

Constantinos Simitis

Από: Saroy, Maria [Maria.Saroy@BAKERNET.com] εκ μέρους Martonyi, Janos [Janos.Martonyi@BAKERNET.com]
Αποστολή: Τρίτη, 15 Μαΐου 2007 11:17 πμ
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Θέμα: RE: RE : ACED comments M. Wallström

Dear Colleagues

Having gone through the suggestions and comments of Chris Patten, Wim Kok, Jean Luc Dehaene, Margot Wallström as well as the reactions of Giuliano Amato I would like to share with you my sentiments (rather than convictions) with respect to the text of the draft declaration.

1 In para 1 I agree with the suggestion to replace the last word "change" by the words "improve its governance".

2 I agree with the deletion of the last sentence of para 2.

3 In the first line of para 3 to use the word "believe" is, indeed, more appropriate than the wording of the draft ("are convinced"). I also agree with the deletion of the very last sentence of para 3.

4 I have no problem with the period of reflection as suggested by Margot Wallström.

5 Recognizing the sensitivity of para 7 I still believe that the language of the introducing text is appropriate and necessary. This debate is already going on and the suggestion that "we should use not only the scissors, but also the pen" has been echoed not only in political circles but also in the public opinion. It would be unwise to avoid the topic of new questions which will be discussed anyway. On the other hand, the opening of a Pandora box might, in some cases, even prove to be useful for the simple reason that the debate on the new issues would take most of the attention, time and energy and at the end of the day, in a worst case scenario, the topic of new issues could simply be dropped and all or almost all the rest could be saved.

Just to demonstrate that the Pandora box would probably be opened, I strongly suggest that the common energy policy should also be included in the list. On the other hand, I would also be more cautious about the surveillance mechanism since this is perhaps not the right moment to put this question on the table.

On social policies I have a divided mind; therefore, I could accept both the keeping and the dropping of it (with a slight preference for the latter).

6 The pros and cons for para 8 are well known and have been discussed also in our group. I see no harm in putting it in our declaration as it only expresses the personal views of the members of the group.

On balance I think that the draft is sensible, well-balanced and reflects very well our views as expressed in the course of the discussions. I am sure we can agree on the adjustments which have been or possibly will be suggested in the coming days.

I shall come back to option 1 which I find by far the best one. For the time being I would only note that I fully share Margot Wallström's comment that the values should not be relegated by hiding them in the article on the accession. Treaties do contain

provisions on values and principles without taking any constitutional character. Why should not a treaty on the European Union proudly and visibly restate the values on which the whole construction is based?

Best regards

János Martonyi

-----Original Message-----

From: Dehaene, Jean-Luc [mailto:Jean-Luc.Dehaene@Inbev.com]
Sent: Monday, May 14, 2007 5:30 PM
To: 'Ziller, Jacques'; 'Prof. Giuliano Amato'; 'jeanluc@dehaene.be'; 'Heidbreder, Eva Gabriele'; 'michel.barnier@merieux-alliance.com'; 'S.Collignon@lse.ac.uk'; 'jldehaene@europarl.eu.int'; 'joanna.szychowska@ec.europa.eu'; 'marzena.wypychowska@ec.europa.eu'; 'sandra.kalniete@apollo.lv'; 'kaspars.vecozols@saeima.lv'; 'aliceschutte@planet.nl'; 'helena.riutta@parliament.fi'; 'tapio.pekkola@eduskunta.fi'; Saroy, Maria; 'Inigo.mendezdevigo@europarl.europa.eu'; 'chrispatten@btinternet.com'; 'Rankinp@parliament.uk'; 'otto.schily@bundestag.de'; 'csimitis@otenet.gr'; 'emilie@dsk2007.net'; 'patricia.dias@gpcb.pt'; 'antonio.vitorino@gpcb.pt'; 'floriana.sipala@ec.europa.eu'; 'Margot.wallstrom@ec.europa.eu'; Martonyi, Janos; 'Isabelle.RICHARD-MISRACHI@ec.europa.eu'; 'Ponzano, Paolo'; 'servizio.studi@libero.it'
Subject: RE: RE : ACED comments M. Wallström

