

Solidarity in an Enlarged European Union

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At the plenary session of the European Convention on 7 November 2002, Klaus Hänsch, a member of the Praesidium, presented the final report of the Working Group on 'Economic Governance'. In contrast to the majority of the other Convention Working Groups, it did not manage to formulate specific recommendations. There were simply too many controversial issues, and especially disputed was the social dimension of the European unification project. This is all the more disappointing in view of the fact that the European social model is currently confronted with fundamental challenges. Enlargement and monetary union cause an increase of income disparities between and within EU member states, and limit the instruments of financing public social expenditure. Migration in the wake of enlargement and the liberalization of markets for social and public services could lead to dualistic social security systems, divided up into a common market for private insurance and social services, and a residual set of welfare services which cannot be liberalized and thus remain the responsibility of nation states.

These challenges also provide opportunities for further development of the European social model on the EU level which a treaty reform should not miss. Hitherto the national welfare states have been institutions embedded in their respective national economic and societal contexts which have enjoyed varying degrees of success in dealing with unemployment, income disparity, or fiscal problems. This resilient and legitimate diversity was the justification for leaving social policy largely in the hands of the EU member states, and for not transferring this responsibility to the community level.

In the C-A-P Working Paper "Kompetenzordnung und Finanzverfassung in Europa" (The Division of Labour and a Financial Constitution for Europe), Thea Emmerling and Sabine von Ackere analyse the demands for reform in the area of EU finances on the background of the discussions in the Convention.

The paper is available as download under:

http://www.cap.uni-muenchen.de/publikationen/cap/eu_finanzverfassung.htm

However, monetary union and enlargement in conjunction with the more general processes of globalization and demographic ageing mean that the problems have become increasingly similar. This has made it possible to arrive at some kind of consensus concerning the goals and instruments of an economically beneficial social policy which transcends national welfare state traditions.

The new model of an economically beneficial social policy and the open method of coordination developed after the Lisbon summit certainly represent important milestones on the road to making solidarity a constituent feature of an enlarged Union. However, there are two structural weaknesses here. On the one hand, in the case of above-average social standards in individual member states, they provide insufficient protection against open markets and regulatory competition within the EU. On the other hand, under the heterogeneous conditions of an enlarged EU, they provide insufficient support for the kind of convergence that would be desirable. The Convention should continue to address itself to both problems.

1. How can differentiated integration be organized in the area of social policy?

Higher social expenditure ratios and more comprehensive welfare states in individual member states normally reflect greater wealth or economic performance. At the same time they are an expression of compromises developed historically between social groups and political forces. Welfare states with comprehensive public services are particularly endangered by the extensive application of EU competition and state aid rules.

- To rebalance competition and social policy rules, the horizontal task of eliminating inequalities (Art. 3(2) TEC), which applies to the implementation of community activities listed in Art. 3 TEC, should be complemented with the additional task of taking into account the requirements of social protection. The purpose of this suggestion is to enable the European Court of Justice to weigh the single market regulations against social policy principles on the basis of the EC Treaty. The social policy arguments frequently adduced by member states in treaty infringement proceedings have hitherto lacked a point of reference in the treaty.
- Furthermore, the member states should be permitted to define those services of general economic interest which, on the basis of their public function, should not be subject to EU state aid controls. The role of the Commission should be reduced to monitoring abuses. To this end, in Articles 16 and 86 TEC, the public goods delivered by these services would have to be more precisely distinguished from

purely economic activities in order to provide member states with clear-cut criteria on which to base their decisions. Hitherto decisions concerning the classification of (incompatible) subsidies have been made by the Commission or the European Court of Justice.

Welfare states with a higher level of social protection are also endangered by a race to the bottom within the EU. This pertains to the practice of certain member states seeking to attract investment with tax cuts that force other member states to reduce their taxes in the same way, thereby thwarting any comparative advantage and leading to an EU-wide decline in state revenues.

Here it has been suggested that the open method of coordination should be combined with framework directives which would introduce minimum standards for different groups of member states, corresponding to a member state's level of economic development. To this end Art. 137(2)b TEC, which in its present form only makes it possible to determine minimum requirements of social policy, would have to be amended accordingly, and its application would have to be extended to systems of social protection and measures designed to combat social exclusion. Member states with a higher per capita gross domestic product could thus agree among themselves on more ambitious development targets and higher standards. These would not lead to competitive disadvantages in the shape of higher production costs for poorer member states. However, the latter would also have to adhere to certain correspondingly lower standards, and agree to introduce higher standards as soon as they had caught up with the richer states in economic terms.

This suggestion presupposes a high degree of willingness to cooperate, both among the member states on the same level of economic development, and also between groups of member states with varying levels of economic development. This is presumably politically feasible only if negotiated as part of package deals under which member states will receive compensation for agreeing on higher social standards or for refraining from unfair tax or social policy competition.

