

**GREEK LEAGUE FOR WOMEN'S RIGHTS (GLWR)
EUROPEAN CONFERENCE**

“Social Rights: a Lever for Equality. Proposals for the European Constitution”

Within the framework of the Greek Presidency of the European Union
with the support of the General Secretariat of Equality

in collaboration with the organizations
**INTERNATIONAL ALLIANCE OF WOMEN (IAW)
ASSOCIATION OF WOMEN OF SOUTHERN EUROPE (AFEM)
EUROPEAN WOMEN LAWYERS ASSOCIATION (EWLA)**

Athens, 2 April 2003

Introductory Statements

Message from the Minister of the Interior, H.E. K. Skandalidis

Ladies and Gentlemen

I would like to extend my greetings to (the members of) this conference which is taking place at a period of time critical for peace, human rights and values which must characterize society in the 21st century.

In my speech made, on behalf of the European Union, at the United Nations during the 47th Session of the Committee on the Status of Women, in March, I noted that the EU is fostering a society of common values recognizing the rights of all, girls and boys, men and women. Gender equality is an important element in the principles guiding EU policies on equality, allegiance, social justice, human rights and proper governance. Today, more than ever, all states must secure the framework and institutions of international cooperation which have been built after decades of efforts and sacrifices.

Greece, at the head of the European Union, is intensifying its efforts to reaffirm, at this critical juncture, the role of international law, international institutions and organizations.

The Greek Presidency is placing special emphasis on the promotion of values such as that of gender equality. The motto of the Presidency “Sharing the future in a community of values” lends weight to the recognition of the right of men and women to democracy, security and quality of life especially now that the international environment is unstable and unpredictable.

In the drafting of a Constitution for Europe, the Convention must base its work on all the values which comprise the foundation of the Union and must respond to the need to maintain fully and to further develop the Community acquis in the domain of gender equality.

Equality, including equality between men and women, must be included in the European Constitution as a **value** and the eradication of inequalities and the promotion of gender equality must be the objective of all policies of the European Union. The new Constitution must include articles which will serve as the foundation for legal instruments promoting substantive equality.

The Greek Presidency, with initiatives such as this one, would like to use the conclusions arrived at in this conference as well as those of the meeting of the Network of Parliamentary Committees on Equal Opportunities on March 31st as well as the conclusions from the informal meeting of Ministers of Equality on “Gender and the Information Society” scheduled for May 6, 2003.

We will proceed after the Informal Meeting of Ministers of Equality to submit these conclusions as proposals to the Constitutional Convention so that the new Constitution may secure Equality, Development and Peace for all European citizens, men and women.

Prof. Alice Yotopoulos-Marangopoulos

President National Commission for Human Rights, Hon. President International Alliance of Women

The League of Women's Rights has always been a pioneer and a protagonist in the fight for equality between the sexes in Greece, and the initiative for today's conference constitutes an important point in a series of similar events organized in the past. This conference acquires particular importance since it concerns the relative provisions of the first European Constitution now under discussion.

The initiative for today's conference belongs to Sofia Spiliotopoulou, with whom many members of the League, under the coordination of Terpsi Lambrinopoulou, collaborated in order to organize it. Warm thanks from all of us

to all these ladies.

All the numerous human rights in effect today could be summarized in two fundamental rights: those of equality and freedom (in all its specific forms).. Both of them constitute the basic supporting pillars of respect of human beings, of our value and dignity,- as well as respect for democracy.

These human rights were won - more or less, but not completely of course - after long and occasionally bloody struggles. However, while freedom of **all** human beings can only be realized if it coexists with equality, the opposite is also true: equality can be realized only if it coexists with freedom¹.

1. Freedom is not sufficient for the enjoyment of Human Rights by the economically and socially disadvantaged. The freedom of access of ailing citizens to hospitals can only be realized (even if not to the same degree and of the same quality to that enjoyed by the wealthy) if

Unfortunately, modern society did not realize this until recently. The great political philosopher Aristotle had conceived the idea centuries ago. He wrote in his **Politics**: "Democracy is being equal and also being free, both equally essential in democratic regimes..."² However, modern society has not as yet understood this completely even today.

After the Universal Declaration of Human Rights (UDHR) was passed, the most important and wise text of the previous century, (which declared respect of freedoms, through the application of individual and political rights, as well as respect of the equality of all human beings without any discrimination, through the application of social and economic and cultural rights), the world did not agree with the fundamental idea that freedom and equality must coexist.

Consequently, in applying the Universal Declaration of Human Rights, it was not possible to frame and adopt one pact; two separate pacts were framed, one for individual and political rights (freedoms) and another for social rights. Thus, people were divided in two camps: the western which placed emphasis on the first, the eastern in favour of the second.

However, practice proved clearly that despite numerous international agreements, the weak socio-economic classes, do not enjoy all human rights to the same extent as the groups that have a socio-economic advantage. **Social rights** proved essential **in order to give substance to freedoms and equality and in order to truly eliminate discrimination**. And that was not all. Practice moreover proved, that special **affirmative action measures constitute the necessary supplement of social rights** in favour of **certain socio-economic categories** which face conditions mainly deriving from biases of bygone eras that considered these socio-economic categories incompetent - by their nature- to enjoy Human Rights.

These categories of people were socially marginalized. For example, access to schooling was declared free for all. However, only the **social right** of free public schools allowed the children of financially weak parents to be educated. Yet in certain circumstances this was not enough. **Positive measures** (quotas) in favour of **special categories** (e.g. in the U.S.A. black children) made sure that they were accepted in schools.

Women constitute the widest category considered inept, by nature, to exercise many rights and consequently many responsibilities. These perceptions rendered women the second sex, inevitably victims of discrimination with the result that women were considered second category human beings, merely at the service of first category human beings i.e. men.

Women's struggles for equality are included **in the general social struggles for the achievement of equality**, firstly **formal**, and then **substantive**. However, there was and there is need of **special support and special efforts for the eradication of specific biases** concerning gender.

In retrospect we recognize that the long and painful way to equality has generally passed from the following phases.

1st phase: Inequality recognized as natural and fair (religious and authoritarian regimes).

2nd phase: Formal equality in the eyes of law.

