

Foreword

The two main events of Europe's political life in 2004 were, without a doubt, the enlargement of the European Union (EU) and the adoption of the draft constitutional Treaty. Fifteen years after the Berlin Wall came down, the entry of ten new Member States into the Union on 1 May represented, for those countries, the culmination of a lengthy and sometimes laborious transition process. As for the Union, this enlargement does not mark an end-point in the reunification of the continent: the EU must still prepare for the accession of Romania, Bulgaria, Croatia and, no doubt in the more distant future, Turkey and yet more countries. The decisions taken by the European Council in December 2004 concerning these further enlargements have triggered a debate about Europe's borders, its identity and its political vision.

In parallel with these discussions, the completion of the Intergovernmental Conference's deliberations and the adoption of the draft constitutional Treaty signalled – for the time being – the end of a lengthy process dating back to the Maastricht Treaty (1992), geared to adapting Europe's political vision and institutions to the geopolitical consequences of the fall of the Berlin Wall. The reality of a Union of 25, and soon more, is radically different from that of the period before the collapse of the Soviet Union. And, owing to enlargement and the adoption of the draft constitutional Treaty, the face of Europe may be thought to have changed more in 2004 than in any other year since the European Union began to take shape.

However, even though these two events are crucial, we should like to draw attention to one other aspect in this introduction to the current edition of *Social Developments*. Europe is not an island; it is being fashioned in a rapidly changing world. Since the Single Act of 1986

whose objective, let us not forget, was to relaunch the building of Europe in an environment characterised on the one hand by competition from Japan and the United States and, on the other, by the emergence of threshold countries such as Korea, Taiwan and Brazil, the European debate has grown progressively more inward-looking. It has focused on internal ventures – the single market and the single currency – aimed at forging a regional economic (and political) entity. But little attention or energy has been devoted to the rest of the world, a world undergoing radical development in some respects. The end of the east-west confrontation has brought not everlasting stability, nor the end of history, but renewed forms of conflict. US military domination has revived an issue which was already beginning to surface in the Single Act but had not yet led to anything very spectacular: European cooperation in the diplomatic and military fields.

We are moreover witnessing the emergence of some major new economic and commercial powers. China appears to be turning into the workshop of the world and India into a global service centre. A new international distribution of labour is becoming apparent, assisted by the dazzlingly fast advances in information technology and the reduced cost of transporting freight. National labour markets are feeling the effects of offshoring, and the production of goods and services is undergoing a worldwide redistribution. These phenomena are affecting all regions of the world (for example, Mexican plants assembling products for the US market are relocating to Central America or China). The many concerns which already existed in connection with this rapidly changing world are further heightened when one senses that the consequences of these upheavals have not yet been fully grasped, especially in view of the growing inequalities between regions, between countries and within countries.

There are winners, but there are many losers too. As is described in the first report by the International Labour Office on the social dimension of globalisation, *“The global market economy has demonstrated great productive capacity. Wisely managed, it can deliver unprecedented material progress, generate more productive and better jobs for all, and contribute significantly to reducing world poverty. But we also see how far short we still are from realizing this potential. The current process of globalization is generating unbalanced outcomes, both between and within countries. Wealth is being created, but too many countries and people are not*

sharing in its benefits”¹). Globalisation, with its succession of (threats of) restructuring, outsourcing, job losses and rolling-back of social achievements, arouses a mounting sense of social insecurity among trade union circles in the rich countries. In this context there is a proliferation of critical assessments, not only from workers’ organisations and the “anti-globalisation” camp, but equally from international organisations, which particularly highlight deficiencies in the governance of this globalisation. 2004 was a key year for trade unions in terms of the gradual formation of a worldwide trade union movement, owing to the merger of two large confederations: the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL). If this new international organisation proves to be more than a bureaucratic manoeuvre, it may offer an opportunity to determine fresh global trade union strategies for confronting the social challenges of globalisation.

