenté à la presse en 1997 par le Parlement européen et la Commission, fait l'objet de débats publics dans plusieurs pays: en Italie et au Portugal sous l'égide du Ministre de la justice et plus récemment en Angleterre à l'initiative de la Chambre des Lords (dans ses activités législatives) ou en Allemagne, lors de rencontres organisées par des universitaires et des responsables politiques à l'Académie de droit européen de Trèves. En France, la Ministre de la justice a pris publiquement position «pour une lutte européenne contre le crime organisé» (Le Monde 7-8 mars 1999), annonçant qu'elle avait proposé une réunion conjointe des ministres de la justice et des finances pour «mieux traiter la question des paradis fiscaux, du secret bancaire, de l'anonymat des circuits d'argent sale».

Il était temps que la France apparaisse autrement que sous la forme particulièrement frileuse de la réponse envoyée à l'occasion de la Conférence interparlementaire réunie à Bruxelles en novembre dernier sur la protection des intérêts financiers du citoyen européen. A l'époque, ignorant l'initiative du Sénat en faveur de la construction d'un «espace judiciaire européen» (rapport Fauchon, 1997) et prétendant s'exprimer au nom de la Chancellerie, l'Assemblée nationale motivait par «son attachement au principe de la souveraineté nationale» le refus d'un parquet européen.

Et pourtant, qu'il s'agisse de lutter contre le crime organisé dans son ensemble ou plus spécifiquement contre les fraudes au budget de l'Europe (80 % du montant relève

de fraudes transnationales fortement organisées), la nécessité d'une «lutte européenne» n'est plus à démontrer. Selon une formule du Corpus juris reprise par la Cour des comptes européennes en 1998, il convient d'apporter «une réponse radicalement nouvelle à une absurdité dénoncée par tous, mais toujours tolérée, qui consiste à ouvrir largement les frontières aux délinquants pour les refermer aux organes chargés de la répression, au risque de transformer nos pays en véritables paradis pénaux». Il est clair en effet, comme la Ministre de la justice vient de l'écrire, que «les procédures classiques de l'entraide judiciaire sont inopérantes». De façon imagée, l'un des magistrats qui avaient lancé l'appel de Genève disait que les systèmes judiciaires sont comme des éléphants: ils écrasent ceux qu'ils attrapent, mais ils n'attrapent pas grand monde en ces matières où les criminels sont comme des léopards, si rapides et si souples qu'ils échappent toujours.

Paradoxalement le risque d'impunité pour les délinquants les mieux organisés n'exclut pas, pour les quelques petits délinquants finalement poursuivis, le risque de traitement discriminatoire. Une étude récemment menée par une ONG (Fair Trials Abroad) qui défend les droits des citoyens européens jugés dans un autre pays de l'Union, démontre que depuis quelques années les problèmes posés ont considérablement augmenté, qu'il s'agisse de la détention provisoire, plus largement utilisée contre eux, de la preuve beaucoup plus difficile à fournir, ou tout simplement du risque fréquent de double poursuite et de jugements par défaut.

Il reste à savoir comment construire cet «espace de liberté, de sécurité et de justice» annoncé par le Traité d'Amsterdam. C'est à la fois la dif-

ficulté majeure, compte tenu de la diversité des traditions juridiques nationales, et le défi le plus stimulant car il préfigure celui qui est aujourd'hui lancé à l'échelle mondiale et, en ce sens, l'espace judiciaire européen apparaît comme un véritable laboratoire de la mondialisation. Sa construction devra nécessairement se faire de façon pluraliste. Il ne s'agit de revenir ni à l'Empire romain, ni à la «Grande nation» napoléonienne, ni à plus forte raison au totalitarisme hitlérien. Toutes les tentatives d'unification hégémonique ayant échoué, la chance historique de l'Europe est d'être contrainte de se construire de façon pluraliste et dans le respect des diversités nationales. C'est évidemment beaucoup plus difficile. Il faudra apprendre à connaître les diverses traditions juridiques européennes, ce qui implique de développer le droit comparé longtemps considéré comme une spécialité purement académique. Une meilleure connaissance montre que bien souvent des différences que l'on croyait irréductibles, comme la vieille opposition entre procédure britannique «accusatoire» (laissée entre les mains des parties et de leurs avocats sans intervention active de représentants de l'Etat) et procédure continentale «inquisitoire» (marquée par la double intervention d'un juge d'instruction à la fois enquêteur et juge et d'un parquet omniprésent dépendant du pouvoir exécutif), sont très affaiblies par l'évolution des pratiques. Mais la comparaison ne suffit pas. Il faudra apprendre à ordonner le multiple, par exemple en combinant l'unification (des règles communes strictement identiques) quand elle est nécessaire et possible et, sinon, l'harmonisation (des principes communs pouvant être appliqués dans les différents Etats avec une «marge nationale d'appréciation»). S'agissant des fraudes au budget

européen, ou de la criminalité organisée, l'unification des définitions pénales est nécessaire, comme l'expérience en a surabondamment fait la preuve, et possible, comme le démontre le projet Corpus juris. Elle devra s'accompagner d'une unification partielle des règles de procédure, au moins à la phase préparatoire du procès qui le plus souvent détermine la solution finale. La création de procès verbaux européens d'interrogatoire et d'audition pour les suspects et les témoins, ou encore d'un mandat d'arrêt européen, permettrait de supprimer le jeu incertain des commissions rogatoires internationales, à la condition essentielle de respecter les droits de la défense et le principe de garantie judiciaire. Le risque est en effet que l'Europe des polices se construise plus vite que l'Europe judiciaire. D'où l'urgence de créer un parquet européen, indépendant du pouvoir exécutif (national et européen) et

responsable devant le Parlement et la Cour de justice des Communautés. Ce parquet devrait lui-même mener les enquêtes sous le contrôle d'un «juge des libertés» désigné comme tel par chaque Etat membre.

En revanche, la création d'un tribunal pénal européen n'est sans doute pas aussi indispensable, du moins dans une première étape, si les définitions de fond et les règles de preuve sont suffisamment unifiées pour que les juridictions des divers Etats les appliquent dans le respect qui s'impose à toutes de la Convention européenne des droits de l'homme.

Car la construction d'un droit pénal européen ne peut être qu'évolutive. Il serait logique de commencer par les fraudes au budget car il s'agit de protéger des intérêts supra-nationaux, européens par nature, intérêts d'une importance vitale pour l'Europe dont ils commandent la crédi-

bilité et l'efficacité, en particulier au moment du lancement de l'Euro. Dans un deuxième temps, la compétence du parquet européen devrait s'étendre à la lutte contre toute la criminalité organisée, celle qui concerne des intérêts inter-nationaux, européens par vocation pourrait-on dire car les organisations criminelles se déploient bien au delà des frontières nationales et, selon la formule de la Ministre de la justice, «l'argent sale bouge à la vitesse électronique».

Cette construction juridique européenne, pluraliste et évolutive, est d'autant plus nécessaire qu'elle répond à un double objectif: mieux protéger les intérêts de l'Europe et de ses citoyens et, plus largement, constituer une alternative à la menace d'une mondialisation hégémonique qui étendrait à la planète le système juridique de l'Etat économiquement le plus puissant.

## The Power of Human Rights International Norms and Domestic Change

On the 50th anniversary of the Universal Declaration of Human Rights, this book evaluates the impact of international human rights norms on the behaviour of national governments in many regions of the world. Have the principles articulated in the Declaration had any effect at all on the actual behaviour of States towards their own citizens? What are the conditions under which international human rights norms are internalized in domestic practices? And what can we learn from this case about why, how, and under what conditions international norms in general influence the actions of States? This book draws on the work of social constructivists to examine how the power of international norms can alter the domestic behaviour of States.

The book shows through its distinctive theoretical approach and rich comparative analysis why and how norms alter state behaviour. A five-phase "spiral model" of human rights change is developed to suggest a socialization process by which international norms are internalized in the domestic practices of States. It reflects the interactions among transnationally operating advocacy networks, international governmental organizations, Western States, domestic opposition groups, and norm-violating national governments. It shows how instrumental adaptation to external pressures, persuasion as well as the institutionalization of norms lead to behavioral changes in the human rights area. In the first stage, transnational human rights groups report increasing human rights violations to an interested international

audience. This initial mobilization is usually followed by a stark denial strategy of the accused norm-violating government. However, the moral pressure exerted by international human rights norms and the advocacy networks often leads over time to a subtle shift of strategy from denial to some form of tactical concessions (3rd phase). If domestic opposition groups prove capable of developing an independent societal mobilization for human rights, the struggle will either result in the removal of the authoritarian regime or in a fundamental and sustainable shift of domestic policies. In this fourth phase, human rights norms attain so-called "prescriptive status". Formal acceptance of human rights norms, however, does not automatically translate into sustainable improvements on the ground. Hence, the "spiral model" ends with the complete socialization of human rights norms into domestic practices understood as "rule-consistent behaviour" (5th phase).

The book applies the model to 11 countries representing five world regions – Northern Africa, Sub-Saharan Africa, Southeast Asia, Latin America, and Eastern Europe. In the concluding chapter, practical lessons are drawn that provides fresh perspective for activists and policy makers concerned with preserving and extending the human rights gains made during the past fifty years.

THOMAS RISSE, STEPHEN C. ROPP, and KATHRYN SIKKINK (eds) *The Power of Human Rights. International Norms and Domestic Change*, Cambridge University Press 1999.

T. RISSE holds a joint chair in the RSC/SPS Department

# Quelle chartre constitutionnelle pour l'Union européenne?

## Stratégies et options pour renforcer le caractère constitutionnel des Traités

Le Centre Robert Schuman n'est pas seulement le centre de recherche interdisciplinaire de l'Institut, que l'on connaît par l'intermédiaire des boursiers Jean Monnet et des visiteurs qu'il accueille, des conférences organisées ou bien encore des publications générées. Il lui arrive également d'abriter en son sein pour une période déterminée des groupes de travail chargés de rédiger des rapports et d'offrir ainsi expertises et conseils aux décideurs politiques. C'est de cette façon que le Centre, à la demande du Parlement européen, a mis en place en juin 1998 un groupe de travail, constitué principalement par des membres du corps professoral de l'Institut, chargé de rédiger une étude présentant des options pour une évolution des traités de l'Union vers une constitution. Le groupe de travail, placé sous la présidence de GIULIANO AMATO, était composé de STEFANO BARTOLINI, RENAUD DEHOUSSE, BRUNO DE WITTE, LUIS DIEZ-PICAZO, CLAUDIUS DIETER EHLERMANN, YVES MÉNY, CHRISTOPH SCHMID, PHILIPPE SCHMITTER, ARMIN VON BOGDANDY et JOSEPH WEILER. Le rapporteur était HERVÉ BRIBOSIA.

En s'impliquant sur un tel sujet (Quelle chartre constitutionnelle pour l'Union européenne ? Stratégies et options pour renforcer le caractère constitutionnel des Traités), le groupe n'est cependant pas intervenu dans un domaine inconnu. En effet, le projet de chartre constitutionnelle envisagé prolongeait la précédente étude rédigée en 1996, déjà à la demande du Parlement européen par un groupe de travail au sein du Centre Robert Schuman. Le document final d'alors, une version unique et simplifiée des Traités régissant l'Union européenne et les Com-

munautés européenne proposait d'unifier et de simplifier les traités en supprimant les articles obsolètes ou redondants tout en s'abstenant de modifier la substance des traités. Il s'agissait d'établir un projet de traité consolidé présentant l'ensemble des dispositions existantes à droit constant.

La nouvelle étude constitue assurément une étape supplémentaire importante, puisque trois principales stratégies sont présentées. Les différentes possibilités fournies cherchent à conjuguer visibilité et transparence pour favoriser une plus grande compréhension des mécanismes européens de la part de l'opinion publique tout en garantissant une meilleure efficacité décisionnelle. Le document offre surtout des alternatives et des options qui, selon les cas, soit se contentent de reprendre le droit existant en tant que tel, en ne suggérant qu'une structuration différente, soit se proposent des changements plus importants.

Tel était bien le souhait du Parlement européen, qui, à l'issue de la conférence intergouvernementale (CIG) de 1997 et des résultats diversement appréciés du Traité d'Amsterdam, souhaitait poursuivre l'exploration d'une éventuelle constitutionnalisation des traités et des diverses options possibles pour y parvenir.

Outre cet objectif précis et l'expérience du précédent rapport, deux textes déjà élaborés au sein du Parlement européen ont constitué les prémices de la réflexion du groupe. En effet, et même si pour des raisons différentes le rapport Spinelli de 1984 et le rapport Herman de 1994 ont connu des fortunes diverses, ils représentent de sérieuses tentatives de simplifica-

tion de l'ensemble des traités régissant le fonctionnement de l'Union européenne en préconisant notamment une constitutionnalisation des traités. L'esprit en est toutefois quelque peu différent: pragmatisme et réalisme sont à la racine de cette nouvelle approche.

De même, la jurisprudence de la Cour de Justice des Communautés européennes, qui a initié un début de constitutionnalisation matérielle et d'affirmation graduelle de l'autonomisation de l'ordre juridique communautaire, ne pouvait être ignorée.

Le document de travail présenté par le groupe propose trois stratégies au Parlement européen, plus ou moins ambitieuses et réalisables à court ou moyen terme.

La première stratégie suggère la rédaction d'un document constitutionnel unique. Pour parvenir à une telle synthèse permettant d'exposer de manière plus synthétique le droit primaire, trois options sont avancées. La première consisterait à reconnaître officiellement la version consolidée communautaire (il s'agit du document renuméroté intégrant les modifications nouvelles apportées après chaque nouveau traité) qui est généralement fournie conjointement au nouveau traité mais qui est dépourvue de valeur juridique.

Une deuxième possibilité serait la codification de l'ensemble des traités existants comme le projet de traité unifié du Centre Robert Schuman déjà mentionné, l'avait proposé, en supprimant les articles obsolètes ou redondants. Enfin, il serait également possible d'élaborer une chartre fondamentale de l'Union européenne, qui ne regrouperait que les dispositions



du traité les plus importantes, sans pour autant en modifier le contenu (et par conséquent enclencher les mécanismes de révision des traités et des ratifications toujours longs). Mais selon le groupe, ces tentatives de clarification ne seraient que limitées, si des modifications substantielles ne complétaient pas par ailleurs la rédaction de la charte.

La deuxième stratégie comporte elle aussi trois options. Contrairement à la première stratégie, la substance constitutionnelle devrait faire l'objet de modifications importantes. L'existence des trois Communautés et de l'Union, sans parler de la structure en piliers impliquant des processus décisionnels différents, ne favorisent guère la compréhension du fonctionnement de l'Europe. Fusionner les traités, les entités et les personnalités juridiques permettraient de rendre plus accessible le fonctionnement de l'Union européenne.