A great achievement of different extent and diverse degrees in various countries and times (e.g., human rights were legally recognized only for all free male-citizens (ancient

Athenian Democracy), later for all men (in western democracies of the 19th century); for women, rights were acquired later and with many exceptions, the exceptions becoming fewer after women's efforts; human rights for **foreigners**, with gradual increases of foreigners' rights).

3rd phase: Substantive equality for all, a radical change.

The lever has been the introduction and application of social rights, supplemented by special positive measures. This third phase has already been recognized worldwide for women, in particular after CEDAW, but also by different national legislations (in Greece after the Constitutional revision of 2001, article 116, paragraph 2 and certain laws already implemented last year)³.

I believe that it is useful to cite the entire text of the new article 116, paragraph 2. of the Greek Constitution:

*The implementation of positive measures for the promotion of equality between men and women does not constitute gender discrimination. The State sees to the removal of inequalities existing in practice, particularly at the expense of women.*⁴

It would be useful to underline that the word "particularly" was placed in order to clarify that substantive equality and the adoption of positive measures does not **only** concern women.

This encouraging course to more substantial socio-economic justice which respects the value of human beings and the actual elimination of discrimination for all, has currently entered a period of crisis. Globalization and the drive towards hegemony of the powerful on Earth, pave the way for the shrinkage of social rights, but also of all human rights. In particular, recent wars or wars which are currently taking place, the so-called "preventive" wars, on the pretext of fighting terrorism, literally devastate human rights.

Indeed, war suppresses almost all Human Rights: rights to life, physical integrity, family life, work, property, a civilized level of living (the material and technical infrastructure of the attacked country is destroyed as is the natural and cultural environment). War is the rule of the strongest - that is to say the prevalence of unfairness at the expense of the weak.

Thus, Peace and Human Rights - values that the UDHR was correct in setting as the prerequisites for the wellbeing of humanity and the respect of human values- beginning with life itself - are being severely tested at this dreary moment of human history.

Europe, protagonist in the long and valiant fight for the achievement and universal application of Human Rights and Peace should not be swayed by this reversal. Europe should continue to play a leading role in support of the principles of peace, freedom and social justice for all human beings, and particularly for the weakest peoples. In the contrary case, our history itself would be negated as well as our "European Acquis".

The first European Constitution should reflect these ideals or else it had better not be drawn up! Certain improvements of the European Charter of Human Rights have already been achieved. However, the dangers menacing the Constitution are discernible as you will hear later.

I hope that this conference will make a contribution in strengthening our resolve to achieve justice and freedom for all. May it be a success!

hospital care is free of charge. The reverse is also true: even if social rights are recognized in a totalitarian regime citizens belonging to the ruling party enjoy preferential treatment while opponents are excluded (if they are not detained in concentration camps)!

2. Aristotle, *Politics*, Book IV, Ch. 4, 1291b, 34-37 and Book VI, Ch. 2, 1317 b, 11-17: "Δημοκρατία ἐστὶ μὲν ἡ λεγομένη μάλιστα κατὰ τὸ ἴσον ... εἴπερ γὰρ ἐλευθερία μάλιστα ἐστὶν ἐν δημοκρατίᾳ...καὶ ἰσότης ἀν εἴῃ μάλιστα, κοινωδούντων πάντων μάλιστα τῆς πολιτείας ομοίως."

3. These laws are: Law 2839/2000 and Law 2910/2001 which imposed the participation of women in the administrative councils of the civil service and local administration as well as the quota of one third women in party candidate lists in municipal and prefectural elections.

4. The text was formulated by the author and was supported by all women's organizations in Greece.

Joke Sebus

Representative, International Alliance of Women

I am here in the absence of President Patricia Giles of the International Alliance of Women, who was not able to come. Pat Giles sends you her warmest wishes for a good and fruitful conference.

The International Alliance of Women has been fighting for Women's rights for nearly a century - 99 years to be exact - and it gives us great pleasure to hear the President of the National Commission of Human Rights and our President Emerita speaking so ardently about the subject that lies so near to the heart of our organisation: gender equality as a social right.

We are also very pleased that the Greek League of Women's Rights has taken the initiative to organise this European conference in the framework of the Greek presidency of the European Union. European women had already some experience with the Greek presidency.

From 3 'till 14 March Greece chaired the European Union delegation at the UN Commission on the Status of Women in New York. The attending NGOs from the European Union appreciated very much that Greece asked them twice to attend a briefing. We were able to introduce ourselves and talk about the documents that had been agreed upon. The subjects were: Violence against Women, including trafficking of women and children, a very serious subject, and Communication Technologies. **This was the first time that the NGOs had been invited to meet and discuss the issues with the European Union delegates during Commission proceedings. It was never done before.**

It is the fourth time Greece is fulfilling the Presidency of the European Union and it is a heavy burden to fulfill it in this time of war.

The International Women's Alliance supports the content of the statement of the European Women's Lobby: while

condemning the oppressive regime of Saddam Hussein we believe that war is not the solution. In our opinion the UN Charter should be respected as the basis for coexistence in peace. Modern warfare also disproportionately affects the civilian population, and in particular women and children.

Turning to the European Constitution, which is the subject for today, I have been surfing the net for International Charters.

The European Women's Lobby has been working very hard for equal rights for women by commenting on the Constitution.

I also discovered the African Charter on Human and Peoples' Rights. It is an inspiring Charter and I would like to read just two of its articles to you.

Article 2. Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 18.3 The State shall ensure **the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.**

The African Charter was adopted some twenty years ago in 1979, as an answer on a long period of colonisation. At that time no one knew about HIV/Aids or thought of massacres like those in Rwanda. It's a **Charter of ideals**, as it should be. Still, African Women had to work very hard to get that one article 18.3 in.

I do hope we, European women, will also get our articles in.

I am looking forward to our deliberations on: Social Rights, a lever for equality.

Elisabeth Müller

President of the European Women Lawyers Association (EWLA)

The European Women Lawyers Association congratulates the Greek League for Women's Rights, on the organization of this important conference on the question: Does the Draft European Constitution maintain and develop the "acquis communautaire", the achievements reached so far in the law of the European Union and the European Community; The EWLA is honoured to collaborate in this conference with the Greek League for Women's Rights, and I thank especially the Vice-President of EWLA, Ms Sofia Koukoulis - Spiliotopoulos, for assisting in the organization.