2. How can convergence towards a European social model be supported?

Monetary union, enlargement, globalization and demographic ageing on the one hand, and transnational learning processes within the framework of the open method of coordination on the other all contribute to the structural convergence of national welfare states in Europe. Furthermore, an 'upward convergence' of EU accession states in the area of social policy is also necessary in order to build a more homogeneous Union

capable of taking action. The following options are available to promote the proposed convergence:

- The Charter of Fundamental Rights with its social rights should be included fully in the new constitutional treaty. This would make the Charter's solidarity rights and principles legally binding and place them under EU legal protection. Furthermore, the social policy competencies listed in the EC Treaty should be assigned unambiguously to the competence category of joint policies, which would entail making decisions on the basis of qualified majority voting.
- In order to minimize the incidence of harmful tax competition, the EU should determine minimum rates of taxation for capital and corporate incomes. Such minimum rates would still give member states large discretion with regard to personal and corporate income taxes, but would prevent endless rounds of competitive undercutting. On account of the size of the EU internal market, the danger of capital flight is less pronounced than in the case of individual member states. Uniform EU-wide company tax regulations would also be desirable from the point of view of companies which operate in several EU countries, and continue to be subject to differing national taxation regimes. The harmonization of taxes on mobile sources of income is already theoretically possible on the basis of the general single market Article 94 TEC, though this still requires unanimity. Here the reforms should attempt to formulate this EU competence in explicit and precise terms, and then, together with the harmonization of indirect taxation (Art. 93 TEC), to introduce the use of qualified majority voting.

3. How can an intentional convergence receive financial support?

Hitherto EU social policy has operated largely with the help of regulations and not with financial resources. Large areas of EU expenditure - the common agricultural policy and cohesion policy - have developed historically and have traditionally been legitimized with their market stabilization and allocative efficiency effects. But since an economically beneficial social policy can also be justified by pointing to efficiency effects, the use of EU resources for an activating social policy of this kind can no longer be categorically excluded.

- For example, resources which will be spent within the framework of the Structural Funds for the development of backward regions in the future new member states might have a far more pronounced effect on growth if they were targeted at vocational training or poverty prevention. In this way they could improve the human resources endowment or reintegrate impoverished groups. The current thrust of

social policy reform in the acceding states demonstrates that there is a broadly-based political interest in the introduction of a continental European welfare state model. Convergence of this kind should be promoted more actively by the EU.

- The reform of the Common Agricultural Policy (CAP) has sought to end market price regulation and to introduce direct payments to farmers which are not linked to production. This transforms the CAP into a social policy for rural areas that is primarily legitimized with its redistributive purposes. However, if redistributive aims predominate, it is legitimate to ask whether an EU social policy that is not restricted to the rural population would not be more just. It would in theory include every EU citizen, and correspond more closely to the general criterion of justice, according to which redistribution would benefit the poorer citizens of the Union to a greater extent. Such an opening and reorganization of the agricultural budget would of course meet the massive resistance of well-organized special interests and individual member states. The Convention should reduce the blockade potential of these interests and create the conditions for an open and fair debate about the aims and forms of redistributive EU policies. To this end it will be necessary to extend the co-decision procedure to the CAP and to grant the European Parliament complete budgetary authority including over the so-called obligatory expenditures.
- Suggestions of a more far-reaching kind for the reform of EU expenditure policy seek to establish a solidarity fund, in place of the current funds and programmes, through which the poorer EU member states would receive direct transfer payments from richer member states. However, exclusively horizontal financial adjustments would cement clearly visible donor-beneficiary relationships between the EU member states, which runs counter to the notion of an equal status of all EU members. They would be susceptible to attacks from populist politicians in the donor states. Furthermore, financial adjustments arranged solely between the member states would deprive the Commission and the European Parliament of their traditional control and steering functions. In order to prevent this, a reform of expenditure policies should on the one hand reduce administrative expenses in the implementation of projects, and restrict transfers to the national instead of the regional level of the member states. This would mean replacing the reference to 'regions' in Art. 158 TEC with the member-state level. However, national co-financing should be retained, and a fiscal equalization fund should be established on the European level with the (co)responsibility of the European institutions.

If one looks at solidarity too much from the present solidarity arrangements, and construes it as a cautious adaptation to the new realities of enlargement and monetary union, one may well underestimate their effect on the European social model. For this reason it seems more appropriate to start with the goals, and to define the required policies and priorities accordingly. The Convention has the opportunity of pursuing this very path, and, in the text for a Constitutional Treaty to be submitted to the Intergovernmental Conference, of pointing out the way ahead.

The detailed working paper on the subject "Solidarität in einer erweiterten EU" (Solidarity in an Enlarged EU) can be downloaded under

www.cap.uni-muenchen.de/publikationen/cap/eu_solidaritaet.htm