



EUROPE IN THE MAKING

INTRODUCTION

I am happy to speak **today** about democracy in the European Union. When I was invited to share my thoughts with you I ^{was seeing} ~~would be very~~ ^{the whole idea from a different In a} ~~negative~~ ^{Indeed, then,} ~~Why~~ ^{the} The dominant impression among Europeans was ~~then~~ ^{what was} one of concern with ~~its~~ ^{then} ~~then~~ called 'democratic deficit'.

~~But~~ On the 14th October a very important step was taken by the European Union. The European Council has approved the **Charter of Fundamental Rights of the European Union**. In its Preamble it states:

" The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values,"

Let me say, at the outset, that such an event represents the most important step taken in the realm of civic and social rights since the beginning of the European integration. *It reconciles many of us with the process and opens up a new hope ~~that~~ ^{for a true} Europe is ~~all about~~ ^{to} emerge.*

In order to justify this ^{bold} assumption, I will draw a rapid picture of The European institutions ~~and~~ ^{to} will point out the questions raised ^{on the democratic realm} at this juncture of time by ^{their} ~~its~~ ^{interaction} ~~democratic~~ ^{dimension}. / Aterwards I will enter into more detail concerning the Charter, ~~its~~ context ~~and~~ its follow-up. /

formable

will go through 5 steps:



1. THE INSTITUTIONS OF THE EUROPEAN UNION

We speak very often in Europe about its 'architecture'. We mean by that the following institutions and their connections:

- **the European Council** which is constituted by the heads of government or by their ministers in specific sessions dealing with finances and economy, with environment, with labour, and other fields where it is necessary to harmonize the steps taken by the 15 Member-States.

Two difficulties emerge here:

in the elaboration of directives

- one concerns the need for member-States to be represented by civil servants who have to be at the same time excellent experts and able politicians;



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- the other concerns the fact that in some instances long processes require the replacement of members from the governments by diplomats who are confronted with very difficult issues which require decisions at the political level; this has been the handicap of the Inter-Governmental Conferences which prepare the revision of the treaties (IGC); one of these IGC is now under way and must be finished by the end of the French presidency.

(Some suggestions have been made about the possibility for one member of each Cabinet to be all the time in Brussels but there are other disadvantages in such a solution.)



Neither civil servants nor diplomats ~~are~~ are representing

- **the European Commission** which is, in fact, the administrative body of the whole; the criticism about 'the democratic deficit' has

the people.



here its main target.

The Commission is chosen by the Council and since the revision of the Treaty in ^{Adam} Maastricht needs the formal approval of the EP. (Episode of the last EC which fell by the action of the EP).

The EC is the parallel of a national administration. It plays a pivotal role in the interplay of the Union institutions. For many in Europe and especially for Michel Barnier, the commissioner in charge of the reform of the institutions, this pivotal role has to be operative in the transformation of the institutions.

This is why many people think that

The Commission would be the institution from which the whole architecture should be reshaped. It would be independent, and would be based on a legitimacy it has not at this stage. One way of getting such legitimacy could be the election of its President - by the Parliament or by universal suffrage?

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- **the European Parliament** where there are members of all countries, elected by universal suffrage and who function within political groups; the EP has to examine and vote upon any project the EC launches and has a power of initiative - many important decisions concerning the new rights have been approved by the Council on the basis of the Parliament initiative.

The Parliament is a huge machinery where plenary sessions, / committees on specific political matters, / inter-groups on special issues formed according to the new interests of the parliamentarians across party-lines, / delegations especially focussed on the different forms of dialogue and association of the EP with various regions of the world - all co-exist and, to my astonishment, do follow a logic and are capable very often of

being at the forefront of the the European Union. *Add;* 4

- **the European Bank** - since the final decision about the Economic and Monetary Union and the adoption of the euro as the common currency, the Bank is independent of the national central banks as well as of the governments of the member-States

- **the Court of Justice** - governments institutions and individuals can apply to the Court any time they deem their interests as part of the EU have been jeopardized.

- I should add two important institutions which, alongside with the Parliament, prevent the whole to move in a inter-governmental direction. *and are already a steps for the civil society to have a say in day-to-day events.*

One is **the Committee of the Regions** where regions of different countries meet, put in common their problems and projects and develop a sense of being European which, to some extent, bypasses the national frontiers in a very down-to-earth way.

The other is **the Economic and Social Council** where representatives of employers and employees meet with the ultimate goal of negotiating at the Union level what so far takes place only at the national level. This Committee contributes to the building of Europe through the communality of interests and goals of its economic and social ^{actors,} **agents.**

- Union parliament is now based on national lists which reproduce the cleavages at the national level; "radical party" of Italy included a great socialist in politics from France, Maurice Duval.

- formation of union lists across national boundaries



II - DEMOCRATIC DEFICIT?

Looking at the European Treaties as they are , everyone realizes the weak basis of its democratic structure both at the level of citizenship and at the level of sovereignty of member-States.

Citizenship is very limited and this explains to some extent the very low turnover at the elections for the EP.