How, in the new circumstances briefly outlined above, are we to assess the likely impact of those two European events, enlargement and the adoption of the draft constitutional Treaty? Two readings are possible, it seems to us. The first will stress that these two events, both crucial to the future of the Union, have overlooked the future of the European social model. The reunification of Europe, indispensable and desirable though it was, has been carried out according to an essentially liberal approach. A number of “old” Member States are reluctant to countenance budgetary solidarity, as was clear from the debates prior to the adoption of the next financial perspectives. Moreover, the principle of freedom of movement for workers from the new Member States gave rise to several requests for temporary derogations. We cannot be sure, from this point of view, that the citizens of central and eastern Europe have a sense of joining a Europe based on solidarity. At present, the only immediate “benefit” of enlargement amounts to trade liberalisation and the opening up of markets which, apparently, is expected to provide all the answers. This approach to enlargement may

¹ “A fair globalization: creating opportunities for all”, World Commission on the Social Dimension of Globalization, International Labour Office, Geneva, April 2004, page x (<http://www.ilo.org/public/english/wcsdg/docs/report.pdf>).

well be liberal but it is liberal by default, due to the absence of a political vision striving to achieve social progress for all in the Europe of 25.

The draft constitutional Treaty, for its part, is more complex to analyse. Formally, this Treaty does not constitute a step backwards from the earlier treaties in social terms. On the contrary, it even makes some headway which, if seized on by the political and social stakeholders, might prove valuable. But, in a Europe increasing from 15 to 25 members, the maintenance of the unanimity rule for votes on fiscal matters opens the door to fiscal (and hence social) dumping. More broadly, there are other outstanding problems for which no political solutions were found at the Intergovernmental Conference, among them deficiencies in the economic governance of the euro zone. Finally, the main reason why the draft Treaty has fomented so much debate in progressive circles – including traditionally pro-European ones – is the lack of any real progress in preserving the European social model. In a way, it is feared that the *acquis communautaire* of social Europe – recognised and preserved, but apparently no longer a priority for further development – is not up to the challenges of enlargement and globalisation.

The second reading takes a more all-round view of Europe in an international context. From this perspective, the only way of preserving the European social model and national social models is to extend geographically the fundamental values on which they are founded. Therefore, although enlargement in itself obviously cannot bring about social progress at European level, it does nevertheless constitute an opportunity to extend – albeit to a limited degree – the foundations of the European social model to the central and eastern European countries. This extension, which no doubt appears rather unambitious, is by no means negligible in the light of what is happening internationally, in particular the domination of the US model (need we recall that China, having initially considered modelling its system of collective bargaining and labour law on that of Germany, is now envisaging following the American example?). From this global perspective, despite all of its inadequacies, the constitutional Treaty represents a major step forward. Rather than unilateralism, it opts for institutionalised multilateralism: far removed from the federal ideal, true enough, but the antithesis of unrestrained domination by great powers.

It creates a stable social order – social dialogue, trade union rights, public services and social protection – in a basically hostile international context: this in itself may be regarded as something of a success.

Having said that, this second reading cannot ignore the fact that these are potential, not certain, developments. In actual fact, those who would like to see Europe purely and simply aligning itself with the dominant liberal trends are still a force to be reckoned with. Europe therefore continues to be torn in two directions: that of gradual integration into the liberal world of globalisation, by means of increased liberalisation, competition and deregulation; and that of constructing a political vision aimed at extending to the entire continent a dynamic model based on legislation, collective bargaining and economic and social policy coordination. These two directions correspond to two quite distinct political visions, neither of which enjoys unanimous support in Europe's capital cities. This lack of unanimity plays into the hands of the least highly regulated vision (the construction of a political vision requires a consensus; its disintegration can occur in the absence of a consensus). Thus the risk is that, for want of a shared political, economic and social goal, the Europe of 25 – and soon more – may turn out to be a market Europe rather than a political Europe.

But there is nothing inevitable about that. Future political debates around the review of the Lisbon strategy and the financial perspectives but also, more particularly, the directive on services in the internal market and the revision of the Working Time Directive, are symbolic of the new-style Europe in the making: a Europe of solidarity, governance and broader-based social progress or one of self-interest, deregulation and social competition – in the name of competitiveness that is supposedly full of beneficial effects. The political, economic and social stakeholders have a key part to play in these debates. The unprecedented decision taken in February 2005, to take “back to the drawing board” the Bolkestein directive on the liberalisation of services in the internal market, demonstrates the importance of deliberation and public debate, but also of involving all stakeholders in shaping European society.

