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CONTENTS

* *Progress to European Union – A Challenge for the Public Service*
* *Towards a European Public Service*
* *Cohésion économique et sociale: rêve ou nécessité communautaire?*
* *Accord de coopération signé entre le Conseil Général de l'Ariège (F) et l'IEAP*
* *La reconnaissance des diplômes dans la CE*
* *Professor A. Wildavsky's Visit to EIPA Faculty*
* *Crisis Anticipation and Management*
* *Training Project for Dutch Ministry for Economic Affairs*
* *L'Europe de Jean Monnet est morte! Vive l'Europe fédérale!*
* *Activities up to February 1993*
* *Missions to the New German Länder for Officials from other Member States Engaged in the Implementation of Internal Market Legislation*
* *Institutional News*
* *EIPA Staff Movements*
* *Recent and Forthcoming Publications*

Progress to European Union – A Challenge for the Public Service

Speech delivered by ***Peter Sutherland****, Chairman of the Board of EIPA and President of the Allied Irish Bank, at the Conference on 'Effective & Efficient Public Management in the New Europe', Dublin, 23-30 April 1992**

Introduction

Why should we be thinking about the European Public Service and European Public Management now? Don't we have a European Public Service? Isn't this what all those 'Brussels Bureaucrats' in the Commission and the other Community institutions are supposed to be doing?

In a sense this is correct. We should not forget that, along with having its own sources of revenue and financial resources and its own legal system, having its own public service is one of the things that distinguishes the EC from other international organizations and gives it a supranational character.

But this is only the beginning of the story and not the end. We have now reached an important stage in the process of creating a European Public Service which will contribute considerably to the process of integration if it is well managed.

Community development in the 1990s requires much more attention to the management capacities and skills needed to make EC policies work effectively. Since nothing in the European Community is ever simple, we need to see the development of the European Public Service in two perspectives. First, there is the core Community institutions, in particular the European Commission which is responsible for overseeing the management of Community policies. Within the Commission it is possible to envisage the introduction of many straightforward management reforms to improve operational performance and, equally badly needed, coordination. Second, in a broader perspective, there is the design and development of new management systems and administrative networks reaching out to all levels of government in the Member States. In this perspective the European Public Service is built up on partnerships between the Community institutions and the administrations of the Member States. And, in this broader perspective, we probably have to rethink the role of the Community.

New Ideas, Old Problems

There are two reasons why we need to be thinking carefully about European Public Management in a broader perspective.

1. We need to think about giving operational meaning to the principle of subsidiarity. We all know that, in concept, subsidiarity means that decisions should be made and responsibilities located at the lowest level of administration consistent with effective performance and, of course, policy coordination. Whether we are moving towards European federalism or not, subsidiarity implies a need to develop partnerships and working relationships among different levels of administration with a clear idea of who is responsible for doing what.

(Continued on following page)

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Administrative partnerships are not new in themselves. This is the way EC administration has evolved. Indeed it would be an odd kind of Community in which members did not actively participate in the work of Community development. But there are good reasons for considering in more explicit terms exactly how such partnerships should work and what is involved in making them work effectively.

2. We need to think about European Public Management now because we have not thought enough about it previously. Other things seemed more important but unless we pay attention to it now, we may find that we cannot achieve the objectives that are important and that we are now committed to.

Competences and Capacities

What this means is that at the beginning of the 1990s we live in a remarkably different world. The changes that have already taken place are epoch-making. The political forces operating are quite different. The economic circumstances have changed, partly but not only as a result of earlier initiatives. The only thing we can be certain about is that there is a great deal more to come, even though we cannot forecast with any certainty what it will be.

It is against this background that we need to give urgent attention to the future shape and required capacities of the European Public Service. The past few years have seen sharp rises in hopes, expectations and ambitions. The competences of the EC have been enlarged. The responsibilities of the Commission for making European policies work in practice have been increased. The main question we have to ask is whether there are the capacities to match the increased competence?

On paper, the EC has acquired a substantial increase in its legal competences, but in practice does it have the management capacities to exercise them effectively?

The challenge for the public service is to ensure that there is a good match between competences and capacities. But, given the pace of recent change there is an a priori case for suggesting that the EC has a management deficit.

The management deficit has received much less attention than the democratic deficit. There is a well-established litany of complaints about the democratic deficit of the EC. Current moves to upgrade the role of the European Parliament reflect this. But there has been little systematic analysis or public discussion of the management deficit. It seems to have been assumed that management capacities would somehow increase automatically as new responsibilities and competences were acquired. Anyone who knows anything about organizations or management knows that there is nothing automatic about this process. Anyone who knows anything about government or public administration knows that there are strong pressures to act as if the opposite were true in order to get decisions through, on the assumption that implementation will 'somehow' be taken care of.

The challenge for the public services is really twofold. First, there is the problem of identifying and diagnosing the management deficit. Second, there is the problem of prescribing ways to bridge the gap between existing capacities and those that will be needed in the future.

The Management Deficit: Diagnosis

Considering diagnosis first, it must be acknowledged that there is no substitute for detailed case-by-case examination of the requirements for effective policy management in specific policy fields. The needs and capacities in regional policy are not the same as those in social policy or in relation to monetary union. Nevertheless there are some things that can be said in general terms to establish the main dimensions of discussion.

In summary, the main diagnostic question is, are there enough of the right kinds of people in the right places to do the work? To start with, we can focus on the Commission itself, though it will soon become apparent that this is an exceedingly artificial restriction.

1. In the first place, there is the quantitative question: are there enough people? Given the well-publicized view, more readily accepted in some countries than in others, that Europe is about to be taken over by an enormous army of Brussels-based bureaucrats, this may seem a surprising question to ask. But closer knowledge of the Commission reveals that the attention it receives is related to its importance in the policy process and not the size of the human resources it has to devote to policy management. In fact, by governmental standards the Commission is a rather small organization and its resources are increasingly thinly spread over a widening range of policy responsibilities. Ignoring the 4,000 or more personnel in translation and research activities, the total staff of the Commission is about 11,000. These staff are distributed across 23 Directorates-General and support services. It is evident from these figures that most DGs only have staffs numbered in hundreds and not in thousands. The professional component of their staff is only a small proportion of this total.

In any case, the Commission is not master of its own house. The Council of Ministers must approve increases in permanent staff complements. Far from there being an automatic process of increasing capacities to match increased competences, the Member States are reluctant, for domestic political reasons, to be seen to be approving increased Eurocracy. To some extent disparities can be compensated by off-budget expenditure on temporary staff. But it is hard to escape the conclusion that in quantitative terms there is likely to be a management deficit in the Commission. Whether they recognize it or not, by limiting the permanent staff of the Commission, they are implicitly accepting more responsibility for European policy management themselves.

2. This conclusion is reinforced once we switch from quantitative to qualitative factors: do we have the right kinds of people with the right management skills? Looking at the recent evolution of the EC it seems that we may be at a watershed. The last few years have been an important period of political invention, new policies and new institutions and procedures have been devised in several policy fields, including industry, technology, education, social policy, environment and monetary policy. Invention will not suddenly cease. But in the next few years there will need to be an increasing emphasis on innovation, making new policies work effectively in practice. Unless this is taken seriously, the EC will simply build up an increasing overload of new policies which are workable in principle but impossible to implement in practice because the management capacities are not there.

The distinction between invention and innovation is very broad but nevertheless important for two reasons. First, the Commission is much more oriented to inventing new policies and enshrining them in Community law than to ensuring their effective implementation at the national and subnational levels. This will not be easy to change. The main instrument of policy implementation in the Community is the directive, which is recast in national law and administered by national and subnational authorities. This kind of hierarchical regulatory process is much more suited to administering simple stable policies than policies that are complex, interdependent and liable to change in the course of implementation. Once implementation is viewed as an innovative process rather than a routine process, new kinds of partnerships between the Commission and implementing authorities are needed. These new partnerships place new demands on national organizations as well as on the Commission.