At the political basis, there are two features of the still current situation which speak of a low level of citizenship:

- the structure of the European Union is very complex and there is no unified text the Europeans may read and understand – ^{some} ~~some~~ articles are the cumulative effect of the revisions of the Treaty of Rome. To “consolidate all existing texts in a single Treaty, with continuously numbered articles” is, in its apparent simplicity, one of the decisions the European Union has not yet been able to take!!!
- though there is a flow of documents emerging from the EC as well as a Journal which describes main parliamentarian decisions and Commission’s directives, they are not accessible to the average citizen, as the system of cross references require a detailed knowledge of both the structure and its sources of differentiated levels of law.

Since the Maastricht Treaty, European citizenship was ^{drawn up spelled out in} ~~limited~~ to ^{its main components} ~~a few conditions~~ (dealt by Articles 8 and 8e of the Treaty):

- the right to move freely;
- the right to vote and stand as a candidate to the European

Parliament and municipal elections;

- the right to petition to the European Parliament;
- the right to apply to the ombudsman and to diplomatic and consular protection.

As ^{it is written} ~~we wrote~~ in the report "For a Europe of civic and social rights"

(pg.26) *"(This concept of citizenship) does not create any great feeling of participation and attachment to the Union, whereas, given the current circumstances, that is what is needed."*

This reference to the 'current circumstances' has a meaning which goes beyond the situation of the EU institutions. In Europe we consider that democracy is far from the main demands of the contemporary world. For many years we thought that the difference was between a participatory, direct democracy on one side and representative democracy, on the other. More recently we have seen that this dichotomy didn't reach the core of the problem. As a French thinker pointed out recently *'representative democracy has confiscated the power of the people'*.

When asked if they are happy with democracy in the EU, among the people from countries with a long-standing democracy and with a high satisfaction with their own democracy, only 28% (Sweden), 31% (UK), 32%(Denmark), 34% (Finland) are satisfied with **the way democracy functions in the EU.**

The degree of participation in the last and 5th elections for the EP adds to that score. Only 55% of the Europeans voted in '99 while

in the first elections by universal suffrage in '79, 63% have voted.



EU appears far away from the average citizen not only for political reasons but also for the way through which its nature is perceived. In the building of Europe the concentration on, first, 'the common market', then 'the single market', then the 'monetary and economic union' reaching its clymax with the common currency - the euro - gave to people the conviction that what was at stake was to be done by technocrats out there 'in Brussels' and had very little to do with their ordinary life.

required expertise they
didn't have

This is why in '96, my colleagues and I were convinced that a new era had to begin. Democracy in Europe had to start with full citizenship. We wrote then:

"Inclusion of civic and social rights in the Treaty would help to nurture citizenship. (...) The objective could not be attained, however, by incorporating into the Treaty a few vague principles without any real significance. On the contrary, it calls for a plain, clear, comprehensible expression of fundamental social and civic rights at the EU level, with practical application being enshrined by the Court of Justice."

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Sovereignty is the second element touching the concept of democracy in the political space of the EU. The question which is raised at many instances, across different nationalities and political lines is the following: **is it possible to think about democracy when sovereignty is at stake?** In its basic terms the question is this: when a State shares its defense policy with several other States and when its currency is not anymore a



national one but is managed at the community level, **is a State still a State?**

The process of integration, mainly with common policies, common currency and ^{still} (theoretically) common external policy have appeared to many Europeans as a loss of sovereignty. Many of us consider however that we are moving towards another concept of sovereignty - **co-sovereignty or enlarged sovereignty**. Indeed in so far as, at the level of the different European institutions, the persons and institutions of the member-States are involved and connected with the Union institutions, we have a greater responsibility. Our sovereignty gains in scope. We are not anymore at the level of the geographic territory but we have clearly moved into a large social territory. *Where is the name for this social territory?*

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III - THE EUROPEAN CHARTER OF FUNDAMENTAL RIGHTS

How did we get to this stage? Both from internal developments of the EU and from its external context.

Internally, both the Parliament and the Commission took steps in this direction. The European Council was first reticent but in the last couple of years seized the meaning of such a Charter and took the necessary steps.

A decisive element for all involved and especially for the governments of the Member-States was the perception of the consequences of the demise of the communist world.

Two practical problems emerged:

- the request from emerging democracies from Central Europe to be associated with the EU in forms that gradually have become the desire for full integration;
- questions raised about the geographical limits of Europe – are the Asian States integrating the Russian federation still European States? Or, in case Russia is taken by what it is, namely another “union” which culture has also shaped Europe and has been shaped by it, where do we consider Ucraina and Bielo-Russia to be?

The democracies of central Europe seek integration EU as security for the new regime - a political motivation which had happened some 20 years earlier with the new democracies of Greece, Spain and Portugal.

The number of countries at the doorstep of the EU provoked - and still provokes - a discussion concerning the two tasks in front of EU, namely **the deepening of its institutions** and **the enlargement of its membership**.

For a long period this discussion seemed to be at a deadlock. But there were 'activists' of this cause in all the institutions of the EU. In '89 the Parliament approved a first draft of civic and political rights. In the same year the President of the Commission J. Delors proposed the Charter of the social rights of workers.