As we will see during our conference today, this conference takes place just in time for the topic chosen: As will appear from the contributions of our distinguished speakers as well from our discussions, the Draft European Convention, as it stands at the moment, falls short of the *acquis communautaire* especially, but not only, in issues related to gender.

You will find in the material you received the latest statements of the EWLA to the convention - I do not want to

repeat them here. I just want to stress some crucial issues for the conference today:

1. It is of utmost importance that the general gender related issues - as

- the maintenance in full of the *acquis communautaire* as an objective of the Union

- the fight against discrimination, poverty and trafficking in human beings as well as the fight against corporal and psychological violence as an objective of the Union

- the prohibition of any discrimination, in particular on the grounds of sex, race, and other criteria is prohibited.

- the right of everybody to equal opportunities, without discrimination

- the equal rights of men and women in all fields including positive action to achieve full equality

- the right to maternity and paternity protection and the right to the combination of private and professional life

- the rights of children

- the prohibition of trafficking in human beings and of any form of corporal or psychological violence

Be contained in the first part of the new Constitution: these issues – as far they are mentioned in the treaties until now – are contained at the beginning of the treaties – a fact which underlines their importance. It is NOT acceptable to put them in the second part of the new constitution. I hope that we all can agree on this today.

2. On the 4th of March 2003 a Jean – Monnet – conference has been organized by Ms Reding, of the European Commission on “Gender Equality and Europe’s future”. The conclusions of this conference you will find also in the materials you received. At this stage of the Convention, we think it is absolutely necessary to join forces with common statements, and we are of the opinion that the conclusions of this conference could and should be a basis for such a common statement.

Micheline Galabert-Auge:
Représentante de l’AFEM

Je voudrais tout d’abord rappeler en un mot que l’Association des Femmes de l’Europe Méridionale (AFEM) s’est créée peu après la conférence de Pékin, afin de créer, au sein de l’Europe, un espace d’expression et d’action où puissent se retrouver les femmes des pays directement issus de la tradition gréco-latine. Nous avons bénéficié au départ, lorsque s’est constituée l’association, du soutien de nos amies grecques. Qu’elles en soient ici très sincèrement remerciées. Faute de pouvoir les évoquer toutes, je me bornerai à souligner ici combien la détermination de la Présidente Alice Marangopoulos nous a été précieuse, ainsi que la coopération sans faille que nous a toujours apportée, jusqu’à ses derniers instants, Rena Lampsas, dont je tiens à rappeler ici le souvenir lumineux.

L’Association des Femmes de l’Europe Méridionale a beaucoup travaillé, dans un premier temps, (et continue de travailler...) sur une question d’importance majeure pour les Françaises et les Grecques : celle de la présence des femmes dans les instances de décision politique. Vous savez en effet que la France et la Grèce se disputent le triste privilège d’être toujours les dernières, en Europe, pour ce qui est de la représentation des femmes dans les instances élues !

Progressivement, l’AFEM a élargi le champ de ses activités. Depuis fin 1999, elle s’est mobilisée pour veiller à la pleine prise en compte des droits des femmes et d’une approche de genre, tout d’abord dans la Charte des Droits Fondamentaux de l’Union européenne, puis dans le projet de la Constitution européenne.

Dès le tout début, et tout au long des travaux de la Convention chargée de préparer le projet de Charte, l’AFEM est intervenue de façon suivie; elle a présenté sept contributions, a été invitée à participer à l’audition organisée par la Convention, et a organisé deux colloques avec la participation de membres de la Convention, mais aussi de membres du monde politique et associatif.

Plusieurs membres éminents de la Convention ont publiquement salué la contribution de l’AFEM à la Charte des Droits Fondamentaux.

Entre nous, permettez-moi de préciser ici que cette contribution a reposé entièrement sur les travaux de notre

3. The EWLA, the Greek League for Women’s Rights, the International Alliance of Women, the Association of Women of Southern Europe: all are NGOs of Women who should be aware of the proceedings in the Convention and of the hearings of the European Economic and Social Committees for the organized civil society. **It is crucial that the dialogue with the civil society itself is subject to gender mainstreaming and that the voices of women are heard – within and outside the Convention.** A gender mainstreamed article on the participation of civil society in the legislative and administrative process within the EU has to be included, and the EWLA will be aware of it when the discussions progress to institutional matters.

I thank you for your attention and wish us all a very fruitful discussion and debate.

Vice-Présidente Sophia Koukoulis-Spilliotopoulos, dont l’implication et l’exceptionnelle connaissance du droit communautaire et des problèmes d’égalité ont fait merveille.

Dès le démarrage des travaux de la Convention chargée de préparer, sous la Présidence de Valéry Giscard d’Estaing, un projet de Constitution européenne, l’AFEM a suivi attentivement leur progression, et, grâce à Sophia Spiliotopoulos, a été en mesure de soumettre à ce jour sept contributions (dont la 1^{ère} envoyée dès le 2 février 2002); en parallèle, nous sommes intervenues dans nombre de manifestations de la société civile, nous y avons enrichi notre réflexion et trouvé une oreille attentive et souvent un relais pour nos propositions.

En ce qui concerne les travaux de la Convention, il y a un point que je voudrais souligner, car il est, à mes yeux, fondamental : si j’ai bien compris le message qu’a bien voulu nous adresser monsieur le Ministre, la Grèce serait d’avis qu’il convient de faire figurer expressément l’égalité entre les hommes et les femmes au nombre des valeurs fondatrices de l’U.E énoncées à l’article 1/2 de la Constitution Européenne.

C’est là pour nous une très grande nouvelle. En effet, à l’heure où la montée des intégrismes religieux et identitaires, tous très fortement misogynes, constitue une menace croissante pour le modèle démocratique européen, il est capital d’affirmer, de façon expresse, que l’égalité entre les femmes et les hommes constitue une des valeurs fondatrices de l’Union, dont le respect conditionne l’appartenance à l’Union. Or, la Convention est restée, jusqu’ici, sourde à nos objurgations en ce sens. C’est pourquoi le soutien des autorités helléniques sur ce point serait, pour nous, inestimable.

Pour ce qui est des propositions à faire à la Convention en matière de droits sociaux, je ne reviendrai pas, parce que Elisabeth Müller l’a fait excellemment, sur le rappel du rôle essentiel que joue la défense des droits économiques et sociaux comme “levier” de l’égalité. Je voudrais féliciter Alice Marangopoulos d’avoir pris, avec son association, l’initiative d’une réunion sur un thème aussi déterminant si on veut progresser dans la voie de l’égalité réelle entre les femmes et les hommes

Does the Draft European Constitution maintain and develop the *acquis communautaire*?