A narrow focus on invention avoids addressing the many practical problems that arise in the process of putting policies into effect. Even the best formulated policy cannot possibly take account of all eventualities. Questions of detailed interpretation and questions of adaptation to unforeseen circumstances are almost certain to arise. The implications of new policies need to be seen as a whole and the conditions required to make them feasible and effective throughout the Community should be carefully considered.

The innovative skills and capacities needed to secure effective implementation are different

from those needed for inventing new policy concepts and taking new policy initiatives. In many respects they are the capacities required for planning and management of change. This includes a frank recognition that some resistance to change is to be expected and that plans for implementation should be robust enough to circumvent or overcome them. Another basic requirement is a feasibility study to assess the availability and suitability of resources required for policy implementation. This leads to the second main point. The distinction between policy invention and policy innovation is probably a more appropriate and useful way of viewing the development of European policies than the old and largely discredited policy/administration dichotomy. The challenges confronting the European Public Service in the 1990s are not routine processes of putting in place predefined policies. A great deal of policy development is likely to take place in the course of successive attempts to implement policies. The policy/administration dichotomy tends to portray implementation as a routine preprogrammed process. Making the distinction between invention and innovation shifts the emphasis to adaptation. However, it requires that the organizations deliberately seek to build on and learn from successive implementation initiatives. Again, the management skills and capacities required to enable public officials to manage innovation are quite different from those that are appropriate for managing more routine and programmed tasks.

It is important that the differences are recognized and that action is taken to shift the emphasis from programmed implementation to the management of innovation. Otherwise, time and effort are likely to be wasted in introspective efforts to refine policy concepts and produce over-elaborate and detailed directives and standard operating procedures that make effective implementation less, rather than more likely.

3. The Commission is not flexible enough in its personnel and human resource management policies to move people into the right places as the pressure of work and policy priorities change. For various historical reasons mobility is restricted and staffing profiles are difficult to change within as well as between DGs.

Even if there were none of the quantitative and qualitative constraints that have already been mentioned, lack of flexibility and mobility would contribute to creating a management deficit. It is not difficult to think of ways in which mobility could be deliberately encouraged. But the established practices and the reward systems of the Commission militate against it.

It would be easy to make the Commission the scapegoat for the shortcomings of the EC. In fact it is almost a surprise to find that this role was not formally written into the Treaty of Rome. It is highly probable that journalists will focus increasingly on any delays or difficulties in implementing the 1992 programme and lay the blame at the Commission's door.

However, what goes on in the Commission is only a small part of the total EC policy management process. It is a strategically important point but, nevertheless, it is only a fraction of the total volume of activity. What goes on outside the Commission is quantitatively more important. It is here, when we begin to consider the external dimension of EC policy management that some of the most distinctive and difficult challenges involved in developing a European Public Service arise. To anticipate - and deflect - some familiar responses, this is an area where familiar business management models provide little guidance. Innovation rather than imitation is what is needed.

While there is no doubt that a rethink of the Commission's approach to its management tasks is needed - and some moves have already been made in this direction - even if the internal functioning of the Commission were substantially improved, the impact on EC policy performance would be small. More of the right people in the right places in the Commission should help. But in an important sense, the European Public Service is Community-wide. It is distributed across all the Member States. This means that a great deal of the variance of

performance in delivering EC policies is due to factors outside the Commission itself, in the various levels of administration in the Member States.

An Administrative Community

The same quantitative, qualitative and flexibility questions that were asked about the Commission also have to be asked of the large numbers of organizations in the Member States that are wholly or partly involved in delivering EC policies. It would be politically impossible and administratively unwise to try to link all of these organizations into a unified hierarchical structure. The challenge for the public service in Europe is to create an administrative community based on strengthening partnerships at and among the various levels of government. This is where one of the biggest and most important differences between business management and public management makes itself felt. The basic unit of business management is the single organization. The basic unit of public management is a network of organizations. Businesses collaborate through coalitions, consortia, strategic alliances, joint ventures and subcontractor and franchising relations. But if these relations cease to pay off for the individual organizations they can decide to change or withdraw. In government, relationships are often mandatory and may be prescribed by law. The problem then is to make them work; to establish an effective basis for partnership and collaboration. Public management is usually getting things done through other organizations.

The EC's management deficit is due to a large extent to weaknesses and deficiencies in the capacities and linkages in the networks through which EC policies are administered. In a way, this is not surprising because in many, if not most, cases the organizations involved were not created to administer EC policies. They were formed with different purposes in view and there is therefore a 'management of change' problem in adapting them to serve EC objectives. In addition, there is no reason to suppose that the relationships among the organizations will develop naturally to establish a basis for effective cooperation. Just as an effort is needed to redesign organizations to fit them to different purposes so is an effort also needed to develop the linkages and establish coordination procedures that are essential to the smooth and effective operation of a network of organizations. To have a basic insight into the size of the task and the possible scale of the management deficit, one only has to recall that coordination requires good, reliable communication which, in the EC, means communication through many different organizations embedded in twelve different administrative systems and encoded in nine official languages.

Consolidating, strengthening, even creating and developing the right kinds of administrative networks is becoming one of the most important challenges ahead. It is clearly in the area of innovation rather than invention. It is also management among organizations rather than simply management within organizations. To underline the change that is involved in management of the Community's policies it might help to take up two broad themes. One is the implementation of the principle of subsidiarity and the other is the increasing importance of positive integration relative to negative integration.

Subsidiarity

The principle of subsidiarity could be an important element in the design of European public management networks. But it is important not to overstate or misrepresent the contribution that it can make. It is no panacea. At present there seems to be a danger that whenever an issue or problem in the administration of EC policies arises someone will suggest that the principle of subsidiarity is the answer. Even if the principle of subsidiarity could be applied as a formula to determine the optimum allocation of administrative functions, it would not answer all the questions that arise in the development of a European Public Service. In particular, it provides no real solution to problems of coordination and integration.

Like most principles of management, subsidiarity poses a question but offers no definitive answer. Subsidiarity applied to environmental policy or the structural funds is likely to produce different answers to the problem of assigning responsibilities among different levels of government. More awkwardly, deciding what is the lowest appropriate level at which the same policy should be handled in different countries such as Ireland, Denmark, Spain and Greece could produce different answers if the subsidiarity principle were taken seriously and a systematic audit of management capacities conducted. If no real attempt to assemble some such information is made, the results of delegating the same responsibilities to authorities with widely different management capacities will result in uneven standards of performance or even serious policy failures.

On the other hand, a great deal could be learned about how to make the pluralistic public service we are now developing in the EC more effective by making systematic efforts to operationalize the principle of subsidiarity in specific policy fields. If the Commission were to function as the focus of this management of innovation process, it would need to upgrade its capacities for assessing the capacities of its partner organizations and also play an active part in designing the systems and developing the networks required to implement EC policies.

One of the important links between subsidiarity and the management of integration is in determining where and how coordination takes place. Who decides where coordination is needed and how it should be managed? The management of the structural funds is a case in point. With speakers in the conference who can talk more expertly and fully about the present system of coordination for the structural funds it is probably not necessary to say much more on the subject now. But clearly the decisions made about the location of coordination responsibilities have an important effect on where work loads arise and where management capacities need to be developed and strengthened.

Subsidiarity does not mean more decentralization regardless of other considerations. Like all so-called principles of management there is a counterbalancing principle. In this case the Commission's watchdog function of safeguarding compliance with the Treaties and maintaining overall control of the system imposes a limit on the extent of delegation. It also creates some significant requirements for management information systems spanning organizational boundaries as well as for audit and evaluation capacities aimed at promoting better performance rather than just imposing sanctions on substandard performance.

Negative Integration and Positive Integration

The 'marketing' of the single market has put great emphasis on negative integration and the removal of national obstacles to trade. Since Maastricht more has been heard of the development of EC policies which suggest a shift of emphasis to positive integration. Since negative integration is associated with deregulation and greater reliance on markets, it is tempting to see positive integration as involving more reliance on government and therefore having direct implications for public management.