La première option considère qu'est venu le temps de fusionner les communautés et l'Union déjà existantes, en une entité juridique unique. Cette solution n'implique cependant pas que la structure actuelle en piliers soit supprimée.

Une autre possibilité serait de consolider l'acquis constitutionnel jurisprudentiel en récapitulant les principaux acquis de la jurisprudence de la Cour de Justice des Communautés européennes (par ce que les américains appellent la technique du Restatement). Une telle formalisation permettrait de faire apparaître clairement les grands principes constitutionnels, sans pour autant vouloir définir précisément des concepts, qui supportent difficilement les simplifications et les définitions statiques (effet direct et primauté par exemple).

La troisième option au sein de cette alternative consisterait à dresser un catalogue des droits de l'homme à protéger. Une telle orientation repose naturellement la question non résolue de l'adhésion

éventuelle de l'Union à la Convention européenne des droits de l'homme de Strasbourg. Il serait également possible de rédiger un tel document des droits de l'homme, actualisé aux dernières avancées jurisprudentielles, qui renforcerait le caractère constitutionnel des traités tout en élargissant les questions traitées par l'Union. Cependant, l'adhésion à la CEDH tout comme la rédaction d'un tel document ne sont pas sans risques et notamment celui d'aboutir à des conflits de jurisprudence dans le premier cas, de formulation du plus petit dénominateur commun dans le second. Néanmoins, le Parlement européen semble néanmoins aux yeux du groupe le lieu propice pour entreprendre la rédaction d'un catalogue des droits de l'homme, qui pourrait aboutir, par la suite, à que la CJCE soit compétente pour se prononcer sur les recours dénonçant toute violation.

Enfin la troisième stratégie possible, la plus ambitieuse, propose de modifier la procédure de révision des traités. En effet, afin d'éviter de réitérer les marchandages intergouvernementaux, qui du fait de l'élargissement ne cessent de se multiplier lors de la rédaction de futurs traités, le groupe estime qu'il conviendrait de mettre en place des mécanismes de révision différenciés, selon qu'il s'agisse de matière constitutionnelle ou de dispositions moins importantes. Pour y parvenir, trois voies sont une fois encore retenues.

La première possibilité mentionnée est la communautarisation de la procédure générale de révision. Le double vote à l'unanimité lors des révisions des traités (au sein du Conseil et au sein de chaque Etat membre par le vote de chaque Parlement) devrait pouvoir être atténué. Si se passer du vote favorable des Parlements nationaux n'est pas souhaitable, des solutions techniques devraient permettre à ce qu'au sein du Conseil, un système de double majorité surqualifiée puisse être mis en place. Tout

comme serait souhaitable dans le même temps le renforcement du rôle du Parlement européen lors de la procédure de révision des traités, en lui attribuant un avis conforme dans la procédure de révision.

La deuxième option pourrait consister à multiplier les procédures qui permettent par dérogation de modifier les traités de façon quasi-autonome, c'est-à-dire par le Conseil statuant à l'unanimité sans avoir à recourir aux Conférences intergouvernementales. La dernière option concerne une hiérarchisation du droit primaire. En introduisant une nouvelle catégorie d'actes, la loi organique, les traités pourraient être délestés de nombreuses dispositions, notamment les procédures de révision, devenues droit dérivé. Ce qui aurait pour conséquence de rendre les procédures d'amendement plus aisées et de raccourcir la longueur du texte des traités.

Les stratégies et les différentes options présentées ont pour objet de renforcer le caractère constitutionnel des traités en vigueur. Toutes les solutions proposées sont autonomes, mais reposent sur des objectifs plus ou moins ambitieux.

L'étude réalisée devrait très certainement être au centre de nombreux débats. Le nouveau Parlement européen, élu en juin 1999, une fois auditionnée la nouvelle commission aura certainement pour ambition de relancer les débats institutionnels. Il devrait tenter de confirmer qu'au-delà de son rôle et de sa responsabilité dans la démission collective de la Commission présidée par Jacques Santer, le Parlement européen est une institution capable de proposer des réformes et est bien décidée à profiter de la nouvelle dynamique engagée. En ce sens, il est certain que le document d'étude du Centre Robert Schuman devrait être instrument utile et une évidente source d'inspiration.

FRANÇOIS D. LAFOND

## State Aid Control in the European Union

### Selected Problems

On 4-5 June 1999, the Robert Schuman Centre of the EUI hosted the fourth edition of the EUI Competition Workshop. The EUI Competition Workshop is a project started by EUI law professors Giuliano Amato and Claus-Dieter Ehlermann in 1996 at the Robert Schuman Centre. Once every year, the Workshop brings together top-level policy-makers, academics and practicing lawyers to discuss critical issues in EU competition policy. The papers and proceedings are thereafter published in the European Competition Law Annual series. The first edition of the Workshop (1996) focused on the problems of implementing competition policy in a federal context<sup>1</sup>. The second, (1997) debated the objectives of competition law and policy<sup>2</sup>. The third, (1998) analysed how to ensure effective competition in the rapidly evolving communications market<sup>3</sup>. This year, the Workshop was devoted to the control of State aid in the European Union.

State aid control is a unique feature of EU competition policy. No similar control system exists in any of its Member States, or in any federal state outside the EU. The EU State aid control model is, however, a model with increasing influence: EU State aid rules were "exported" to the European Economic Area, and more recently to the ten Central and Eastern European Countries candidates for EU membership. EU State aid rules and practice have also influenced the evolution of the subsidy discipline at the level of the GATT and the WTO.

The EU regime for State aid control is less known and understood than its antitrust counterpart. Since its inception at the end of the last century, antitrust law has spread from the US to the major industrialised nations and a growing number of

developing countries. Antitrust rules are mainly directed at companies, and not at a small number of States as State aid rules. Antitrust law operates in a decentralised way - it is used by individual market players in private law suits. It involves, therefore, a much greater

ahead. His presentation not only demonstrated the increasing rigor of State aid control and the continuous effort to modernise and rationalise the existing rules, but also the need to improve even further the efficiency of the Commission's oversight over Member States'



The EUI Competition Workshop

number of actors than State aid control, which is normally a match between the European Commission and the Member States. While antitrust law is clearly dominated by economic and legal concepts and rules, State aid control is widely considered to be more or less strongly influenced by political considerations.

The 1999 EUI Competition Workshop was intended to contribute to the better understanding of State aid control in general. In addition, it tried to concentrate on a few problems, which are, actually, particularly controversial and difficult.

The Workshop was opened by KAREL VAN MIERT, Member of the European Commission responsible for competition policy since 1993. He summarized recent developments and highlighted challenges

behaviour, as levels of State aid remain high and the risk of distortions of competition grows in a more integrated single market.

Panel 1 of the Workshop discussed the economic justifications for State aids. From the point of view of an economist, State aids are efficient only if aimed at correcting market failures. However, market failures are difficult to quantify. In addition, State aids may not always be the most appropriate instruments to correct market failures. As State aids are also given on equity considerations, weighting their costs against their benefits proves to be extremely difficult. Economists seem, therefore, not to be particularly well equipped to help the European Commission to discipline State aids through general guidelines or in appreciating individual cases, though their assistance in

improving analytical tools (like the correct definition of the relevant market) is highly valuable. In addition, Panel 1 showed that work is under way to reduce the level of State aids through a macro-economic approach, complementing the micro-economic control exercised by the European Commission under Articles 92 and 93 of the EC Treaty.

Panel 2 discussed the special problems that arise in the control of State aids to the banking sector. Three groups of problems were discussed in particular: a) the rescue and restructuring aid to banks - like in the famous *Crédit Lyonnais* case; b) the institutional guarantees enjoyed by certain publicly-owned banks - like the German *Landesbanken*; c) the validity and enforceability of not notified (and therefore not approved) loan guarantees given by the States to banks in order to facilitate the granting of loans to companies which otherwise would not have been granted loans at all, or only on conditions more onerous than those accepted by the bank because of the guarantee. The discussions on State guarantees were particularly vivid and controversial: while the majority of the participants felt that institutional guarantees are difficult to justify, unless and insofar as covered by Art. 90(2)

of the EC Treaty, opinions on the validity and enforceability of ad hoc guarantees differed more widely. However, everybody agreed that the continued state of legal uncertainty is unhealthy. It should be among the priorities of the European Commission to clarify the situation.

Finally, Panel 3 debated whether, and to what extent, the decentralisation of State aid control, exercised today by the European Commission alone, is possible and recommendable. Participants confirmed the generally held view that the European Commission should not abandon or reduce/ share its decision-making responsibility. Neither are its latest proposals on decentralisation in the antitrust field nor the experiences of the Central and Eastern European accession candidate countries (which are obliged to auto-control their State aid practices) useful sources of inspiration for the decentralisation of State aid control in the EU. The limited possibilities for State aid control under the "dormant" commerce clause of the US Constitution are an interesting intellectual discovery but certainly not a model for practical policy reform in the EU. What remain are steps to enhance the transparency and public awareness of State aids in all Member States. Greater

transparency will facilitate their control by the European Commission. Public awareness will raise the taxpayers' consciousness and increase the opposition against costly and wasteful public spending. This pressure may be another useful instrument complementing the European Commission's arsenal of legal weapons. While disadvantaged competitors are certainly a valuable source of information, private action has so far been of limited effect in this field, though practicing lawyers held the view that it might well increase in the future. They argued for greater involvement of companies in State aid procedures. These considerations alone justify efforts like the recent Workshop, to deepen and widen the discussion of State aids and their control.

#### Notes

<sup>1</sup>Claus-Dieter Ehlermann and Laraine L. Laudati (eds.): *Robert Schuman Centre Annual on European Competition Law 1996* (The Hague: Kluwer Law International, 1997).

<sup>2</sup>Claus-Dieter Ehlermann and Laraine L. Laudati (eds.): *European Competition Law Annual 1997: Objectives of Competition Policy* (Oxford: Hart Publishing, 1998).

<sup>3</sup> *European Competition Law Annual 1998*, forthcoming.

10-11 September 1999

### The Anti-Competitive Impact of Regulation

Round Table organized by GIULIANO AMATO and LARAINE LAUDATI

The Round Table will focus on the problem of how regulation interferes with effective competition in the markets subject to the regulation. It will draw upon economic thinking to design effective policy for the reform or elimination of regulation with anti-competitive effects, thereby helping to maximize social welfare. The ultimate goal is to craft a set of guidelines based on economic theory to aid regulators to scrutinize developing and existing regulation to eliminate their anti-competitive effects.

The Round Table will address the issue of the anti-competitive impact of regulation generally rather than with regard to any specific sector; however, sector-specific cases illustrating the general principles will clearly be essential. In order to place some limit on the scope of the discussion, examples will focus on the following sectors: for commercial goods and services, financial services, retail sales, hotel/restaurant services, and the professions; for public goods and services, surface transport (trucking, rail), post, waste removal, water, ports and airports.

With respect to the each of the types of regulations identified below, the Round Table would like to discuss:

- the policy objectives of the regulatory restriction;
- the nature of its anti-competitive effects (e.g. effect on prices, output, innovation, product quality, consumer choice, etc.); and
- whether its policy objectives can be achieved through some alternative means that would be less restrictive of competition.

# The Mediterranean Programme gets under way

## Research projects

The first four research projects of the Mediterranean Programme are being launched during the summer. After preparing a short-list the Scientific Board and the Mediterranean Programme Staff invited three candidates to compete and write a research proposal. The best of the three proposals in each field was chosen. Prof. STEVEN HEYDEMANN (Columbia University, New York) will direct a project on "Economic Networks and the Politics of Fiscal Policy Reform in the Middle East", which will include a number of case studies (Syria, Jordan, Tunisia, Morocco, and Egypt). Prof. KAMRAN ALI (University of Rochester), with the assistance of MARTINA RIEKER (American University in Cairo), will direct a project on "Tourism in the Southern Mediterranean", focusing on cases in Turkey, Palestine, Egypt, and Morocco. Prof. MOHAMMED BERRIANE (Université Mohammed V – Rabat) will direct a project on "Articulations du tourisme international et du tourisme national dans les pays de la rive sud de la Méditerranée. (Articulations sociales, culturelles, économiques et spatiales et contribution à la reconfiguration de l'espace méditerranéen). Prof. JOCELYNE CESARI (CNRS/Columbia University) will direct a project on "North African Diaspora in the Mediterranean Diaspora: Networks versus Territory" with case studies of cities in North Africa and Europe, such as Tunis, Algiers, Rabat, Barcelona, Paris, and Turin.

Each project will result in the publication of at least one volume and a number of articles. They involve between eight and 12 scholars each who primarily come from the Eastern and Southern Mediterranean and Europe and who contribute with a paper on a specific topic. Projects last two years and can be renewed twice for a year. During the project period two or three workshops will be held in Florence or in the region to discuss progress and results of the project. In the near future, the Mediterranean Programme envisages an increase in the number of research projects. Their topics will be, as for the above mentioned projects, within the framework of the five general topics of the Mediterranean Programme: Islam and Politics, Business and Politics, Political Regimes' Analysis, Images and Discourses, and the Euro-Mediterranean Relationship.



## Summer School on Trans-Mediterranean Flows

Between 5 and 15 July the Mediterranean Programme is organizing a summer school, directed by Prof. GHASSAN SALAMÉ (IEP & CNRS, Paris) on Trans-Mediterranean Flows: Promises, Fears, and Institution Building. 18 participants from the Mediterranean and

Europe were selected from 45 applications. It is organized on the basis of morning seminars given by some scholars (S. HEYDEMANN, P. SCHMITTER, Y. MENY, J. ZIELONKA, H. HANDOUSSA, P. FARGUES) and of working groups sessions in the afternoon. The 18

students were divided into three different groups: Working Group 1 on Migrations and Demographic Flows, Working Group 2 on The Euro-Med Partnership: Economy and Institution Building, Working Group 3 on Security and Policy.

Tutors of the working groups of the summer school include AYSE CAGLAR (FU Berlin) and ANDREW GEDDES (University of Liverpool) for the first Working group, SAMIR MAKDISI (Institute of Money and Banking, Beirut) and MARTIN KOEHLER (European Parliament) for Working Group 2, DIDIER BIGO (Institut d'Etudes politiques de Paris) and ABD-EL MONEIM SAID ALI (Al Ahram, Cairo) for Working Group 3.

## Seminars

In March a full week of seminars was organized around Islam. Organized around thematic sessions such as on Islam and Discourse on Modernity, Islam in Eastern Europe, Islam in Western Europe, Mysticism and Islamic Brotherhoods, it addressed a public of non-specialists and was opened to an external audience (Universities of Roma and Venezia especially). Some of the papers will be published in the Mediterranean Programme Working Paper series.

