Which Europe to build ?
The terms of the debate

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6 July 2007

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Shortcut

All those who are not satisfied with the present Europe are demanding another project. In order to draw this project, we attempt to make a synthesis of various analyses and proposals. Considering the few democratic character of the present Union, we wonder about necessity and criteria of a European Constitution, then on the conditions of the birth of people of European citizens, only legitimate source of power. Any new European political entity must define its values and its objectives, which are between others to make of it a zone of democracy, of solidarity and an element of the ecosystem of Earth. Its geographical borders cannot be deducted from a definition of the word "Europe" which is a badly defined and variable concept in time. They can therefore only depend on values and especially on objectives which we allocate it. New Europe can decline in a renovated Union, one or several hearts and circles. The sharing out of competences between any new entity and geographical borders. States, or even areas confederation cannot be reduced to the alternative federation / confederation, but is a very opened choice. The institutions of a new European political entity could correspond to the European democratic experience, implemented in all European countries. The constituent process some stages of which we propose can only be the translation of the « wish to live together » which defines those who want to go to European building farther.

Introduction

Wer will, dass Europa bleibt wie es ist, will nicht, dass es bleibt. The one who wants Europe to remain such as it is does not want it to remain, says this quotation lightly changed by the poet Erich Fried, well known in German social movements (1). In other words Europeans very attached to Europe don't want this Europe that was built for them. All those who are not satisfied with the present Europe, only they vote no in 2005, against his mode of construction or its political orientation, or yes, because they did not want to break the few existing Europe which exists, or that they were not asked their opinion, are wishing another project and another functioning. The collective liability to work it out with all those who share their values and their objectives, and to define principles and model of society which must be translated by the laws and rules building of Europe.

The vote of the French and the Dutch citizens is first carried by a principle of social circumspection; he also answers a principle of democratic circumspection and expresses a request of political Europe. These positions seem largely shared by the European citizens (2, 3):

- ✓ social circumspection because number of Europeans is tied to utility, to solidarity, to social justice, to distribution of treasures, and predominantly does not believe in the neoliberal reforms recommended by Brussels (4),
- ✓ democratic circumspection, distrust in the present political system, in the mode of building of the European Union, the political personnel, all European institutions in relation to which the trust of the Europeans falls down (5),
- ✓ and wish of Europe building of which is too slow for the Europeans (5), in order that it protects from any hegemonism, especially US, so that it is an economic and social model, so that it leads the policy which want the majority of the citizens.

The wish of Europe is largely shared according to opinion polls, but there is also a refusal of supranational Europe which is notably caused by the on insufficiency of the present European building.

In effect while the 20th century ended without any significant progress towards this Europe, on the contrary, the following century is brewing the most uncertain for people of Europe harshly tossed around by a dominating globalization, implemented by international organisms

serving ultra-liberal governments, which are themselves serving of the multinational firms and finally neoliberal elites. These very have interest in restricting the power of nations and of Europe, by deregulating, that is to say by destroying for their only benefit the collective rules that the peoples had often constructed with pain.

All of us, we all know for example that Germany, alone, or France, alone , have no chance to keep their political, economical and social models, that warranty welfare and the security of the whole population. The scale of the yesterday European nations is now too narrow, their power is too much restrained to confer them a weight being enough for political decisions taken in their dimension. It is the observation of this growing impotence, this restricted sovereignty which gives all its sense to the European political integration project (6, 7).

We obviously cannot dissociate the debate about the European building from the debate about the European policies in employment, social and fiscal harmonization, income sharing, public services. It is on the basis of these tasks that we must answer the institutional question (8). Such alternatives must come from the structures of the Union, including the reports of force which cross it: it is not a question of working out constitutional chimeras (9). But we cannot treat these tasks without a strategic vision of long term. To build Europe, possibly endow it with a constitution, and consequently to found a people of European citizens cannot be made in the mist, without having a relatively clear conscience of institutional questions, of towards what we want to go and the corresponding modes of political organization.

Besides, in the most various contexts, all people of Europe were built in their ancient struggle for their democratic and social rights. In the French case, the people was invented in his conflict against dictatorship, against feudal rights, for freedom and equality. In the same way, it is in the struggle against neoliberalism, for solidarity and ecology that could build the European people. The establishment of democratic institutions has always been and remains an essential means of social struggle, the only one able to make operational in a sustainable way the citizen's fundamental sovereignty and its democratic and social rights.

We work on these issues after analyzing more than one hundred documents and integrated advises of dozens of European correspondents. After an overview of the already long history of Europe, we tackle the problem of the existence of the European people. The European political integration can, according to us, only rely on shared values and shared objectives in a given space, which highlights the issue of borders and circles of integrated Europe. The sharing of fields of expertise and institutions will finally come over a constituent process which we imagine few contours.

In this document, our objective is not to define the best institutional structure of Europe, but clearing the path which leads to it by eliminating false problems and asking as much as possible the real questions. In fact, to ask the terms of debate.

1. The present Europe has a history between hope and crisis

At the end of the Second World War, many have understood how the juxtaposition of independent nations in Europe was dangerous and source of deadly conflicts. Political Europe has a history of which we are the heirs, history of more than 50 years.

A little history

The "fathers" of Europe that were Robert Schuman, Jean Monet, Alcide de Gasperi and Konrad Adenauer try to make the United States of Europe in successive stages, beginning with "concrete achievements, by creating first an actual solidarity". In the spirit of the promoters of these targeted agreements, sector by sector, a number of communities should be implemented in successive stages, giving all a certain place to the notion of supranationality. Then, a political Community, including European parliament and government, should come and coordinate all the specialized high authorities. The European parliament should be

composed of two chambers: one elected by direct universal suffrage by the peoples concerned, the other designated by the various national parliaments.

The European Coal and Steel Community (ECSC), major elements of the economy at the time, comes into force in 1952, but the European Defence Community (EDC) is rejected in 1954 by a majority of French deputies, mainly constituted of Gaullists and Communists. This Defence Community planned to unify the armed forces of six European countries, future founders of the Common Market, under the explicit authority of the supreme command of NATO. De facto, one of the instruments of U.S. strategy, it was European in name only. The European Community of Transport in 1953, that of Agriculture in 1954, and that of Health also failed for various reasons.

Given the difficulties carrying out their project, the supporters of European unification resigned themselves to slow the rhythm. The European Economic Community and the European Atomic Energy Community are finally established by the Treaty of Rome in 1957 and come into force in 1958, involving six founding countries: France, Germany, Italy, the Netherlands, Belgium and Luxemburg. Great Britain, Ireland and Denmark joined in 1973, Greece in 1981, then Spain and Portugal in 1986, Sweden, Finland and Austria in 1995 and ten other countries mainly from Eastern Europe in 2004, and finally two countries of the East in 2007. Successive enlargements had been rather slow and progressive as it had taken successively fifteen years, then twelve years and nine years to integrate each time three new members, we suddenly accelerated pace by integrating then ten members after nine years, then two members after three years.

Europe has been constituted by successive outbursts (from Coal and Steel Community to Agriculture then transport, land use and so forth).

L'Europe s'est faite par débordements successifs (du charbon et de l'acier à l'agriculture, puis aux transports, à l'aménagement du territoire et ainsi de suite). This method of construction took its efficiency, especially by providing for the first time in the European Union sixty years of peace, but it did not produce a real integrated political authority. With the Single European Act (1986: free movement of goods and capital) and the Treaty of Maastricht (1992: Economic and Monetary Union, criteria for public deficit) we pass from the transfer of skills sector to very political leaving of national sovereignty (the currency of course, but also regional policy or some judicial or police competences). The Treaty of Amsterdam (1997) again reinforces the powers of Parliament, but the Maastricht criteria are sustained in a "Stability Pact".

Along the way, the Union has seen over the last fifty years its political influence reinforced towards the Member States. While up to the 80's, it had not, in fact, the power to impose the Member States its values, its standards and policies, its power was since affirmed based on the European Commission and especially on the binding decisions of the European Court of Justice. Firstly minors for citizens, political choices of the Union have become visible and important because they 'are' simply the fabric of laws that govern their daily lives. Almost two-thirds of laws passed each year by national parliaments are only transposition of EU directives, which are binding. On the other hand the basic policy line of the Union is of great stability, most articles of the draft constitutional treaty for example are taken from earlier treaties. These items were previously discrete because without consequence, they become visible because they are now applied.

The treaties of Maastricht and Amsterdam are in fact part of the European constitutions: they do not specify all the common policies, but only how they will be collectively decided. Rather than be bound by accurate collective decisions, Member States delegate to the Union a part of their sovereignty without knowing before what will be decided. This transfer was done in an intergovernmental framework, national governments jointly controlling these skills.

Consequently no decision in Brussels, has been taken without the explicit consent of the Member States.

The loss of national sovereignty has been accompanied by the possibility for governments to act outside the national political field, taking advantage of European integration to overcome gradually even insidiously, parliamentary scrutiny, national or European control, and therefore the control of Citizens (11). The important supranational authority that has developed at European level, particularly in the field of regulation of the internal market, comes from the agreement of national governments and not from a type of federal authority. That is what is called the "democratic deficit of Europe". National parliaments have gradually lost their authority, while there is almost no progress of federalist type, of building of the United States of Europe, which allows the European Parliament to recover the powers of national parliaments. The current weakness of the European Parliament is directly linked to another historical constant: the low level of the European budget, which now represents only 1% of European domestic product (GDP). Without financial resources, it is normal that they can not pursue policies at European level.

The last Treaty of Nice in 2000 makes it more difficult decision-making in the Council by multiple and complex blocking minorities: the power of Member States and the Union is minimized, especially on the economy.

Note that in France, only the Maastricht Treaty was approved in a relatively democratic way, by referendum. The other treaties have never been directly approved by a vote of the citizens. The rules of operation as they lay down policies have been widely imposed.

The Maastricht Treaty, approved by a very narrow majority, was making promises, verifiable only in the future: we can consider that the rejection of the Treaty establishing a Constitution for Europe, which does no marked break with Maastricht, is a rejection the latter, once experienced its consequences. The possibility for citizens to repeal or amend a rule adopted in the past is a basic democratic principle

Socialists and Liberals had two projects for Europe, with at each time a strategy called "the gear":
- The gear of economic integration as a lever of political integration for the former,
- The gear of a large market which would trigger an accelerated march towards Europe of competition for the latter.

Among these two gears it seems that the latter has worked better than the first. Indeed the social and fiscal harmonisation by the top foreign policy and autonomous defence towards the USA, full employment and improvement of working conditions, or reducing inequalities have little progressed, or even declined. However, the opening of utilities to competition, submission to the rules of free competition, lower social charges and taxes, flexibility and precarious labour, dumping tax, social dumping, stocks dismissals, all this is well on the way. The priority given to the competing Europe against the integrated Europe led to the abandonment of the original project which was cooperative, for the benefit of a competitive project: currently, far from encouraging cooperation, the institutions of the European Union are organizing the competition between the different member states that are fighting against each other.

Europe is a victim of its building method, known as functionalist, which covers only the operating of the system and never to define the project of Europe (12). This method has assumed that the market was a wonderful machine to unify, to be the matrix of everything. By this way the political Europe would inevitably come when the market has produced its effects on people. This presupposition is inseparable from former strategic choice to standardize Europe by the market and by law. Europe therefore progresses by a series of judicial and regulatory responses to requests for levelling the specific presented by individuals who want to be everywhere as if they were at home or traders who want to simplify life.

But Europe policy is not naturally born from standardization. Europe only wanted to see dangerous passions - an obsession of Jean Monnet - in the history of peoples and used the market to undermine what the labour movement had achieved in 140 years of struggle (13). For it is neither the common present nor the common past that do the identity of the European movement. That is far more representation of another time, another future. "Making Europe" combines both these elements into a moral image of itself and its history because the evil of the past would turn into well for the future, a better life for all individuals beyond their class, their language and religion (15).

A double crisis

The European Union is now facing a double crisis:

- ✓ On one hand an economic, social and environmental crisis, marked by high unemployment (9%) and structural enrichment of some with high speed and concomitant impoverishment of a large proportion of the population, deliberate regression social legislation, breaking of utilities, repeated environmental crises, the greenhouse effect which the Europeans contribute significantly, the largest decline of the abundance and diversity of fauna and flora from tens of millions years (14),
- ✓ On the other hand a political crisis whose expression is a low turnout increasingly high in the elections, in general, and European elections in particular (57% abstention in 2004), the democratic deficit, gap between the elites and peoples that many polls show, and of course the results of French and Dutch referendums of 2005 (4), which were for these countries moments of intense political life they had not known for decades.