This is roughly right. But it gives too crude a picture to be really useful. First of all, market integration is not just the removal of obstacles and distortions, it has positive as well as negative requirements. It is reregulation, not simply deregulation. A great deal of detailed and difficult work has to be done to create the framework within which markets operate. As the countries of Eastern Europe and the former Soviet Union are painfully discovering, efficient markets do not spring spontaneously into existence in the absence of government. Moreover, framing laws is only the first stage of the process of implementing a new structure. A great deal of continuing work is needed to maintain an appropriate market framework which takes account of consumer, environmental, employee and investor interests as well as of the businesses directly involved.

By way of illustration consider one specific area of the completion of the internal market, reported in 'Volume VI' of the 'Rules Governing Medicinal Products in the European Community'. This is concerned with 'Establishment by the European Community of maximum residue limits (MRLs) for residues of veterinary medicinal products in foodstuffs of animal origin'. It is covered by Regulation EEC 2377/90. There is no need to go into the details of this, although it is very important from the standpoint of public health and consumer protection that the administrations concerned do go into all the details. The main point that needs to be made is that a new administrative system must be created at the Community level to replace the existing pattern of separate national authorities each operating its own procedures and applying its own criteria. The design of new systems in this and similar fields will involve an assessment of different organization design options and the careful development of institutional arrangements appropriate to the tasks involved. In all cases, this will require the Commission to manage the transition to the new Community-wide system.

Volume VI of 'The Rules Governing Medicinal Products in the European Community' will never get into the bestsellers list but it is very important that this kind of work is going on and that a network of public service organizations is developing across the Community to ensure that the interests of the various stakeholders in this area are being taken care of. But is the network that is developing here or in any other cases an adequate network? Is it the best network? Does it function, not just to elaborate guidelines and detailed criteria and procedures, but also to ensure that they are effectively and fairly implemented throughout the Community? There is much more to this than just removing barriers and obstacles. And, there is much more than the Commission - in this case a small number of people in DG III - can possibly do on its own. The Commission is not in the business of direct policy implementation. It is increasingly in the business of building up the networks of partnerships through which implementation works.

The Transformation of the Customs Services

A second and more familiar example is the transformation of the customs services which is an absolutely indispensable requirement of the success of the whole 1992 programme.

In the public mind, nothing symbolizes the spirit of 1992 more clearly than the removal of customs posts and customs controls on roads and trains, at ports and airports. The costs to business and the delays and frustrations for travellers have been carefully documented and widely publicised. 'When the barriers come down' has become familiar shorthand for the manifold changes that the completion of the internal market entails. In keeping with political rhetoric it puts the emphasis on negative integration. But removing intra-EC customs barriers is only the start of the process. From the standpoint of positive integration the picture looks very different. A new integrated EC-wide customs organization has to be brought into being to supersede the existing twelve national customs services. Far from disappearing, the integration of customs services poses major problems of planning and managing large-scale reorganization.

The positive integration dimensions of this task have not been fully appreciated outside the national customs services themselves and DG XXI, the Directorate of the Commission responsible for the Customs Services. Rather than just abolishing a series of obsolete organizations it is necessary to create a new system with different purposes, structure and systems of management. In effect, what is involved is the management of an intergovernmental merger. The objective is to create a coordinated intergovernmental system with a supranational mission. The twelve separate services must be brought together to administer European customs policies on a consistent basis rather than functioning as the separate but interdependent services they have been in the past.

This kind of major organizational change does not happen overnight. There is enough experience of managing mergers in business to show that the process of creating a new corporate identity to displace long-established loyalties is difficult and long-drawn-out. These predictable problems are compounded, in European public management, by marked differences of culture and tradition and tenacious national loyalties in the organizations that must work together.

The integration of customs services is further complicated because at least three different changes are taking place at the same time. The most prominent is the process of dismantling internal border controls and the organizations that administer them. The second is the redefinition of administrative functions. Border checks perform several different functions related to immigration and taxation policies as well as controls on drug trafficking, terrorism, animal health and welfare, including protection of endangered species and disease prevention. The third change is the design and development of a new and strengthened system to control external EC frontiers.

The scale of these changes is considerable. Apart from anything else it presents sizeable personnel and industrial relations problems. The customs service together employ about 130,000 people and before changes began there were about 2,000 customs posts. The side effects of the integration of customs services will include redeployment, redundancies, reorganization and training over several years. Perhaps as many as 30,000 customs jobs will disappear. A management of change process at the EC level, with the active participation of the administrations of the twelve Member States, is essential to success. But the skills and expertise needed to plan and manage this institutional transformation are in very short supply, not least because the Commission has never been comfortable with the responsive non-hierarchical style of management that managing the transition from one pattern of organization to another involves.

Conclusion

This is really only a foretaste of the challenges ahead. With the development of the Community, the Commission will have to rethink its own role in the management of Community policies and adapt its own organization in order to assist and accelerate the adaptation of the wider European Public Service.

As the Community moves into areas of positive integration, as it now appears set to do, the demands on the public service to make well-prepared and well-coordinated responses to new tasks will increase. Much greater efforts will be needed in the future to ensure that the administrative partnerships which are essential to effective policy implementation are established and strengthened.

Like all processes of managing change and promoting organizational development, success depends on effective communication of general intentions on the one hand and responsiveness to specific circumstances and problems on the other. The commitment to innovation must be clear but sensitivity to the legitimate anxieties and uncertainties of those who are supposed to implement changes is also vital.

Successful businesses now accept that, as a matter of course, they must invest substantial time and effort in the process of building the management capacities that will underpin future performance. We need to instil a similar attitude into the enterprise of building the future management capacities of the European Public Service.

TOWARDS A EUROPEAN PUBLIC SERVICE

*Speech delivered by **Spyros A. Pappas**, Director-General of EIPA, at the Conference on 'Effective & Efficient Public Management in the New Europe', Dublin, 23-30 April 1992**

The title of this lecture - 'Towards a European Public Service' - may seem to imply that there is no such service today. Consequently, I can allow my thoughts free rein on how it should develop and how it should be.Of course, as a lawyer I am accustomed to working with vague ideas but, again as a lawyer, I am tempted to make some concrete points out of these vague ideas, and this is what I am attempting to do today. I would like to formulate some answers to the question of what is this phenomenon referred to as the European public service. But how shall I start? If the final goal - the European public service and its definition - remains vague, I need at least to have a solid starting point, and that is what do we mean by the public service.

If we can define what the public service is, then we can attempt to find some answers to the question on the European public service. I suggest therefore that I first examine this meaning with you (A), although you may consider this quite easy. Then I propose to take a look at what the state of affairs is today (B) and, finally, in the light of the meaning we give to the public service and its evolution up till now in the European arena, we will be able to draw some conclusions as regards the European public service (C).

A. You may perhaps wonder why I insist on coming back to these questions, since some previous, very competent speakers have taken it for granted that there is a European public service and this was my impression as well when I was asked to develop this topic. I had already read a booklet, issued by the Office of Official Publications of the European Communities, on the 'European Commission and the Administration of the Community'. On the first page of this booklet you can read that this booklet 'seeks to reply to the many questions about the European public service with reference to the European Commission, which is the largest of the Community's institutions'. In addition, on the back, you can find another reference alluding to the fact that the European public service is the staff working at the EC institutions. If this is all there is to it, then there would be no reason for me to be here, I could just send you this booklet. This is not the case so I have therefore put together perhaps some novel concepts.