Three internationally renowned scholars gave seminars within the framework of the Mediterranean Programme. Prof. ROBERT SPRINGBORG (Professor of Politics at the Macquarie University, Sydney, Australia) held the first seminar on "Political Structural Adjustment in Egypt". MARTIN VAN BRUINISSEN (University of Utrecht) talked about the "Transnational Aspects of the Kurdish Question", and WILLIAM B. QUANDT (University of Virginia..) about "Algeria after the Presidential Elections".



### Research Meeting

In March 2000 the Mediterranean Programme will organize a first Mediterranean Social and Political Research Meeting which will bring together around 150 scholars from the Mediterranean and Europe. These scholars will present original research papers in one of the ten workshops of the meeting. By early September the names of the workshop directors and the themes of each workshop will be known and calls for candidates to apply for the Meeting will be placed. The deadline for applications to be sent is December 15.

### Post-doctoral Fellows

In the Academic Year 1999-2000, the Mediterranean Programme will have five post-doctoral fellows, AYSE BUGRA (Turkey) who works on "Labour, Capital, and Religion: Study on the Turkish Business Association MUSIAD and the Labour Union Confederation Hak-Is"; MARILYN EORDIGIAN (Jordan): "Church-State Relations in Israel"; BRAD GLASSER (USA): "Political Ethnography of Leading Arab Business Groups"; UMIT CIZRE SAKALLIOGLU (Turkey): "Politics, Society and the Military into the 21st Century in Europe and Turkey: Comparative Perspectives and Trends"; and AMR SABET: "Near East-Western Relations: The Islamic International Theory Revisited". The applications for the Academic Year 2000 - 2001 are due on November 1, please see the call in this issue of the EUI Review (pp. 34 and 58) as well our web page.

### Research students

In the same Academic Year, the Programme will also have five students who will enroll in the doctoral program of the EUI. Four of them will be placed in the Social and Political Sciences Department, ELENA AOUN (Lebanon), RAHIM BAHY (Egypt), BABAK RAHIMI (Iran), FATMA SAYYED (Egypt) and one in the History and Civilization Department, CHAHNAZ KHERFI (Algeria).

The applications for Academic Year 2000-2001 are due on 31 January 2000. The call will be published in early autumn.

### Publications

The first working papers of the Mediterranean Programme are available, written by GIOVANETTI and SPRINGBORG, while a number of them are being published during the Summer (e.g. VAN BRUINISSEN,

QUANDT, ARKOUN, ALIEVI). Two distinguished lectures - the first with the lecture of Prof. SALAMÉ and the speech of On. DINI and the second concerning the speech of H.E. KHATAMI - were published in March.

### Sponsors

The Mediterranean Programme has received generous support for the Social and Political Sciences and Law Chair from three Italian companies - ENI S.p.A, Ente Cassa di Risparmio di Firenze, and Mediocredito Centrale. The European Investment Bank, the Compagnia di San Paolo di Torino and a few major Italian bank foundations have ensured their support for the Economic Chair of the Mediterranean Programme which is expected to be created in early autumn. All the companies have ensured their support for a four-year period. In addition, a number of grants and fellowships for nationals of the Southern and Eastern Mediterranean countries have been made available by the Italian Ministry of Foreign Affairs (for doctoral students), and the City of Florence (Giorgio La Pira Fellowship for post-doctoral fellows). Last, but not least, the Tuscan Region entirely sponsors the Mediterranean Social and Political Research Meeting to be held in March, 2000.

The Mediterranean Programme also welcomes LOTTA SVANTESSON who, as of 10 May acts as the Programme's Secretary.

For more information:

[www.iue.it/rsc/researchrsc-3a1.htm](http://www.iue.it/rsc/researchrsc-3a1.htm)

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ENTE  
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# Environmental Studies at the EUI

EUI activities in the area of environmental studies have centred around the Working Group on Environmental Studies (WGES). It is the Institute's longest running Working Group (founded in February 1988). Despite some rumours to the contrary, the WGES is not identical with the 'Greening Committee' of the Institute. The WGES provides an interdisciplinary forum for the discussion of environmental topics among EUI researchers from all departments as well as Jean Monnet Fellows, faculty and external guests. In addition to organizing seminars, guest lectures, and workshops, the WGES began to publish a newsletter in 1990, which is published once or twice a year and available on the Web ([www.iue.it/WGES/Iss17/Welcome.html](http://www.iue.it/WGES/Iss17/Welcome.html)). It covers announcements, conference reports, articles on research in progress at the Institute, as well as occasional contributions from visiting speakers.

## The Past...

This year, MARKUS HAVERLAND, Jean Monnet Fellow at the Robert Schuman Centre, took over the overall coordination of the WGES. Besides regular meetings in which the members presented their research projects, the WGES invited a number of outside speakers who lectured on topics, such as the problem of environmental standard setting in federal systems or the role of the European Environmental Agency in EU policy-making. The traditional spring workshop was postponed to the next academic year. After MARKUS HAVERLAND left in May, TANJA BÖRZEL, research associate at the RSC, became the new coordinator of the WGES. She is assisted by MATTHIAS MAIER, a third year researcher in the SPS Department.

## ... and the Future

In order to render environmental studies activities at the EUI less sensitive to fluctuations in the WGES, the Robert Schuman Centre set up a small research agenda ("The Greening of the South") focusing on the question of how environmental "laggards" cope with the challenge of adapting to European environmental policies, which appear to be both a curse and a blessing for these countries. On the one hand, the European Union provides elaborated policy programmes which, if effectively implemented, subsequently improve the level of environmental protection. The EU often supports the adaptation of environmental laggards to European standards and regulations with the transfer of resources (money, expertise, technology). On the other hand, European environmental policies are usually oriented towards the problems and the level of environmental protection of the northern environmental leaders. For environmental laggards, the high standards of European regulations often cause serious problems of policy overload and adaptation. Nor do they necessarily address the most pressing problems of environmentally less developed countries. The focus on the implementation of European environmental policies in present and future Member States puts environmental studies in a strong connection with other research activities at the EUI, such as the Mediterranean Programme, the European Forum 1999/2000 on Europeanization, Eastern Enlargement, and a joint project of the Robert Schuman Centre and the Max-Planck-Project Group Common Goods on state compliance with international norms. For further information, contact the RSC Webpage ([www.iue.it/RSC/ResearchRSC-2c1.htm](http://www.iue.it/RSC/ResearchRSC-2c1.htm)).

TANJA A. BÖRZEL

RSC

## Mediterranean Programme Post-doctoral Fellowships

The Mediterranean Programme of the RSC will award a number of post-doctoral fellowships. Duration, condition of eligibility and retribution follow the Jean Monnet fellowship model (*see* p. 57)

However, applicants to the Mediterranean Programme post-doctoral fellowships should be aware of the following requirements:

There is no condition of nationality, but preference is given to scholars from the Mediterranean area, especially from non-Member States of the EU (Arab countries, Turkey, Iran).

Candidates should have a strong background in Middle Eastern studies and a demonstrable interest in relationships between Europe and the Middle East and North Africa

They should preferably work on a topic within the following five areas of research: Comparative Political regimes; Islam and Politics; Business and Politics; Sociological Studies: Images and Discourses; Euro-Mediterranean Partnership.

Specific research topics could include: Migration; Fiscal systems and free trade; Tourism.

# Between Europe and the Nation State: The Reshaping of Interest, Identities and Political Representation

Directed by STEFANO BARTOLINI, THOMAS RISSE and BO STRÅTH

## The Research Team for 1999-2000

The team of Forum Fellows working together in 1999-2000 is made up of fifteen to sixteen mostly young scholars from European and American universities. The majority of them will stay at the Forum Centre for the entire year, while some will come for shorter periods. Their formation is multi-disciplinary. The bulk of them come from sociology and political science, while a few others have a philosophical, psychological or legal background. Their interests range from the formation of new European social identities, to the redefinition of domestic interests, to the changes affecting parties and political representation. The Fellows represent quite distinct methodological orientations and approaches but they are unified by their common perspective of looking at the changes that Europeanisation brings about in these areas of domestic social and political dynamics.

Dr JAMES PETER BURGESS, Norwegian, Volda College, Department of Philosophy, *The Legitimization of European Collective Identity*

Dr DIDIER CHABANET, Français, St Anthony's College, *Conflits sociaux et identités européennes*

Dr JEFFREY T. CHECKEL, US Citizen, University of Oslo, ARENA, *Socialization and Identity Change: The European Union in Comparative Perspective*

Dr MICHELLE CINI, English, University of Bristol, Department of Politics, *State Group Relations and the Politics of State Aid Control*

Prof. KRIS DESCHOUWER, Belgian, Vrije Universiteit Brussel, Vakgroep Politieke Wetenschappen, *A Comparative Exploration of the Future European Party System*

Dr CAROLYN DUDEK, US Citizen, University of Pittsburgh, Department of Political Science, *Domestic Pressures as a Result of the European Union: Changes in Nationalist Party Politics*

Dr RAINER EISING, German, University of Mannheim, Lehrstuhl f. Politische Wissenschaft II, *Multi-level Governance and EC Regulatory Reform. Energy Utilities and Associations under Strains*

Prof. RONALD JEPPEPERSON, US Citizen, Stanford University, Department of Sociology, *The European Polity and the Reconstruction of Individual Identity*

Dr DIARMUID ROSSA PHELAN, Irish, Trinity College, School of Law, "[No title] -

Prof. WILLFRIED SPOHN, German, University of Pennsylvania, Department of Sociology, *National and European Identities: The Religious Dimension. A comparative historical-sociological analysis of the cultural reconfiguration of the European East-West divide 1990-2000*

Prof. SIDNEY TARROW, US Citizen, Cornell University, Department of Government, *Contentious Politics in the European Union*

Dr ANNA TRIANDAFYLLIDOU, Greek, CNR - Consiglio nazionale delle ricerche, Istituto di Psicologia, *Images of the Other and the Reshaping of Collective Identities in a 'United' Europe*

## The 2000-2001 Forum

In 2000-2001, the Forum will continue to reflect on the domestic impact of European integration, identifying the extent to which 'Europeanisation' shapes the adaptation patterns, power redistribution, and shifting loyalties at the national level. A continued interest lies in the formation of new social identities, the redefinition of corporate interests, and the domestic changes in the forms of political representation (electorates, parties and party systems). Through these three core topics, the second year will devote particular attention to the role of law. European legal norms redefine interests - for instance by establishing criteria of representativity of associations - interact with national legal cultures and define the institutional-constitutional context of issue politicisation.

### Call for the 2000-2001 Forum Fellowships is open

For information visit:  
<http://www.iue.it/EF/Welcome.html>

Application form online:  
<http://www.iue.it/EF/News.html>

## What Future for the European Welfare State?

The European Forum in 1998/99 was dedicated to the topical subject of the European welfare state, its current situation, trends of transformation and future challenges. The team led by MAURIZIO FERRERA and MARTIN RHODES comprised around 20 visiting fellows from Europe and the US, half of them spending the whole academic year at the Forum, the rest staying for periods of between two and six months. This accumulation of expertise across a wide range of policy areas (health care, social security, gender, employment, pensions) and countries allowed the realisation of considerable research synergies. By bringing together a group of experts working on parallel and interconnected research agendas, we created the possibility for spontaneous research collaboration across subject areas and disciplines as well as guiding collaborative research through our seminars and conferences. The latter were made possible by the generous external support of several organisations: MIRE (Ministère du Travail et des Affaires Sociales, Paris) and the European Commission, DG 12 (Science, Research and Development) and most importantly DG 5 (Employment and Social Affairs).

The substantive outcomes of this research programme will appear in numerous working papers, collective volumes and monographs over the coming months. This brief report will specify the intellectual content and output of the programme as it unfolded over the last nine months. The programme was structured around seven large-scale conferences where the major themes of the forum research agenda were presented:

- Reforming Social Assistance and Social Services
- Beyond the Health Care State
- Globalization, European Economic Integration and Social Protection

- Global Trajectories: Ideas, Policy Transfer and ‘Models’ of Welfare Reform
- The Modernisation of Social Protection and Employment
- The Links between Taxation, Social Protection and Employment
- Relations between Social Protection and Economic Performance

Given the centrality of welfare programmes to current political debates and processes of reform, given slow economic growth, population ageing, the expansion of spending in areas such as health and pensions and the resultant fiscal stress, it was inevitable that the forum would constantly return to several key issues:

- what are the pressures for reform and to what extent are they objective and unavoidable or politically constructed?
- can the European social model based on high levels of social protection and a commitment to cross-class and intergenerational solidarity be sustained?
- and if not (at least in its present form) what are the best policies for adjusting or ‘modernising’ these welfare states to ensure sustainability without sacrificing their key commitments?

As for the first question, the lessons of numerous seminars and several conferences around this theme were that there may good reasons for believing that the overall impact of globalisation has been exaggerated, as have its potentially adverse social consequences regarding employment and social standards. Unemployment problems and the need for the modernisation of our social protection systems should be attributed mainly to other developments (such as the ‘post-industrialization’ of advanced economies) to which globalisation (e.g. greater trade competition across a growing range of sec-

tors) may make some contribution but cannot on its own explain. Nevertheless, the argument according to which the globalisation of financial markets does limit governments’ policy-making autonomy, and market integration impacts on tax structures and the capacity of states to use taxation for redistributive ends should be paid serious attention. But it is rather the potential incompatibility between national welfare states and an integrated market in Europe, rather than the subjection of European welfare to punitive global markets that is important here. That said, various types of institutional setting and forms of social security and labour market policy may be equally compatible with competitiveness. There is no need for (nor is there much evidence of) convergence on a ‘neo-liberal’ model in Europe, despite the conviction in certain political circles that such convergence is required. We also examined the influence of international policy transfer and the role of international organisations in this process. While such transfer and cross-national influence is evident in certain sectors, no ‘one best way’ emerges, and key differences persist both in the mode of decision making (unilateral and imposed in e.g., the UK; concerted in e.g., the Netherlands) and the orientation of reform (neo-liberal with increasing income disparities; social democratic with more social cohesion). That said, there may be evidence of a convergence along certain key dimensions, including the proliferation of non-standard forms of employment, a greater individualization of rights and entitlements, and a shift from passive to active forms of income support. In health, fiscal pressures everywhere, combined with an active process of policy transfer in the sector has influenced convergence on a ‘public contract’ model of health provision, involving cost-containment, managed competition and quality control.



As for the second issue – can the European ‘social model’, based on high levels of social protection, be sustained – it is clear that the challenges to the status quo and capacities for adjustment differ widely. As pointed out by PAUL PIERSON (following GØSTA ESPING-ANDERSEN) (*see* p. 39), Europe contains three (some would argue more) worlds of welfare state – the liberal, social democratic and conservative. Each of these face a different (if related) set of core problems that must be confronted within longstanding and entrenched systems that are actually highly resistant to change, even if the metaphor of a ‘frozen landscape’ is no longer appropriate. At one level these systems all face common problems, including demographic change (the shift in the ratio of active citizens to passive welfare recipients); the rising cost of health care (due to ‘demand-side’ factors such as ageing, higher disposable incomes and greater insurance coverage, but also to technological improvements and rising real prices); low economic growth and high unemployment; and the changing nature of the labour market. Yet responding to these common problems requires a quite different policy mix depending on the country, making a uniform European approach impossible.