European governments and the European Commission make ultra-liberal choices, which put competition before all other considerations. The Union social policy is non-existent. Its environmental policy is just tinkering, sustainable development consists in talking much and doing little, and above all doing nothing that could change the ultra-liberal way. Agricultural policy has always been productivist, everybody can now see the consequences with the disappearance of many peasants, groundwater pollution, the problems posed by pesticides and about food quality.

The democratic deficit is a consequence of the building method of the European Union, from the top, via the only national governments. By multiplying the topics covered in negotiations between States, we multiply at the same time the political decisions that are no longer subject to the formation to a democratic opinion, prohibiting a clear and informed choice of citizens. We know nothing about the positions that were taken by the various parties, because of compromises. The result is opaque, the common law is unclear. Many play with impunity.

This double crisis is particularly the consequence of the radical evolution of the dominant model of capitalism since the 1970s (16). The version of shareholders capitalism that prevailed in the West since the end of the Second World War has been replaced by a new type of enterprise whose purpose and responsibility have changed. According to the old model, companies had some duties towards their employees, as they had duties towards the Society (which they performed mainly but not exclusively, in the shape of charges and taxes); they had an industrial policy, investing in the medium term in the production tool. This model has been replaced by another, that businessmen must create short-term "value" for the shareholders, which is measured by the quotations in Stock exchange and dividends. The concrete result of this policy has resulted is a constant pressure to reduce wages and benefits of workers (which sometimes leads to theft of pension and other serious crimes), and the emergence of a political lobbying and campaigns for reducing the social charges of firms and their contributions to national finances and the public interest. In summary, the system of developed countries has been overhauled since the 1960's, removing to the workers and the state funding resources that now go to shareholders and firm managers. Another consequence

is the inability of firms to invest in the medium term as evidenced by EADS or the Galileo project (17, 18).

To maximize these profits, the Liberals have imposed everywhere the same rules and methods. They drop the "cost of labour", disengage companies from the financing of social protection and undertake a general reduction of taxation on capital. At the global level as that of Europe, they break the solidarity and increase social, fiscal, environmental dumping. Everywhere, on behalf of the necessary "fluidity" or "flexibility", they reduce the main points of collective rights and mechanisms of solidarity, relying on a social insecurity which would amplify the individualistic withdraw to the detriment of collective resistance (19). The refusal of the "CPE" in France appears to them as a sterile defence of an outdated social and economic model, but could at the contrary be understood as a premonitory appeal to find a successor more humane to the current economic and political model and prove prophetic (21). Since the fall of the Soviet Union, the ruling class has convinced itself that it no longer needs democracy. Previously, freedom was the best argument to counter the collectivist model. It was good for individuals, and it promoted a much greater economic success. But in the 90's, the way of seeing things which combined freedom and capitalism was dissolved. Given the turbulence that arise from the worldwide environmental crisis and social crisis, the oligarchy seeks to preserve its privileges, and democracy becomes an obstacle to its objectives: it promotes the contestation of privileges, it feeds the questioning of illegitimate powers, it pushes to rational consideration of decisions. It is therefore increasingly dangerous in a period where the harmful excesses of our system become more obvious (20).

2. A constitution, for which purpose ?

Do we need a constitution and can we not be content with the treaties and improve them? If we accept the idea of a constitution, which should be the criteria?

Are the treaties not sufficient ?

A European constitution is necessary? Among those who answer by the negative to this question are the Eurosceptics, who believe that the main political choices must continue to be taken at a national level. Cooperation among States in this case would continue to be under treaties signed and ratified by each country. An integration into the European level is not considered in this case.

But we can also defend the building from the European treaties. For some, the need for a constitution is not obvious and comparing the advantages and disadvantages of a constitution or treaties makes them prefer the latter solution. This position is based in general on two arguments:

- The building of Europe is an entirely new process, because this is the first time that independent states voluntarily share skills and build a Union that is not after a war or a revolution. The rules of democracy, which had been set at the nation-state level and therefore for institutional structures quite different, are not transferable at European level. New democratic rules should be built, what would do the Union through its gradual institutional changes within the framework of treaties.

- The European people which has not any real existence (question discussed in paragraph 3), we should not remove authority from the member states (what would a real European constitution do) as far as this people as well as a political space at the Union scale, do not exist. The treaty would allow a gradual strengthening the powers of the Union.

Advocates of this option underline that treaties allow in fact the same as what would a constitution: the democratization of institutions can be institutionalized within the framework of treaties, as well as the establishment of European policies, which would pass by the

generalisation of qualified majority voting in decision-making between governments of member states.

Those who criticize the current functioning of treaties and believe that this practice is not defensible based their criticism on democratic principles from the historical experience in Europe:

- Allowing citizens to define the policy of the political space to which they belong. This is difficult under the treaties framework, since it is governments that develop and negotiate such treaties. It is a functioning with several stages which is not conducive to democracy.

- The reversibility of decisions: whether a majority of citizens enact a law today, a new majority of citizens must be able to cancel or modify tomorrow the same Act. If one considers the citizens of a particular State, they can only amend a treaty, since it requires the agreement of other partners;

- The reversibility of decisions: whether a majority of citizens enact a law today, a new majority of citizens must be able to cancel or modify tomorrow the same law. If one considers the citizens of a particular State, they cannot amend a treaty alone, since it requires the agreement of other partners; if we consider the citizens of all the European political area, a simple majority of citizens is not enough since it the majority in each country is needed, which in a relatively heterogeneous Union, is automatically a majority well above 50%.

The principle of reversibility of laws also implies that a law must have a single or reduced field and must not link independent decisions, so that we are not obliged to cancel independent decisions when we want to cancel only one. But the European treaties link a wide range of subjects, from agriculture to the currency, as well as interregional solidarity. For example, if a majority of French refused the independence of the European Central Bank, France could denounce the Maastricht Treaty, but this would consequently oblige us to abandon the euro and to cancel all other provisions of the Treaty on subjects which have nothing to do with the ECB's independence, or even to extract the French of the European institutional architecture. The withdrawal of one country is hardly feasible.

In this form, the European treaties, unlike traditional international treaties, are virtually irreversible: citizens whom they govern life, have no democratic power to modify or cancel them.

- To ensure political equality of citizens, whatever their sex, their wealth, their social position, their geographical origin. The differences of demographic weight between states that all participate equally in negotiating treaties gives disproportionate weight to smaller countries. In the current state of the Union, the majority of citizens of a country representing barely one-thousandth of the population of the Union could in the extreme to prohibit all other any change treaty: obviously some Europeans have more power than others, depending on their geographical origin.

The building of Europe as it was conducted within the framework of treaties led to institutionalize the abuse of power and deprive citizens the power to decide policy. None of the three principles of democracy listed above is indeed respected by the European treaties. The present Union simulates and democracy while concealing a sophisticated form of despotism.

The supporters of the practice of treaties do not deny these criticisms. For them, the matter is to deeply reform the practice of treaties:

- By replacing the current EU treaty by various sectional treaties and / or framework laws,

- By developing the qualified majority voting to balance the demographic weight of different countries,

- By allowing under certain conditions some countries not to adopt all provisions of a treaty (possibility treaty à la carte or opting out).

The challenge is therefore on the ability of treaties to be reformed. The supporters of a European constitution believe that this practice is blocked in its current form. For them, it cannot be reformed and is a long-term impasse: a constitution must ensure European integration.

A constitution is needed?

For those who are in favour of a European constitution, the idea of a deepening of European building, which would be done without preparing of a constitution seems difficult to defend, as the logic of unanimity which is over the development of treaties is a source of many potential blockages. Furthermore, any deepening of European building requires specific institutions at EU level, which requires the existence of a constitution to ensure its good functioning. Some were able to discuss this idea by showing that the very concept of constitution does not exist in all countries: England does not have a written constitution. This argument is however limited in scope: the English situation is the result of a very particular history which can hardly serve as a model for European building. The concept of a European constitution seems well accepted by the majority of Europeans, since it is supported by two-thirds of them (3, 4). Nothing would only oblige the English happen if a European constitution, to abandon their practices at national level: the two models can coexist.

For the supporters of a European constitution, the need for such a constitution derives from three challenges that the current Union faces. First, the globalization of the economy has changed the economic actors into transnational actors, on which the nation states lose their traditional ability to control (especially through taxation); we must therefore restore this control capacity at EU level. For the moment, the Union has chosen to be a space open to global competition which it is a strong supporter within the World Trade Organization, to be a vector of neoliberal globalization, a group aimed more to break the social policies of member countries than to strengthen them(27). It built an economic and trade common basis, but did not set up an institution of solidarity that create the conditions for the emergence of a general European interest. But the more economy is global, the more people need protection in order to succeed, including economically (50) because, as states Lacordaire "between the strong and the weak, between the rich and the poor, between the master and the servant, it is freedom that oppresses and the law that liberates." A constitution would create the conditions for a European policy against unemployment and a policy at European level much more effective than what can be done at a single State level. The same is true in terms of social and tax harmonization and tax and in terms of public services.

Secondly, the 21st century prepares a few events that will disrupt our societies:
- The rapid depletion and then the disappearance of petroleum and its derivatives is inevitable
- with or without "energy wars"
- First consequence of the latter, the current trends in international trade will probably evolve from a wild globalization to a controlled "regionalization" ,
- A confrontation between the dominant currencies seems inevitable, and particularly between the dollar weakened by the scarcity of petroleum and a euro possible safe haven for many central banks in the world

For the supporters of a European constitution, European political integration is necessary to face and control the changes to come, by becoming a political and diplomatic force, in order to cooperate and if necessary confront the other major regional groupings that form such as Mercosur , Alena, Asean ...

Thirdly, there is a gap between the powers granted to the Union and the capacity of democratic control populations on the exercise of these powers. Without having thought about their values, their objectives and their institutions, Europeans have embarked on a rush before systematically giving priority to technocratisation of the European Union and the expansion of the borders of its powers on the strengthening of its capacities of effective political

decision. As a result, for the most part, they have mostly succeeded in removing the power to the states without giving it back in exchange for their union. The supporters of a constitution support the idea that a constitution is necessary to restore democratic control at European level. This should be a constitution among citizens, even at the same time between States ('citizens and States of Europe proclaim that), for the values, objectives, rights and institutions aspects.

Those who are in favour of European integration while remaining within the framework of treaties, think that these challenges can be met without going through the elaboration of a constitution: legislative activity, the international affirmation of Europe and the democratization of its operations do not require according to them a constitution.

However, we should not necessarily oppose the supporters of one or the other solution on all points. The provisions advocated by those who feel the need to reform the treaties (through sectoral treaties, by qualified majority voting, by the possibility of a treaty "à la carte") are in fact already of a constitutional nature: they provide the rules of functioning of supranational institutions to which member states agree to submit. From this point of view, even the current Treaty has already a constitutional function. The disagreement focuses especially on the nature of sovereignty that is the basis of this functioning: who are the actors? Are they only State-members or also people of European citizens? We return to this issue in paragraph 3.

The criteria of a European constitution

If we accept the need for a European constitution, we must define the criteria. In a democracy, a constitution aims to establish rights for citizens and enact the right of law. It tells how and by whom the Law must be written, applied and founded, on behalf of citizens (23), by submitting the political authorities to the law, while legitimizing the power by the people of citizens. Ask the question of a constitution, is asking the question of who decides? How? who performs? and who controls?

The criteria for a European constitution can be summarised as follows:

- A European constitution will have to look like the political background of people, what they know for having practised and tested throughout their history, in which they can recognize practices and a familiar landscape (24).

- It must be read and understood by everyone, from this point of view, the construction of Europe, which have for twenty years relied on complex texts excludes by this sole fact the great mass of citizens from the debate. Ignorance, a consequence of the intentional complexity of the texts, is indeed a great tool available to those who want to hide, deceive, to monopolize wealth and power (27).

- This constitution must be drafted, voted and amended by a majority of the people of European citizens. It should be short and leave open any social or political choice (solidarity or ultraliberal), provided it is compatible with its values.

Eventually these criteria are those that national governments apply to themselves. This does not mean that we must build Europe on the model of a nation, but simply that the criteria for democratic requirement used at national level should also be respected at European level, since a large spart of national skills become European skills (9).

This idea has been criticized on the pretext that the national model is not transferable to the European level, in which the practice of "governance" would be more appropriate. This argument seems not admissible because, as we have seen, the matter is not to transpose to the European building the national model as such, but only its democratic requirements. The requirement of "modernization" proper to the practice of governance, which requires that political decisions are taken out of democratic control seems rather a means to dismantle the political and economic autonomy of Democracies (25). Much of the intelligentsia under the neo-liberal influence, which is presented officially as defending democracy, dedicated to it at

the same time - and without shame - a true hatred by criticizing the "reign of unlimited desires of the individuals in modern mass society." These noisy giving lesson givers consider democracy as satisfactory as far as it maintains the power away from people, so dangerous and too eager for additional rights (26).