According to my legal culture, which is based on the continental doctrine, when I hear the public service mentioned I understand things differently to you. Let me refer to the French doctrine, because the French were the first and they influenced several of the other Member States, in particular the Southern ones, plus Belgium, Luxembourg and, to a certain extent, Germany. I found this definition in my university books. Allow me to quote from the original French: '*Le service public, c'est donc une activité d'intérêt général - géré par l'Administration ou par une personne privée, à condition que celle-ci soit investie de cette mission par les pouvoirs publics et soumise à leur contrôle*' (Jacques Chevallier, Le Service public, Dossiers Thémis, PUF 1971, p. 20). Well, what is the gist of this definition? The gist is that there is a connection between the term 'public service' and the activity, related to the national interest. As a matter of fact, this is not an old concept. It was initiated by a decision of the French *Conseil d'Etat* in 1873, the decision called Blanco, and formulated as a doctrine in 1906 by G. Tessier in a book called '*La responsabilité de la puissance publique*'. In the beginning, the French thought that the public service-institution (administration) corresponded to the public service-activity. However, it was obvious, firstly, that the latter sometimes performs beyond the national interest and, secondly, that there are other bodies which can assume activities related to the national interest. Therefore, they reached the final conclusion in 1938, again by means of another famous decision of the *Conseil d'Etat* (C.E, 13 May 1938, R., p. 417, Caisse primaire aide et protection), which defined the public service, as I have just quoted, as an activity taken over either by the public service-institution or another agency, private or

otherwise (*concession du service public*).

I then turned to the British doctrine (Drewry G. and Butcher T., The Civil Service Today, 1988) and, first of all, I discovered that for the UK the public service is also a recent concept; it dates from 1870. Until then policy-makers and politicians were very reluctant to use or did not use at all the term 'public service'. They preferred to speak about public offices or public establishments. I would like to make an additional remark here: there is an additional difficulty in the UK in that most of the time you do not know whether people are speaking of the public service or the civil service. There is a difference; I will come back to this point later, but most of the time people speak of the civil service. The first definition of the civil service, the definition which I found, dating from 1931, suggested by the Tomlin Commission, is as follows: 'servants of the Crown other than holders of political or judicial offices, who are employed in a civil capacity and whose remuneration is paid wholly and directly out of monies voted by Parliament'. So, the civil service is related to those who work in it. I then realized that there is no agreement on the definition of the civil service in the UK; rather there is a way of defining who are civil servants by excluding those who are not. Are the following not public servants: ministers, members of Parliament, members of the armed forces, judges and chairmen of administrative tribunals, employees of Parliament, local government employees, employees of public corporations and quasi-governmental bodies.

What is the conclusion? I think that the conclusion that can be reached here is that the civil service corresponds to the French term '*fonction publique*', but this is not as simple as it seems. '*La fonction publique*' in France comprises all those who are paid out of public funds, not just the civil servants in the British sense. I would say that '*la fonction publique*' could correspond to the idea of the public service which goes beyond the civil service and also comprises local government officials and so on. On the other hand, the civil service may be the same as what is called in France '*les cadres*' or '*les hauts fonctionnaires*'.

This shows quite clearly how concepts can vary from Member State to Member State, how even terminology is different and how difficult it is to communicate on these matters. This is perhaps another deficit in our common language, but at least we have reached a conclusion. However, this is not the whole story; it continues because I have found two decisions of the European Court of Justice. The first (Arrêt du 3.7.1986, Affaire 34/86) annulled a decision of the President of the European Parliament approving the European budget. The Court cancelled the budget in the course of the financial year and it stated, among other things: '*la constatation de l'invalidité du budget 1986 intervient au moment où une partie importante de l'exercice 1986 s'est déjà écoulée. Dans ces circonstances, la nécessité de garantir la continuité du service public européen, ainsi que d'importants motifs de sécurité juridique comparables à ceux qui interviennent en cas d'annulation de certains règlements, justifient que la Cour exerce le pouvoir que lui confère expressément l'article 174, alinéa 2 du Traité CEE en cas d'annulation d'un règlement, et qu'elle indique les effets du budget 1986 qui doivent être considérés comme définitifs. Dans les circonstances particulières de l'espèce, il y a lieu de juger que l'annulation de l'acte du Président du Parlement ne peut pas mettre en cause la validité des paiements effectués et des engagements pris en exécution du budget jusqu'au jour du prononcer du présent arrêt*'. You see the Court used this term in the sense that the European public service is an activity, not a body of employees, not services carried out by staff. There is a second decision of the same nature referring again to those who work in private credit establishments (Arrêt du 7.4.1987, Affaire 166/85) '*ni les dispositions ni l'objectif de la direction 77/780 ne s'opposent donc à ce que soit conférée aux employés des établissements de crédit la qualité d'officier public ou de personne chargée d'un service public aux fins de l'application du droit pénal d'un Etat membre*'. We see here that the Court is using this term again in what we could call the French way.

B. For the time being, however, forget all these ideas and let us look at how the system works. I am not going to repeat but will at least go around the same issues already raised by Peter Sutherland and David Williamson. The question is about management.

Again allow me to start from the outset: what is management? You know that management as a generic concept is to allow things to be done through other people. This is the concept of management in the private sector, viable of course for the public sector as well in the sense that it can improve productivity and effectiveness. However, in the public sector, things are quite different in the sense that public policies are always complex inter-related issues, which finally makes management in the public sector the following: to allow things be done through other organizations. In my opinion this is the definition of public management at the national level. If we proceed now to the European level, things become more complicated because there are new actors involved: the Member States. So one could say that European public management is to allow things be done through, among others, the Member States. And I believe this is quite an interesting concept because, finally, the Commission, as the major executive institution of the Community is called upon or requested to allow things be done through the Member States. In other words, this is what has been pointed out by previous speakers as the cooperation, the coordination, the partnership at the European level.

If one would like to be a little bit more concrete, the whole story could be metaphorically presented as a coin, let us say the ECU, one side of which reflects policy formulation and the other side reflects policy implementation. This is management in Europe. So, as far as the first, the policy formulation, is concerned, things are quite clear. The Commission plays an important role as initiator, but it has to rely on the cooperation of the Member States. In other words, the Commission has to formulate what is the interest of the Community in proportion to the national interest. This concept of the Community interest is the outcome of debates at the Brussels level where national governments defend their national interests when working together to formulate an EC policy. The Community's interest is a distillation of the national interests as they are defended at Community level. Just a marginal note here, because it is quite important not to forget that experience has shown that it is not as simple as it looks, that national interests are always well represented and defended at the Brussels level, for the very simple reason that there is a lack of coordination at the national level.

As far as policy implementation is concerned, David Williamson was quite clear that this is not the role of the Commission. The Commission is to remain a small organization, the size of a national ministry, no larger, and the Commission has therefore to find other ways of managing the Community. And there is no other way than to work through the Member States. A legal basis can be found in Article 5 of the EC Treaty. All of this makes a quite complex system with many vertical links between the Commission and the Member States, between national and local or regional governments and horizontal links between Member States, the latter being quite important. It is not just a matter of implementing policies; it is how to implement them in a uniform manner, otherwise the entire Community system could break down.

The answer to this problem has been already repeated many times in the past and today, and it is called the 'subsidiarity principle'. I fully share the opinion of David Williamson and I am also quite convinced that this principle can be concrete. I know that there are a lot of doubts about it, but let me remind you that the Community has already had experience with subsidiarity in practice. I can give you two examples, the directives, in which the Community defines the goals while the Member States determine the measures appropriate for reaching the defined goals. Another example at the judiciary level is that of Article 177, judiciary cooperation, thanks to a system implemented by means of the preliminary rulings of the Court of Justice. So, the Community has already experienced such cooperation.

Now as regards the Maastricht Treaty, I think it is up to the lawyers again to give this still vague principle some real substance and make it a tool of management. Which means, in very simple words, the bottom-up approach in order to increase effectiveness and the thought behind this principle was to increase effectiveness and to get closer to the citizens. Another quality of this principle is to ensure the role of the Member States in both policy formulation and policy implementation. It is the principle on the sharing of powers and, thanks to this principle, we may be able to avoid in the future this endless debate about national sovereign rights and the supranational structure of the Community.

Finally, what does all of this mean? Evidently the European public service in the British sense does not consist of only the EC and, in particular, of the Commission officials. '*La fonction publique européenne*' consists not only of the public servants of the EC institutions but also all national public servants when they are implementing or participating in the formulation of the EC policies. The thirteen administrations together form the European public service.