The issue of unemployment shows how different national systems have to face the sometimes adverse consequences of existing social contracts and swallow the bitter pill of reform. Thus, in the Scandinavian countries, the distributional costs of generous social contracts were met by those in employment who have paid high taxes for an over-developed public sector to soak up the potentially unemployed. In continental Europe, governments, employers and labour unions have more or less agreed that the price of adjustment should be shouldered by the unemployed, comprised largely of younger, female and older workers. In southern Europe, an acute ‘inside-outsider’ problem has developed as a result of the fragmentation and disparities in the income support system for those without

work, with large differences in the level of protection given to core and marginal workers. But everywhere there is an emerging consensus that if labour market ‘outsiders’ are to become ‘insiders’, then changes to the regulations that cover both employment and the funding of welfare will have to be made. If income inequalities are not also to increase, such changes must be accompanied by other innovations such as work-sharing and reforms to taxation, the introduction of a negative income tax, alongside a reregulation of the sheltered sectors of continental economies, to price people with low or non-existent skills into work

This brings us to the third general issue – what can be done to ensure that the core commitments of European welfare states are not eroded. This raises more technical issues concerning the cope for policy innovation between the twin constraints of (1) preserving solidarity objectives and (2) solving fiscal and policy failure problems. It also raises the question of how policy can be changed when there are powerful vested interests devoted to defending transfer-heavy welfare states and their redistributive outcomes. Reforms to health care systems, pensions and labour markets all require a careful process of adjustment if social cohesion as a governing principle of these systems is not to be sacrificed and if core constituencies and their representatives (welfare professions, the labour movement, citizens) are not to be alienated to the point where their reaction becomes hostile and an impediment to change. As PAUL PIERSON also points out, potential blockages in the process of reform are being avoided in some countries by the creation of new coalitions behind the reform agenda, most notably through new types of concertation and negotiation. But of course, the long-term success of such reform depends on the success of the changes introduced.

Employment and the labour market provide a good example of reform in a sensitive policy area where new techniques and new modes of nego-

tiation have proven to be critical for policy innovation and policy success. The debate on social protection and employment has focused on several forms of reform, including: modifying the funding of welfare by shifting the burden of costs, for example, away from pay-roll taxes to general taxation; by removing tax wedges and eliminating poverty traps; by introducing wage subsidies in various forms) to employers and ‘in-work’ benefits (again in all forms including tax credits) as one way of easing the move from benefits and into employment; and, more specifically, via the ‘activation of so-called ‘passive’ benefits. Examples of radical proposals made in this area are conditional negative income taxes (i.e. negative income tax conditional on, for example, evidence of serious job search by an unemployed person); and benefit transfer programmes (e.g. providing individuals with vouchers that could be offered by the unemployed to firms that would hire them, and reducing correspondingly the amount of public money spent on traditional forms of unemployment benefit). Denmark and the Netherlands have perhaps gone furthest in experimentation in these areas, and in both cases reforms have been introduced within a general context of policy concertation. But as PAUL PIERSON remarks, it remains to be seen whether this reform process will prove to be sufficient and whether the experience can be replicated in other continental countries.

In sum, the process of welfare state ‘recasting’ involves a number of dimensions of change in response to a largely domestically generated set of pressures. Recasting therefore implies resetting old instruments, introducing new instruments and changing the objectives of welfare programmes. Given the rapidly changing nature of advanced economies, in terms of demographics, patterns of employment and social risks, as well as the apparent permanence of ‘austerity’, recasting is also likely to be an ongoing process.

MARTIN RHODES

# Maurizio Ferrera, ou la passion du social

par Michel Bôle-Richard

Ce chercheur, qui enseigne à l'université de Pavie, travaille à la coordination des systèmes de protection au niveau européen.

Maurizio Ferrera est un passionné. Dans la cellule de l'ancien couvent qui lui sert de bureau à l'Institut universitaire européen de Florence, ce professeur de l'université de Pavie se pense, depuis de longue années, sur la façon de coordonner les différents systèmes de protection sociale au niveau européen. Un travail de Romain qui en est à ses premiers balbutiements.

Dans ce laboratoire situé à la périphérie de la capitale toscane, cet intellectuel réfléchit, avec beaucoup d'autres, à la manière de construire cette nouvelle entité qui serait, plus ou moins, le pendant de l'Union économique et monétaire, à laquelle tous les efforts ont jusqu'à présent été consacrés.

## Bombe démographique

Pour Maurizio Ferrera, le temps est désormais venu de se pencher sur ce chapitre, au moment même où va se mettre en place le pacte social pour l'emploi. «L'Europe sociale est sous-développée. C'est un nain qu'il faut faire grandir progressivement. Le premier pas consiste à créer un système léger de coordination qui pourrait être appelé le processus de Lisbonne, c'est-à-dire mettre en route le processus qui, d'ici un an, au sommet de Lisbonne de l'été 2000, permettra de jeter les bases de cette Europe sociale, de faire le premier pas. Nous avons un an pour cela, estime ce chercheur impatient. Alors, nous devons commencer à faire du shopping dans les différents dispositifs en vigueur en Europe et essayer de voir ce qu'il y a de bon dans chacun d'entre eux.» Maurizio Ferrera ne veut pas créer un modèle unique. «L'unification n'est ni pensable, ni possible, ni désirable. Les modèles sociaux peuvent apprendre les uns des

autres. Il s'agit seulement de retourner les cartes et de commencer à préparer dès maintenant la convergence en faisant des transplants, en identifiant les lignes de force, en formulant des objectifs autour du noyau central de la solidarité.»

Inutile de se bercer d'illusions. Tout cela prendra du temps. Dès à présent, il faut expliquer toutes les différences qui existent entre les quatre grands systèmes de welfare en Europe: le scandinave, l'anglo-saxon, le continental et le méridional. Ces différences sont connues pour l'essentiel, et il est sûr que ces quatre grandes familles ont des choses à se dire.

Il est temps de le faire car «d'un point de vue démographique, nous avons encore vingt ans avant que la bombe n'explode et que le processus ne devienne irréversible. Il faut se préparer à examiner ce qui peut être fait. Ne pas laisser la société se replier sur elle-même et donc identifier les pièges, circonscrire les cercles vicieux, analyser les déséquilibres.»

Maurizio Ferrera sait de quoi il parle. En 1984, il a consacré une thèse de doctorat au système de protection sociale en Italie, identifiant ses effets pervers et ses vices profonds. Trois ans plus tard, il a rédigé un rapport sur le fonctionnement du système sanitaire national. A partir de 1979, cet élève du politologue italien Giovanni Sartori a travaillé sous la direction de Peter Flora, professeur allemand spécialiste des systèmes de protection sociale en Europe, à l'élaboration d'un projet comparatif en la matière. C'est dire à quel point ce domaine est devenu une spécialité.

Ce philosophe d'origine avoue qu'il est devenu en quelque sorte «prisonnier de sa compétence, qu'il est piégé par elle». Ce qui ne semble pas déplaire à ce professeur suppléant de la prestigieuse université



Maurizio Ferrera, co-directeur du Forum État-providence

## Maurizio Ferrera

Piémontais d'origine, Maurizio Ferrera est né en 1955 à Naples. Diplôme de philosophie de l'université de Turin en 1976, puis master de sciences politiques à Stanford (Californie), il entre à l'Institut universitaire européen de Florence.

Depuis 1985, il enseigne la politique et l'administration publique à l'université de Pavie. Il est également professeur de sciences politiques à l'université Bocconi de Milan, ainsi que consultant de la maison d'édition il Mulino de Bologne et de la direction générale V (emploi, relations industrielles et affaires sociales) de la Commission européenne de Bruxelles.

Il est auteur de plusieurs livres, dont *Les pièges du Welfare*.

Bocconi de Milan qui a entrepris l'immense tâche de photographier tous les secteurs d'activités sociales d'un point de vue politique et institutionnel.

Ce n'est donc pas un hasard si Maurizio Ferrera a été choisi pour faire partie des huit sages de la commission Onofri qui, de janvier 1997 à la fin mars de la même année, ont été chargés de dresser l'état des lieux des dépenses sociales dans la Péninsule à la demande de Romano Prodi, l'ex-président du Conseil. Le rapport issu de ces travaux contient un certain nombre de propositions à l'origine de controverses. Il est bien connu que les dépenses de retraites obèrent largement le budget social de l'Etat italien au détriment de la politique familiale, de l'assistance sociale et de la lutte contre le chômage.

Il y aurait beaucoup à dire sur les carences du système de protection sociale en Italie et sur les moyens d'y remédier. Maurizio Ferrera est

intarissable sur le sujet comme sur la façon de mettre sur pied, au niveau européen, un système qui, selon lui, pourrait s'inspirer du modèle américain.

Attention, pas dans sa dimension horizontale mais dans sa conception verticale. «Actuellement, le welfare fédéral est sous-développé en Europe en comparaison de ce qui existe au niveau économique et monétaire. Aux Etats-Unis, Washington en contrôle les deux tiers car le système a été créé de toutes pièces par Roosevelt dans les années 30. Ce peut être un modèle pour l'Europe, même s'il est difficile de l'imposer sur ce qui existe déjà.»

Maurizio Ferrera est prudent. Il n'est pas fédéraliste à tout crin. Il cherche comment il serait possible de tirer le meilleur parti de ce qui fonctionne et comment faire pour l'adapter à une réalité européenne, afin de mettre sur pied un modèle compatible pour tous et garant d'une solidarité véritable.

Partisan d'un libéral-socialisme, de tradition laïque et républicaine par rapport aux deux autres grandes familles italiennes que sont le socialisme-marxiste et le catholicisme social, cet admirateur de John Rawls, théoricien de la justice distributive, auquel il a consacré une thèse lors de son séjour à Stanford, en Californie, souhaite concilier la liberté et l'équité.

C'est le nouveau défi qui attend l'Europe après l'euro. Pour Maurizio Ferrera, il est temps de traduire dans le domaine des institutions un certain nombre de valeurs qui sont le fondement de la protection sociale.

MICHEL BÔLE-RICHARD

Publié dans *Le Monde*, supplément *Économie*, le 25 mai 1999

**Le Monde**

*Welfare State Restructuring*

## Coping with Permanent Austerity

Long recognized as a defining feature of advanced industrial democracies, the welfare state currently commands greater attention than ever. Even at a time when inequality is worsening in many countries, demands for austerity have intensified. Efforts to curb welfare state spending have in turn provoked heated controversy and widespread unrest. Throughout the ranks of affluent democracies, the welfare state is at the center of political discussion and social conflict. This note offers a very brief summary of the concluding chapter of a cross-national collaboration on the politics of welfare state restructuring (the full study will appear next year in Paul Pierson, ed., *The New Politics of the Welfare State* (Oxford University Press).

Analysts frequently portray contemporary conflicts over social policy as fundamental struggles between supporters and opponents of the basic principles of the post-war social contract. They often emphasize that the politics of social policy are shaped by a transformed global economy that has undercut the social and economic foundations of the welfare state. While containing elements of truth, such portrayals distort

crucial characteristics of the contemporary politics of the welfare state.

The pressures on the welfare state are very real. Changes in the global economy are important, but it is primarily social and economic transformations occurring within affluent democracies that generate fiscal strain. Slower economic growth associated with the transition to a postindustrial economy, the maturation of government policy commitments, and population aging and changing household structures all have combined to create a context of essentially permanent austerity. At the same time, tax levels strain public tolerance, while payroll contribution rates appear to jeopardize employment. While tax increases have contributed to closing the gap between commitments and resources, it is difficult to imagine that in many European countries changes in revenues alone could be sufficient to maintain fiscal equilibrium.

Yet support for the welfare state remains widespread almost everywhere. The core constituencies for social programmes are broad. Furthermore, social actors

have made important commitments over extended periods of time to distinct national systems of health care, labour market, and pension policy. These systems are thus deeply embedded in national polities. Finally, most political systems contain major formal or informal veto points which militate against radical change. In most countries, there is little sign that the basic commitments to a mixed economy of welfare face a fundamental political challenge. Nor is there much evidence of convergence towards some neo-liberal orthodoxy.

The chapters in this volume stress, however, that welfare states are not 'frozen.' Almost everywhere there are quite significant changes taking place. The contemporary politics of the welfare state takes shape against a backdrop of both intense pressures for austerity and enduring popularity. In this context, even strong supporters of the welfare state may come to acknowledge the need for adjustment, and even severe critics may need to face the political realities of continuing popular enthusiasm for social provision. Thus in most of the affluent democracies, the politics of social policy centres on the renegotiation, restructuring, and modernization of the terms of the post-war social contract rather than its dismantling. The crucial issue is whether particular national settings facilitate the emergence of such a centrist reform effort, and if so, on what terms.

GØSTA ESPING-ANDERSEN'S influential typology of liberal, conservative and social democratic welfare regimes provides a basic framework for addressing this question. Despite many differences among the countries within each grouping, the three 'worlds' do describe distinct social policy configurations, as well as quite different underlying political conditions. These distinct configurations, in interaction with a new socio-economic setting, generate quite different policy challenges and political possibilities.

In the 'liberal' setting the modest scale of existing welfare states meant that the magnitude of adjustment required was generally fairly limited, focusing on efforts to make social provision compatible with massive low-wage employment among those with low skills. At the same time, however, pro-welfare state constituencies are also relatively narrow in these countries. In this context, conservative and ideologically-motivated governments not facing significant institutional blockages were able to pursue radical retrenchment in the UK and New Zealand. Labour markets were deregulated and income transfer supports for the working-aged were dismantled. These policies produced sharp increases in poverty and inequality. In Canada and Australia (and much more equivocally in the United States), centrist and negotiated adjustment has also led to an expansion of low-wage work, but through a package including policies designed to 'make work pay.' So far this negotiated adjustment process of 'compensated commodifica-

tion' has allowed for the imposition of austerity without a steep rise in poverty.

The Social Democratic countries have faced a moderate problem load in a context where the scale of the welfare state, and especially the presence of massive public sector social service provision, has meant that political support for the welfare state is very, very broad. A rise in unemployment pushed these welfare states out of fiscal equilibrium, requiring painful cuts. At the same time, many aspects of the social democratic model have had beneficial consequences, generating high levels of labor force participation, relatively high fertility, and the promotion of human capital. This context has facilitated a negotiated, centrist solution, with the size of adjustment dependent on the magnitude of budgetary disequilibrium. In all these countries, however, restructuring has focused on the maintenance of a slimmed down version of the basic social democratic model.