3. Sovereignty and the people

The European constitution is not only about breaking with the neo-liberal order or about ecological, economic and social rights. It is also about democracy in the real and very practical sense of a creating a public sphere where the peoples of Europe can take charge of their own common future. The question of democracy is posed at two stages:

- Sovereignty: From whom does political power proceed? On what is its legitimacy based?
- Institutional form: what kind of institutions does one choose to embody democratic principles?

Who is sovereign?

Defining the sovereign power within a political entity means establishing what is to be the legitimate source of power. The answer given to this question is fundamental; it determines the nature of any European entity, the equilibrium between these entities and the national governments, and the characteristics of the representative institutions (32). While the word « sovereign » is common in Switzerland, where it is used very naturally to describe the people, it sounds very old-fashioned in France and tends rather to evoke the Sovereignists[1]. In fact this word goes back to a period when "the people" was the legitimate source of power both geographically and politically. It says in the French constitution that « the French people proclaims » and that the basic principle of the Republic is « the government of the people, by the people, for the people » (art. 2). The German constitution states that « the German people has adopted, by virtue of their constituent power, this Basic Law » (Preamble) and that « all power emanates from the people » (art. 20-2). Similarly it says in the Swiss constitution, "the Swiss people and cantons [...] establish the following constitution » (Preamble).

Concepts that have been the basis of Western politics for centuries have practically disappeared in the last 30 years. Does anyone still talk about « the Republic » or « the Nation » except a vein of impotent nostalgia or in an ethnic or racist way? Nobody still attempts to define « sovereignty », let alone « the sovereignty of the people ». Indeed, the very concept of "the people" has become almost obscene, and left only to the « populists ». Clearly, if these words sound old-fashioned and out-dated, it is not because incredible progress has been made in political theory but because, during the construction of Europe, they have gradually been pushed aside to the point where they have been forgotten, slowly losing their meaning for lack of tangible examples (22). The present situation is sometimes compared to that of the American Federalists or of the members of the French Constituent Assembly at the end of the 18th century. In Philadelphia and in Paris, the « American » Founding Fathers and the French revolutionaries committed themselves to doing something that had never been tried before. They made an attempt to formulate in constituent texts the great principles that we still know today: the sovereignty of the people, the rights of the citizen and the principle of the separation of powers. This is not the situation we face today. Now, it is a matter of enriching the democratic developments that already exist, especially

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[1] Sovereignism tends to reduce Europe to a mere cooperative forum between completely autonomous nations and is an obstacle to fuller political integration. It has strong support in the United Kingdom and in France.

through participative democracy (7), and above all of conserving their essence while reformulating them at a European level. The most obviously needed innovations concern the relation between national and cultural communities, and the relation between the diverse peoples of Europe and a European people.

Does a European people exist?

There are many different points of view on the plurality of the European peoples and on the very existence of a European people.

Some people hold the existence of a European people to be a fiction and only recognise the peoples of each nation. Seen in this light, there is no European people, because Europe is not basically homogeneous and has therefore has not formed itself spontaneously by creating a uniform body of rules and laws (12). In this case what seems to be lacking is the very subject of the constituent process. This position is often taken by the Euro-sceptics who reject any initiative aimed at re-structuring Europe by creating a European constitution, and refuse to abandon the international treaties on which Europe is based at the moment. They only recognise the community of sovereign states (each one being free to organise the fundamental sovereignty of its people) and they believe that adopting policies on European cooperation is the affair of the sovereign states and not of a people made up of European citizens.

However, doubting the existence of a European people does not necessarily imply rejecting the construction of Europe. Building Europe could also be based on the sovereignty of the peoples of the separate nations. According to this way of thinking, the people of each nation delegates the exercise of its sovereignty to its national government, which draws up European policies with the other governments and then transposes them into the context of its own country. From this point of view, it appears premature and even dangerous to found an integrated Europe in the short term, because institutions founded on the sovereignty of a people that lacks common historical or political experience can be easily manipulated. Limiting oneself to the sovereignty of the peoples within their national boundaries thus appears as a defensive strategy for conserving a democratic space. Consequently, people who think in this way tend to limit the debate essentially to the national level, where citizens elect political representatives and can, to a certain extent, control their activity. Some supporters of this option stress that the advantage of limiting the political debate to the national level is that one can use established tools (parties, organisations, common languages, the State) and well-tried practices (elections, demonstrations, strikes) that are much more difficult to organise at a European level, where they are in danger of being weakened and fragmented due to differences between political cultures. This argument was heard during the campaign on the European Constitutional Treaty in May 2005 and was often implicit in the thinking of those who supported a vote against the Treaty. One could object that this approach would not be effective in the long term. The European nation-states are likely to cede more and more prerogatives to the Union, would a parcelled-up European political space know how to affront these new challenges? While apparently effective in the short term, will this position always be so in the long-term?

Meanwhile, those who support the establishment of a European people are confronted by the great diversity of the nations and also by the different political circumstances in which the peoples of Europe find themselves (nation-states, peoples without state, national minorities). To reduce this diversity by constructing a Europe based on the model of the nation-state does not seem either possible or desirable. Should one then come to the conclusion that the European people simply does not exist? In order to conceive of the possibility that a European people does exist, one must first make a distinction between:

- "the people" as a cultural and ethnic community, marked by a common origin, language and history, in this sense "the people" is a product of history.

- "the people" considered as a community of citizens who choose to provide themselves with democratic institutions; in this sense "the people" is instituted by the common will.

Since these two notions are interwoven in the history of the nation-state, and particularly in the case of the French nation-state, we have become used to thinking that one cannot exist without the other. The supporters of a European people are suggesting that one can separate these two concepts, until now united by history in the form of the nation-state, and that they can exist independently of each other (§ 7).

In order for a people to exist, it must include everyone living on a given territory, and most of them must share common values and have forged a common political culture, that is to say a way of running their own affairs collectively, over a long period of intense debate and of fighting for their rights. This is a people created by the adhesion of individuals to a democratic political community; it does not re-draw the frontiers of cultural and linguistic groups or require adhesion to a common cultural model. The feeling that binds its citizens together could be called « constitutional patriotism ». What links people together in this case is not a homogeneous cultural background; it is the fact that they recognise the same institutions. The institutions, in turn, recognise the cultural rights of social groups and the political rights of individuals (10, 11).

One example of this is Switzerland, whose aim of is to be a *Willensnation* or « willed nation », the result of the common civic will of social groups with diverse cultures, and not of the emergence of a people or nation in the ethno-cultural sense. The term « people » in Switzerland, generally describes the group of people voting in the election, whether at the national level ("The Swiss people") or at the regional level ("The people of the canton of ..."). Although some people in Switzerland think in ethnic terms about a « Germanic people » or a « Romance people », these ideas have remained of minor importance (28).

There are two objections that are usually put to the idea of a European people :

- It underestimates the weight of cultural diversity, which is an inherent obstacle to the creation of a common political sphere. This objection is often the expression of a very French way of understanding a nation. History shows us that the fact that a Spanish people exists does not in any way prevent the existence of the Catalan people or the Basque people, each of which have a strong cultural identity, or specific way of organising communal life, that distinguishes them from other members of the Spanish people. These specific identities and ways of organising are merged in a larger identity thanks to battles that have been fought together. The Spanish people that includes them all has common differences from the Portuguese, the French or other peoples. One could say the same thing about the Flemish and Walloon communities in Belgium or the Germanic and Romance communities in Switzerland, which recognise each other within a single political structure in spite of their very strong cultural differences. However, the immense diversity of European languages does pose the problem of how its citizens can understand each other. This is a very important problem and we will come back to it in § 9.

- There would be no homogeneous base on which to establish the values necessary for a common political project. This objection is made by people who are not aware that a body of European public opinion already exists. It has precise characteristics that distinguish it from other bodies of opinion on questions such as the privatisation of living things and genetically modified organisms (GMO) or the death sentence, torture

and wars of aggression such as the United States war in Iraq. There is a common ground in European public opinion that is distinct from that of US public opinion, among others. This is not negligible when one thinks of the enormous range of cultural differences between Scandinavia and the Mediterranean. A consensus of public opinion is certainly not a people, but it is the pre-condition for one, a people in embryonic form. At a deeper level, the social and political struggles led by Europeans over the centuries have forged a culture, an identity and a social model that is unique in the world. It is founded on ideals of social justice that differentiate Europeans from peoples that have followed another historical path (27). In a comparative study of economic security in different countries of the world carried out by the International Labour Office of the United Nations Organisation (measured on the basis of six kinds of security linked to work : revenue, the labour market, employment, competences, work and representation) the European countries stood out almost systematically at the head of the group, demonstrating that a European model does exist (27, 29). Similarly, in the domain of international relations, Europe stands out as different from the USA ; it belongs to a world where laws, rules, negotiation and cooperation come before force, whereas the USA is still immersed in a world of war where one must always be ready to brandish military power (30).

Thus the establishment of a European people would not be the result of a sudden operation but of a long-drawn-out political process, just like the creation of the existing national peoples. A certain amount of voluntarism, similar to the voluntarism that gave rise to the existing Nation-States, does however seem necessary.

It is worth stressing that Europe, as it exists at the moment, is far from having solved this problem of self-definition. At present the European institutions draw on several different types of popular legitimacy at the same time. In matters of foreign policy and military alliances, the sovereignty of the nation-states remains unbroken and is based on the principle of the absolute sovereignty of each people. The inter-governmental European executive bodies base their legitimacy on the premise that the different national peoples are engaged in a process of integration through the mediation of their governments. This is apparent in the mode of designation of the Commission and the workings of the Council of Ministers. The only institutional element that really presupposes the existence of a European people is the European Parliament, which is elected directly by all the citizens of the Union.

It is clear that forming a European people cannot and should not mean abolishing the peoples that make it up, whether they are French, German, Italian or others. It means unifying the peoples in a shared political form of sovereignty (22). Thus a constitutional preamble for Europe could start in the following ways :

- «The European people and the peoples of the nations of Europe establish the following constitution» (6). This would be an attempt at conciliating the two sources of legitimacy: national and European.

- « WE, old European nations, still divided by interests, religions, cultures and languages, commit ourselves, in spite of these divisions and differences, to contribute in every possible way to the creation of a European people, which will be the only one enabled […] to adopt an authentic Constitution » (31). This would be a more voluntarist approach benefiting the idea of a European people.

The limits of sovereignty

Besides the question of the source of sovereignty, there is also the question of its limits. Its geographical frontiers are analysed in § 5 and § 6, but it is also necessary to define the internal limits of sovereignty ; who is sovereign within the European political entity and who is not ?

In other words, who is a citizen and who is not ?

Democracy does not consist in reserving advantages for a caste, a minority or even a majority; its advantages are for all men and women. Discrimination is by definition irreconcilable with democracy. To live and work for any length of time in a democratic area implies becoming a citizen of this area and belonging to its sovereign people. Nonetheless, hundreds of thousands of people living within the European Union have so far been excluded from any kind of recognition of citizenship. Therefore a definition of citizenship based on residence must be established in order to enable them to gain access to their rights (34, 35).

Although internal sovereignty is absolute, there are two limitations to the power it yields :

- International law: this is sometimes the expression of shared sovereignty and sometimes the result of a relationship based on force. Thus, while the authority of the International Criminal Court is acceptable, the authority of the World Trade Organisation is not. It is not enough for a law to be international for it to acquire authority; it must also have been drawn up in a relatively democratic manner.

- The ecological bases of life on the planet; we belong to the Earth ecosystem, just like the air, the water, the soil, the plants and the animals. Our existence and theirs depends of our ability to respect them and the rules that govern them. The many kinds of damage already done to the environment, some irreversible, are a constant reminder of this. The ecological bases of life on this planet must automatically be given priority over economic interests because they are indispensable to human development.

4. Values and objectives

The reference values conserved by Europe are legal obligations which have been unambiguously announced, accepted and established, whereas the objectives describe a model of society to be reached.

Values

One must start from the principle that the same scales of value and criteria are to be applied in Europe as were applied in the Nation-States (9). The values on which to develop the construction of Europe must therefore include the principles of democracy, peace, the unconditional and unlimited guarantee of the right to dignity, equality, liberty, representative and participative democracy, solidarity, the separation of politics and religion, and the preservation of the Earth and of its ecosystems for future generations: some people would also add social equity, tolerance and rationality. (36).