We now have some clear ideas and we have a tool, a principle, to work out the Community's system. Again it is not that simple. First of all, we have had experience with the customs union - one of the first expressions of the completion of the single market - and we have realized that it is not that difficult to abolish frontiers. It is not that difficult to create coordinated policies, harmonized policies but the question is who is going to implement these policies? The public servants? OK - we have them. But are the appropriate mechanisms in place? In concrete terms, we abolished the frontiers but we did not think of setting up, for instance, a coordinating mechanism to manage the implementation of the customs' legislation. This is what we call management deficit, to which Peter Sutherland referred.

C. I now reach my final conclusion, which is the following: the European public service is in my view an activity and I base this view on the decisions of the Court.
The European public service is an activity of Community interest, defined through the policy formulation procedures and the distillation of the national interests, carried out by the European public administration which is articulated in the national administrations and the administration of the European Community according to the principle of subsidiarity.

This is a point I would like to stress: in my view, the European public service is not the British concept, that is just the staff of these institutions - there is a broader, more extensive network. Of course, the national systems and the EC system of public service remain independent and closed but, at the same time, there is mobility (see Article 48, paragraph 4). In addition, there are many other mechanisms which could unite these many closed, parallel systems. I would like just to point out two of them. One is the Informal Conference of Ministers and the Commissioner responsible for the Public Service. They have met three times and, finally, they realized that there is reason to continue to meet to debate, for instance, the quality of the public service at the European level. This is a mechanism for coordinating administrative action in the Community and to fill the gap, to create an European administrative space. This Informal Conference of the Ministers is taking regular shape now, it is repetitive and organized by the DG's Committee - that is the DG's responsible for the public service in cooperation with the relevant DG of the Commission, DG IX - with the scientific and professional support of EIPA.

The second mechanism is a major project launched by the Commission, to which I would like to express my deep appreciation for its continuous efforts and persistence in the person of Mr M. Ayral, Head of DG III A2, Completion and Functioning of the Internal Market Division. This is the Action Plan for the Exchange of National Officials Responsible for the Implementation of Internal Market Legislation. As a matter of fact, the Commission of the European Communities outlined several steps it intended to take to make certain that the objective of ensuring correct and timely incorporation of Community legislation into national law be attained. One of these included the commitment to promote the exchange, between

Member State administrations, of national officials who are engaged in the implementation of Community legislation, with a view to enhancing administrative cooperation.

The experimental phase of the programme started in November 1990 with great success. As reported by the participants, the benefits derived from the programme can be summarized as the potential to dedicate themselves fully to one subject for a period of some two months, to acquire information, knowledge, a comparative perspective, new ideas, and greater confidence in their foreign counterparts. It also enabled them to build up new channels of communication, information and cooperation for the future, based on a network of personal contacts. All of these are essential for the objective of improving implementation and preparing administrations to manage the single market after 1992. This experimental phase will continue until overtaken by a five-year action plan, adopted on 22 September 1992 by the Council of the European Communities, to enter into force on 1 January 1993 (EEC Council Decision 481/92 OJ L 286, 1-10-1992).

Eligible participants are officials from the twelve Member States working at national, regional or local levels. The aim is to exchange officials at an intermediate level ('middle management') who are responsible for the enforcement of Community rules in certain fields of activity. For 1992, these fields of activity will be systems for the recognition of diplomas, export controls, pharmaceuticals, construction, machines, certification and public procurement. A maximum of 130 officials could participate in these exchanges. Each Member State sends the applications for officials it wishes to participate in the Action Plan to the European Institute of Public Administration (EIPA), which is responsible for carrying out the experimental phase of the Action Plan. The Commission of the European Communities, in contact with EIPA services, selects the candidates on the basis of their background, commitment to the implementation of Community rules in the envisaged fields, suitable knowledge of the required language, and will ensure a balanced spread of candidates from the different Member States. EIPA services notify the selected candidates and, together with the services of the host Member State, define the conditions for receiving the officials as regards both their work and their accommodation. The minimum duration of the exchange is 2 months, officials may choose their preferred starting dates, but applications have to be submitted at least three months before the chosen date. Basic expenses are paid to participants by EIPA. The official continues to be paid a normal salary by his/her home administration and to benefit from all related entitlements. The Member States concerned are called upon to finance 50 per cent of the subsistence costs while the Community covers all other expenses.

The legal status of exchange officials is the same as that of national officials and they are informed of the civil liability rules applicable to them in the host country.

Participants are required to participate in a training seminar on present Community policies and objectives and to draw up individual reports based on a questionnaire which is sent to them when they commence their stay abroad. These reports will serve as basis for an evaluation seminar and for a general report by EIPA to be submitted to the Commission together with the individual reports.

I remain confident that mechanisms like Article 48, paragraph 4, the Informal Conference of Ministers and the Commissioner responsible for the Public Service and, above all, the Exchange Action Plan, are at the core of the European integration process and will undoubtedly lead to the creation of new relations among the various administrative actors and to the emergence of a new concept of a European administration carrying out European public service in a European administrative space.

Cohésion économique et sociale: rêve ou nécessité communautaire?

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Parler de cohésion économique et sociale en ce moment de turbulences monétaires et politiques peut paraître risqué. Il n'en demeure pas moins que ce principe a été l'un des principaux thèmes des discussions de la Conférence intergouvernementale qui devait déboucher sur le Traité de Maastricht. En fait, dans le fond de la discussion de ce principe on rencontre implicitement la question du modèle que l'on souhaite pour la Communauté de demain. Cet article se propose d'analyser, d'une part, les vicissitudes qu'a connues la mise en pratique de cette idée après sa formulation et, d'autre part, les raisons qui ont plaidé en sa faveur ou contre elle.

Une voie encore longue et difficile

En janvier 1991, le gouvernement irlandais mit sur la table de la Conférence intergouvernementale le problème de la cohésion. Concrètement, il proposait d'effectuer des examens périodiques du niveau de développement et de vie des Etats membres, laissant à la Commission le soin de formuler des propositions tendant à réduire les écarts. De même, cette cohésion devait, selon lui, être rattachée à l'Union monétaire, suggérant la nécessité d'adopter les mesures nécessaires avant les deuxième et troisième phases. Immédiatement, cette position fut défendue également par le Portugal, la Grèce et l'Espagne.

Cependant, de ces pays, ce fut l'Espagne qui adopta peut-être la position la plus belligérante sur ce thème, menaçant même de mettre son veto au Traité de Maastricht si on ne trouvait pas une solution satisfaisante. Déjà en septembre 1991, lors d'un entretien avec le président de la Commission, Jacques Delors, le ministre espagnol des Affaires étrangères de l'époque, Francisco Fernández Ordoñez, déclara que "si l'Europe est seulement un marché, l'Espagne n'a pas beaucoup à gagner dans cette aventure". De fait, on a pu observer comment la relation économique de l'Espagne avec la Communauté a évolué, donnant lieu à une situation de plus en plus défavorable pour la première. En effet, si en 1989 l'Espagne a reçu 187,362 millions de pesetas (1.453 millions d'écus) de la part de la Commission, elle ne recevra que 30.000 millions (233 millions d'écus) en 1992. Si le système ne change pas, on peut d'ores et déjà prévoir que l'Espagne sera un contributeur net dans la Communauté en 1993, ce qui ne correspondra pas à sa véritable situation économique par rapport aux autres pays communautaires.