These are very useful clarifications.Thanks JLD

-----Original Message-----

From: Ziller, Jacques [mailto:Jacques.Ziller@EUI.eu]
Sent: Monday, May 14, 2007 05:24 PM Romance Standard Time
To: Prof. Giuliano Amato; Dehaene, Jean-Luc; jeanluc@dehaene.be; Heidbreder, Eva Gabriele; michel.barnier@merieux-alliance.com; S.Collignon@lse.ac.uk; jldehaene@europarl.eu.int; joanna.szychowska@ec.europa.eu; marzena.wypychowska@ec.europa.eu; sandra.kalniete@apollo.lv; kaspars.vecozols@saeima.lv; aliceschutte@planet.nl; helena.riutta@parliament.fi; tapio.pekkola@eduskunta.fi; Maria.Saroy@BAKERNET.com; Inigo.mendezdevigo@europarl.europa.eu; chrispatten@btinternet.com; Rankinp@parliament.uk; otto.schily@bundestag.de; csimitis@otenet.gr; emilie@dsk2007.net; patricia.dias@gpcb.pt; antonio.vitorino@gpcb.pt; floriana.sipala@ec.europa.eu; Margot.wallstrom@ec.europa.eu; Janos.Martonyi@BAKERNET.com; Isabelle.RICHARD-MISRACHI@ec.europa.eu; Ponzano, Paolo; servizio.studi@libero.it
Subject: RE : ACED comments M. Wallström

I would like to make three small clarifications.

1) On the Charter.

>From a technical-legal point of view, there are at present two equally valid versions, none of them having a legally binding nature because they are neither an international treaty that would be in force nor an act of EU legislation or secondary law, i.e.:

i) the text which has been proclaimed in December 2000 by the Presidents of the European Parliament, of the Council and of the Commission, and
ii) the text of part II of the constitutional treaty of October 2004.
The first text only has a "declaratory" status, and the second is part of an existing and valid treaty which has not yet come into force.

In terms of content, there are three differences between the two texts:

i) a small number of minor changes have been introduced in order to correspond to the vocabulary of the constitutional treaty of 2004, e.g. "institutions, organes et organismes de l'Union" instead of "institutions et organes de l'Union";
ii) the language versions other than the 'original' texts in English and French - which had been established by the Convention of 2000 - have been carefully checked and corrected after the IGC in 2004, e.g. where the English and French say "every person" "toute personne", the Italian text said "ogniuno" which means everyone, chacun, thus not covering legal entities like associations, companies etc.;
iii) the so-called "horizontal clauses" at the end of the Charter have been amended during the Convention and during the IGC, mainly in order to respond to the fears

expressed by the British government, as recalled by Giuliano Amato.

The mention of the text of 2004 in the model of New Treaty is made for the sake of clarity, and on the assumption that it is politically necessary to get the British government on board. It would be feasible not to mention in the treaty which text of the Charter is relevant. There would certainly be a Declaration or some instrument including the text of the Charter - which would contain at least the same changes as in 2004, provided the British government does not require even more.

2) On the entry into force of the proposed two new protocols.

It might be useful to further clarify in the explanatory memorandum that the protocols would necessarily enter into force together with the new treaty. In the model treaty, this is implied by the combination of articles 65. 3 which states " Les protocoles et annexes des traités institutifs font partie intégrante de ceux-ci. » and 69 on the entry into force of the treaty. The proposed model follows the technique which has always been used for Community and EU amending treaties, which have always been accompanied by protocols.

3) On language versions.

The model of new treaty and protocols have been established in the French language in order to guarantee total legal accuracy and in view of the fact that the General secretariat of the Council, has worked primarily on French versions during the two last IGCs (Nice and the Constitutional treaty).

If the Group were to decide to publish the model treaty, it would not take more than an hour to establish the English and German language versions of the New treaty - without explanatory footnotes. This might be done on the spot in Brussels.

With a translation of the explanatory footnotes and with a translation of the explanatory memorandum, it would need some more time, but could be achieved within a few days after the press conference of 4 June. The same holds for the summary of each protocol and the explanations on their drafting technique.