The 'conservative' world of continental Europe faces the biggest challenges. These countries generally combine the greatest need for adjustment with very strong commitments to the existing welfare state regime. Here, expensive, transfer-heavy welfare states appear to cut off the major routes for generating employment; women's labor force participation and fertility rates are disturbingly low. Yet caught between the 'irresistible forces' of pressures to adapt and the 'immovable objects' of existing social policy systems, these countries too are beginning to grope towards centrist, negotiated adjustment paths. In the Netherlands and Italy, major economic crises discredited the status quo and prompted the emergence of moderately-successful reform coalitions. Although its record has received much criticism, Germany as well has produced considerable reform in the two big spending programs of pensions and health care. As in the Netherlands and Italy this has occurred through centrist, negotiated political action, but in Germany the process has been more informal, incremental and policy-by-policy. It remains to be seen whether these negotiated reform processes will prove to be sufficient, and whether they will spread to other continental countries.

Change is coming to the welfare states of the affluent democracies. For the most part, however, it is coming neither for the reasons (shifts in the international economy) nor along the lines (radical market-oriented reform) suggested in popular accounts. A better appreciation of the true pressures and actual politics surrounding the contemporary welfare state remains a precondition for satisfying analyses of the future prospects for social provision.

Prof. PAUL PIERSON (1998-9 Forum Fellow)  
Department of Government  
Centre for European Studies  
Harvard University



## “Mister President, Honourable Members of the Court...”

Once upon a time, not so long ago, in an anonymous European Union country a long, long way from home, intricate problems arose about the drinking and selling of beer. Local brewers challenged the validity of exclusive purchasing agreements, low prices or fidelity rebates awarded by their competitors in relation to the retailers, questioned the refusal of the market leader in beer to license the use of revolutionary new techniques... All in all, Much Ado About

Nothing, you might think. Could happen anywhere at any moment. True. Except that in Utopia, the name of our country, the case assumed enormous proportions. Utopians are prodigious beer drinkers. Beer touches something very deep in the Utopian psyche. The national saint is the patron saint of the brewers, the national flower is the hop and the national anthem makes frequent reference to the pleasures of beer. The national Utopian judge, reluctant to decide such a sensitive national issue without further assistance, decided to stay the proceedings and referred the case to the European Court of Justice.

This was the starting point of this year's European Law Moot Court Competition. The Moot Court Competition, organised by the European Court of Justice, is a pleading contest open to all universities in Europe on certain topics of European Law. The participating universities receive information about a specific -fictitious- case and are requested to provide arguments defending or supporting the position of the different parties involved

in the dispute. The actual competition consists of three different stages. During the first stage, the teams, consisting of a maximum of four members, are asked to prepare written pleadings by a certain date.



The Moot Court Team

Subsequently, these pleadings are read, analysed and evaluated by a group of experts, who invite the 40 best teams to the next stage of the competition. These 40 teams are divided in four groups of 10 teams who will compete with each other in one of the four Regional Finals, to be held somewhere in Europe.

This year, the Regional Finals were organised in Tarttu, Copenhagen, Heidelberg and Edinburgh. At this stage of the contest, the teams orally present their arguments for all interested parties before a panel of judges, all experts in a relevant field of European Law. Victory in the Regional Final guarantees a ticket to Luxembourg and a place in the All European Final, the ultimate stage of the competition, during which the four finalists again orally defend their case before the real judges of the European Court of Justice. In the end, four prizes are awarded: one for the overall winner of the competition, one for the team which has produced the best written pleading, the third for the best Commission representative and the last for the best Advocate General.

The team of the European University Institute was composed of NANNE AUNSTRUP from Denmark, LARISSA OGERTSCHNIG from Austria, SIGRID STROUX from the Netherlands, and STEFAAN VAN DEN BOGAERT from Belgium. Or, in other words, 'Three Ladies and a tall Man', not to be confused with Hollywood's success story of 'Three Men and a Baby', and exactly opposite to its equally successful sequel 'Three Men and a little Lady'. However that may have been, we were

determined to try to go all the way: the female intuition of ANNA EMANUELSON, our Swedish coach, had told us that, no matter what would happen, Luxembourg was going to be our final destination. And, come on, let's all admit it: which reasonably thinking living creature would ever dare to question the infallibility of a women's intuition? Definitely not MIKAEL HAGGLOF, our other Swedish coach, who, together with Anna, had already earned his stripes on this particular legal battlefield on a previous occasion.

In view of the rather short time at our disposal – the written pleadings had to be submitted by 15 November 1998, we officially started working mid-October – we decided to split the case into two main parts and work on them in duos. So it happened that SIGRID and STEFAAN created their little competition niche in the EUI library, to deal with the more substantive issues of the case, dealing with the position of the different brewers on the beer market and the possible abusive exploitation of dominance by applying unduly low trading prices.

NANNA and LARISSA, for their part, occupied a table close to the European Documentation Centre, in order to back up the procedural features of the case concerning time limits, the possibilities of bringing a case before a court, etc., with as much case law of the Court of Justice as possible without having to run several miles a day. Almost the entire competition law bookshelf of the Law Room in the library was temporarily transferred to the “for special circumstances” shelves of the Moot Court team. We browsed daily on the websites of the European Commission and the Court of Justice, in order to prevent any new development in a field relevant to our case from escaping our attention. All available competition law journals and periodicals were checked to gather different opinions and interpretations of theories, judgements etc. Everything looked firmly under control. We seemed to be on top of it. But almost inevitably, as the deadline approached, we encountered some predictable or sometimes unforeseen obstacles: a third and final question on supremacy of European Law, which we tackled only in the end, turned out to be more complex and intricate than we had expected – absolutely unforgettable in this respect is NANNA’S exclamation, with big eyes full of hope and relief that the solution might have been found, “I know it, it must be about Keck!!”-, our initial drafts were evaluated as too academic by our coaches and exceeded the prescribed word limit, even the simple translation of the summary of the pleadings in French almost became an insurmountable hindrance due to sheer fatigue. After a last incredibly long weekend of work in the computer room, finalising everything while some or the other undoubtedly brilliant party was going on in Bar Fiasco, Sigrid could on Monday evening finally take off with her motorino –calling that thing a reliable means of transport would be the euphemism of the year, but be that as it may- to send the fruit of our labour to the Organising Committee. In the postal office of San Domenico, the clash between Northern efficiency and Southern

bureaucracy almost led to a diplomatic incident between the Netherlands and Italy, but ultimately Sigrid’s charms took the upper hand and the necessary stamps were put on the documents, on the right spot and on the same day. Imagine! First hurdle taken.

After a short winter-sleep, we got the official message of relief around 10 January 1999: we had made it into the Regional Finals! Copenhagen was going to be our destination.

Shortly afterwards, Larissa decided to call it a day. Her Ph.D. project absorbed too much time. All of a sudden, the four-leaf clover was reduced to a three-leaf clover, and as is commonly known, these are much easier to find in the garden and do not bring luck. Three little Indians left, or the absolute minimum to participate in the competition. Nothing could go wrong any more.

At this point, it becomes as thrilling as an AGATHA CHRISTIE novel. Before starting the actual preparation for the Finals, we had another obstacle to overcome, namely the first term papers and the bibliography for the June paper. In this way, we lost two valuable weeks, but then, admittedly, that is what we are really here for at the EUI. Sometimes, it is a matter of getting your priorities right. By the end of January, when the rest of the Institute was celebrating the end of the first term, we withdrew from the festivities and wrote and improved and rewrote our pleadings in the apartment of STEFAAN, which was quickly transformed into a Moot Court bunker, and which, at best, we left twice a day to have lunch in the Mensa and to practice the pleadings in the living room of our coaches in the evening. Looking back from over our shoulders, those were the days: stamped forever on all our minds are memories of SIGRID arriving at Anna’s place with her legendary blue cap, of STEFAAN pleading in the living room waving his arms about and moving around as if he were a break dancer, of NANNA

sitting on the floor and carefully gathering all our materials in different folders, and of Michael and Anna sitting behind their huge table as two severe judges, questioning the validity of the lawyer’s arguments.

On 11 February, we left for Copenhagen. We were hoping for a quiet, relaxing trip, one day before the big challenge. Yeah, right. How wrong could we be: Italian transport showed once more its best side: all trains and buses between Florence and Bologna had ‘considerable’ delay, so that we arrived only barely in time at Bologna airport. Furthermore, what actually happened at the airport baffles every description: apparently, SIGRID’S passport had been stolen on the way. Relying on the effectiveness of the European integration process, the rest of us proceeded with boarding, confident in the fact that this light inconvenience would not cause any major trouble. Wrong again: Denmark had not signed the Schengen agreement, and the customs-officers were not inclined to let SIGRID leave the country. Up until today, it remains a mystery as to how she managed to make the plane wait for her and finally get on it, but the fact is that she did, and off we went. Subsequently, the Danish border control did not pose any problems. As far as we were concerned, Sigrid had already won her pleading contest. With honours. All’s Well That Ends Well. Denmark, here we are!

It was cold in Copenhagen, there was lots of snow everywhere, the sun was shining, just as we’d imagined it would be. In the evening, a reception was held during which the practical rules of the competition were explained and the order of pleadings was conveyed. In order to ensure maximum objectivity, the identity of the participating universities remained a secret to the judges and all 10 teams received a letter of the alphabet – we were team D – under which to compete. Tension was palpable in the room, the dioxin scandal had not yet emerged, it was a golden evening for the Coca-Cola company.

Friday, preliminary rounds of the competition in the Civil Court of Copenhagen. SIGRID, who played the role of Commission representative in our team, had to open the debates in the early morning session. The smile with which she greeted us afterwards – during the morning sessions, pleadings were held behind closed doors – said it all. Clearly a good start, always important. In the late morning session, Stefaan continued the positive spell in his pleading as defendant against the applicant of Tarrtu in Estonia. Now we really started believing in our chances. In the afternoon, it was up to Nanna, our applicant, to finish the job and pilot us into the semi-final the next day.

The Swedish defendant from Uppsala made her task difficult but the fact that she played a home game and the presence of her mother and some friends gave her extra energy and she made a great performance. Two hours later, Professor JOHN USHER, president of the panel of judges, proclaimed the verdict: we had made it, together with King's College London, Uppsala University and Universität Bonn!! Both our team of applicant and defendant, as the Commissioner, who was now going to continue on an individual basis, proceeded to the semi-finals. Impossible to describe the joy we felt at that moment. We had achieved our main objective, all our work paid off, Saturday could only provide the icing on the cake. In the evening, we had dinner together with all the other teams in a lovely Danish restaurant. The atmosphere was optimal, everybody was in an incredibly good mood, but we didn't make it very late, because we wanted to go through our all arguments once more in the hotel. MIKAEL and NANNA made some slight changes to the applicant's pleadings, while ANNA, SIGRID and STEFAAN refined the collective dominance stance of the Commission and worked out a detailed strategy to explain the predatory pricing practices of the defendant's client.

Saturday, final day of the Regional Finals in the Supreme Court of

Copenhagen. We were hoping for a real 'D'-day. The semi-finals took place in the morning. SIGRID, for whom the semi-finals were the final, because there would be no Commission representatives in the later stage, decided to play hardball and opted for a highly innovative approach. She was grilled by the judges, but lived up to the occasion and clearly put herself in a good position in the category of the Commission representative. Simultaneously, but in the other courtroom, NANNA started our team's quest for a place in the final. She opened somewhat hesitantly, but gradually got her act together and finished in great style, getting the upper hand on her opponent. In the second session of the semi-finals, STEFAAN faced the applicant of Bonn. It was clear from the outset that she would be a tough nut to crack. The two of them fought a legal battle on the edge of the knife, impossible to predict the outcome.

After the deliberation of the judges, fate brought them together again: the applicant of 'G' –Bonn- against the defendant of 'D' –EUI- to indicate the winner of the Regional Final, and more importantly, to decide who could go to Luxembourg!! This message was conveyed at 1.30 p.m., one hour and a half before the start of the final. One hour and a half of intense emotions, lived a hundred of times over. We decided it would be better to grab a quick lunch, so we went to McDonalds, as always just around the corner. That became quite a hectic experience: MIKAEL kept insisting that STEFAAN eat his hamburger, ANNA tried to keep him calm, NANNA informed him for the last time about the facts of one or the other God forsaken case, SIGRID mumbled a bit in Dutch, words that never really came through. Finally, at 3 p.m., 'le moment suprême était arrivé', the main courtroom of the Danish Supreme Court was completely packed with spectators for the occasion.

The German applicant opened the final, and delivered a clean, professional performance. STEFAAN, open-

ing with a voice that clearly trembled, was quickly pressed to the wall by foxy questions of the judges but, precisely when he seemed to be fighting a lost cause, he regrouped and started pleading in such a convincing and entertaining manner that he quickly enchanted the whole audience. The second round of the rebuttals only confirmed that impression: the German applicant did her thing, but STEFAAN seemed to be firmly in the driver's seat now. We all felt that victory could no longer escape us. Everybody seemed unanimously to agree, even our German opponents congratulated us. That may have been a bit premature as it took the judges a long time to reach their decision, contrary to all expectations. This delay threw our impending victory into doubt. Ultimately our worst fears were realised when the judges announced that the Commissioner from team 'G' – and thus not SIGRID – had won and that the overall victory was "also for team G". We snatched away defeat from the jaws of victory. What an anticlimax! Was something rotten in the state of Denmark? No, even the great Shakespeare is not always right.

The judges, professionals in their field, must have seen things that a less trained audience did not notice. And after all, isn't it true that the Germans always win in the end, in whatever discipline? In the evening, after a couple of beers – Note from the redaction: in Denmark, you cannot buy beer after office hours?!? And imagine how desperate we were to finally drink some beers after months of thinking and pleading about it – our initial disappointment was transformed into intense drunken happiness for our achievements. We even offered a "Tanti Auguri" song to Bonn, although it has to be admitted immediately that the occurrence of this event, maybe good enough to win the San Remo festival of the deaf, will be firmly denied by every single one of us. One particular feature of that evening: one of the responsible persons of the Moot Court Committee, complimented us on our written pleadings, which he described as

being “very structured...and uh, well, clearly written by the three of us without outside assistance”?! SIGRID’s female intuition immediately said that he wanted to say something else, but withdrew from it. And, hey, remember, who would ever dare to question a women’s intuition.

But what did he want to say then? Here, in any case, Shakespeare was right again: Heaven would direct it. During the next few days, SIGRID, NANNA and STEFAAN took some well-deserved holidays and enjoyed the hospitality of NANNA’s parents in Nødebo, of all places. We talked a lot, rested from the previous efforts, tasted the exquisite cooking of NANNA’s mother (especially the reindeer and haring), went out in Copenhagen and discovered the beauty of Denmark, with its nature, its lakes, its castles, the Little Mermaid... Incredible days, especially from the point of view of friendship.