Chairwoman: Prof. Xanthi Petrinioti, Vice President GLWR

Maria Berger:

Representative of the European Parliament to the Convention

We should again state here that one of the problems we are facing is that we are only very few women members of this Convention.

I think we can't complain to the European Parliament that it has a few female members but the one component of the convention, which falls short of a fair share for women are the National Parliaments. From the thirty members which are nominated by our member states' National Parliaments we have only three women.

We are grateful in this situation that at least several governments, among which is the Greek Government, join us in this fight and I also want to mention the Swedish Government Representatives who are also very active in this area.

I thought it might be best if I give you a short overview on where we stand now in the convention and what are the debates and the time schedules for the future. As was already mentioned we have got the first sixteen articles, which certainly will be one of the most important part of the future European Constitution.

We have got, two weeks ago, also the part on the area of freedom justice and security, which is also a very important area in our context here. We have got some technical drafts for the so-called second part of the constitution. I expect that this second part will have more or less the same status as the first part even if it was thought before that this part should be of a lower rank and be easier to revise.

It looks now as if this part will have to go through the same ratification procedure in the future and probably will also have the same rank and it will be of course very important for us to have a very close look at it

We have got this first draft articles with more than one thousand amendments on these articles in particular on article two, the one on the values. Many amendments have also been tabled for Article 3 which deals with the objectives of the Union.

We have now some specific meetings of the Convention where we discuss in depth and a little bit more informally the amendments and from my impression from the results of these two specific meetings is that values (equality) will come under Article 2.

Where we are still a little bit skeptical is that when we will discuss the addition "in particular equality between men and women" that we are simply too few supporting the proper meaning on this issue, but I think we will fight on in this area.

In Article 3 of course we will have also an addition, which at least is an objective of the Union: to fight against all other inequalities and the promotion of equality.

But the agreement was that the first sixteen draft articles would not take care of all the issues which have been discussed in the social rights working group of the convention. So in particular all these areas are missing, which raise a lot of disappointment and I share this disappointment but there are at least some technical excuses for having come short in this first draft.

On the integration of the Charter, there are some different opinions in the convention. I think it is a very important issue.

There are efforts to get the European Charter as part of the Constitution meaning not only a protocol but incorporated in the main part of the constitution.

I share with you the opinion that this Charter falls short of what we have as an *acquis* and the human rights context in other areas but we can make up with this with other articles in the first part of the constitution.

I should say that positions taken, for instance, by the UK Government or the Danish Government or the Swedish Government which are not so fond of having this Charter incorporated in the main part of the treaty, do not help.

We have noticed something already referred to as horizontal objective in Article 3 of the EEC treaty. It is foreseen to become part of the second part of the Constitution. I think we should make an effort to get it into the first part of the Constitution and also to make sure that it will apply in future to all areas.

And I think that will be successful as it also sometimes referred to as the basis for gender mainstreaming in Community policies. This applies now only in the so-called first pylon of the European Union.

With the solution of the pylons which we will see with this Constitution it will become applicable also to the so-called second pylon meaning common foreign and security policy and also in the so-called third pylon meaning justice and home affairs and I think that's the area which we should in particular be interested in.

Article 3, the article which provides the institutional basis for the European Union to fight against all kinds of discrimination based on grounds of sex, race, nationality, sexual orientation etc. seems will be part of the second part of the constitution and also all the other articles which refer to equal opportunities now in the Constitution.

We will be confronted with the second revised draft for the first sixteen articles and a good list of our points have been presented here which we will have to take care that they are included.

From the time table it looks like we will have a little bit more time to work on the Convention because the Greek Presidency will hold an extra meeting at the end of June. We have three more weeks to work with and we are expected to have ready at least the first part of this future constitution by the end of June, so that the European Council can have a look at it and maybe accept it on principle. That would be the best thing for us if we have a good result there. And during the summer recess we will work on the so-called second part of the convention.

And I hope that we will have more time also for the second part which will allow us also to look very carefully at all these articles in the second part which are very important because there we have the legal basis for the kind of policies we will have, how far the European Union can go and where the competences of the member states begin.

I would like to mention one issue which I think we should include in our list of points we would like to see addressed and covered in the future debates: that's the one on the **political representation of women**. We will get the draft on

the chapter that will be called the democratic life of the European Union. This chapter we will get on Friday this week and I think that will also be the date from which on we should come up with proposals.

And there should be a certain amount of agenda **balancing on the composition**, for instance, **of the European Commission, the European Parliament, all the other European Institutions**, like for instance the **Court of Justice** where

Anna Psarouda-Benaki:

Professor of Law, Vice-President in the Greek Parliament, former Minister (Summary)

The issue of social rights is the most sensitive and controversial issue in the EU. Drawing from the experience of the drafting of the Charter of Fundamental Rights, I can recall the controversy that gender equality created. Finally, Art. 23, stipulating equality of men and women in all fields, including, employment and pay, falls short of the Community acquis. The draft of the European Convention must not fall short of the acquis or, even, the Charter. Gender equality is not only one of the objectives of the Union. It must run horizontally through all the policies as one of the values of the Union. As regards the

Lone Dybkjaer:

Representative of the European Parliament to the Convention

First of all I would like to thank the Greek Presidency because they keep to their agenda in spite of the war. We all want a peaceful world and I also agree that what is going on is terrible, but I think it is important that we keep our agenda because if we don't, we will be overruled by time later on.

So although war and peace are the most important issues it's also important that we stick to issues of normal life so to say. The Greek Presidency had a very good slogan: they proclaimed that the goal for the Presidency is "sharing the future as a community of values". And then of course it is very important to define what these values actually mean.

And I would just say that (as already has been said) that equality is not among the values. Peace is indirectly among the values at least because it is stated that the aim of the Constitution of the Union, is society at peace. So it is in the article.

But Professor Alice Marangopoulos has made a very important comment on this -and I do hope that you will have it translated into English or we get it as a resume-. Because I think it's very important that we have historical parallels not only to equality among men and women but to equality in other aspects.