Peace as a value can be expressed in the constitution by a formal prohibition on undertaking a war of aggression. A similar prohibition is written into the German constitution, for example. The Charter of the United Nations, which is binding for its member states, also contains a prohibition of war; military intervention abroad may only be authorised by a mandate from the United Nations Security Council. The reference point of such a mandate should be the rules of the Charter and not its principles, since the principles are subject to different interpretations and may leave the way open to any military offensive under the title of « humanitarian intervention » (9).

The separation of politics and religion sometimes lends itself to different interpretations. The separation of politics from religion and philosophy is one of the pillars of the construction of Europe. Politics governs the general organisation of society and is the concern of public law, which is the law that applies to all the men and women of a political community. Religion and

philosophy are the concern of private law, or what interests one person or more people freely associated in a religious or philosophical community. Here human beings can choose their own options. Any religious or philosophical group has the right to express itself openly in public, to practice its cult and rites, and to educate its sympathisers or its members. However it cannot attempt to impose its religious or philosophical preferences or rules on anyone else. Religious or philosophical groups must therefore respect democratic law and the freedom of choice of their members; they may only govern members who have freely chosen to belong to the group. In France this value takes the form of secularism, the separation between the state and the church. However, it does not have to take this form, although it always implies the separation of politics and religion even in countries where the state is not formally divided from the church, such as Germany, the United Kingdom and the Scandinavian countries.

Democracy as a value also deserves an explanation. Democracy is the power of those who have no special right to exercise power, that is to say, of everyone (26). A distinction is often made between representative democracy and participative democracy.

Representative democracy is based on the following principles (6, 22) :

- The sovereignty of the people (§ 3). While the citizens may sometimes delegate power to the political authorities, these authorities only exercise their power by provisional delegation subject to the citizens' consent.

- The political equality of all citizens (especially at election-time). This applies whatever their sex, wealth, social position and geographical origin.

- The separation of the legislative, executive and judicial powers. This is one of the mechanisms that make it possible to achieve a balance between these three types of power, the objective being to circumscribe their reciprocal responsibilities and to prevent abuses (27).

- The transparency of the decision-making process. The three types of power must all be guided, controlled and sanctioned by the people alone. For this reason the people have the right to know the prerogatives of their representatives, to give them mandates on policy, and to monitor the decision-making process. The people must be able to intervene in the debate at the right time and place. Institutional decision-making processes must be transparent; the citizens should know when and how decisions are taken, who assumes the responsibility and whom they can ask for explanations. (37).

- The reversibility of decisions. All decisions taken may be annulled by those who have taken them, using the same processes. If a majority of citizens passes a law today, a new majority of citizens should be able to annul or modify that same law tomorrow.

- The plurality of information. Citizens have the right to give information and the right to receive information from plural sources.

- The freedom of political choice. Political choices should not be predefined in the constitution.

- The priority of political choice. Political choice must take precedence over economic, judicial, technical or regulatory choices (37).

Participative democracy is a more intense form than representative democracy. Rather than replace representative democracy, it accentuates it. It is built up by providing ordinary people with information, creating a broad public debate in which people can become involved, and fostering collective debate and the participation of ordinary people in the process of drawing up laws and taking decisions. Representative and participative democracy are not contradictory. Representation is necessary in a mass democracy but electing representatives

also has some harmful effects; it creates professional politicians and a closed political world that is isolated from the rest of the population. This can be set right by introducing other forms of representation such as drawing lots or participatory democracy (65).

Establishing individual and collective rights and formulating them clearly is one of the essential duties of democracy. If this is not done, the job of interpreting these same rights (either liberally or restrictively) is left to the courts, allowing the judiciary to usurp legislative power. This is the case today in the European Community in many areas including the right to housing; the right to work; the right to property and the possibility of appropriating land, natural resources and the means of production for social purposes; a new fundamental right concerning the genetic code of each individual that protects the human genome against access to, dissemination of, and modification of genetic information; and the right to denounce violations of the rules of democratic procedure (9).

Finally, Europe should create a slogan that contains values, for example, « Peace, solidarity, equality, liberty» (23, 39) or even « Liberty, equality, fraternity » as suggested by the Germans (36). A single word, such as "ecology", should also be added to indicate our relationship with the ecosystems (20).

Objectives

Europe as part of the global balance of power

The European Union is by far the leading economic entity in the world, but this does not prevent it from being a political and diplomatic dwarf. The first objective should therefore be to agree on an integrated European policy in order to counter-balance the power of the multinationals and the United States, especially in view of foreseeable upheavals (cf. § 2).

But the great powers of Europe have an imperial past and nobody really wishes to create an imperial and imperialist European power under the pretext of challenging the rule of the United States (40). A few rare first attempts at counter-balancing other types of influence have occurred: in law, the International Criminal Court; in environmental policy, the Kyoto Protocol; in public health, campaigns on AIDS and in Kosovo. In spite of this, the European Union now uses its power mainly to protect its own markets, while opening up those of others in the name of « free and undistorted competition » which it considers to be a fundamental principle. It is therefore necessary to work towards a different role for Europe, a role that contributes to the balance of power in the world (41, 42) by promoting common and interdependent security for ordinary people and peoples and by supporting the economic, social, environmental and democratic development of the countries of the South. In such a Europe the cornerstone of security and of a common defence policy would be the prevention of conflicts (43).

A democratic zone

The second objective is to make Europe into a democratic zone, where the citizens, and they alone, decide their future (see § 2 and § 3). The European institutions must find ways of ensuring that the general interest of the European populations takes first place before ways of thinking based on private interests, such as the logic of the free market (44). It has become urgently necessary to prevent the strongest from seizing wealth, damaging resources and putting the future in peril. (45). The European elections have until now aroused little interest as it is not clear to most people how European politics works. This situation is to the advantage of certain actors such as large multinationals and financial institutions that possess means of action which are not at the moment within the reach of ordinary citizens.

It should be possible for the decisions taken by the political powers to be preceded by plural public debates disseminated in the media. This presupposes the existence of a European Public Sphere (cf. § 9). Important laws and decisions should be prepared by citizens' forums associated to the Economic and Social Council of the European Union (47). The proposal to intensify European democratic activity raises the question of how to introduce participative democracy and put it into practice.

A solidarity zone

The third objective for a new Europe would be for it to become an area of solidarity between individuals. The new institutions should be capable of integrating existing social models and founding a specifically European social model centred on the collective management of goods and services. (41) It is up to the European institutions to provide themselves with the means of integrating the different social-security regimes from the top down (health and pensions, sick pay, maternity leave), and also of creating an integrated taxation system. But solidarity should not be just an internal European objective ; it should also be one of the Union's foreign policy objectives and, it goes without saying, include policies on commercial exchange with the rest of the world.

The European Union is committed to respecting the liberties and fundamental rights defined by the Universal Declaration of Human Rights in 1948 and by its own Charter of Fundamental Rights. These conventions were drawn up to be applied to all people without restriction (39. The right to own private property should be off-set by the right to work, because, as well as capital, the creation of wealth requires a lot of work. Furthermore, it should be born in mind that private property is only one possible way of distributing wealth (23).

The ecosystem

Human beings cannot aspire to be alone on the earth, or to be the masters and possessors of nature. They should have the humility to recognise that it is they who must adapt to nature, and not the other way round (27).

The fourth objective is therefore to respect the equilibrium of the natural world to which humanity belongs. The new European institutions would owe it to themselves to promote a model of production, consumption and distribution of wealth that permits all human beings, European or not, to live decently, while at the same time respecting the environment and the ecosystems on which humanity depends directly or indirectly, and taking care not to jeopardise the ability of future generations to satisfy their essential needs. Any measures implemented by the European Union should take into consideration that we live in a finite world with exhaustible resources, whose capacity for regeneration is limited. The Union must therefore respect the principle of precaution, that is to say, the early consideration of risks in uncertain situations (43). Europe should also make an effort to maintain its urban and rural cultures and its landscapes (36).

These principles are applicable not only within the territories governed by the European institutions, but also to its relations and exchanges with the rest of the world. They should be taken into account when considering the effects on other countries of the European economical, political and cultural mode of development.

To sum up, the core objectives of the European Union can be grouped into three independent aims of equal importance: a decent economic and cultural standard of living for everyone; social equity and security; and the preservation of the environment.

5. The Frontiers of Europe

Having defined sovereignty, and the values and objectives of the European institutions that should be made explicit in any European constitution, we can go on to discuss the geographical frontiers of the area that is governed by these institutions.

The frontiers of Europe's common territory should be the subject of a serious public debate. This was not the case when the Union was enlarged to include 12 new members, although this had considerable economic, social and geopolitical consequences. Nor was it the case at the time of the last enlargement to 27 members, even though, according to the European Court of Auditors' report, neither Bulgaria nor Romania were prepared or capacitated to integrate the acquisitions of the European community into the practice of their government bodies or of their private companies, or even into their legislation.

After looking at whether the European character is a good criteria for membership, we will explore different options in the light of the values and objectives defined above.

What does it mean to be European ?

Before defining the frontiers of Europe, we should ask ourselves which meaning or meanings of the words 'Europe' or 'European' describe concisely the Europe that we defend above.

Etymologically speaking, the word Europe indicates the setting sun (51). Europe is thus a direction, a promontory where the immense Euro-Asian continent ends. It is clearly limited by seas and oceans to the west, the south and the north, but what limits it to the east ? Geographers agree on a natural boundary (the Urals and the Caspian sea) but this geographical limit cuts in half two of the main 19th century empires, the Russian and Ottoman empires (52). Since it does not constitute the passage from one world to another, geographical Europe can be considered to be a fictional or artificial limit.

One can also define Europe in terms of its civilisation. This was done in 1973 by the heads of state and government leaders of the European Union in Copenhagen (53) when Europe was defined in cultural, democratic and social terms and in terms of human rights. According to this definition Europe is wherever one finds the influence of Rome on government, of Greece on thought, of Christianity, and of Cartesianism, which dissociates man from nature. However, European civilisation is universalist in nature and has spread across the world, in its two guises, the Europe of the Enlightenment and Imperialist Europe, often imposing itself by conquest (7). European civilisation cannot therefore provide frontiers for a political European entity.

Europe was also defined by certain projects for political integration dating from the 15th to the 17th centuries that have remained largely un-implemented (53). New projects appeared after the 1914-18 war and began to be carried out after the 1939-45 war with the beginnings of the European Union. The Union itself defined "Europeanness" according to cultural criteria in 1973, but added economic and political requisites in 1993 at Copenhagen. One of these requisites was a market economy. However, these last accession criteria have been increasingly ignored by aspirants to the Union and, as this has not prevented them from being allowed to join, the 1993 criteria are becoming increasingly inoperative. (54). Europe has thus moved on from the project of the United States of Europe that was defended by its founding fathers. It now aims to open up the whole of the European continent, erasing the division that was imposed after the Second World War, and has the apparently unquestionable objective of creating a large free-exchange zone (55). Europe, thus defined as a political project, can come into conflict with geographical boundaries. For example, Guadalupe, Martinique, Reunion, Crete, Malta and, just recently, Cyprus have all been considered "not European" at certain

times, and many countries such as Canada and New Zealand, fulfil the present criteria completely without being obviously European.

To sum up, Europe is a badly defined concept that has varied with time according to the projects being defended. It seems that the frontiers of the European political project can therefore only depend on values, and above all on the objectives that we assign to it.

Putting the aims into practice

It is perhaps time to consider the potential consequences of the aims defined in section 4 above in terms of territory and borders.

There is a problem with the aim of counterbalancing the United States (without seeking to be their European equivalent). A number of European countries, for a variety of reasons, remain close to the US and generally support its political positions - the UK, Poland and Turkey in particular, as well as other Eastern European states. It should be made clear whether this political commitment reflects the will of the population and not just that of their governments, and whether it is not just a reaction to European disdain. If we consider foreign policy to be a national affair, the pro-American stance of these countries is not necessarily a problem (although they may have major political consequences). If, on the other hand, we are aiming at a European foreign policy, their pro-American stance compromises their membership of a politically integrated Europe. Whilst this may seem harsh, it should be acknowledged that their attitude could make or break the possibility of a European foreign policy. If these states belonged to a political Europe, would they support European policies or, on the other hand, be the US's Trojan horse? Would they be any more dangerous if they were to remain outside this new Europe? Given the difficulties a political union would inevitably face, it would seem inopportune to expose it to any further risk of widening the diversity of political positions of its members.