Cependant, en réalité, l'Espagne a toujours présenté sa position comme autre chose qu'une simple question d'argent, comme une question de principe et de conception de la Communauté qu'elle souhaite. Concrètement, dans la proposition officielle présentée le 5 mars devant la Conférence intergouvernementale (Doc. CONF-UP-UEM 2004/91), on mentionnait le fait que les Etats membres considérés comme fédéraux consacrent environ 25% de leur dépense publique à la correction des déséquilibres régionaux. S'il est clair que la Communauté est malheureusement encore loin d'être ce que nous entendons par Etat fédéral (que l'on songe à la polémique suscitée par l'introduction de l'expression "à vocation fédérale" dans le projet de Traité sur l'Union européenne, qui finalement fut enlevée), tout aussi évident est le fait que le budget communautaire ne représente pas plus de 1,13% du PNB communautaire - toujours selon la proposition espagnole - ce qui équivaut à 2,3% du total des dépenses publiques de tous les Etats membres. Si l'on déduit les montants consacrés à la politique agricole, aux Fonds structurels, les dépenses opérationnelles et les remboursements, la marge disponible pour les autres politiques représente exactement 0,11% du PNB communautaire. Une telle situation ne permettra pas à la Communauté d'appliquer le principe de solidarité, exerçant ainsi son rôle de correcteur des écarts existant entre les Etats membres.

En ce qui concerne les mesures concrètes suggérées par l'Espagne, on rencontre d'une part la création d'une cinquième source économique, proportionnelle à la capacité économique de chaque Etat membre et d'un fonds spécial pour contribuer au développement de mesures de cohésion sociale destinées à compenser les écarts entre les Etats membres. D'autre part, la TVA était considérée comme une taxe régressive et non proportionnelle, dès lors qu'elle se base sur la consommation, ce qui implique que l'Espagne, pays ayant un niveau de consommation élevé et un secteur touristique important, payera de nouveau plus que ne l'exige sa véritable situation économique. Enfin, il faudrait ajouter à cela un accroissement substantiel des Fonds structurels qui doivent s'appliquer avec une plus grande souplesse en fonction des caractéristiques et possibilités concrètes de chaque pays.

Cette idée fut aussi appuyée par tous les partis politiques représentés au Parlement espagnol. Tandis que le gouvernement tentait de convaincre ses collègues du Conseil de la nécessité d'avancer sur la voie de la cohésion, les partis firent de même avec leurs homologues européens. Ainsi, au terme de sa réunion tenue à Bruxelles les 3 et 4 décembre 1991, la Fédération des partis socialistes et sociaux-démocrates de la Communauté et de l'Autriche déclara que l'Union économique et monétaire devait se faire en assurant "un niveau élevé d'emploi et de cohésion". Même José María Aznar, chef de file de l'opposition, réussit à convaincre ses collègues du Parti populaire européen à la réunion de La Haye de décembre 1991, de modifier la déclaration finale afin d'y inclure la cohésion sociale comme un principe à défendre en vue de la réalisation de l'Union politique et économique de la Communauté, ce qui est d'une importance particulière si l'on considère qu'appartiennent à ce parti, entre autres, le chancelier allemand, Helmut Khol et le Premier ministre néerlandais, Ruud Lubbers. Paradoxalement, ce fut pourtant le ministre néerlandais des Affaires étrangères, à l'époque Président du Conseil des ministres, qui recommanda à l'Espagne de retirer sa proposition afin d'empêcher que les négociations n'échouent à Maastricht, ce qui finalement ne fut pas nécessaire.

La Commission quant à elle, bien qu'en proie à un certain doute initial, fut parmi les premières à appuyer la proposition espagnole, notamment à partir de la réunion tenue à l'initiative de la Commission le 10 novembre 1991 avec les pays directement bénéficiaires de la cohésion (l'Espagne, le Portugal, la Grèce et l'Irlande). Finalement, après une négociation difficile, le Traité de Maastricht retiendra ce principe, même si ce n'est pas dans toute l'étendue proposée. Concrètement, l'article 2 inclut "la cohésion économique et sociale et la solidarité entre les Etats membres" comme un des principaux objectifs de la Communauté, et l'article 3 j) prévoit le "renforcement de la cohésion économique et sociale" dans les activités de la Communauté; les dispositions du Titre XIV fournissent la base juridique nécessaire pour consolider le développement futur de l'action communautaire dans ce domaine, y incluant la possibilité de créer de nouveaux fonds; l'article 130 d) établit qu'avant le 31 décembre 1993 un nouveau fonds de cohésion sera créé, "qui contribue financièrement à la réalisation de projets dans le domaine de l'environnement et dans celui des réseaux transeuropéens en matière d'infrastructure des transports".

Enfin, l'annexe I contient le protocole sur la Cohésion économique et sociale, qui tient compte de la volonté d'une plus grande souplesse dans l'octroi des crédits en provenance des Fonds structurels et de moduler les niveaux de la participation communautaire dans le cadre des programmes et des projets des fonds structurels. Le protocole fait également référence à l'intention de tenir davantage compte de la capacité contributive des différents Etats membres au système des ressources propres. L'Allemagne et d'autres pays du nord de l'Europe insistèrent pour que ce point fut inclus dans une simple déclaration. Cette différence n'est pas négligeable car, comme on le sait, alors que le protocole fait partie intégrante du Traité (article 239 CEE), la déclaration n'implique aucune procédure de contrôle judiciaire, mais est seulement l'objet de la volonté politique des Etats en tant qu'indicateur de leur action future. Le résultat de Maastricht fera déclarer au Président du gouvernement espagnol qu'une "logique

impeccable et implacable" a forcé sept Etats membres à modifier leur position sur la cohésion.

Cependant, les problèmes ne faisaient que commencer. La première initiative positive après le traité de Maastricht est à mettre à l'actif de la Commission. En effet, cinq jours après la signature officielle du Traité de Maastricht (le 7 février 1992), la Commission rendit public à Bruxelles le "Paquet Delors II" (COM (92)2000), qui détaille le modèle de financement de la Communauté pour les années 1993 à 1997, reprenant en partie les principes stipulés à Maastricht. Le fait le plus frappant était peut-être la nécessité d'accroître les ressources propres de la Communauté pour les porter de 1,2% à 1,37% du PNB, ainsi que le doublement des Fonds structurels. Après sa présentation, alors que le ministre espagnol de l'Economie et des Finances qualifiait ce paquet de "peut-être insuffisant, mais cependant raisonnable", le ministre français Charasse le considérait comme "exagéré", défendant avec ses collègues néerlandais et belge, le maintien du pourcentage actuel. Certains sont même allés jusqu'à affirmer qu'il était absurde de proposer une augmentation du budget de la Communauté alors que la Commission n'était même pas arrivée à dépenser complètement les fonds que lui avait affectés le "Paquet I".

Pour sa part, Delors prétendit que maintenir le montant actuel pourrait permettre tout au plus de faire face à la nouvelle orientation de la PAC, le Fonds de cohésion et les moyens de politique extérieure, mais non aux politiques internes ni à l'accroissement des fonds structurels. Cependant, il acceptera par la suite au cours de la réunion du Conseil européen de Lisbonne, le maintien de 1,20% jusqu'en 1995, avec le compromis de l'augmenter progressivement par la suite jusqu'en l'an 1999. En ce qui concerne les fonds destinés aux pays appelés "pays de la cohésion", au lieu de parler de leur doublement, on pensera à les augmenter de façon "appropriée" à chaque cas. Cette solution de compromis fut rejetée par l'Espagne et l'Irlande. Ainsi, après la réunion, Felipe Gonzalez déclara à la presse qu'il était déçu par le résultat, mais qu'il espérait arriver à un résultat satisfaisant lors du sommet d'Edimbourg. Cette déception sera également partagée partiellement par Jacques Delors qui n'exclut pas un changement de stratégie de sa part.

Le pour et le contre d'une Europe solidaire

Le principe semble clair: si l'Europe est uniquement un marché, nombreux seront les pays et citoyens à se sentir frustrés dans leurs aspirations de voir une Communauté unie possédant une entité propre et non pas une simple "Europe des marchands". D'autre part, il semble logique que, puisque les entreprises des pays les plus riches seront celles qui en fin de compte bénéficieront le plus de l'ouverture d'un marché unique, ces pays contribueront à pallier les effets que cette libre concurrence aura pour les pays en retard de développement. Si l'on ajoute à cela le principe de solidarité qui doit présider à la construction européenne, on pourra admettre sans mal l'opportunité d'une telle mesure.