As far as the text of the protocols is concerned, it would however need some more time - especially for the "consequential protocol" on the adaptation of institutions, as the Schuman Centre does not have specialised permanent staff to do this kind of work as rapidly as the General Secretariat of the Council. The Schuman Centre could not guarantee having the whole texts available in three languages before 18 June.

Jacques Ziller

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univ. Prof. Dr. Jacques Ziller

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Από: Prof. Giuliano Amato [giuliano.amato@iol.it]
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Θέμα: Re: ACED comments M. Wallström

>From a legal angle, an article giving legal force to something, may
>refer
either to the Charter as proclaimed in Nice or to the Charter as approved by the
convention and by the consequent IGC. From a political angle, referring to the Charter
as it was proclaimed in Nice might raise a huge controversy with the UK. Don't you
think?
G.

Constantinos Simitis

To επει ο Το.

Από: Dehaene, Jean-Luc [Jean-Luc.Dehaene@Inbev.com]
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Concerning the status of the charter there are two alternatives. either the art in the new treaty refer to the existing charter or to a protocol with the text of the fundamental rights of the constitution but then you have to abolish the existing charter JLD

Constantinos Simitis

To you o Pa.

Από: Prof. Giuliano Amato [giuliano.amato@iol.it]
Κυριακή, 13 Μαΐου 2007 1:56 μμ
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I warmly thank first of all Margot and then Jean-Luc, who have been playing an excellent duet.

Not publicizing our technical work now is almost a mandatory choice, also because we are discussing it in our group. But I agree that we have to discuss what to do with it at our meeting in June (which, by the way, should begin not at dinner, but at 6 pm on Sunday).

Jean-Luc, the Charter was amended in the Constitutional Treaty, as we well know. Do you think that the added horizontal clause and the reference to the "notes" should be deleted?

As to the declaration, we will have to adjust it when our electronic tour de table will be completed. For sure par.7 is the most delicate one. Jean-Luc is right: any formulation that might be taken as the opening of the Pandora box should be avoided. The sense itself of the structure we have given to our documents is that we open the gate to negotiations only on "the policies for the XXI century".

All the best.

Giuliano

Constantinos Simitis

To exho Re.

Από: Jean-Luc Dehaene [jeanluc@dehaene.be]
Αποστολή: Κυριακή, 13 Μαΐου 2007 12:09 μμ
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Dear Friends,

I found Margots letter a very stimulating contribution to our debate. First of all she reopened (rightly) the debate on the opportunity to publice or not our technical proposition before the June Council. During our meeting in Berlin the consensus was rather not to do it. During our meeting in Brussel we should carefully look at the Pro's and the contra's. Pro is certainly that thanks to the work of the Schuman Institute we have a good proposal backed by a group that have some political authority and audience. Contra is that the proposal can be rejected in some member states by politcal leaders or bij media even before the discussion starts.

But let us evaluate tthis during our next meeting. A small remark: if we do it I suggest we have the proposal at least in English, French en German.

Precondition is naturally that we agree on the proposal!!! As we will not have much time on Mondag morning 4/6 I suggest we start on the 3/6 in the afternoon to be sure we have time enough for discussion.

I agree that option I is the best one and that we should concentrate on these proposal.

On the charter we should avoid misunderstandings: Including an article giving legally binding force to the charter, that article can only refert the charter of 2001 because there is no other one.

I agree with Margot that the ratification of the treaty and of the protocols should be linked.

On the declaration Margot formulated also some amendements. I support most of them On her first remark, suggesting a new paragraph, I think an altenative solution could be a separate note or letter explaining who we are and what our intentions are. The contenance of paragraph 9 could also be integrated..

I share the remarks on par 1-3 and 8 and the suggestion to introduce a par on the reflection period The most duifficult point is par 7 .Formulated like it is now it opens the pandora box. That we should avoid.. We have the same discussion in the EP. There is (although we still have to vote)a consensus to delete a similar list.

I am convinced that we are on the right track and that we can deliver a constructive contyribution to the debate. Our meeting in June will be crucial.I looking forward for it.

yyours sincerely

Jean Luc Dehaene