The aim of greater solidarity and responsibility vis à vis the environment requires the introduction of higher social and environmental standards. The European Union today however remains both heterogeneous and divided economically (56): the social inequalities within the Union have grown as new states join, to the extent that they are now more marked than in the US. This will not change with continuing enlargement. It means, inevitably, that the social and environmental standards will also vary widely from region to region. The aims of solidarity and environmental responsibility can only be achieved through the convergence of these standards from the top down, accompanied by a significant rise in the European budget affected to this area and major changes in the way it is allocated. The extent to which wealth is transferred from the richer to the poorer regions will depend on the heterogeneity of the union itself. Which raises a problem: the enormous transfers envisaged would have to be acceptable, and also presuppose a minimum level of economic, social and environmental homogeneity. At the same time, whilst the idea of a small and permanent group of richer countries cannot be defended, nor can general homogeneity be considered a value to be cherished. We need to develop capacities of coexistence and solidarity that overcome such disparities.

The aim of a democratic Europe can only be achieved if membership is based on a foundation of shared values. A certain community of values already exists. It has been seen through demonstrations of public opinion on the day-to-day events that have affected citizens in all countries - the war in Iraq, the project for a constitution, European elections, social demise and pauperisation. Such events create public opinion, as long as views can be exchanged and traverse national borders – see section 9 (7). The aim of a democratic Europe however raises

the issue of national borders. Democracy can only develop within a stable and well-defined territory (57), where citizens are familiar with the socio-political forces at play. Some believe that the construction of a democratic Europe therefore requires relatively stable frontiers that include those countries sharing a long history and experience together (the six founding states of the EEC, for example). This view nevertheless fails to take into account the integration of new members. One might ask to what extent a democratic regime is possible within a space in constant evolution. Does not such instability compromise the possibility of a democratic system?

The construction of a democratic Europe requires sovereign citizens. In one way or another (whether federal or intergovernmental) the citizens will have to delegate this sovereignty - or a large part of it - to European rather than national level, either directly (the federal system) or indirectly (intergovernmental). A political Europe can therefore only be composed of those who accept, or rather desire, that their country cede a significant part of their national sovereignty to Europe, in the medium term at least. The countries that have only recently acquired full national sovereignty (having formerly been dominated by a soviet or other big brother) may not relish such a transfer of sovereignty. The opinion polls however do not confirm this (3). The East Europeans are generally pro-European. They see the Union as a means to protect their freedom, and they are therefore keen to adhere to both a political and economic union.

Finally, it is essential that the different populations share the objectives and values of the new union.

In summary therefore, in the light of the aims above, the limits of a political Europe could be based on a discussion of the following criteria:

- the absence of active support for any non-European power seeking the extension of its hegemony (the United States in particular)
- the homogeneity of the different states, in social, environmental and economic terms,
- the history of cooperation between these countries and the democratic experience they share, with the question of the stability of frontiers as one of the conditions of democracy,
- the willingness to cede a significant level of national sovereignty to the European level,
- the political will to construct a political Europe, recognising its aims and values.

These are criteria not to be applied mechanically but rather to be taken into account when evaluating the readiness of a people to build a politically integrated Europe. They can be assessed objectively. They are not however the only conditions necessary, nor are they sufficient. The willingness and the capacity to live and work together are also essential. It would not therefore be possible now simply to draw up a list of those who qualify. This will have to evolve from a debate on a political Europe by the citizens of the present EU. As in any project, it will be pushed forward by those with the political commitment; the others have other things to do.

Another criteria that could be considered is the territorial continuity of the new entity, or at least the practical difficulties that may arise if one of its members finds itself isolated amongst states not adhering.

This would suggest the need to limit a political Europe to the euro-zone countries, with perhaps Greece in addition. The eastern states like Hungary or Slovenia who seem keen on political integration could also join however (3, 4).

6. The options: union, core(s), or circles...

There are several options possible:

- transform the entire EU,
- create a series of inner cores through the establishment of strong partnerships,
- create a single core within the EU (with the core becoming itself a member of the EU),
- transform the European Union into a number of regional sub-assemblies.

Those in favour of the first option seek to transform today's EU with its 27 members into a political Europe. They argue that this would push all the member states into integration, avoiding widening economic or political differentiation. This has the advantage of starting from the European Union of today. There would be no need to change the integration process already underway; it would just need to be further developed, in a coherent manner. There are also objections to the strategy:

- although the founders' intention may have been to create a political Europe, this aim has been abandoned as the Union developed, in favour of more limited vision of a free-market area. The tendency has increased with the recent enlargements. It is therefore doubtful that integration at 27 (and even, soon perhaps at 28, 31 or 35) could ever lead to anything other than a vast market .
- there are many members that are not prepared to transfer a significant amount of their national sovereignty to Europe.
- in such conditions it would be difficult for citizens to mobilise; with no practical experience of the socio-political forces at play they would struggle to develop any genuinely democratic practice.

A second option being widely promoted(27, 58, 59, 60) would be the development of a new Union within the EU by strengthening a series of partnerships. Existing conditions however would have to be considerably relaxed. Such partnerships could even be contracted under the sole responsibility of the states concerned. This would place them of course outside the EU as it stands, as it would have no say on their activities (61).

Supporters of this option point out that there are already projects of this type (Schengen, Airbus, the euro…) and that few changes would need to made to the current rules (27). The borders of the new union need not be fixed, thus avoiding the need to identify this or that member as being within or without them. Any member state would be free to participate. The extension of integration in such a flexible manner (with those who wish proceeding faster than others) reduces the burden on the individual populations. Countries could choose to progress without having to "impose European rules" on their populations until they were ready. Partnerships of this type should of course be open to all.

The arguments against this approach are as follows:

- In institutional terms operations would be extremely complex, and this would slow down the emergence of a political Europe. The number of partnerships and members within them would be constantly changing. The system would naturally tend towards an intergovernmental structure, with every government negotiating its role in the partnership. This would make any form of federal system very difficult - the definition of the general interest would be almost impossible, with every country acting on its own for European integration.
- The rearrangement of the political landscape into institutionally independent arenas would encourage incoherent policy-making. If the new economic, social or environmental

partnerships were not coordinated, they would result in further social and environmental dumping.

The third option is to construct a new political entity from a limited number of countries within the European Union; this new entity would rapidly take the place of its members within the EU. Those in favour of this approach argue that the future of the EU as it now stands is not to become a political Europe but to remain a free market area. As such it is free to open out to other states or regions with which it has strong relations - the Maghreb, Belarus, Turkey, Ukraine, Russia or the entire Mediterranean basin. This could result in the development of a strong macro-region enjoying social and economic progress, democracy, solidarity, peace and safety. A political Europe however would limit itself to a small group of countries sufficiently homogenous and politically motivated to extend their integration further (58,62). The aim would be to establish in the short term the embryo of a political Europe, based on democratic, social and environmentally responsible values. Such an entity could in the longer term open out to other member states. It is argued that this option has been tested by the United States, whose constitution was written by and for an initial core of thirteen states, before being adapted to the needs of today's fifty states - two of which are geographically separated from the rest of the territory (27).

The option has problems however:

- How are the states concerned to break with the current institutions, and where will they find the political will to do so? Which states should be part of the pioneer group? The supporters of this option argue that these and other questions should be dealt with as part of the constitutive process, which we look at in section 9.

- The option can also be criticised for setting up a dominant bloc (both political and economic) within the European Union which is likely to play the dominant role. There is also the possibility that the countries that have recently joined the EU will feel rejected by the new entity.

The fourth option involves the creation of regional sub-assemblies strongly integrated within the European Union. Here it is argued that the Scandinavian countries work closely together; the Poles, Czechs and Hungarians have strengthened their ties since the fall of communism; the Benelux states cooperated under a special regime within the old EEC. This political structure based on geographical sub-regions rather than economic relations is considered to be better suited to the concerns of each population and its capacity for the democratic management of its future. Its supporters accuse the third option of favouring an avant-garde core group to the detriment of the rest of the EU. They prefer to aim for the political integration of the EU as a whole, through the development of regional sub-assemblies. From one sub-assembly to the other values the aims may vary. Each would function as a separate entity, with its own procedures for and degree of, integration.

The system has its drawbacks:

- Regional integration does nothing for the problem of disparities in wealth and development; as in the two options above the problem of a two-track Europe remains.

- Regional integration may help accelerate the integration of countries within their own geographical sub-assemblies, but it may in the long term become an obstacle to European integration as it increases the differences between sub-assemblies.

This outline of the different options allows us to distinguish between:

- the first option, which envisages the integration of all member states simultaneously and on the same model - a "one-track" Europe,

- and the three other options, which envisage integration *à la carte* (second option), around a single inner core (third option), or around several more or less integrated cores (fourth option) - thus raising the question of a "two-(or more-)tracked" Europe.

If, in the first instance at least, political integration only concerns a part of the European Union, via strengthened partnerships or an integrated core, or if integration happens differently from one entity to another, there is a problem of coherence to be addressed between the Union and the new integrated Europe. It is not possible for example today to construct a European core that would not be exposed to competition from its neighbouring states (who would be tempted to exploit their fiscal and social advantages). The strategy also raises questions with respect to solidarity and environmental responsibility. For those supporting the two-track approach, therefore, the EU cannot continue on its present free market path (62). This implies:

- the urgent need to raise the standard of living of the weaker countries to that of their neighbours, via a programme of taxation in favour of the less advantaged (27). In addition, the institutions should operate with the approval and under the control of its citizens.
- a transformation of the EU through changes to its values, its aims and its institutions. There is a real need for a new treaty or constitution for the EU itself. If a new political core is created it will also be necessary to transform the EU via a new treaty or constitution (separate from the new entity's constitution). The two levels should of course be compatible, but the negotiation processes need not be the same (63).

7. The division of powers, subsidiarity

In the context of any new European political entity (integrated European Union, reinforced partnerships, core group, or regional configuration), the division of powers and the relatively recent notion of subsidiarity raise issues of how to distribute competence and responsibilities between the new entity and the member states (or their lower echelons, the region or other territorial units). It is important to distinguish what can be held to be common and what specific to each people (12).

The division of powers could for example be modelled on the situation in France in the middle of the 20th century: this would lead to a highly centralised union with all powers invested in Brussels and an administration replacing those of the member states. France however has long abandoned this centralised model:

- in the sixties it 'outsourced' its administrations; the ministries delegated their powers to regional prefects who head the regional administrations;
- in the eighties it decentralised power; the regions and *départements* (in the person of elected officials) took over some of the powers and resources of the state.

France is therefore a centralised state with an executive shared more and more between the regional and national levels; its judiciary is national.

It is conventional to distinguish three forms of political organisation:

- the centralised state to which the citizens have delegated all powers,
- the federation of states and regions, based on a constitution adopted and revised by the citizens - the legislative, executive and judiciary powers are shared between these two levels, which have each exclusive or priority competence in a certain number of domains,

- the confederation of sovereign states based on treaties adopted and revised at unanimity by states - with all decisions requiring the explicit or consensual agreement of all the member states.

The European Union currently uses elements from both the federal and confederal systems. Its parliament is essentially federal, its intergovernmental structure confederal (equality of the member states within the Commission, treaties, etc).

There are innumerable systems for organising the division of powers, ranging from the French, Austrian or Italian systems of regionalisation to Spain's autonomous regions or Germany's federalism - including of course the possibility of self-government on all essential issues for the member states, but this would run counter to the aim of a political Europe. There is therefore plenty of choice. Indeed the division of powers could be complex and European decisions may or may not be taken with the participation of national institutions. Complexity in the organisation of decision-making should be avoided however; the lines between the fields of national and European competence need to be clear if each citizen is to understand how and by whom decisions are taken.

In this respect there is still a need to clarify the workings of a federal system. In France, for instance, the system is not clear, as the term 'federation' has multiple applications depending on the context (political, the labour organisations, sport and leisure…). Indeed the notion of a "European Federation" can cover a multitude of systems, depending on the distribution of competence between European and national level. It is generally accepted that neither the centralised state nor a confederation can be considered as federal (the present EU has not been a confederation since the requirement for unanimity of the member states was dropped). The issue is how to define the exclusive powers, in a language that all can understand.

In any democratic political entity the member states accept the loss of full sovereignty - decisions can be imposed upon them. They keep a limited level of power (of sovereignty) in specific areas of competence. This is, after all, how our democracies and their various forms of redistributive mechanism developed.

We need to distinguish:
- the powers held exclusively by the European entity, which has sole power to legislate; the member states are entitled only to 'accompany' European policy-making (i.e. legislate with the agreement of the other, or by implementing the decisions of the other)
- the powers held exclusively by the individual states, who alone can legislate, with the European entity entitled only to accompany national policy
- the powers shared by the European entity and the states, with primacy for European law
- the powers shared by the European entity and the states, with primacy for the individual states.