Back in Florence, after a couple of weeks, we got officially invited to come to Luxembourg for the All European Final, as the winners of the best written pleading award!! Talking about a nice surprise. Although, not really, for those who believe in female intuition at least. It does not need to be mentioned anymore that our trip to Luxembourg was again full of obstacles, but then, we didn’t expect anything

else. This time, the delay was caused by the decision of the French government to reschedule all flights crossing French territory. However that may have been, we all unilaterally decided to ban Bologna airport definitively from any future travelling routes. Travelling with SIGRID is not a priori excluded, but only on our own responsibility. The All European Final was overshadowed by the death of the Greek judge of the European Court of Justice. For obvious reasons, the judges restricted their participation in the Moot Court contest to the absolute minimum. Bonn easily won the final. The other three teams were simply not up to it. This could have been our year. We were complimented on our written research for which we received the honour for the best written pleading. We talked about how we had organised our research and how we had conceived the pleadings, and promoted as much as possible the European University Institute. We were also officially asked to host one of the Regional Finals next year in Florence.

All in all, we believe that our participation in the Moot Court competition was an unforgettable event, both from a professional and from a human perspective. Professionally, it taught us to work in a group, to look at the practical side of theoretical issues, to speak in public before

an expert audience and to cope with stress and tight deadlines. It was a nice variation on our individual research at the Institute, etc. From a human point of view, only this: this experience created a strong bond of friendship which will always be remembered and which will hopefully continue to last in the future.

Finally, we would like to thank everybody who helped us on our way or made this somehow possible. In the first place professor CAMPANA, who supported us all the way and convinced earlier sceptics of the value of this competition. Ms ALISON TUCK, for the always friendly administrative support. DAVE and EMANUELLE, for the language correction of our draft pleadings—now you can tell us, how bad was it? JANOSZ, for his comments on the content of our pleadings.

And of course, once more, MIKAEL and ANNA, who went with us through all stages and are of course full part of the team, for everything. And much more!!! And everybody whom we may have forgotten, but who helped us in some way, for example by inviting us to fantastic parties or by having lunch with us at the Institute, even if we may not always have been the most funny company at times, etc... a warm thank you!

THE EUI MOOT COURT TEAM

## Publications of the EUI

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# Simulating Europe: EU Negotiations at the EUI

## Introduction

On 26th February 1999, in the ideal surroundings of the Teatro at the Badia Fiesolana, close to 30 researchers from different departments at the EUI, played the roles of EU Foreign Ministers, Policy Advisers, and representatives from the Commission and the Secretariat of the Council of Ministers. Assisted by Professor CHRISTOPHER HILL from the London School of Economics and Professor JAN ZIELONKA from the Robert Schuman Center of the EUI, the participants sought to find ways whereby the European Union eventually could solve a major international crisis using the so-called Common Foreign and Security Policy of the European Union (CFSP).

Since the creation of the Common Foreign and Security Policy of the European Union (CFSP) in 1993, the analysis of "European foreign policy" has become an ever more attractive field of study (White, 1999).<sup>1</sup> In contrast to this academic expansion, "European foreign policy" itself has been suffering from what many refer to as "paralysis" (Zielonka, 1998).<sup>2</sup> This paralysis has, however, been truly paradoxical.<sup>3</sup> The Union failed to solve the Bosnian crisis on its own; it acted without any cohesiveness in Albania, and it had serious problems living up to its own objectives as regards the administration of the town Mostar. However, the Union continues to produce a vast amount of statements delineating the Union's foreign policy objectives in almost all major international conflicts. Moreover, the Union seems to attach more and more concrete measures to its stated aims. From 1993-1999, the Union, thus, issued 141 so-called joint actions/common positions. These included: support for the Middle East Peace process, economic sanctions against Serbia, Sierra Leone, Nigeria, and Myan-

mar (Burma); the conveying of humanitarian aid in Bosnia Herzegovina; and the counter sanctions against the United States over the Helms Burton and D'Amato extraterritorial Acts. Finally, the Amsterdam Treaty has given the CFSP a more elaborated security arm; with the possible inclusion of the so-called Petersburg tasks, that is, humanitarian and rescue tasks, peace-keeping tasks and tasks of combat forces in crisis management, including peace-making (Title V; Article J.7 of the Amsterdam Treaty).

Against this background, the organisers of the first ever EUI simulation of the European Union Council of Ministers had decided to deal explicitly with the decision-making of the General Affairs Council, the decision-making body of the foreign ministers of the EU. On the agenda, the question was whether it is possible for the Member States to agree on a common European foreign policy which transcended that of the Member States. Moreover, the purpose was to see, how it would be possible to secure agreement on the means necessary to pursue that policy? Finally, the intention was to see how effective the structure of European foreign policy decision-making created by the Amsterdam Treaty would be, for instance, how the new tools, "qualified abstention" (Article J.13 (1)) and "Mr. PESC" (Article J.8 (3)), would function.

The idea of organising the simulation also went beyond the Common Foreign and Security Policy of the Union. From our own experience of participating in different simulations, we hoped that using the technique of simulations would offer a way of learning more about the pressures of international diplomacy in general. Simulation techniques have become established

tools of research and training in the social sciences, particularly so in the United States. Since the first publications in the 1950 and 60s,<sup>4</sup> the use of simulation exercises has grown tremendously. They have become more and more sophisticated, and can include computer-human and computer-computer procedures. Whereas simulation as an experiment has produced mixed results, using simulation as a useful and effective teaching aid has been widely acknowledged. With this last point firmly in mind, our objectives were: 1) to offer fellow researchers a chance to experience, and familiarise them with the agenda-setting and problem-solving procedures normally used by EU foreign ministers at their meetings; 2) to offer a challenging framework to participants so that they may appreciate the constraints, and opportunities facing diplomats and foreign policy experts during international or, in this case, European negotiations; 3) to encourage the future use of the technique of simulation by EUI graduates; 4) to encourage wider use of simulation exercises as a teaching aid in European academic institutions.

## Organisation

With these thoughts uppermost in our mind, in the period from September to February, the organisers - now working under the collective title of the 'Control Group' - set about organising the event.

We received the support of Professor JAN ZIELONKA at the Robert Schuman Centre and the SPS department for our plans. Professor ZIELONKA offered us advice in our attempts to secure a speaker from the EU institutions and suggested that we invited Professor CHRISTOPHER HILL from the London School of Economics as a guest speaker at the beginning of the event. We would like to place on record our

thanks to Professors HILL and ZIELONKA, Dott. ZANARDI-LANDI, the staff of the SPS department, Administration, and Operational Services for their tremendous help and support for our objectives. Furthermore, we were very pleased to receive indispensable information about how foreign minister's meetings actually take place from Director ENRIQUE GONZALES SANCHEZ, the General Affairs Directorate of the European Council of Ministers.

## Preparations

In the weeks leading up to the day of the simulation, the participants were presented with a challenging foreign policy scenario on which they were asked to agree a response on behalf of the European Union. Needless to say they all threw themselves into the task with enthusiasm. The scenario, which was drawn up with great assistance from another researcher in the SPS department, CARLOS MARTINS BRANCO, was delivered to the participants by e-mail and mailings over a relatively short period of time (approximately two weeks). At the very beginning, they were informed that there would be a meeting – under the German Presidency – of the General Affairs Council of the EU on Friday 26th February. As time went on before the meeting, intelligence and news reports were delivered on a daily basis to 'Member States' and 'officials' by the Control Group. Each Member State was asked to prepare a position paper relating to the situation which would form the basis of negotiations at the meeting. We fully encouraged the participants to meet with each other in the run-up to the event itself, and this they did to a striking degree. For instance, in the week leading-up to the 'Council meeting', we witnessed meetings of the Western European Union, a European caucus of NATO Member States, and various bilateral or other group meetings. Basic information

on the workings of the CFSP and the conduct of a General Affairs Council meeting was given to participants.

## Scenario

The scenario was very complex and it would be impossible to give full details in a short article such as this. Nevertheless, we hope that the following will give a flavour of the challenges that faced the EU Foreign Ministers.

Although the events were distributed to the participants over a two week period, they relate to happenings over a much longer period. It began with the election of a religious fundamentalist party in



The 'Council' at work

Egypt. The conduct of the election was deemed to be free and fair by international observers, and the result was accepted by the EU. A short time after the election victory there are claims of religious intimidation of minorities in the country. Egypt and Syria sign a defence alliance, and the Egyptian regime bans all political parties. Senior figures in the Iraqi programme of weapons of mass destruction are seen in Cairo.

Apart from these developments in Egypt, the situation also changes in the Balkans. It is claimed that materials associated with the development of weapons of mass destruction are being landed at a port in Albania and stored in the north of the country. It is also reported that in a training camp for the Kosovo Liberation Army (KLA) recruits are receiving training in techniques for

chemical and biological warfare. There is a suggestion that arms are being shipped to the area from Egypt, and that Egyptians are also involved in the training of personnel. In the meantime, reconnaissance photographs from southern Egypt have shown the construction of what look like nuclear missile silos. The Egyptian regime issues the 'Cairo Declaration on Kosovo' which calls on the Serb leadership to desist from the use of force in the province and to enter into negotiations with Kosovar leaders on the provinces future. The final clause of the declaration notes that, should Belgrade fail to accede to these demands, it supported the 'right of ethnic Albanians to use all means

deemed necessary in their fight towards independence'. In the days immediately before the simulation, the Serb authorities arrested a group of Egyptians in Kosovo – one of whom is identified as an expert in the use of weapons of mass destruction. Finally, there came some evidence that the Egyptian regime had used chemical

weapons against its Christian population.<sup>5</sup> The goal of this switching between location was to purposely keep the participants unsure about the real location of the crisis.

It was on the basis of this information that the "Member States" set to work drawing-up their position papers for the meeting. For the most part, these called for the use of economic measures to force the Egyptian government to improve its human rights record and to stop shipping weapons to the Balkans. They also called for calm and a just resolution of the situation in Kosovo.

Some went so far as to speak of the need for military action if all else failed. Indeed, in the days leading-up to the simulation, attempts were made to prepare a resolution which would have called for the immedi-

ate use of force against sites in Egypt. As a “response” to this, the Control Group issued a U.S. government note to NATO members stating that the US would not allow the use of its satellite and intelligence gathering resources for any such European action. The American position was to gather more evidence “before becoming embroiled in another Iran”. The Control Group also sought to instigate a rift between the French and Italian governments over the apprehension of a group of terrorist suspects in both countries. Moreover, it gave reports on a depreciating ‘Euro’ as rumours spread of possible military action. So this was the situation facing the ‘Foreign Ministers’ when they arrived at the meeting in the morning.

### Simulation

The day itself began by a warm welcoming statement by EUI President Masterson followed by introductory lectures by Professors ZIELONKA and HILL. Professor Zielonka made a very well-taken “warning” to the participants about the complexity of the task of representing truly “national interests”; and how these difficulties were further amplified by the end of the Cold War. Professor Hill gave an excellent presentation of the workings of the CFSP. Hill, furthermore, assessed the developments of the CFSP so far compared to the situation in 1993 when his famous “The Capability Expectations Gap” was published; cautiously arguing for a tendency to “closing of the capability-expectations gap”.

As the participants posed for the customary photograph ‘en famille’, the simulation started. News was distributed that the Israeli air force had launched a series of attacks against the suspect sites in Egypt causing the death of nine people - including some women and children. The USA accepted the right of the Israelis to take action in defence

of their security. The Council of Ministers now had the pressure of time against them as the world’s media awaited a statement on the bombing. Should the language of the statement ‘condemn’ the Israelis? Should it seek to punish them for the action or would this



The “Simulation” Team

damage relations with the USA? How did the attack change the situation with regard to EU policy towards Egypt? Would failure to condemn the Israeli action lead to a souring of relations between the EU and other states in the Middle East? The gravity of the situation and the difficulty in finding satisfactory answers to the above dilemmas meant that the Foreign Ministers took all morning to agree on a statement about the attack. The agreed declaration expressed ‘grave concern’ about the situation in the Middle East and regretted the fact that the Israelis had attacked ‘prior to exhausting diplomatic mechanisms’. The declaration also offered the EU’s services as a mediator in the crisis.

The participants hadn’t even had time to digest their lunch when the news came through that the Egyptians had closed the Suez Canal to all traffic from states supportive of Israel – including the EU! The afternoon session also heard the news of a foiled plot to stage a coup d’ état in Egypt and the expulsion of two senior British diplomats accused of complicity in the coup plans. Moreover, the world price of oil rose by 12% and the ‘Euro’ took a hammering on the foreign exchange markets. Oh, and for good measure, it

turned out that one of the factory units bombed by the Israelis, and thought to be part of Egypt’s chemical weapons programme, was built by a German company!

An emergency meeting of the UN Security Council called for later that

day meant that the EU Foreign Ministers had to agree on a common line, otherwise the French and the British made it clear that they would vote according to their own interests on the issues. Many hours of debate and discussion, resulted in a group of tired and increasingly fractious Foreign Ministers, Advisors, and

officials. A Common Position was finally decided on the crisis. It condemned the undemocratic developments in Egypt and criticised the country’s human rights record (incidentally, Egypt has recently been criticised by Human Rights Watch). It called for a greater dialogue with the Egyptian regime and the re-opening of the Suez Canal in line with international agreements. It also went on to ‘regret’ the Israeli attack and called on all parties to work via diplomatic means. The High Representative for CFSP was offered as a mediator in the crisis, and the ‘possibility of economic sanctions as a feasible option for resolving the crisis’ was recognised. However, it was hoped that such measures would be implemented as part of an overall framework of actions agreed by the UN. Fourteen of the member-states were able to agree the position, but the Swedish Foreign Minister felt that he had to abstain. And the situation of the arms shipments to Kosovo and the general increase in tensions in the area ... well, let’s just say that we ran out of time on that one!

### Evaluation

The simulation was evaluated in three ways: 1) the participants were evaluated by the control group; 2) it was assessed how the participants



changed their views about the effectiveness of the CFSP during the day; and 3) the Control Group and the simulation was evaluated by the participants.

First, the impression of the Control Group was that the participants generally managed to play the roles of their respective countries in a very convincing manner. The role of the Commission, however, sometimes diminished due to pressure from the Member States below what seemed realistic; even for a Council where the Commission has only few powers by "only" being "fully associated". Moreover, in the pre-negotiation phase before the simulation, there were signs from the interaction among the participants indicating that the important informal rule of the Council: never to isolate any Member State, was violated. This changed when the face to face negotiations started, perhaps further induced by the knowledge that any Member State could block the decision-making. Importantly, a decisive Presidency managed to have a statement and a common position produced before the end of the day. The common position was indeed not very expensive in real terms since it involved mostly intentions and only involved few resources of the Union. However, the agreed common position still indicated a general commitment beyond symbolic talk.