In '95, answering to a suggestion from the Parliament the Commission convened a small group of experts to revise and update the Charter. I was then invited to chair that group. In my political activity I had fought for social rights as rights born simply from the need to uphold human dignity and not as a consequence from the status of the individual in the labour market. To my astonishment and delight all my colleagues - coming from political functions or from academic life - had exactly the same point of view. Our report, after some confrontation with a few people in the Commission, instead of analyzing the rights of the workers became an argument for **the indivisibility of all human rights** of all citizens in the EU. This standpoint was strongly supported by the Parliament.

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cf. Paets + Delors Doc. of H rights

Moreover we introduced a practical way of making known the report while measuring, at the same time, the degree of assentment from the European citizens in all countries of EU. With the exception of one country, the members of the committee met with the representatives of the 3rd sector (neither



State nor market), called in Europe NGOs or Volunteer sector. The unanimity throughout the different countries and types of organizations was overwhelming.

The EP played a decisive role in the evolution of this idea. In 1989, the EP pleaded for "a Declaration of Fundamental Rights and Freedoms" which was the basis for the list of Fundamental Rights to be integrated in a constitution of the EU.

In the last five years, the idea of the Charter gained momentum, with an important step taken at the Amsterdam revision of the Treaty where (art.6, n.1) it is said:

"The Union is based on the principles of democracy, respect for human rights and fundamental freedoms, as well as on the State of law, all these principles being common to the member-States."

A decisive point was made by the Council in Cologne June'99 with the commitment to convene a Convention with the involvement of national parliaments of all member-States, representatives of the governments, of EP, the Commission and the Council. This convention was chaired by the former President of Germany Herzog and we can already foresee, by the quick institutional response to it, that it will be judged as having made history.

Already in Cologne, the Council decided that:

- 1) the Charter would be proclaimed together by the Parliament,

IV - MAIN FEATURES OF THE CHARTER

The history of the EU shows that the Charter gains its main features from two sources:

- the Constitutional traditions of the member-States and their juridical order
 - the international documents which make up the body of international law and which have been ratified by all Member-States, with particular relevance for the European Convention of Human rights, drawn up by the Council of Europe in 1950
- and for the two International pacts from the UN where the Preamble states the interdependence and indivisibility of all human rights.

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There has been in Europe a continuous reference to the 'social model'. In a way, such a model has been the result of the building of the Welfare State, brought about by the different political trends with an acute awareness of the solidarity among people and of the need for all men and women to share the same human dignity.

However, the economic turn of the decades after the II WW has deeply affected the building of Europe and has made economy to be equated with **economic growth**. The **social factor** of economy has been left in an obscure second place and dealt with by the traditional social partners of the industrial era. Moreover the **environmental factor** of economy has not been understood by most politicians and by the technocrats they are surrounded



with.

It is in this context that the Charter of fundamental rights means a clear choice of values. Its main chapters deal with 'human dignity', 'fundamental freedoms', 'equality among people', 'solidarity', - which refer to the rights people have **as persons** - together with the chapters dealing specifically with the Union, namely 'citizens' rights' and 'justice'.

The rights in the Charter apply to everyone residing in any of the member-States. A different logic is applied to the persons who are not citizens of the EU in what concerns the rights of citizenship (e.g. elections to the EP or at the municipal level) as well as some rights apply specifically to some groups of persons (e.g. rights of the child, etc.)

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The Charter follows the most contemporary tendencies in fields called rights of 3rd and 4th generation. Thus, it establishes the rights connected with the effects of the technologies of information, or with genetic engineering. Likewise, the Charter portrays the rights which have become common practice of all the member-States of the Union, as, for instance the prohibition of death penalty.

Moreover, the Charter is written in a very accessible language. This fact will provoke, by itself, a deepening of the citizenship as Europeans will be more aware of where they stand as citizens of the European Union.

To illustrate how they are spelled out,



V - THE FOLLOW-UP OF THE CHARTER

The next step is more difficult to take: **which status will the Charter assume?**

It can be an important declaration, radiating in a moral way, throughout all the institutions of the EU. Some, afraid of its binding character, move in this direction.

The other possibility – which is the necessary step for many of us in Europe – is to recognize to the Charter a binding juridical nature.

This can be done , in a first step, through its inclusion in the article 6 of the Treaties which deals with the democratic values of the EU. It can happen already at the next Council in December in Nice when the results of the Intergovernmental Conference for the revision of the Treaties will be presented.

If this step won't be possible, a resolution will be needed for a calendar to include the Charter in the Treaties. This is probable given the fact that most governments feel the need to deal first with the balance of power of the member-States in the Union institutions.

Of course, I am impatient with the incorporation of the Charter in the Treaties. But those of us who are convinced of its importance for broadening of the Union, won't miss the window of opportunity open by its solemn declaration in Nice, as decided a

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year ago. It's not a constitution we are aiming at
as this would mean a state and we don't mean
building a state. What are we building then?

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"Reread another" (Gertrude Stein)

"The first building put in America was larger than a house."

"I am the daughter of enthusiasm."