The distribution of competence and power varies widely from one system to the other, and the final decision will have to based on major discussions and clear proposals. These will have to take into account the different historical models which have resulted in the diversity of public affairs in Europe today: from centuries-old centralism in some cases to the high levels of local autonomy found elsewhere. It would nevertheless be dangerous to seek to impose one's own history on one's neighbours; this argues in favour of a relatively heterogeneous structure for the different geographical levels from one country to another: there is no reason to impose a single structure across the board. The construction of the new political entity is essentially supranational and does not necessarily concern the internal organisation of each state. At European level it is of little relevance whether power is exerted at national or regional level

within each member state. In this context therefore the issue of "national competence" needs to be understood in the sense of "infra-European competence" - i.e. national, regional, or even binational (if two states decide for example to exercise shared sovereignty in a particular field).

At the same time the division of powers must be clear and simple. At every level of government, sovereignty must be defined and limited to its own area of competence. This means that, in any specific domain (environment or foreign policy for example), the three major powers - legislative, executive, judicial - must all be exercised at the same level (European, national or regional), if we are to ensure coherence of action and responsibility. In the interests of popular sovereignty and democracy it is also preferable that political decision-making be exercised by directly elected representatives of the population (and not by representatives of elected representatives, who have no direct popular legitimacy).

There are many possibilities for the division of competence between national and European level. We suggest the following as an illustration. The exclusive powers of a new European entity could be:

- foreign policy and international representation (with a seat at the General Assembly and Security Council of the United Nations)
- European defence - involving the creation of a European army, consisting, in the long run at least, of all or part of the national armed forces. The proposal is controversial, given the risks associated with such a massive armed force if it were to be politically instrumentalised. Another form of defence and security should perhaps be envisaged.
- the economy, monetary and commercial policy, including the power to borrow, i.e. to issue bonds like any other state,
- transport, at European and international level,
- energy.

Two-thirds of Europeans in fact favour the introduction of a common foreign policy and three-quarters favour a common European security and defence policy. These figures are even higher in Belgium, Germany, France and Greece, and in the new East-European states (3, 4).

There are some areas of competence which could be shared, with primacy at European level:

- social policy - the essential rules will need to be defined at European level, with each country nevertheless maintaining a certain level of autonomy (although some would prefer social legislation to be the exclusive prerogative of Europe (9),
- the environment - a vast domain, requiring decisions at global, European and/or local levels,
- higher education and research,
- development aid to the union's own territories i.e. inter-regional solidarity,
- internal security.

Fiscality is also a field that should be shared, with European taxation decided at European level and national taxation decided at national level.

Competence could be maintained at national or regional level for:

- health
- culture

- primary and secondary education. There are some however that feel that training and education should be coordinated. They consider it both urgent and necessary that the same history manuals be used by all the European population.

The division of powers outlined above is one of many with good arguments in its favour. The final choice will have to be very carefully discussed. Our presentation merely illustrates what is possible, in the hope of clarifying the subject.

It should also be noted that it is not sufficient to define powers at European, state and regional level. It is also important to ensure the exercise does not impact negatively on the remaining competence of the others. If, for example, public services were not to be recognised at European level (- perfectly legitimate in terms of economic and commercial competence) it could become impossible to establish public services in the fields of health, culture or education, which are national or regional powers in the scenario above. Similarly, a European programme to develop systems of transport (a European competence) could destroy items of cultural value such as a site of special scientific interest (national competence). Modalities will have to be found to manage such conflicts of competence. A solution would be to define the priorities between European and national level for each area of competence - the Union's competence, for example, in the economic, commercial and monetary domain could not prevail over national or regional competence for health matters.

To strengthen subsidiarity there are some who argue that new laws should not be adopted if they encounter the opposition of a majority, or even a minority, of states representing a certain percentage of the population of the new union. This opposition would be expressed at European level through the upper chamber (see section 8 on the institutions). This would mean that the upper chamber would have priority over the parliament, and even for some proposals, that a minority in the upper chamber could block a bill that had already been accepted by parliament. If this were a bill within the exclusive competence of the Union it could be objected that precedence is accorded to a chamber only indirectly elected, to the detriment of the more legitimate, directly elected parliament. This is not however true of bills in areas where competence is shared.

8. The institutions

The new European institutions could be drawn from the French, German or any other tradition, if that tradition offered significant advantages. There would nevertheless be a danger of a certain institutional imperialism. They could also be based on several national traditions, or on the democratic experience of Europe as a whole, as it has been shared and implemented across the continent (with the notable exception of within the European Union itself):a parliament directly representative of the citizens, an upper chamber also representative of these citizens via the territorial structure, a president, government, court of justice and constitutional court. This is the institutional architecture we have chosen to describe below, as it is shared across Europe and represents a common institutional heritage. This does not necessarily imply that it is preferable to other proposals. It is, once again, merely an illustration of the possible.

A parliament elected by the citizens
The electoral system for the parliament combines on the one hand a dose of proportional representation and, on the other, choices as to the electoral constituencies. The proportional system is an option which has the advantage of respecting the choice of the electors and of encouraging the emergence of new political forces. It therefore assists in the renewal of the political class and ideas. On the other hand it also makes the formation of a government

difficult in the event of a high number of parties. An alternative, the UK's majority 'first-past-the-post' system or the similar French two-ballot system almost automatically delivers a majority, but it also stifles the smaller parties, the emergence of new ideas and political actors. An intermediate system would doubtless be preferable. The German voting system provides a model: it combines representatives directly elected for a constituency with representatives elected on a proportional basis using the list system. German electors thus have two votes at every election, the first for a candidate to their constituency, the second for a list at national level. At European level such a system of partial proportional representation would allow voters to vote for candidates from another country than their own.

The constituency could either be the European entity as a whole, voters' initial member state (64), a defined and limited number of constituencies of the same population, or a combination of the three. In the event of even partial proportional election, a list system will be necessary and then some representatives will have to be elected per European constituency or per state. Equality between citizens must be guaranteed, with each elected representative representing the same number of citizens. This means that, as population statistics evolve, the number of elected representatives per state and the constituency boundaries must be redefined at each election (6). Any one state must, however, be entitled to at least one elected representative.

The following proposals could be considered, to strengthen democracy in the parliament:

- The NOTA vote (None of the Above): blank votes should be considered as valid and counted.

- The random draw: 10 to 20% of the elected representative could be drawn in a random procedure from the population, in order to limit the professionalisation of politics and its hijacking by a small group of power-seeking representatives (23, 26, 65). The random draw can of course be criticised. Experience however in Denmark and France of citizens' conferences has shown that citizens selected on a random basis are highly capable of making constructive choices and decisions (66). There is a risk that some of these citizens with little political experience may be bought by lobbies or parties, but the risk is no greater than for the professional politicians, whose skills lie in their ability to obtain the (not disinterested) support of various pressure groups.

- Parity amongst representatives could be regulated - a minimum of 40% of representatives of each sex, for example, or total parity. Alternatively the French system could be discussed (parity amongst candidates rather than elected representatives) or European practice elsewhere, where these rates of female representation are achieved without parity rules.

Parliament should be the law-making body with a final vote on new legislation and the budget; it should be able to sanction the government or one of its members if the head of government is elected by a parliamentary majority; a sanction should lead to resignation. Decisions should be taken by simple majority. Qualified majority voting could be envisaged for a transitional period, as long as the transition period is explicitly provided for in the constitution (6). In order to limit the powers of the government on military matters, any armed intervention should be approved by parliament (23).

The constitution could provide for the possibility of framework legislation developing further the organisation of the state and the exercise of power: such legislation would have to be voted by parliament using more exacting procedures than for statutory laws (67).

International treaties between the new entity and external states should be approved by parliament (23).

An upper chamber equivalent to the French Senat or German Bundesrat

There is currently no chamber alongside the European parliament representing the national or regional infra-European entities. The role is filled for the moment by the EU's Council of ministers and the European Council who represent the interests of the different states via government representatives. This two-tiered intergovernmental system is a construction considered by some to offer a balance between European and national institutions. There are two arguments against this view:

- The system favours the smaller countries and therefore institutionalises inequality between citizens on a geographical basis. The same however can be said for any upper chamber elected at European level; we will come back to this point.

- The system leaves European debate to the experts and governments, and this raises issues of democratic control. Those calling for a more democratic intergovernmental system suggest that closer control over the process of European policy-making requires more active control by national parliaments over the European activities of their own governments. This is currently under-developed.

Partisans of the upper chamber on the other hand, who have a federal approach, believe that actors in European politics should be elected and controlled at European level. Politicians at national or infra-European level should remain in the sphere for which they were elected. There should therefore exist at European level a specific body representing the infra-European levels (states and regions) - in other words, a European upper chamber.

Thought needs to be given to the representation of states and regions at European level by a body other than that of the national politicians. A reasonable approach would be to take as a model what already exist in European democracies, the indirect election of an upper chamber by the directly elected representatives of the people. The creation of an upper chamber raises two issues:

- Should the system be based on the principle of numerical equality (the same number of seats for each country) or should it be weighted (more seats for countries with higher populations)? Those in favour of weighting stress the demographic differences existing between the member states (a ratio of 1 to 200 between Malta and Germany, 1 to 133 between Luxemburg and France); they conclude that this would introduce intolerable inequalities. Those seeking numerical equality between countries respond that even in federal states there are major differences between the members (compare for example the population of New Jersey with that of California, or Bremen with Bavaria). Their concern is not to duplicate the national or regional parliament but to ensure that the sovereignty of these is represented at federal level.

- Should the upper chamber represent the states, or the regions within them, or both? In other words should it be elected by national or regional parliaments, or by both? Whilst for some it would seem sufficient that the state be represented, there are regions in Europe that are considered by their populations to be real nations (Catalonia , for example, or the Basque country).

Several models are therefore possible: equality of representation for each state (the model of the American Senate), weighted representation for the states (the German Bundesrat), equality of representation for each region or weighted representation for the regions. They are not however mutually exclusive. There is also a compromise option. On the other hand, the national parliaments could each elect an identical number of 'senators'; on the other hand, all regions of comparable size would elect the same number of 'senators'. The total number of senators elected at national level could be the same as the total number of senators elected

regionally. This would allow both the states and the regions to have their say on European policies (7) and would ensure coordination between action at European level and the national and regional assemblies. The more centralised countries that have no regional structures (such as Greece and Portugal) would obtain a number of 'regional' seats in addition to their national seats, on a basis proportional to their populations.

A President

The office of president varies widely from one country to another. It can refer to a 'sage' holding little power in all but extreme situations, as is the case in most of Europe. It can also, however, include the role of head of government elected by universal suffrage, as in the US or France. The option of a president who does not head the government has the advantage of corresponding to tradition in all the current member states, with the exception of France (68). The president of a political Europe should be elected by parliament, through a procedure remaining to be defined.

A government

The government of this new political entity — its executive body in other words — would be led either by a prime minister chosen by the majority in Parliament and elected by Parliament alone (64), or by a president elected by the citizens or by the Parliament. In the latter case the president would head the government and there would be no prime minister. Whatever the case, it would appear wise at European level to avoid the French system of a government with two heads.

Depending on how the executive is elected (by the parliament or by general election), there are two different options:

- a parliamentary regime: in which the head of the executive is responsible to the parliament. The ministers are chosen by the head of the executive. The members of the government are approved (and dismissed) by Parliament, on a majority vote. This is currently the case in most of the member states.

- a presidential regime: in which the head of the executive is elected by universal suffrage and thus has the benefit of popular legitimacy. In this case the government need not be responsible to Parliament, and Parliament may therefore not have the power to dismiss it. If government and parliament disagree, compromises will have to be found, although parliament would have the power to refuse the budget; this would result in the previous year's budget being reconducted on a monthly basis. The United States is an illustration of this system; the executive and legislative bodies are independent.

The heads of financial institutions such as the European Central Bank could be appointed by the prime minister if they are to be responsible to him/her, or by Parliament if a greater degree of independence from government is preferred. Whatever the case, they must report to the institution that had appointed them, and may be dismissed by the same.

There has been discussion as to whether the exercise of a European mandate should exclude other offices. There are some who consider that the different European mandates — member of the European parliament (MEP), upper chamber, government and above all president — should be mutually exclusive, and should exclude the holding of any other office. This would ensure that officials take their mandate seriously and would limit the excessive professionalisation of those in office (such as iy occurs in France for example). For others however (some MEPs in particular), a certain proportion of MEPs should also hold seats in

their national parliaments. This would help to strengthen the links between the European and national assemblies (**7**). This raises a legitimacy issue however — for who would elect them, and for which mandate?