I would just take two examples to show you what we are up against. Have a look at all the family photos from the Union Council Summits and you will see that there are one or two at the most, three, female persons among fifty persons.

Today there is no female Prime Minister. (Maybe we will now get a Finnish one but then she will be the hostess of everybody). That's the one picture.

And the second picture is the Convention, which has not 3 but 17 female persons. So you cannot even say that behind every man is a woman!!

I can add many more examples, but this is the basis for our discussions and this is of course why they are tough discussions. For me at my age it is rather irritating that I have

women are not very well represented. This is an area which we have not touched and we say instead we fight mainly the non discrimination and the promotion of equalities articles.

I will look forward to have a debate in the near future mainly in these areas. I think we have very good proposals on the other parts and this will be the part where discussions and conclusions in the convention won't be easy given the composition of the Convention.

"method" of inclusion of the Charter (appended as a protocol or incorporated in the constitution) I can not say which is the most beneficial, as I am not a member of the Convention.

On Article 6 (prohibition of discrimination) measures protecting pregnant women and mothers should be added so that working and family life can be harmonized.

Finally, gender equality must be included in the Union's competencies, so that, the EU may legislate as well as adopt the necessary support measures.

to fight all the old fights again, say the old words again, because that's a necessity.

It's a turning point in the history of Europe, both in relation to the enlargement but also in relation to the Constitution. And I think that you should make targeted attacks in the language war, you should make demonstrations and you should do it now as well as later. Simply keep equality among men and women on the agenda, because many men think we have equality.

And then we look at the statistics, which clearly show we have nothing, which reminds us of equality. But it's easy to say this is not a question of law - making except for this Constitution.

But in the various countries you have equality seen from a formal point of view, also in accession countries you have it seen from a formal point of view. **But formality is not absolutely the same as reality.**

So please keep that in mind. We need your help. We really need your help because we have this tendency, as I said, to say that equality is there, it is now up to the women to do the job themselves and to battle with their husbands and what have you.

That's why the historic examples are very good. You had formal equality between black and whites. But the key thing was that blacks did not attend schools. So it's exactly the same on women's equality.

I would like to say that in Article 2 the discussion we should have is whether we should have equality as a single word.

Should we say "equality in particular among men and women" or could we simply say equality? The argument against the first is that the word equality is stronger than equality among men and women because equality as such covers all fields, social racial or what have you. So we have to decide and I think we have to decide rather quickly what we are going to do. Because it's so easy to say "...oh look at these

women, they always fight when they are together, although they talk about a peaceful world they always fight when they are together”.

That will be used against us, so I think it's important that in this article we really decide quickly: is equality what we should go for or is it equality in particular among men and women. I am just giving you the arguments and I can argue in the end for both.

I would like to have some arguments from you, also from the Women Lawyers Association. What can we live with and what is the strongest. And I'm not persuaded what is the strongest, I don't know.

Second, on Article 3 I would say also in relation to the Vice President of the Parliament that I at least have made a non-discrimination proposal to Article 3, but again here we should find out where should it be mentioned and I have mentioned it in Article 3.

And then the third point in relation to this is the Charter. I just want to explain what is the problem with the Charter. You have various points of view, you had the UK point of view where they simply do not want any talk about that, and then you had the Danish point of view, which says this is something that we cannot handle.

Because if you for instance have a paragraph stating that a person has a right to work we take it seriously in Denmark that everybody should have work. It is not so much the wording but the intention.

So I think we have to take article by article and discuss

what can we do right now and then forget about what has been done and said and go directly into the Convention and say what is the best to do now.

And then my final point will be to ask you to get new ideas. Maria Berger said how far we should go in the political decision making in the European institutions.

For instance let me make a proposal, (I at least will make the amendment), that when a country appoints a Commissioner **they should appoint two Commissioners one woman and one man**, one female person, one male.

And if they are not able to appoint two persons they are not allowed any seat. There should be that sanction, if they are unable to find one woman in the country able to be Commissioner, then they can not actually be part of the EU.

And then it's up to the President to select a Commission, which leaves by the side equality standards. That's about more than forty. So of course he shouldn't take two from each country but he should select from the countries in a way so we end with the Commission, which represents equality.

And this is an easy tool to use. Just two from each country so that the President has something to select from. Then maybe he can select the best Commission. And if he doesn't do it the Parliament should of course not confirm this Commission so they should abolish it and try once again.

What I mean is that we have to find new instruments, new smart methods where we get our ideas through. So we have to find these simple tools, to get equality strengthened in the European Constitution.

Sophia-Koukoulis-Spiliotopoulos:

Attorney at law, expert of the European Commission, vice-president of the Association of Women of Southern Europe (AFEM) and of the European Women Lawyers Association (EWLA), president of the Legal Committee of the Greek League for Women's Rights on European Issues

Can the human face of Europe be maintained and strengthened?

The «European Convention» is elaborating a Draft Constitutional Treaty of the Union to be submitted to the Intergovernmental Conference, which will make the final decisions on the future of Europe. What kind of Europe? This was our question when we saw the Draft of the first, fundamental, sixteen Articles presented by the Convention Presidency some time ago. Civil society and Convention Members, among which are the friends who participate in this Conference, reproach this Draft for privileging the economic character of the Union, at the expense of its social, indeed its human, character; for restricting the *acquis communautaire* in fundamental rights. Are they right?

The *acquis* in fundamental rights derives from written EC law, from the general principles elaborated by the Court of Justice (the Court), the international human rights treaties ratified by the Member States and our common constitutional traditions and it is binding on the Union and Member States. It is the Union's cornerstone and an essential feature of our European identity.

Article 2 of the Draft lists the Union's values: human dignity, liberty, democracy, rule of law, respect for human rights. it omits, however, the first one. The value who was the reason for the unification of Europe after the devastating wars. The value which constitutes the necessary

precondition of any other value, right and freedom, as Professor Marangopoulos reminded us a few minutes ago: **peace.**

I. Fundamental principles and fundamental rights – elements of the European identity

The Report of the Convention's working group Social Europe highlighted the «human face of Europe» and suggested ways for preserving and enhancing it. The Court underlines that «social aims prevail over economic aims». The Draft hardly takes into account this Report. The Report in vain recommends that «equality, in particular gender equality» should figure among the Union's values.