Cependant, on pourrait aussi se demander si l'Europe est réellement préparée pour se lancer dans une entreprise d'une telle envergure. Il faut savoir que même dans les Etats fédéraux, les fonds de compensation inter-territoriale suscitent toujours une certaine résistance de la part des régions les plus riches qui voient à contre coeur une partie de leurs impôts servir au développement d'une autre région. Toutefois, force est de constater que l'Europe n'est pas encore une seule nation, mais une union de pays de création relativement récente. Il ne faut pas oublier que ce groupe représente une mosaïque constituée de pays avec un passé propre et indépendant, qui n'ont pas toujours été amis.

Ainsi, il est difficile d'expliquer à l'Européen moyen qu'il doit faire preuve de solidarité avec ses pairs du Sud de l'Europe. La nécessité d'une telle solidarité est paradoxalement mieux comprise par les grandes entreprises qui sont les bénéficiaires directs du marché unique et qui sont pleinement conscientes du rapport coûts-avantages qu'il représente pour elles. En

revanche, pour le citoyen moyen la Communauté risque d'apparaître seulement comme une réalité de plus en plus exigeante, qui de plus érode progressivement la souveraineté nationale de son pays - surtout s'il s'agit d'un petit pays - à travers le cadre qui détermine la participation de chaque Etat au processus de décision communautaire. Cet état de choses permet peut-être d'expliquer le résultat du référendum danois.

Par ailleurs, d'autres éléments rendent encore plus incertain le sort de la cohésion. La cohésion va-t-elle réduire vraiment les différences ou, en d'autres termes, pourra-t-on résoudre les différences existantes simplement en mettant de l'argent sur la table? Y a-t-il un lien direct entre une augmentation des dépenses et une amélioration de l'efficacité de l'action entreprise? Les structures actuelles des Etats éventuellement bénéficiaires du Fonds de cohésion et de la Commission elle-même permettent-elles de satisfaire au critère d'efficacité des dépenses et de leur contrôle? Quels seront les indicateurs d'évaluation à appliquer si l'on introduit - comme cela a été proposé - le critère de capacité de gestion comme facteur déterminant pour l'octroi de fonds? Qui va juger de la prétendue incapacité d'un pays par rapport à un autre?

D'autre part, cette mesure arrive à un moment de reprise de la récession économique où toute augmentation des contributions nationales au budget communautaire apparaît comme une hérésie. De même, il s'avère pratiquement impossible de rouvrir des chapitres polémiques comme "la correction des déséquilibres budgétaires entre les Douze" (euphémisme utilisé pour désigner le "chèque" britannique approuvé en 1984). Récemment, Jürgen B. Donges, membre du Conseil allemand de conseillers économiques (les cinq sages qui conseillent le gouvernement allemand en matière économique) a déclaré dans le quotidien espagnol "El Pais" que le Fonds de cohésion doit être le plus restreint possible car la résolution des problèmes de chaque économie incombe à chaque pays séparément. De même, le Fonds de cohésion doit être davantage un complément de la politique nationale qu'une panacée.

Par ailleurs, la locomotive économique traditionnelle de la Communauté a rencontré sur sa route un Est qui exige une grande part de ses excédents économiques. Même si l'ancienne Allemagne de l'Est est incluse dans les régions bénéficiant du Fonds de cohésion, il convient de se demander si ce n'est pas là un cas où le principe de subsidiarité trouve à s'appliquer.

Mais au-delà des rêves fédéralistes ou des problèmes latents, une chose est certaine: il est difficile de parler de libre concurrence entre différents pays sans une égalité relative des règles du jeu. Il est clair qu'il n'y aura jamais une égalité absolue, mais dans ce cas il faut au moins des mécanismes correcteurs qui assurent le fair play. Car autrement on perdrait une occasion historique de créer une véritable Union d'Etats européens, et non pas une sorte de scène propice à la réapparition d'anciennes gloires impérialistes, cette fois de nature économique, sur le sol européen.

En outre, le Traité de Maastricht impose aux pays économiquement mal lotis une condition sévère pour être incorporés à l'Union monétaire. Dans la majorité des cas, cet effort passe au moins par un plan de rigueur budgétaire destiné à réduire le déficit public et l'inflation. Dans de telles conditions, créer les infrastructures nécessaires pour se hisser au niveau de ses partenaires du Nord est pratiquement impossible sans l'aide communautaire. D'autre part, c'est là un objectif qui non seulement bénéficiera aux Etats directement concernés, mais aussi à toutes les entreprises qui désirent exporter et distribuer leurs produits dans ces pays.

On peut dire sans se tromper qu'il n'existe pas de marché efficace qui puisse fonctionner sans un réseau adéquat d'infrastructures. Cette nécessité devient encore plus aiguë lorsqu'il s'agit des Etats périphériques ou à caractère insulaire, si l'on prend comme référence le centre de la Communauté. Il faudra peut-être un jour parler aussi des coûts que représente pour ces pays le déplacement de milliers de fonctionnaires, entrepreneurs, etc., vers le centre de décision, Bruxelles, comparé à d'autres pays plus proches.

Finalement, on ne peut malheureusement pas partager l'optimisme de ceux qui proposent d'attendre l'élargissement de la Communauté pour résoudre ce problème (en effet, les prochains pays qui adhéreront à la Communauté seront des contributeurs nets au budget). Cette stratégie peut avoir un effet de boomerang, puisque après ces pays riches en viendront d'autres qui, à leur tour, demanderont de l'aide pour s'adapter à un mécanisme de marché qui ignore les différences. A ce moment-là, il se peut que même les actuels pays de la cohésion commencent à critiquer cette mesure dont ils bénéficient aujourd'hui dès qu'ils seront devenus des contributeurs nets par rapport à ces nouveaux parents pauvres de la Communauté.

La vague de doute politique qui s'est abattue sur l'Europe dernièrement et les difficultés économiques que celle-ci traverse peuvent faire courir le risque de remettre sine die le principe de cohésion économique et sociale. Cela pourrait signifier aussi remettre en question les principes qui ont présidé jusqu'à présent à la construction européenne. Espérons que le bon sens commun l'emportera finalement et que la Communauté trouve l'équilibre adéquat entre les raisons des uns et des autres pour faire face à ce défi certes difficile à résoudre, mais nécessaire pour une Communauté qui se veut être un modèle pour les autres régions du monde.

La reconnaissance des diplômes dans la CE

Jacques Pertek
Professeur agrégé de Droit public

Les débats suscités par la ratification du traité de Maastricht montrent l'importance d'une Europe réalisée par les citoyens et pour les citoyens.

Peu a été fait jusqu'à présent pour "l'Europe des citoyens", dans le sens donné à cette expression, celui d'une Europe enrichissant le patrimoine des droits individuels des ressortissants communautaires. Les deux réalisations les plus marquantes sont certainement, d'une part, les programmes communautaires en matière d'éducation et, d'autre part, la reconnaissance des diplômes à des fins professionnelles.

La reconnaissance des diplômes est effectuée par voie de directives tendant à faciliter la libre circulation des professionnels, indépendants ou salariés, que ne suffit pas à garantir l'égalité de traitement, c'est-à-dire l'interdiction de toute discrimination fondée sur la nationalité.

Après avoir réalisé une recherche pour la Commission sur ce sujet,[1] l'IEAP a organisé en 1990 un premier séminaire, sous la responsabilité de Jacques Pertek, portant sur la mise en oeuvre de la directive du

21 décembre 1988 instituant le premier système de reconnaissance générale des diplômes. Le succès de ce séminaire a conduit à l'organiser chaque année et la troisième session est prévue du 24 au 27 novembre 1992, avec des participants de l'ensemble des Etats membres de la CEE et des Etats de l'AELE.

Trois autres séminaires sur la reconnaissance des diplômes sont organisés par l'IEAP en 1992: à Vienne, les 10 et 11 septembre, à Berlin en novembre 1992 et à Madrid en décembre 1992.