The right to initiative and referendum

There are good arguments for the introduction of a "citizens' initiative" process at European level - the right to call for a referendum. This would entitle citizens to impact on decision-making, propose initiatives, and control institutions. Switzerland provides us with a working example (46):

- A referendum must be held before any changes may be made by Parliament to the Swiss constitution, and before any move to join specific international organisations.

- The Swiss may also call for a referendum on laws already approved by their elected officials (including decrees - *arrêtés* - and international treaties), on condition that 50,000 signatures are obtained within 100 days of the legislation being passed. The number of 50,000 represents some 0.7% of the population, or 1% of the electorate. A majority is required for the referendum to pass.

- This Swiss system of *initiative populaire* — the right to launch a referendum — also entitles any group of 100,000 citizens (1.3% of the population or 2.1% of the electorate) to consult the population on legislation to be passed or on a change to the constitution. The signatures have to be collected within a period of eighteen months. The text of the referendum may outline the question in general terms or present a more detailed analysis. A majority of the electors and of the cantons is required.

It is only natural that a large group of citizens should be able to consult the population on issues they consider important. The initiative and referendum process should entitle voters to recall elected officials, introduce new laws or decisions, or repeal existing laws or decisions. For the vote to be valid a minimum rate of participation should be attained — the rule could be based on either a fixed percentage of the voting body (the majority for example), or a variable one (the rate of participation at the previous election at the same geographical level, for example) (23). If, for a decision to be adopted by the elected representatives, majority votes are required from all levels of the constituency (country, region), the same should be true for a referendum. The initiative and referendum process should essentially be used for local affairs. The difficulty of mobilising the public on a regular basis should not be underestimated.

A European court of justice and tribunal

The European Court of justice should be recognisable as a legitimate institution controlled and approved by the people (39, 69). This requires that:

- the committee responsible for examining applications to the posts of judge and advocate general of the Court of justice and the tribunal report to Parliament and the upper chamber.

- the judges and advocates general be appointed for a period of approximately nine years, with their partial renewal every three years. They cannot be deposed. Their terms of office may be extended (renewed) once only. They could be elected by the parliament of the Union.

- any citizen of the entity have the unconditional right to uphold the Constitution and laws of the Union.

- the Court of justice remain answerable to the people: this implies that the parliament should have the power to bring actions and appeals and the right to initiative and referendum, vis à vis any of the entity's legislation.

Safeguarding the constitutionality of legislation

The provisions of the constitution should override all other rules of law, and statutory law in particular. On the one hand, it should only be possible to modify the constitution through a procedure more onerous than that of statutory law. On the other hand, the other rules of law should be consistent with — or at least not infringe — the constitution. Responsibility for ensuring the constitutionality of the laws could be assigned to:

- the Court of justice, following Anglo-Saxon practice, in which the highest court of appeal and the constitutional tribunal are one and the same (this seems to the position of the European Court of Justice today).

- a special "constitutional tribunal", to which tribunals and citizens could turn should a law appear to contravene the constitution (this is the case in Germany with the constitutional tribunal in Karlsruhe),

- another body specifically charged with examining the constitutionality of the laws. This is the model of the constitutional council (in France for example).

Whatever the model adopted, its officers should be few, their rulings unchallengeable, and their mandate non-renewable. They should be appointed by special procedure, guaranteeing a high level of impartiality and a balance of opinion amongst the members (67).

Any judgment by the body monitoring the constitutionality of the law shall apply to all. This body, however, should have no power over national constitutions. It can be seized by the national parliaments (and the national constitutional councils or their equivalents may have similar prerogatives) to ensure that the new European entity respect the different national constitutions. These national institutions should be able to appeal against European legislation (69). What remains to be resolved is the case of a conflict between the constitutional council of the entity and a national constitutional council...

Our proposals for a new European architecture should not be taken too literally. Our aim is merely to illustrate the fundamental principles to be respected. We have no doubt that the traditions and long experience of the European peoples will contribute to the process.

9. A step-by-step approach, or a constitutive act?

As we near the end of this presentation we need to take a more concrete view. How can we, here and now, work towards European integration in democratic fashion? There seem to be two options, not necessarily contradictory:

- the adoption of a step-by-step approach to European integration, political integration included,

and/or

- the launch of a constitutive procedure which would endow the European Union with genuinely democratic institutions.

The step-by-step approach

A number of measures could already be taken towards European integration. There are those who favour political integration on a treaty by treaty basis, a process which would allow the different states to keep a firm hand on developments. They feel that it is easier to reform

existing treaties than to elect a constitutive assembly at European level. Their position is based on the conviction that Europe can continue to be built at inter-governmental level, through the negotiation of treaties between the different states. This would avoid institutional revolution, and it is technically feasible today. The problem with this view is that it is not politically realistic unless we abandon the unanimous vote rule and adopt the widespread use of qualified majority rules. This raises problems in terms of popular democracy (see §2 on this issue).

For those who favour a federal Europe in the long run there are also steps that could now be taken towards a more 'politicised' Europe (70):

- the appointment of the president of the Commission from amongst the body of MEPs, who would choose him.

- the election of 30% of MEPs on the strength of pan-European lists, thus encouraging the different parties to establish joint lists, common positions, and joint campaigns,

- the granting of a right of initiative to the European Parliament on legislative matters,

- the involvement of national parliaments ahead of the meetings of the European Council and the Council of the European Union (the "Council of Ministers"), to enable the ministers and heads of state and government to take up positions in line with the mandates received from their own MEPs. The Council agendas could be debated by the national parliaments, who should also be kept informed of developments in the Council. This would allow the general public, via their MEPs, to influence the often major decisions taken by their governments (37).

- the placing of the Central European Bank under the supervision of democratically elected officials.

There are also those who call for a staged approach, distinguishing a limited but essential package of changes, upon which all critics of the construction of Europe agree, from additional demands of a more federalist orientation (9). These core requirements would be:

- the suppression of Part III of the draft constitutional treaty for Europe, and of its references in Part I: this section introduces policy commitments that have no place in a constitution;

- the urgent extension of qualified majority voting to fiscal and social affairs, to prevent the phenomenon of cross-border competition based on the socio-economic standards of the lowest bidder;

- the cancelling of the commitment to raise military expenditure, and the prohibition of all non-defensive warfare (as is already set out in Germany's *Grundgesetz* constitution).

According to this approach, if we are seeking a constitution comparable to the national constitutions already in force in Europe, the following institutional changes will also have to be implemented in the not-so-distant future:

- the Union's laws must be voted by the European Parliament, with the Council of ministers holding specific powers of co-decision and veto - the opposite in other words of the situation today,

- the right to initiate and amend legislation must be shared between Parliament and the Council of ministers (the European Commission alone has this power today),

- "citizens' initiative" procedures must be established (empowering citizens to oblige Parliament to vote on a law), together with referendum procedures (empowering citizens to vote a law); most European countries are familiar with these instruments;

- the new constitution must set out procedures for its amendment; amendment by Parliament on a qualified majority vote, or (and preferably) amendment by the people on the basis of a referendum;
- Parliament must be able to elect — and dismiss — all the European commissioners on an individual basis (not only the President of the Commission).

These demands, if accepted, imply major changes of a federal nature for the European Union as we know it. None of them, however, affect its continuity, nor the system of treaties upon which the Union has been built since 1957.

It is clearly necessary and important to set out such short-term requirements, but there are two problems with this:

- agreement on certain issues can actually mask the differences between those for whom these requirements suffice and those for whom they are just the beginning. It is all too easy to agree on some of the measures set out in the European Council's draft mini-treaty (71) without actually sharing its minimalist vision of Europe.
- some of the proponents of a federal Europe believe that by focusing on short-term requirements for the EU's existing institutions we avoid the real problems, the issue of continuity with the previous treaties. The process of successive agreements on individual measures is a political distraction, resulting in the postponement of what could be implemented straightaway, i.e. the introduction of a constitutive procedure capable of providing the Union with genuinely democratic institutions.

Fundamentals for the constitutive process

It is difficult to envisage the establishment of a new European entity without the desire of its members to live and work together. A federal state cannot be forced upon its members (72), as were empires of the past, or the European Union of old. The willingness to live together needs to be formalised in a constitution and such a constitution can be introduced using more — or in less — democratic procedures (68):

- the constitution can be prepared and adopted by a sovereign constitutive assembly elected by the citizens;
- it can be prepared by a constitutive assembly elected by the citizens, before being subsequently submitted for approval to the citizens - a variant on this would be a constitutive assembly of citizens selected at random, on the model of the citizens' conferences (23);
- the constitution can be prepared by a group of citizens appointed or not for this purpose, with the draft then being submitted for approval to the citizens.

This latter method was used to draft the constitution submitted in 2005. It has since been discredited by the subsequent No votes and by the way it was handled by the 105 members of V. Giscard d'Estaing's convention. It is neither more nor less democratic than the other methods, on condition that its results are adopted by referendum. A referendum is not actually possible in all the EU countries (Germany, for instance). The referendum should be held in all the countries simultaneously.

Some suggest that national parliaments should play a role in determining the constitution. This does not seem particularly democratic, as the national MPs were not elected for European business, and even less for determining how citizens are empowered at European level. There is a representation issue here however. If the national parliaments were to participate in a constitutive assembly, the citizens of the smaller countries would be better

represented than the others.

It seems preferable, although more difficult, to elect a constitutive assembly. Such an assembly should have one and only one purpose — the preparation of a constitution. It should not be confused with a parliament such as the European Parliament. Nor should the body of politicians have any role in determining the rules it will have to follow, for one cannot be both judge and party. The members of the constitutive assembly should themselves be ineligible for any legislative or executive office at European level.

The constitutive assembly should take into account any existing proposals, as well as the history of Europe and the experience of the countries that have already, to a certain extent, established a federal union. The exercise requires that the general public seriously discuss the various options in advance, to be able to elect their representatives intelligently or be elected themselves. A significant period of debate at grassroots level across Europe is needed on what the members of the Union wish to achieve or avoid, either together or in smaller groups, under cooperation agreements or as separate entities. The French referendum campaign showed that a lively debate is possible. There should be no taboos: the concept of a political Europe, the definition of its borders and the different European entities possible, the social model, the return to more generous forms of community preference in international trade, the creation of a common European space superposed on and not replacing the existing national spaces, the clarification of the subsidiarity principle — issues we have developed in this text (73). It is a process that cannot be hurried.

Europe and the political arena

The constitutive process, and European political life in general, needs an arena capable of nurturing genuine public debate on common European issues, exposing the areas of agreement and disagreement between citizens and nations. Society is now divided between those with something to say (and they are rare) and the masses who need only hold their tongues, between those with information, from a variety of sources, (and they are even rarer), and the masses exposed to the complacent and distorted newsbyte (74).

There should be a fundamental right to balanced information from a diversity of sources (49). This is a prerequisite for the democratic process; for citizens to be able to debate, they must have the means to inform themselves and others. It's an issue of access to information and the right to communicate it.

It implies balance in the funding of electoral campaigns and referenda - a cap, in other words, on campaign spending. It also implies a constitutional guarantee that the media remain independent of financial and political groups. The circulation of information should remain a service of general public interest. It should not be entrusted to commercial companies serving private interests and subject to the rules of the neoliberal system, the laws of profit and competition. The current system undermines diversity and obliges journalists to seek the sensational. The result is a focus on ' breaking stories' and entertainment, a desperate search for advertising revenue, and an overriding concern to appease the sponsors (75, 76).

To guarantee this independence there are two requirements:
  - a constitutional limit on the concentration of the media: no single person or group should be allowed to control more than a small percentage of any regional, national or European media organisation, whether newspaper, journal, television, radio, or web... (a 2-3% limit at European level for example, and 30% at regional level).
  - The provision of funding, by European institutions, for the translation of the media into the EU languages. The media should not, however, be controlled by their funding

institutions. There is a need for an independent body, similar to France's national audiovisual council but with greater powers (23). Its members would be appointed by the different European institutions (Parliament, etc.). Alternatively, this could be a "European press foundation" (75) with a membership drawn from civil society media organisations and trade unions.

Language and politics in Europe

Language is omnipresent in human activity; its diversity is a major issue in the development of a political arena. If debate is enclosed by national or linguistic frontiers, national interests (however legitimate) will continue to dominate. It is the general interest of all Europeans that needs to be debated, and that implies the capacity of the different actors to understand each other (citizens, politicians and the media).