Second, the idea was to see whether the participants gained or lost confidence in the effectiveness of the CFSP by first hand experience of its workings. The results of a questionnaire given to the participants both before and after the simulation, indeed, indicated a change in the belief in the effectiveness of the CFSP. From a modest belief and weak confidence in the effectiveness of the CFSP to solve conflicts as those in the scenario, experience during the day made the participants much more cautious in their eagerness to let the CFSP solve a major international conflict again!!

Third, we distributed a questionnaire to all the participants asking

them to give us their view on the scenario, the simulation, and the overall organisation. The results would seem to suggest that there is room for improvement - it was a first attempt after all - but that generally speaking, the event was judged to be a great success. Many found the scenario challenging but perhaps unrealistic. The information provided by the Control Group was exactly enough according to the vast majority, although a minority said it was excessive and was delivered too quickly. Many of the participants also offered to help in the organisation of future simulations at the EUI. All of the respondents found the simulation useful in showing the difficulties and opportunities faced by international negotiators, and agreed that it was useful if offering them the possibility to experience the functioning of an EU Council meeting.

As well as finding the simulation a good way to meet and interact with fellow researchers in a new environment, the participants also said that they would definitely use, or would consider using, the simulation technique as a teaching aid.

Many felt that there could have been more in the way of support staff available on the day and better resources for preparing statements, etc.<sup>6</sup> This is something that we need to give some thought to when planning the next simulation. Would researchers be prepared to work as secretarial/administrative support staff to the Presidency, the Commission and the member-states, or would we need to secure support from the staff at the EUI?

#### Future

The organisers of the 1999 EUI simulation found it, at various times, exhausting, rewarding, frustrating, and enjoyable in varying degrees. We were pleasantly surprised by the level of support from the participants and staff at the EUI. On the basis of this goodwill, we hope to be able to make the simulation an annual event in the EUI calendar. We are also hopeful that we could offer organisational support

and advice in any similar simulation at the LSE. Indeed, we would be willing to offer support to anyone organising such an event and would encourage students and professors to use the technique. We hope that simulations such as this one will form a regular part of life at the European University Institute.

#### Notes

<sup>1</sup>Brian White: "The European Challenge to Foreign Policy Analysis"; *Journal of International Relations*; Vol 5 (1): 37-66

<sup>2</sup>Jan Zielonka: "Explaining Euro-paralysis"; 1998

<sup>3</sup>Jan Zielonka (ed): "Paradoxes of European Foreign Policy"; Kluwer Law, 1998

<sup>4</sup>See, for example, H S Guetzkow (Ed.) - *Simulation in the Social Sciences* - N.J.: Prentice Hall, 1962.

<sup>5</sup>In the aftermath of the simulation, the scenario was criticised by some as unrealistic. However, this was before the NATO bombing of the Chinese Embassy in Belgrade which we are led to believe came as the result of an out of date map of the city. The fact that the bombing happened just as there was talk of trying to secure Chinese support for a UN Security Council resolution to pressure Belgrade makes the bombing even more bizarre. It is evidence - if evidence is needed - that virtually nothing in international affairs can be ruled out. Fact is often stranger than fiction!

We should also note that there was limited criticism that the scenario was offensive to Islam and painted a picture of Islam which reinforced prejudices. This was by no means our intention. We stressed from the very beginning that the regime should be judged for the 'fundamentalist' part of its label. In the various country reactions that we distributed to participants we noted how a regime such as this provokes concern amongst other Islamic countries. If any offence was caused to Muslims at the EUI, or in the wider Islamic community, we can only restate that it was not our intention and apologise for any unintentional offence.

<sup>6</sup>We were particularly unfortunate on the day of the simulation because the entire computer service at the Institute was unavailable, forcing us to rely on a handful of lap-tops and a single temperamental printer.

CRAIG ROBERTSON, MARTIN DAHL, and GIAMPIERO GIACOMELLO



# European Integration: Research and Documentation in the Digital Age

On 19-20 April the EUI Library with the participation of the Historical Archives organised a European Documentation Centre (EDC) related conference: European integration: research and documentation in the digital age. The organisers were EMIR LAWLESS (EDC Librarian) and MACHTELD NIJSTEN (Law Librarian).

The underlying aim of the conference was to increase the Institute's profile within the now worldwide network of EDCs. The EDC in the Institute Library is part of this network which was created by Directorate General X of the European Commission. There are 300 EDCs in the European Union (EU) and over 100 in non-EU countries. The EDC is but one of the various types of information relays created to bring EU information to the various sectors of society. Normally EDCs are assigned to universities and therefore tend to serve primarily the academic world. EDC librarians, although staff members of the host Library, also form a wider network worldwide, due to the close collaboration between EDCs. The target audience was therefore mainly but not exclusively EDC librarians.

The conference organisers also wished to provide an opportunity for EDC librarians and others to visit at first hand the Institute, its Library and the Historical Archives. Speakers included experts in the field of European documentation and in order to reflect the activities of the Institute, several EUI graduates and members of staff, both administrative and academic. The idea was to look at European documentation not only from a librarian's point of view, but also from a researcher's point of view, and furthermore pay special attention to electronic developments in this field. Thus the conference had a EUI unique dimension to distinguish it from other EDC conferences

The conference was advertised mainly through the EDC discussion list EURODOC which is now international and national EDC lists. Through this network the advertising was simplified but most effective and these lists provided the core of participants. However, in order to attract other librarians and academics with an interest in European documentation and its use in research, other lists such as EURO-LEX were notified. The response was very high and forty six delegates from sixteen countries attended.

The first morning, after the keynote speech by NEVILLE KEERY (DGX) on the evolving role of EDCs, was dedicated to the EC decision-making procedures and relat-

ed documents (VEERLE DECKMYN, EIPA) and to the internal procedure of the European Court of Justice (SIOFRA O'LEARY, Court of Justice and EUI alumna).

The central theme of the afternoon session were the research aspects of European documentation. SUSAN SENIOR NELLO (University of Siena and EUI alumna) talked about the relevance of EU documentation in the context of Agenda 2000. LARAINÉ LAUDATI (Robert



Schumann Centre and EUI alumna) gave a very interesting insight into the conducting of live interviews of Commission officials, and ANDREAS FRIJDAL (Academic Service EUI) explained the important role of the 4th and 5th Framework Programme for the social scientist.

The following morning was dedicated to the digital aspects of European documentation. First of all Prof. JACQUES ZILLER (Law Department EUI) and COSIMO MONDA gave a demo of the Amsterdam Treaty Ratification Web Site, which is part of the Law Department webpages (see also p. 11). JEAN-MARIE PALAYRET (Historical Archives EC) discussed the role of archivists and their changing task in the digital age. Finally, IAN THOMSON (European Information Association) sketched present and future developments of European documentation on the Internet and, in particular, of European Access Plus ([www.europeanaccess.co.uk/](http://www.europeanaccess.co.uk/)). For those interested two demos were organized on the second afternoon, one of ELVIL, the European Legislative Virtual Library, (<http://elvil.sub.su.se/>) and one of the European Foreign Policy Bulletin on-line (<http://www.iue.it/EFPB/Welcome.html>), which is produced by the EUI Academy of European Law.

EMIR LAWLESS and MACHTELD NIJSTEN

## Visitors

On 7 April Ambassador F. PAOLO FULCI, Permanent Representative of Italy to the UN and President of the Economic and Social Council of the UN paid a visit to the Institute. He gave a seminar on The European Union and the United Nations.

Ambassador SERGIO BALANZINO, Deputy Secretary-General of NATO came to the Institute on 17 May and held a lecture on The Enlargement of NATO and the EU.

On 21 June, the Institute received the visit of JON LILLERUN, Norwegian Minister for Education, Research and Church Affairs.

On 21 May the Portuguese Secretary of State for Foreign Affairs, Mr FRANCISCO SEIXAS DA COSTA, visited the Institute. He gave a speech in the Refectory entitled "Portugal and the New Europe".



Patrick Masterson, Francisco Seixas da Costa and Antonio Zanardi Landi

## Vasco da Gama Chair Renewed

On Monday 5 July the official signing took place in Lisbon of the new Protocol for the Renewal of the Vasco da Gama Chair between the European University Institute and the Portuguese Authorities.

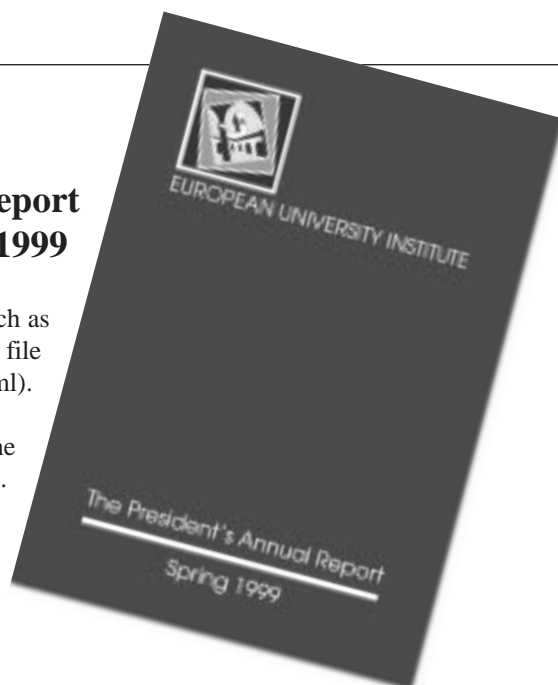
Signatories were Dr PATRICK MASTERSON, President of the EUI, Professor Doutor JOAQUIM ROMERO MAGALHÃES, Commissioner-General of the National Committee to Commemorate Portuguese Discoveries and Dr FRANCISCO SEIXAS DA COSTA, Portuguese Secretary of State for Foreign Affairs.

The Vasco da Gama Chair is dedicated to the History of European Expansion.

### The President's Annual Report Spring 1999

is now available in print in both English and French as well as on the Internet as a PDF file (<http://www.iue.it/General/PR/Welcome.html>).

For ordering the printed version, kindly use the form on page 44.



# Where are they now?

Ana Cardoso

Braga is the oldest and the youngest Portuguese town. Indeed, whereas its history dates back 2,250 years, to when it was a Roman centre, it now has a population significantly younger than the rest of the country and much of the European Union. With 100,000 inhabitants, the environment here is free from the strains of life in a big city.

Founded in 1973, the University of Minho began its courses in 1975/6. It has grown to have 15,000 students and 1,000 academic staff, divided between two campuses, in Braga and Guimarães. Most technological courses are taught in Guimarães, whereas science, economics, education, management and arts courses are predominantly based in Braga.

The Economics Department has something of the flavour of the EUI, with its ever-growing multi-

cultural atmosphere: Italy, Spain and the USA are represented among the nationalities of the 50 members of the academic staff.



Dr Ana Cardoso

Back from Florence, I have been teaching undergraduate and Master's courses, and doing research. Teaching is a lot of fun. The undergraduates in particular are a very spontaneous bunch, keen on their

humour, even when talking about microeconomics or labour, who enjoy lessons in the computer lab, and hate lectures at 8 o'clock in the morning...

The department has a very young and motivated research group, working in particular in the areas of health, labour, industrial and experimental economics, as well as the macro topics.

Meetings and bureaucracy are the only discouraging points at a Portuguese University, where researchers are expected to engage in administrative tasks as well. Hopefully, that is about to change...

Dr Ana Cardoso obtained a doctorate in the Economics department in 1997 and was awarded the 1998/99 Rotary Prize Obiettivo Europa for her thesis.

## The Rotary Prize

This year the Rotary Prize *Obiettivo Europa*, now in its 11th year, went to the best thesis defended in the Economics Department during the past four year. The Prize was awarded to Dr ANA RUTE CARDOSO for her thesis on Earnings Inequality in Portugal: The Relevance and the Dynamics of Employer Behaviour.

Dr CARDOSO received the Prize during a cer-

emony which took place on Saturday, 15 May at the Badia Fiesolana. Members of the three founders of the



The Presidents of the Rotary Clubs Valencia, Colombes and Firenze Nord, Dr Masterson, Dr Cardoso, Prof. Micklewright

Prize, the Rotary Clubs of Firenze-Nord, Rotary Club de Colombes and Rotary Club Valencia attended the ceremony. Dr CARDOSO's supervisor, Professor JOHN MICKLEWRIGHT gave a sort presentation of the thesis. (See also pp. 21-22).

### The EUI Law Prize

Dr MARIA CRISTINA REALE was awarded the 1998 EUI Law Prize for her thesis "Il tribunale di primo grado delle Comunità Europee: un'analisi sociologico-giuridica."

### EUI Alumni

Dr THOMAS MERTENS (SPS 1983-85) on 1 June was appointed Professor of Legal Philosophy at the Faculty of Law and the Faculty of Philosophy of the University of Nijmegen (NL).

## “Bon vent” à Giuliano Amato

GIULIANO AMATO, récemment nommé Ministro del Tesoro du gouvernement D'ALEMA a dû renoncer à la Joint-Chair qu'il occupait au Département de Droit et au Centre Robert Schuman. L'aventure de G. AMATO au sein du Centre Robert Schuman a débuté modestement en 1993-94 par une invitation de quelques semaines en tant que Professeur Jean Monnet. Elle fut suivie peu de temps après par une invitation du Département de Droit qui le nomma professeur à temps partiel. Finalement, en 1997, le comité de sélection de la chaire Law and Public Policy proposa sa nomination pour occuper la première chaire conjointe entre le Département de Droit et le Centre Schuman.

Inutile de dire qu'à l'époque, certains, tout en soulignant les qualités intellectuelles et pédagogiques de GIULIANO AMATO, n'étaient pas sans éprouver quelques craintes. Ne pouvait-on pas redouter qu'un ancien Président du Conseil ne prenne à la légère ce retour à l'Alma Mater après une décennie d'engagement politique? Ne risquait-on pas de recruter une sorte de “Prima donna” incapable d'accepter les règles, conventions et autres principes de la communauté académique? Ces préoccupations furent rapidement dissipées.

Au cours des quelques années - trop brèves - passées à l'Institut, GIULIANO a apporté une extraordinaire contribution dans les formes les plus variées: comme enseignant et directeur d'une cohorte de thèses, comme directeur du projet de recherche sur la régulation, comme animateur de multiples débats, tables-

rondes et conférences. La diversité de ses talents et sa constante disponibilité ont été l'occasion de nombreuses et diverses sollicitations, en particulier en tant que Chairman de deux groupes de travail, l'un sur l'élargissement de l'Union, l'autre sur la transformation des Traités en une Charte Constitutionnelle pour l'Union. Ajoutons enfin que Giuliano Amato n'a jamais ménagé son discret soutien à l'Institut dans tous les milieux et à tous les niveaux chaque fois que son concours était sollicité. Comment ne pas dire ici tout ce que le lancement du Programme Méditerranée lui doit? Bref, l'Institut a perdu beaucoup avec le départ de son professeur-ministre qui fit en sorte d'être un professeur à plein temps et de faire oublier qu'il avait été ministre.