A current horizontal objective of the Union is «to maintain in full and build on the *acquis communautaire*». The Draft ignores this objective. It also ignores other current social objectives of the Union. For example, it takes on board the recommendation of the Social Europe Report to make «full employment» an objective of the Union. This is already an objective by virtue of the Lisbon strategy which is reaffirmed by all European Councils. However, this objective is currently combined with the «improvement of the quality of employment». The improvement of the «quality of life» and of the «quality of environment», are also current objectives which are missing in the Draft.

The Draft also ignores that gender equality is not currently just one objective among many, but a horizontal EC objective. The Treaty requires not merely formal, but moreover substantive gender equality and makes it a task, a mission and a positive obligation of the Community «in all its activities». Substantive gender equality cannot be attained without positive measures, primarily in favour of women, the main victims of gender inequalities. Positive measures are not derogations from gender equality, but necessary means for its effective implementation. This is also acknowledged by the Court¹. Article 3(2) of the Treaty which makes gender equality a horizontal objective of the Community constitutes the legal basis of «mainstreaming».

Several Convention members consider that the mention of «equality» is sufficient, and that the express mention of gender equality is not necessary. However, history proves that this is not so. This was proved in our country too, where, despite the general requirement of equality included in all Greek Constitutions, the express guarantee of gender equality proved necessary and was introduced in 1975. For that same reason, international human rights treaties, expressly require equality of rights of men and women, and most of the European Constitutions guarantee substantive gender equality.

Since 2001, the Greek Constitution also contains one of the best provisions on positive action which not only stipulates that positive measures do not constitute discrimination, but also requires that the State eliminate inequalities existing in practice, in particular against women. This provision replaced a provision that allowed derogations from the gender equality principle. It was Professor Alice Marangopoulos who took the initiative, several years ago, to propose the repeal of this provision which had brought about abuse, and its replacement by a provision requiring positive action. The wording of the new provision is moreover as proposed by the League for Women's Rights. The Council of State gave a considerable impulse for this constitutional amendment, as Professor Marangopoulos recalled, by holding that Article 4(2) of the Constitution (gender equality principle) guarantees not merely formal, but also substantive gender equality (judgment 1933/1998).

The gender equality concept includes also *maternity and paternity protection* and the *reconciling of family and working life*, as the Court has held. Any unfavourable treatment of a woman, directly or indirectly related to pregnancy or maternity, as the Court has also held, constitutes direct gender discrimination, and so does any unfavourable treatment related to paternity or the reconciling of family and working life. The Draft makes no mention of these principles, which are vital for the future of Europe and for the quality of life of its men, women and children.

A problem of increasing concern in all fields in the

Union is *violence*. It is a serious form of harassment, which, according to Directive 2002/73 (gender equality in employment) constitutes direct gender discrimination. Violence related to gender must be considered gender discrimination. The *prevention of and combat against violence and trafficking in human beings* must be listed among the Union's objectives and should also be an object of harmonisation of national criminal laws, along with *racism* and *xenophobia*. The Draft does not contain any provisions to this effect.

II. The EU Charter of Fundamental Rights

The Draft proposes the incorporation of the Charter of Fundamental Rights into the Constitution. Several of the Charter's provisions reflect the *acquis*, but others lag behind. This is true, e.g., for the provision on positive action for gender equality (Article 23(2)), because it does not make it clear enough that these are not exceptions from gender equality, but means for its effective implementation, or the provision on the reconciling of family and working life (Article 33(2)), which omits an important part of the *acquis*. Furthermore, the Charter provisions regarding its scope in respect of Member States restrict this scope, in comparison with the *acquis*, while the provisions allowing derogations are vague and create confusion which may well prove dangerous for fundamental rights. Examples of adequate and non adequate Charter provisions figure in the contributions of our organisations submitted to the Convention

The Draft proposes the incorporation of the Charter in the Constitution, but it also adopts certain amendments made to the Charter's general provisions by the Convention's competent working group. However, these amendments affect the substance of the Charter and restrict further its scope. Many Convention members, jurists in their great majority, criticised heavily these amendments, but the Draft ignores this criticism. Will the Convention remember it?

III. The fundamental question that arises today

A «Social Europe» is not only a Europe whose law includes provisions relating to issues that are traditionally considered «social». It is furthermore a Europe that maintains and develops its cultural values and translates them into effective legal rules. A Europe with a human face. This is the Europe which we feel part of. The Europe which we want to be safeguarded and strengthened and where we wish our children and grandchildren to live.

What kind of Europe is now being built? Are we going to be able to preserve and enhance its social, indeed its human, face?

1. On the concept of substantive gender equality and positive action see in particular A. YOTOPOULOS-MARANGOPOULOS, *Affirmative Action: Towards Effective Gender Equality*, Sakkoulas/Bruylant, 1998; S. KOUKOULIS-SPILOTPOULOS, *From Formal to Substantive Gender Equality, The Proposed amendment of Directive 76/207. Comments and Suggestions*. Marangopoulos Foundation for Human Rights. Sakkoulas/Bruylant, 2001.

Chairman: Mr. Phoebus Ioannidis, President Committee for Institutions and Transparency, Hellenic Parliament

Anna Karamanou:

Member of the European Parliament

President of the Committee Women's Rights and Equal Opportunities of the European Parliament

.(Summary)

Among 115 members of the European Convention, only 17 were women. This fact mobilized women's organizations, to co-ordinate efforts aiming to include gender equality clauses in the Constitutional Treaty. My Committee addressed several times the issue of low women's representation, as well as of the absence of gender equality in the articles on values of the Draft Treaty. We sent the

conclusions of our meetings to President G. D'Estaing and we have mobilized the network of women members of the European and national parliaments on this issue. We have proposed specific amendments to the text and we have just held an extraordinary meeting in Athens (31 March 2004) in which we incorporated our position in what we called the "Athens Declaration".