In this year's edition of *Social Developments in the European Union* we shall explore eight themes which, it seems to us, went to the very

heart of European social debate in 2004: the Services Directive, the social dialogue, the European Employment Strategy, the issues of asylum and immigration, the coordination of healthcare systems, pensions reform, the draft constitutional Treaty and, finally, certain aspects of European Court of Justice case law in the field of social affairs.

- The debates surrounding the draft *directive on services in the internal market* proved particularly vibrant in 2004, both in political circles and within trade union and social organisations. These debates were so stormy that, in early 2005, the European Commission announced its intention to revise the initial proposal. Éric Van den Abeele shows us in the following pages in what way the much-vaunted country of origin principle, initially included in the draft directive, could be fundamentally altering the type of Europe we are building.

- The *European social dialogue* continued in 2004 with the employers' side very much on the offensive. The year was peppered with a number of industrial disputes in various Member States on matters such as working time, more flexible working hours and employee participation. The European social partners reached a consensus on an autonomous agreement concerning work-related stress but, according to Christophe Degryse, the cross-industry social dialogue currently lacks sufficient momentum to tackle more controversial topics such as, for example, working time.

- The *European Employment Strategy* (EES) was synchronised with the Broad Economic Policy Guidelines (BEPGs) in 2004. But what is most striking of all is the rethink about the operation of the open method of coordination and the Lisbon strategy, which is supposed to coordinate the economic, employment-related and social aspects of European integration. This review concerns its effectiveness but also what priorities to pursue: the champions of liberal orthodoxy – led by the Commission – would like to return to an agenda centring on competitiveness. On the other hand, the Stability and Growth Pact is being overhauled, meaning that there is some possibility of the rules on economic coordination evolving towards a more flexible approach which is more responsive to the economic state of affairs in individual Member States. In his contribution, Philippe Pochet analyses not only

the evolution of the EES with 25 Member States but also the major debates which will determine its future.

- *Asylum and immigration policy* has undergone fresh developments, especially in view of enlargement to incorporate the central and eastern European countries. Even though, in respect of asylum, the fifteen “old” Member States appear to acknowledge through gritted teeth the need to permit a little more legal immigration, they seem less concerned about protecting asylum seekers than about devising policies to prevent them from entering the territory of the Union, says Cécile Barbier. What is more, although the Union’s powers in this field are of recent date, the complexity of the decision-making process would seem to be at least partially to blame for the lack of ambition evident in the texts adopted.

- Policy developments in the field of *healthcare* came along thick and fast this year. They have not always, however, been very consistent, argues Rita Baeten. She notes with regard to the Services Directive and its impact on healthcare, as well as initiatives launched in connection with patient mobility and the coordination of healthcare systems, that numerous stakeholders are involved and their aims are sometimes quite divergent.

- Although the open method of coordination in the field of *pensions* was initiated some time ago, this process follows on from some quite tumultuous national debates around keeping public expenditure under control, but also around reform of state pension systems in the light of forthcoming demographic change. According to David Natali, the Union’s role relates mainly to the employability of older people and the growing role of supplementary pension schemes, which are expected to contribute to more sustainable social protection systems in the years ahead.

- The agreement reached in June 2004 on the *draft constitutional Treaty* and its signature in October did not mark the end of discussions about the future of the EU. On the contrary, the preparations being made for ratification, especially in those countries which have chosen to go down the referendum road, have in some cases sparked heated arguments both about the content of the text itself and also more generally about the social and economic direction being taken by the Union. Cécile

Barbier informs us that the draft Treaty, which falls short of expectations in many quarters, does provide a partial response to the need for the EU to express itself with a single voice on the international scene. In addition, it contains some innovations liable to enrich democratic debate within the Union, including in the social sphere.

- As for the *European Court of Justice*, it continues to play a crucial part in the various aspects of European integration. In this edition of *Social Developments*, Dalila Ghailani has examined some significant judgements related to European social policy and, in particular, on issues pertaining to equal treatment for men and women, social security in Community law, and the rights and obligations of workers and employers.

We hope that these various contributions will make for interesting reading.

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