C'est ainsi un domaine d'activité nouveau et important de l'IEAP qui s'est développé. Dans la postface qu'il a accepté de donner pour l'ouvrage issu des séminaires de 1990 et 1991,[2] M. Martin Bangemann, Vice-président de la Commission des Communautés européennes, écrit notamment "Le séminaire de professionnels et d'experts sur l'interprétation et la mise en oeuvre de la directive du 21 décembre 1988 contribue à (...) faire en sorte que toutes les personnes exerçant une activité professionnelle soient en mesure de tirer parti des possibilités offertes par le plus grand marché du travail du monde (...). Il faudra cependant multiplier les initiatives de ce type pour que chaque Européen prenne conscience des perspectives qui lui sont offertes (...)".

Tel est le conseil que nous avons l'intention de suivre.

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1 Recherche publiée par l'IEAP sous le titre "L'application aux salariés des directives visant à faciliter l'accès aux activités non salariées et leur exercice: le cas des ingénieurs".

2 J. Pertek (éd.) "General Recognition of Diplomas and Free movement of professionals", EIPA, 1992; la version française sera disponible sous peu.

L'Europe de Jean Monnet est morte!
Vive l'Europe fédérale!

Nicolas Dubois
*Chargé de cours, IEAP**

***** Les opinions exprimées dans cet article reflètent la vue personnelle de l'auteur et n'engagent aucunement l'IEAP.

Au printemps de cette année, nous avons suivi avec beaucoup d'intérêt le référendum danois sur la ratification du Traité de Maastricht. Le 20 septembre, nous suivions avec passion le vote de 38 millions de Français sur la ratification de ce Traité.

Force est de constater que leurs résultats opposés posent des problèmes que nous ne pouvons pas ignorer.

Si le hasard fit que les résultats sortis des urnes furent opposés, mais sur le fil du rasoir, nous constatons que le message est clair. Les citoyens d'Europe mettent en question le mode de fonctionnement et le bien-fondé de l'intégration européenne. 1992, date butoir, année mythique, ne s'achève donc pas dans l'euphorie prévue.

Que de chemin parcouru pourtant depuis 1985 et le Livre blanc sur l'achèvement du Marché intérieur... A l'IEAP, nous avons contribué à la rédaction du Rapport Cecchini sur le coût de la non-Europe, nous avons, depuis 1981, axé une partie non négligeable de nos efforts à former des fonctionnaires des douze Etats membres sur cette Europe en construction... Nous avons, avec consistance, essayé de présenter une vision critique de cette Europe. Nous avons aussi expliqué à nos voisins de l'Europe centrale ce qu'est cette Communauté en laquelle ils fondent tant d'espoirs.

Avec le recul de ces deux référendums, nous nous rendons compte que la mission de notre Institut est une des plus difficiles qui soit: expliquer, faire comprendre, élargir les perspectives de ceux qui nous font confiance.

Cette mission, nous avons essayé de la remplir avec rigueur et de façon critique. Notre position de formateur nous a aussi, et surtout, mis en position privilégiée d'observateur et d'interface. Observateur des réalités et des accomplissements communautaires, mais aussi des craintes, des critiques venues des Etats membres; interface entre les formés et les fonctionnaires des Institutions communautaires.

Aujourd'hui, il n'est pas sûr que le Traité de Maastricht soit ratifié par tous les Etats membres de la Communauté. Le non danois est un problème que nous ne pouvons pas ignorer. Et, depuis le 21 septembre, des voix s'élèvent en Europe pour pousser les parlementaires à rejeter ce Traité.

Chacun des éléments du Traité a fait l'objet d'une littérature importante, nous ne reviendrons donc pas sur son contenu. Nous nous pencherons par contre sur la dynamique inscrite dans ce Traité.

L'Europe de la CECA avait des objectifs initiaux politiques basés sur des outils techniques: contrôler le réarmement mutuel de l'Allemagne et de la France en mettant en commun le charbon et l'acier. De cette victoire politique découlent des avancées et des progrès économiques. En 1957, les Etats membres élargissent le champ de cette intégration à d'autres secteurs. En 1985, la Commission lance un ambitieux projet de marché intérieur. Nous ne devons pas oublier la signification évidente du terme CEE: Communauté *Economique* Européenne. Cette Europe des petits pas, c'est l'Europe fonctionnelle où l'efficacité l'emporte

sur le panache. Elle était indispensable à la reconstruction du continent de l'après-guerre. Cette Europe est celle de l'intégration des économies. Elle est aussi à l'image de ses symboles: froide, austère, efficace comme le Berlaymont.

La crise d'identité européenne que nous observons va très au-delà du pour ou du contre les *instruments* que sont l'Union Economique et Monétaire, l'Union Politique, etc. Elle trouve ses racines dans le décalage grandissant entre les citoyens d'une part, et les Eurocrates communautaires *et* nationaux d'autre part. L'Europe du marché intérieur est triste comme une directive d'harmonisation, austère comme un marathon agricole, fade comme une réunion de comité technique. Cette Europe au langage "jargonesque" effraie en ce qu'elle est devenue distante... à force de ne pouvoir traiter et résoudre que de problèmes triviaux et quotidiens. Pourquoi devons-nous encore dépenser aujourd'hui tant d'énergie à mettre en place les quatre libertés fondamentales de 1957?

Cette crise est donc bonne en ce sens qu'elle nous met au pied de la question essentielle: de quelle Europe voulons-nous? Ces deux référendums, aux résultats si proches et pourtant si éloignés, nous le confirment: la Communauté manque essentiellement de dimension humaine. Elle renforce nos économies, enrichit les citoyens, mais manque du souffle démocratique essentiel.

L'édifice communautaire est, par essence, fonctionnel. C'est l'Europe de Jean Monnet, née de la guerre froide et qui a perdu le contact avec les autres architectes de la construction européenne: Briand, Coudenhove Kalergi, Spinelli, Rougemont, de Gasperi...

Il nous faut donc tirer les leçons de ces deux référendums. D'une part, les tensions générées sur les marchés financiers, la dévaluation de la Lire et de la Livre, puis la sortie de ces deux monnaies du SME, le rétablissement du contrôle des changes en Espagne, les interventions massives des Banques centrales pour maintenir les parités de change sont, pour les observateurs, la confirmation du besoin d'aller de l'avant dans le domaine de l'intégration monétaire, à défaut de quoi l'Europe deviendrait une zone Mark.

D'autre part, les demandes de réduction des pouvoirs de "Bruxelles", intéressantes en soi, si elles n'étaient assorties d'une augmentation des pouvoirs du Conseil, nous ramèneraient à une Communauté intergouvernementale, c'est-à-dire qu'il en serait fini du précaire équilibre entre petits et grands pays. Cela aboutirait inexorablement au repli sur soi et au retour à l'Europe des nations, c'est-à-dire à d'autres types d'équilibres, ceux de Bismarck ou de Yalta. Ou alors cela signifie que le travail réglementaire de la Commission, qui trouve son origine dans le manque de confiance réciproque entre les Etats membres, va devenir inutile car les Gouvernements reconnaîtront mutuellement leurs normes nationales, rendant par là même, les interventions de "Bruxelles" inutiles.

C'en est donc, dans les deux cas, fini de l'Europe de Jean Monnet. Danois et Français ont exprimé leur lassitude de ce modèle. Reste à inventer un autre projet qui ne bascule pas à nouveau dans l'Europe des nations. Ce nouvel élan nécessaire ne pourra venir que de ceux qui se souviennent des autres penseurs de l'Europe. Paradoxalement, ce sont les Européens du XIXème siècle qui tracent la route du XXIème siècle.

Modestement, l'IEAP continuera sa mission en favorisant, entre les administrations, un débat ouvert et critique, en promouvant une meilleure connaissance mutuelle. Cette contribution passe aussi et surtout par le renforcement des réseaux entre les administrations qui sont la colonne vertébrale de notre Europe.