**Network of Parliamentary Committees for Equal Opportunities
for Women and Men in the European Union (NCEO-CCEC)**

**Extraordinary Conference, Athens 31 March 2003
Declaration on Women and the European Convention**

We, elected representatives of National Parliaments of the Member States and Candidate Countries and of the European Parliament attending the 7th Conference of the Network of Parliamentary Committees for Equal Opportunities for Women and Men, in Athens, state that:

- equality of women and men is a fundamental human right;
- gender equality is the cornerstone of any democratic society which aspires to peace, social justice and human rights;
- de facto discrimination against women is still widespread despite national, European and international commitments to gender equality;
- democracy requires a balanced participation of women and men in the representation and administration of the "res publica";
- the under representation of women in decision-making prevents full account being taken of the interests and needs of the population as a whole;

recall our declaration of Copenhagen entitled "Building a Democratic Europe for Women and Men" adopted at the Conference of the Network on 23 November 2002 (attached);

reaffirm the importance of making gender equality in all fields a visible component of a European Constitution;

taking into account proposals made by the Praesidium since;

request the Convention over and above our preceding demands, to fully integrate the following concerns in the first part of the future European Constitution:

- equality, which incorporates equality of women and men, should be included in the Constitution as a value;
- the elimination of inequalities and the promotion of the equality of women and men should be a transversal objective in all policy fields and actions of the European Union;
- protection against violence should also be an objective of the EU;
- the Charter of Fundamental Rights, as proclaimed in Nice should be incorporated in the future Constitution;
- an article of direct effect should be included, which prohibits gender discrimination and guarantees equal rights for women and men; it should also provide for positive actions to eliminate gender inequalities in all fields, including for ensuring the balanced participation of women and men in decision-making;
- an article should be included providing for the protection of pregnancy, maternity and paternity, as well as the reconciling of family, professional, political and social life by women and men in all fields; any unfavorable treatment, directly or indirectly related to these situations, should be prohibited;
- equality of women and men and the fight against all forms of gender discrimination should be a shared competence of the European Union and the Member States;
- balanced representation of women and men is part of the principle of participatory democracy, and positive measures that lead to true equality in representation in political institutions must be established;
- gender mainstreaming in all policies and actions of the EU should be reaffirmed as a transversal mechanism to reach de facto equality;
- in the area of freedom, security and justice, the Union should be able to adopt measures to prevent and combat all forms of violence including trafficking;

We reiterate our request that provisions in the future European Constitution guarantee that the 'acquis communautaire' in the field of gender equality is fully maintained and further strengthened;

We repeat our demand that the future European Constitution must use a gender-neutral language.

Pervenche Berès

Représentante du Parlement Européen à la Convention

Merci de m'avoir invitée et de me permettre, ici, à Athènes, de rendre compte de l'état de nos travaux dans la Convention du point de vue du thème que vous avez privilégié, le projet de Constitution au regard du maintien et du développement de l'acquis communautaire.

Au moment où nous sommes en train d'écrire cette Constitution, je pense que, pour les femmes, il est effectivement essentiel de maintenir ce qui est l'acquis communautaire. Comme pour beaucoup d'entre nous et dans beaucoup de nos pays, c'est grâce à la méthode communautaire que des progrès ont pu être enregistrés, même si par ailleurs pouvaient exister des marges d'initiative au plan national.

Développement de l'acquis, cela paraît aussi essentiel, puisque si nous franchissons le pas de l'écriture d'une Constitution, c'est bien qu'on franchit le pas d'une intégration d'un degré politique supérieur et que, du point de vue des femmes, cela doit s'accompagner d'une revalorisation ou d'une égalisation de notre rôle dans la vie publique, dans la vie politique de l'Union.

Je ne vais pas traiter l'ensemble de nos travaux, mais je voudrais, en fonction de votre centre d'intérêt, souligner deux ou trois éléments qui me semblent être les points essentiels à surveiller dans la discussion de cette Constitution.

D'abord, bien évidemment, la Charte. Votre Association s'est beaucoup mobilisée au moment de l'écriture de cette Charte et l'union de toutes les femmes, à laquelle Anna Karamanou appelait, a très bien fonctionné lors de la rédaction de la première convention. C'est un exemple de ce qu'une union des femmes peut faire, dès lors que sur tout le spectre politique démocratique on se met d'accord sur une revendication spécifique femmes. On a une capacité d'influencer réellement une Assemblée, même si elle est à majorité composée d'hommes – la proportion de femmes dans celle-ci était de 17 femmes sur 105 membres et de 7 femmes sur 62 lors de la précédente convention. Comme vous pouvez l'observer, le progrès n'est pas manifeste.

Et pourtant, lors de la première Charte, notre organisation nous a permis de jouer un rôle important et, cela, notamment grâce au dialogue que nous avons entretenu avec des associations comme les vôtres et dans le va-et-vient entre la mobilisation à l'intérieur et la mobilisation à l'extérieur. C'est comme ça que nous avons pu aboutir à un résultat positif lors de l'écriture même de la Charte.

J'ai le souvenir qu'au moment où la rédaction de la Charte a été achevée, beaucoup d'associations, y compris l'Association des Femmes, pensaient qu'en termes de contenu, le texte n'était pas parfait, et qu'il faudrait éventuellement le réouvrir sur tel ou tel point.

Très vite j'ai acquis la conviction que le rapport des forces que nous avions su établir au moment de la rédaction de la Charte devait nous inciter à ne pas réouvrir la bataille du contenu de ce texte.

Je suis contente de constater que plus les jours passent plus la majorité des progressistes, y compris du point de vue des droits de la femme, reconnaissent que telle est la bonne approche : il y a plus de risques à prendre à demander la

réouverture de l'écriture des droits en termes de contenu qu'à accepter l'état d'avancement auquel nous sommes parvenus lors de la Proclamation de Nice. Du point de vue des droits des femmes, la Charte contient des avancées tout à fait essentielles.

Je ne vais pas revenir sur les détails de ce que nous avons obtenu au moment de la Charte, parce que je crois que c'est un document qui est très bien connu par la majorité d'entre vous, mais je tiens tout de même à souligner, ne boudant pas notre plaisir, que le lobby a bien fonctionné et que le contenu est quand même très dense.

D'où l'importance de savoir quel sera le statut de cette Charte dans la future Constitution, quelle sera à la fois sa place et la façon dont on pourra ensuite s'en servir.

Le premier point, c'est celui de la place de cette Charte, puisque nous n'avions pas pu aboutir dans la précédente Convention et que ce texte avait seulement été proclamé, ce qui ne lui donne pas de valeur juridique contraignante.

La première question que j'ai posée dans le cadre de la Convention, c'est celle de savoir quelle valeur on accordait au contenu même de la Charte dans l'action de l'Union.