Professor Giuliano Amato

Ses nouvelles fonctions le mettent au cœur des choses et des événements, pour une autre forme d'action publique. Mais c'est encore de l'Europe qu'il s'agit à travers la gestion d'un portefeuille crucial, celui qui permet à l'Italie de garantir sa place en Europe, celui qui donne à la Péninsule le droit de participer à la co-gestion économique de l'Union.

Nous souhaitons tous “Bon vent” à GIULIANO AMATO dans cette nouvelle aventure en l'assurant qu'il sera toujours le bienvenu chaque fois qu'il souhaitera échapper à l'agitation de la politique pour retrouver la sérénité (relative) de la vie académique.

YVES MÉNY

## The Institute says...

Professor RENÉ LEBOUTTE, is leaving the Department of History and Civilization after eight years. His research at the Institute concentrated on *The study of the Comparative History of Industrial Basins in Europe in the 19th and 20th Centuries* and on *Human Capital and Mobility of Highly Skilled Workers in Europe, 17th-19th Centuries*.

He is taking up a post at the University of Aberdeen.

Professor JOHN BREWER of the Department of History and Civilization is leaving the Institute at the end of September in order to join the University of Chicago.

His research projects at the Institute included: *Graphic Culture in 17th and 18th Century Europe*, and more recently, *Unequal Exchange? European Art and American Money in the 19th and Early 20th Centuries*.

Professor KIRTI CHAUDURI, the first professor to hold the Vasco da Gama Chair (*see also* p. 50) in the Department of History and Civilization, will retire at the end of this academic year.

His research in the framework of the Vasco da Gama Programme resulted in the publication in four volumes of the *History of Portuguese Expansion* in 1998.



# New Appointments

KARL SCHLAG was born on May 3, 1962 in the US of A, more specifically in a suburb of Chicago called Evanston known as the address of Northwestern University. Not surprising as his father worked at NU (not in Economics).

He lived there for nine years, growing up with baseball, frisbee and German school on Sundays (ancestors were both German and American).

In 1971 his family moved to Munich, Germany. Now it was time to learn soccer and the German language more seriously, although his family kept up speaking English at home. Karl Schlag completed his education in Munich including a Diplom (Masters equivalent) in Mathematics with a Minor in Business and Economics at the Technical University of Munich. Frisbee, windsurfing, pastel drawing, playing classical as well as jazz flute became the main leisure activities.

Eventually, it was time to go back to the roots again and so he enrolled in the PhD program at the Kellogg Graduate School of Management at Northwestern University. The aim was to study Opera-

tions Management. However, once there, Game Theory and Evolution caught his attention and Karl



Professor Karl Schlag

Schlag went on to finish his degree in Managerial Economics and Decision Sciences (known as MEDS). His thesis was titled "Evolution and Learning in Economic Theory". Frisbee became a competitive team sport (Ultimate Frisbee) and he was proud of making it to three regional championships with the Northwestern team.

The trip to the States was only meant to be temporary, and Germany had Karl Schlag back again when he joined the group of Avner Shaked at the University of Bonn in 1992. While teaching concerned Game Theory and Industrial Organization, research interests focussed more and more on modelling individual boundedly rational behavior, above all imitation.

In November 1998 he obtained the ticket to applying for professorships in Germany (the habilitation), which required the submission of yet another thesis, now titled "Justifying Imitation". Bonn was only the secondary residence during the week, as KARL SCHLAG joined his parents and girl-friend in Munich on weekends. Outdoor activities such as camping and hiking took over.

The love of beautiful landscapes, the urge to tease students, the wish to apply Game Theory and learning dynamics to Micro Economic applications, and the goal to set up shop with his girl-friend made a faculty position at the European University Institute the only natural choice. Time to learn Italian.

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## ...goodbye to...

Professor GRAYHAM MIZON, with the Department of Economics since September 1991, is returning to his position as Leverhulme Professor of Econometrics at the University of Southampton.

His research interests lie in econometric modelling methodology, hypothesis testing and model evaluation and comparison.

Professor YOTA KRAVARITOU is leaving the Department of Law to return to the University of Salonika after eight years at the Institute.

Her research covered labour law and social security in Europe, and more specifically equality and legal differentiations between men and women in these spheres. Her latest project is on Law and Love in the European Union (see also pp. 14 and 15).

Professor MASSIMO LA TORRE is also leaving the Department of Law after eight years to return to the University of Bologna.

His research at the Institute centred around *Meaning, Norm and Legal Reasoning; The Philosophical Foundations of National Socialist Law and Legal Theory*, and more recently, on *European Citizenship* and the *Constitutional Theory of the Weimar Republic*.

## Quante cose si nascondono dietro una partita di calcio?

In aprile quando, ahimè, sono stato designato a guidare la squadra di calcio la prima sorpresa è stata quella di scoprire che non esisteva una squadra, ma solo un gruppo di ragazzi che con gran tenacia ogni sabato si ritrovavano alle Cascine per stare insieme e giocare a calcio.

E' stato proprio su quei prati correndo dietro un palla, che si è formata l'ossatura della squadra... che da lì a poco avrebbe rappresentato l'Istituto al torneo inter universitario di Anversa. Con pochi allenamenti e tanti sacrifici, tutti insieme abbiamo iniziato a definire ruoli strategie.

Quanto è stato difficile far convivere delle persone culturalmente tanto diverse tra loro. In queste occasioni si toccano con mano le diversità dell'Europa, la timidezza di molti ragazzi, la difficoltà per tutti di rinunciare a qualcosa in nome di un risultato. Stare insieme si sa non è facile, ma pian piano dopo molte riunioni in pizzeria abbiamo cominciato a conoscerci meglio e creare uno spirito di gruppo basato su un rapporto di grande unità e complicità. Da subito abbiamo stabilito che la cosa più importante non era vincere a tutti i costi: giocare tutti, aiutarsi sempre, consolare chi in campo sbagliava e mai una parola offensiva verso i compagni sono state le nostre scelte facendo venire fuori un gruppo di amici, che entrava in campo concentrato e tranquillo.

Tutti sentivamo la responsabilità dell'evento... C'era stato un articolo sul giornale, la nouvelle dell'istituto ci aveva salutati con enfasi, tantissime persone ci avevano incoraggiato e telefonato prima della par-

tenza per farci gli auguri, c'era stata la foto di gruppo a Villa Schifanoia con il Presidente, tutte cose che facevano salire la tensione e crescere la responsabilità, eravamo anche



“Una squadra fantastica...”

coscienti di essere i primi e quindi dovevamo degnamente rappresentare l'Istituto. Il resto è cronaca. Al torneo abbiamo vinto due partite e persa una contro una squadra veramente forte, la nostra coscienza era a posto e l'onore salvo...

La prima sera quando siamo arrivati in quello che da qualcuno dell'organizzazione era stato impropriamente definito “albergo”, in realtà un angusto container con tre letti per camera, un bagno in comune una doccia per tutti, con vista sulle piramidi di containers del porto industriale di Anversa, il morale della squadra era veramente basso. Non ricordo il nome del container, ma ricordo che lo battezzammo “Chez Maxime” e il confinante ristorante serviva pietanze perfettamente in tema accompagnate da un assordante ritornello “Haus-Music”.

Alla cena di benvenuto il mio primo compito è stato quello di calmare la propensione di molti giocatori verso la birra e ricordare loro che in fondo anch'essi erano degli Atleti. Il giorno dell'inizio del torneo, nonostante le avverse previsioni, un bellissimo sole ci accoglieva sui campi di

calcio per non lasciarci più per il resto della nostra permanenza. I ragazzi hanno affrontato le gare spendendo fino all'ultimo le loro energie, rimanendo sempre molto calmi e coscienti, l'unico agitato ero io che tra una sigaretta e l'altra avevo perso la voce. La prima gara contro gli olandesi è stata molto intensa e combattuta e la vittoria finale è stato un giusto premio al nostro impegno e alla nostra voglia di fare bene.

Nella seconda gara contro invece ha prevalso la grande forza tecnica della squadra spagnola.

La sera, stanchi e ancora scossi dall'infernale ritornello “Haus-Music” che ci aveva accompagnato anche a colazione, tutti d'accordo fuggimmo a cercare un posto tranquillo nel centro di Anversa dove poter gustare le squisitezze culinarie locali e finalmente rilassarsi in vista dell'ultima fatica.

Scegliemmo un ristorante tipico sul passeggio cittadino all'aperto dove assaggiammo il tipico “moules et frites” finalmente accompagnato da un po' di birra, per stemperare la tensione, sulle note dei nostri inni “Una squadra fantastica...” e “Amsterdam, Amsterdam...”, ci lasciammo andare in canti e bonari cori di “sfottò” nei confronti dei componenti la squadra spagnola rei di averci sconfitto.

Il giorno dopo, evidentemente rilassati e convinti delle nostre possibilità, abbiamo affrontato l'ultimo match contro belgi padroni di casa dimostrando pienamente la nostra superiorità tecnico tattica...

## A fond Farewell to Ursula

URSULA BROSE, pillar of the Academic Service is retiring after untiring 24 years dedicated to researchers and academic matters.



*continued from p. 54*

L'ultima sera, ormai paghi e contenti delle nostre prestazioni, per festeggiare abbiamo scelto un tranquillo ristorante vietnamita, nazionalità non rappresentata nella nostra squadra, a Bruxelles. Poi finalmente tutti sulla Grand Place tirar tardi bevendo grandi quantità di birra e a mente lucida analizzare tutto quello che avevamo vissuto.

Tornati a Firenze quel gruppo di ragazzi divenuto "squadra" è rimasto molto unito. Molti di loro hanno coltivato amicizie nate durante il torneo e noi tutti ci sentiamo un pò privilegiati per aver vissuto una bellissima avventura che ci ha accomunati e divertito.

Questo rappresenta il più grosso risultato che abbiamo ottenuto, scoprire un'amicizia che non baratteremo mai con coppe e medaglie. Un mese dopo insieme abbiamo deciso di organizzare un torneo di calcio a 5 sul campetto di Villa Schifanoia per trasmettere anche agli altri il nostro entusiasmo. Un gran successo: 75 persone hanno aderito all'iniziativa, un gran divertimento che ha simpaticamente coinvolto personale amministrativo, docente e studenti dell'Istituto.

Prima di chiudere vorremmo fare un doveroso ringraziamento a coloro che hanno reso possibile tutto questo: il Presidente MASTERSON, il dott. ZANARDI LANDI, un sorpren-

dente FRIJDAL che è ha vissuto con noi tutte le gare del torneo incoraggiandoci e consolandoci e LOUIS DE SOUSA che tanto si è impegnato.

Sono tante le cose che si nascondono dietro una partita di calcio ... e noi tutti confidiamo che questa esperienza non resterà un episodio ma che continuerà ad essere un punto di riferimento per tutti i ricercatori che già ci sono e per quelli che arriveranno amanti del calcio e dello stare insieme.

Un caro saluto a nome di tutta la "squadra"

ANTONIO CORRETTO  
alias "O MISTER"

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# European University Institute

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The **research** undertaken would normally be expected to result in a publication which might be included in EUI Publications or in articles in learned journals.

Fellowships are **full-time** and fellows are expected to reside in Florence for the duration of their Fellowship (or, in the case of the Robert Schuman Centre, for at least 10 months). Applicants should hold a **doctoral degree or have equivalent research experience**. Fellowships are also open to academics on sabbatical leave, who may apply for less than a year. Fellows should not be involved in academic activities in other universities or research centres. The **basic stipend** ranges from 1,200 to 2,000 Euro (subject to approval) per month. The stipend is set for each Fellow by the department concerned or the Robert Schuman Centre, which takes into consideration age and other means, as in the case of paid sabbatical leave. The rate is indicated in the letter offering the Fellowship.

**Applications** should include:

- a detailed Curriculum Vitae with publication list
- letters of reference from two referees
- a short description of the research proposal (2-3 pages)
- an indication of fields of specialization in which the candidate could make a contribution to the department or Robert Schuman Centre's activities
- for candidates already in a stable post at a university or research centre, a declaration regarding any continuation of salary (total or partial) during their sabbatical leave
- if possible, the duly completed application form

Applications with relevant annexes should be sent (in duplicate) to

Dr. Andreas Frijdal,  
Head of the Academic Service  
European University Institute  
Badia Fiesolana  
I -50016 SAN DOMENICO DI FIESOLE (FI)  
fax: +(39) 055 4685 444

Detailed information on the Institute and the Fellowship is available at the Web address

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**Academic Service, European University Institute**

E-mail: [applyjmf@datacomm.iue.it](mailto:applyjmf@datacomm.iue.it)

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## European University Institute

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## European University Institute

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**Deadline for applications: 1 December 1999**

## A Trip to the Etruscan Past

If you were in the Badia car park at about 7.30 a.m. on the 17th April you would have seen a busload of joyful people, comprising members of the researchers, the administration and staff. Joyful because they were heading on a magical mystery tour of discovery of Tuscany's forgotten civilisation, the Etruscans. Largely conquered and assimilated by the Romans, what has been left to us of their seemingly sophisticated civilisation survives mainly in the form of tomb-paintings, coins and vases and yet more vases.

Saturday was a rude and rainy introduction to terra Etrusca (situated about 2.5 hours south of Florence) with visits to Vulci and its museum, Tarquinia and its housed vase collection, a pair of



churches and the highlight - tombs painted with reliefs as varied as blue demons, dolphins and some form of kinky Etruscan sex game.

Sunday was a far more relaxed affair (at least for those who chose not to rise at 7 a.m. for a beach walk) with a short visit to the beautifully situated Etruscan/Roman city of Cosa. This was followed by a delightful lunch, not in a restaurant but somewhere with far better food and hospitality, the Forte Santa Caterina, guests of GIULIA CORNAGGIA MEDICI. For some this turned into an opportunity to eat themselves full, for others a chance to sunbathe on the roof. So it was that we finally lumbered home, stopping to stuff in that last bit of culture, the deserted abbey of San Galgano.

Many thanks must go to the organisers of this trip. While on the one hand this trip (and the others like it offered earlier in the year by the Institute) often leave one wishing that one was rather a Japanese tourist as they fit so many things in, they provide a great way of combining culture and integrating within the EUI community. Sign up!

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## EUI Review

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### Editors' Note

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The Editors are grateful for comments, suggestions and new ideas and they are inviting present and former Institute members to contribute to EUI Review with their news on projects, books published and appointments/new positions.

Views expressed in articles published reflect the opinions of individual authors and not those of the Institute.