Europe's intellectuals and the political elite of the past spoke Latin and French respectively. These languages have now been replaced by English - or *Globish* (American English) to be precise. Globish is today's *lingua franca*. It can be used to order a coffee in Tamanrasset or Beijing and it is used to petition Brussels. Unlike English however, it lacks depth, imposing and encouraging poverty of thought. It can perhaps be compared to the language of the third Reich, a language in transition, undergoing impoverishment and brutal reorientation, its words transformed into "drops of arsenic" serving a dominant ideology (79, 81, 82). Globish is itself a version of English undergoing transition, impoverishment, and brutal reorientation; it is being used to transmit the free-market ideology to which it seems to have a natural affinity (83). It is the international 'elite-speak' gradually being imposed as 'the' language of the planet. Through it the various members of the planetary elite are surreptitiously introducing their own particular thought forms. It is a strategy of domination (84).-The rise of *Globish* is ~~also~~ marginalising national and regional languages in countries such as Spain and Germany (78). If no action is taken, the dominance of English across the planet will have a major impact on linguistic and cultural diversity. This is is particularly worrying for its political and geopolitical implications.

The spread of English in the international context currently offers a huge advantage to the English-speaking members of the EU, the United Kingdom and Ireland, who are heavily involved in English-language teaching of course, and who have no translation and interpreting costs to bear, unlike their partners. Businesses in the rest of the Union have to meet huge translation and interpreting costs to be able to compete with their English-speaking equivalents. It should be remembered that beyond the normal staff costs there are indirect organisational costs (additional time spent on the final translation phase). To the United Kingdom this is currently equivalent to savings of at least 10 billion euros (net) every year, or even 18 billion if we take into account the multiplication effect of some of this sum and the investment potential of the funds available (85). Thie estimate, almost 1% of the UK's GDP, does not take into account qualitative factors such as the advantage native speakers of the dominant language enjoy in situations of negotiation or conflict. It can be compared to the European Union's budget (116 billion euros in 2007) or the UK contribution to this budget, which amounts to 15 billion euros. It is not of course the English language itself that is at issue, but rather the phenomenon of linguistic hegemony, whatever the group or country benefiting.

Another international language, Esperanto, dates back over a century but has met with little success. Its acceptance has been countered by numerous obstacles, often the result of mere ignorance (85).

What is a language?

Language experts have shown that languages are not neutral. Each one can express concepts specifically its own, transmitting its own vision of the world (77); we have known since the 16th century that different languages express different ideas, and that the diversity of human

knowledge is linked to the diversity of language. The French for example have notions of "laicity" or "public service" that other languages struggle to express, whilst English terms such as "common law" or "business plan" are often imported verbatim into other languages with no precise idea of their significance. Most political terminology has a long and chequered history. The French *États généraux* or *Cahiers de doléances*, mean little even in translation to most Europeans ("States-General" and "Lists of grievances"). Terms such as "nation" or "people" can carry different or even opposite meanings in different languages: an imperial or ethnic charge in German, or an emancipatory one in French. The notion of "liberty" in French (*liberté*) is generally associated with those hard-won and collectively acquired social rights written into law and protected by the state. In Great Britain however, it evokes rights of freedom from state intervention. Such concepts, and the languages expressing them, are closely linked to their political environment. At the same time they are themselves factors influencing this environment (84).

Philosophers from both the Enlightenment and the Anglo-Saxon analytical tradition denounced the specificity of languages. The Enlightenment thinkers fought against the "prejudice" embedded in a language. The language policy introduced under the Reign of Terror five years after the French Revolution was just a logical extension: its aim was to purge the semantic prejudice embedded in the different languages of France, and in the French language itself. This latter objective failed: the French language was not cleansed of its essential Frenchness (78). In Anglo-Saxon philosophy it is the concept rather than the word or the language that counted, the idea, whichever language it was dressed in. To translate was simply to change clothes. This search for the essential and universal idea has never really ended.

Today's linguists believe that what counts in each language, what characterizes it, is the ambiguity contained within it: ambiguities load words with meaning not only in literary contexts but also in the technical and political spheres (79, 80). Taken to an extreme, linguistic nationalism over-evaluates the specificities of a nation's language and its vision of the world; it denies the fact that other languages can be equally precious and rich in meaning. A language is therefore a tool for communicating, useful for translating a certain number of concepts, but also an ideological tool, adapted to expressing certain concepts and not others.

The possibilities for communication
Language is therefore clearly an issue affecting the sovereign rights of European citizens. It is an essential factor in the construction of a forum for public expression. Language allows individuals to express themselves and to be understood; it is however also an instrument for imposing concepts foreign to non-native speakers. It is an important vector for Europe's cultural diversity. There should therefore be no question of imposing any linguistic culture, whatever its origins. This is particularly true in the case of Globish, given its trans-Atlantic origins (48).

Several not necessarily contradictory solutions are conceivable:
- the promotion of an English *lingua franca* emptied of its ideocultural identity. Linguists, as we have seen above, have doubts as to th feasibility of this, and they emphasize the poverty of thought that would derive from it. English, bereft of its cultural inheritance, will tend towards Anglo-American. The economic, cultural and political cost of the linguistic supremacy of one national language would be considerable.
- the encouragement of the use of several languages within Europe: German, French and Anglo-American, for example (39). But this would hardly change the situation: other European languages would be gradually eliminated, and there is no guarantee that these measures would prevent the ultimate supremacy of Globish.
- the reinforcement of European recommendations, by rendering obligatory the teaching of two foreign languages in each member state. Africa has shown that a population can speak

three or four different languages to the point of fluency. This scenario would be as economically costly as promoting English alone, but it would considerably reduce preferential treatment and linguistic inequality amongst Europeans. There would be a definite risk of instability and erosion in favour of Anglo-American unless very strict measures were applied (85). Italy has already shown its refusal to follow this road.

- the promotion of "intercomprehension" within each family of languages. By intercomprehension we mean the capacity of an interlocutor to understand a foreign language without necessarily being able to speak or write it. This could be a short-term or a long-term solution (48), within the Romance, Latin, Germanic or Slav communities for example. It already exists in Scandinavia. Individuals would speak and write in their own language but would understand and read the other languages in their linguistic group (86). Whilst this would encourage exchanges within a linguistic community, it would still not be sufficient for pan-European communication. A first habit to adopt would be to prefer long but unambiguous expressions to synthetic terms and expressions that are interpreted differently according to various regions and cultures.

- the definition of Esperanto as the *lingua franca* of our future generations. Esperanto is an artificial language, created as was modern Hebrew for the state of Israel. It has no national affiliations and its use would offer no symbolic and economic advantage to a country or group. Its adoption would bring net savings of around 25 billion euros for the whole of Europe, including Great Britain and Ireland, and close to 5 billion for France (85). Esperanto is far easier to learn than any other language: it is estimated to take around 1500 hours to reach a competent level in English, but between three and ten times less time to attain an equivalent level in Esperanto (85, 87, 88). Although Esperanto has not had the opportunity to develop a cultural tradition, could it not become the language of a European culture, consolidating the bonds between the Union's citizens? The 1985 Unesco general conference recognised "the great possibilities offered by Esperanto for international understanding and for communication between diverse peoples and nationalities. The all too frequent rejection of Esperanto should be overcome through a long-term programme of communication on its advantages and an effort of political will.

In any event, it will require strong political will to institutionalise such vectors of communication and identity among European citizens. It was nevertheless thanks to state intervention that languages such as Hungarian, Finnish, Czech, Estonian and modern Hebrew have been able to adapt to the modern world and survive (83).

Launching a new constitution

The question of the constitutive process is linked to that of the scale to be adopted for a politically coherent Europe: should the constitutive process involve the whole of the European Union with its 27 or more member states, or just those members seeking to accelerate the process?

The first option is likely to be long and difficult, as it presupposes political conditions and enthusiasm that do not necessarily pertain. The second option depends on identifying the states whose peoples favour political integration. The opinion polls tell us that two-thirds of Europeans favour the idea of a European constitution — this includes Belgium, France, Germany, Hungary, Italy, Greece and Slovenia. The Swedes on the other hand, together with the Austrians, British, Danes and Finns, are opposed. Support for a constitution ranges from 44% to 49% (3, 4). But a new democracy should not depend on opinion polls. We should perhaps in the first instance hold simultaneous referenda in all the EU states, on the choice of a political structure for the Union — between a federal Europe and a confederation. The question could be: "Do you consider it useful for us to adopt a single constitution?" or "Are you in favour of a democratic Europe, with competence over most of the Union's economic,

social and environmental policies?"

Any such question, however, is likely to be misunderstood in the absence of a public arena and genuine public debate on the issues. The options need to be discussed across Europe and their different implications understood... and this can only be achieved by debate. It would almost certainly require changes to the constitutions of countries such as Germany, where there is no provision for referendum procedures.

The referendum would have to be held before the election of a constitutive assembly (89). The assembly could only be elected by those populations that had voted in favour of an integrated Europe, i.e. a new European political entity within the greater Union. The constitutive assembly could in part be composed of ordinary citizens, volunteers selected at random - professional politicians should not be allowed to determine on their own the political framework within which they are to operate (23).

Whatever the options chosen, the public in the countries concerned should also be encouraged to record within their local town halls any remarks and suggestions they may have on the content and form of the new European body. These suggestions could then be transmitted by the internet to a national authority in each of the states involved, for processing and forwarding to the constitutive assembly. The assembly's debate could be televised and followed on a special channel.

The assembly would be required to submit its proposals within a reasonable deadline (2 years?). It would then be examined by the parliaments of the states concerned. These would return their comments and proposals within a relatively short time (12 months?). The constitutive assembly would reflect on these suggestions, but it would not be obliged to implement them. It would then finalise its proposal, for ultimate consideration by referendum in all the states simultaneously.

Assuming that a new politically integrated body is to be created within the Union, its membership would be composed of the countries that had approved the proposal by referendum. The new body would have to exceed a certain size, if (in contrast to the present state of affairs) it is to function as a highly integrated union working confidently towards shared objectives. We could imagine that the union of a few countries as large as Germany, Belgium and France would be sufficient and acceptable. This means that, for the referendum to pass, a critical threshold of favourable votes must be reached. This percentage of states — or of their population — necessary to constitute the new union would have to be defined by the constitutive assembly.

Should the constitution be rejected by referendum, the reasons would be examined and the appropriate changes made. The constitutive assembly would return to work and submit an amended text within six months. The new draft would again be submitted to vote by referendum in all of the participant countries.

It would be important to ensure coherence between the new constitution and both the different constitutions of the member states and the treaties upon which the EU is founded. There is also the question of the pre-eminence of the European constitution over the national constitutions. If one accepts the idea of a political and democratic Europe, one must also accept the need to revisit the constitutions of the countries entering its fold, with a view to restricting their scope to a new and narrower sovereignty.

The existing European treaties will also have to be reviewed. We must distinguish between their provisions of a constitutional nature, and those, more numerous, which have little to do with a constitution and which could be implemented by simple acts or framework legislation

(90). The constitutional provisions would inevitably have to be denounced. They would be replaced as necessary by the provisions of the new constitution. The other provisions compatible with the constitution of the new body or that of the existing Union could remain in place, until such time as they are replaced by new legislation passed in compliance with the new constitution. Any provisions not compatible with the new constitutions would have to be denounced.

In a democratic culture there should be little difficulty in denouncing parts of the European treaties currently in force, if we accept that the reversibility of decisions is one of the fundamental building blocks of democracy. This is not necessarily obvious if we consider the antidemocratic manoeuvring that has plagued the history of the European treaties (cf. § 2).

Conclusion

The European Council meeting held in June 2007 in Brussels agreed on the need for a new draft treaty and opened the way for an intergovernmental conference. The new treaty was to be formulated with little transparency, and the citizens of Europe were to have almost no say in its adoption. Any new text is therefore unlikely to have any impact on the workings of the Union, which will remain a huge economic market with no coherent political programme. The problems therefore remain. There is an urgent need for alternative solutions (71) and for the citizens of Europe to become involved in the debate on its future.

It is not our intention in this paper to set out "the solution" as we see it. We have tried to show that there are a number of promising possibilities, each with advantages and disadvantages. Hopefully we have suggested ideas and approaches that will contribute to the process of public debate. We have tried to present an overview of the many proposals and analyses that exist. We have also added our own ideas, and we have indicated our preferences. Our aim has been simply to set out the problems, show that solutions exist, and make a little progress towards the construction of a citizen's Europe. All ideas and analyses need to be discussed and criticised, modified and matured, for no single person has all the solutions. We hope that this paper has contributed to the quality of the debate.

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