La Charte a été écrite pour être un guide, un moteur pour l'action des institutions de l'Union dans la mise en œuvre des politiques de l'Union. Il me semble que, si l'on considérait que dans la Charte on définit des valeurs universelles, nous devions faire de cet outil un guide, y compris de notre action sur la scène internationale.

Je continue à penser que c'est un combat que nous devons mener. Tout en nous disant que, pour l'instant, nous ne l'avons pas gagné, puisque dans un des groupes de travail qui se préoccupait particulièrement des questions de politique étrangère, la seule référence que nous avons pu obtenir, c'est la référence à la Charte des Nations Unies.

Or, il y a dans la Charte des droits fondamentaux, telle que nous l'avons rédigée pour l'Union européenne, des éléments de référence dont nous aurions intérêt à être porteurs dans notre pratique de la politique étrangère de l'Union. Je pense, bien évidemment, de ce point de vue là, à la question de l'égalité entre les hommes et les femmes; si on pense à la situation afghane, on voit bien à quel point ce type d'approche peut être essentiel.

La deuxième question, c'est effectivement de savoir où sera la Charte. La Charte sera quelque part. Mais là s'ouvre un débat à la fois juridique, politique et symbolique, tout à fait essentiel. Le Présidium de la Convention nous a proposé deux solutions:

- soit intégrer la Charte telle que, comme faisant partie intégrante de la Constitution ; c'est la solution qu'a également proposée la Commission Prodi dans le projet PENELOPE.

- l'autre approche, qui est celle souhaitée notamment par les Britanniques, consiste à renvoyer cette Charte dans un protocole, un peu comme on avait renvoyé la Charte sociale européenne dans un protocole, lorsque les Britanniques n'en voulaient pas.

Je souligne d'abord un point exotique, qui est celui de prévoir un protocole à une Constitution. Un protocole à un Traité, on le comprend; mais des Constitutions avec des

protocoles, jusqu'à présent, on n'a jamais vu cela.

Fondamentalement, je crois que si on écrit pour l'Union européenne une Constitution, c'est à dire si l'on franchit le cap de l'Union politique, il est essentiel que le contenu même du texte comprenne la définition des droits fondamentaux. C'est le risque d'une réécriture de la Charte pour l'intégrer dans le texte même de la Constitution, au motif que certains n'accepteraient de la laisser telle quelle que si elle figure dans un protocole à la Constitution.

Je ne crois pas que ceux qui sont opposés à l'intégration de la Charte aujourd'hui, baisseraient les bras dès lors que ce texte serait renvoyé dans un protocole. Et j'estime que la bataille fondamentale doit être d'obtenir la Charte telle qu'elle est dans la Constitution elle-même.

La question n'est pas de savoir si, dès lors qu'on intègre la Charte dans la Constitution, on doit en modifier certains articles, hypothèse qui a circulé à un moment lorsque le Président Giscard d'Estaing tenait à une Constitution courte et que certains estimaient qu'avec 54 articles, la Charte risquait d'être plus longue que le reste de la Constitution. Certains ont alors proposé qu'on résume la Charte.

Mais au-delà même de cette réécriture du contenu – je crois que même le Président Giscard d'Estaing admet aujourd'hui que l'on ne pourrait pas résumer la Charte et qu'il faudrait la prendre telle que – il y a une tentative et une demande forte, une pression forte pour réécrire certaines des clauses qu'on appelle des clauses horizontales. Ce sont des clauses qui ont été très discutées lors de la première Convention et dont l'objet est en réalité de définir à la fois le champ d'application et le mode d'emploi de ce texte.

Tous ceux qui ont suivi les travaux de rédaction de la Charte se souviennent qu'un des grands enjeux était de savoir quel était le champ d'application des articles. Il y avait toujours deux tentatives: Une tentative de définir spécifiquement pour certains droits le fait que ces droits s'appliquent dans le cadre de législation nationale, et la volonté d'avoir en même temps une clause horizontale disant que les droits définis par cette Charte ne pourraient pas aller au-delà de ce qui était prévu au plan national et que donc la Charte ne pouvait créer aucun droit supplémentaire.

Lors de l'écriture de la Charte, on a réussi à circonscrire les droits pour la mise en œuvre desquels on renvoyait à la législation nationale. On assiste aujourd'hui à une réouverture de cette bataille pour obtenir une clause horizontale d'interprétation limitative qui couvrirait l'ensemble de la Charte. L'intégration de la Charte avec une diminution de son champ d'application serait inacceptable. Nous devons en faire une des conditions d'acceptabilité de la Constitution.

Deuxième point sur lequel je veux dire un mot : le concept d'égalité. Je sais qu'il y a une grande bagarre qui a été ouverte de savoir s'il fallait spécifier le concept d'égalité hommes-femmes.

Sur ce point, le débat est ouvert. Chez vous, comme chez nous, dans la Convention, certains estiment que l'essentiel était d'obtenir le terme "égalité" et que dès lors que nous l'obtenions, il permettait de couvrir l'ensemble des situations que nous souhaitions viser.

Mais là encore je suis ouverte à tous les arguments.

Lorsque nous aborderons la question de la démocratie et de la représentativité politique, je pense qu'il faudra prendre l'initiative d'amendements permettant d'introduire des

concepts qui, du point de vue français, sont des concepts qui évidemment nous sont très chers –notamment celui de "parité", que nous avons introduit dans la Constitution française– et qui peuvent être utiles, y compris à l'échelle de l'Union Européenne.

Trois mots encore. Le premier à propos des outils dont nous pourrions disposer grâce à la Constitution pour la promotion de l'égalité hommes-femmes et, de ce point de vue, il y a une bataille qu'il ne faut pas perdre de vue, c'est celle de la capacité d'utiliser le principe de non-discrimination. Aujourd'hui, l'adoption d'une législation relative à la non-discrimination requiert l'unanimité. Ceci en limite beaucoup l'usage, dès lors que nous sommes à 15 et que nous serons à 25 demain.

Il y a là une vraie bagarre juridique, si on veut pouvoir se servir effectivement du principe de non-discrimination, il faut obtenir qu'il soit mis en œuvre à la majorité qualifiée; ça n'est pas encore acquis, loin de là.

L'avant dernier point que je veux mentionner c'est une question de terminologie, j'y reviens souvent mais cela a son importance. Vous savez que dans certaines langues – dont, je crois, la langue grecque – la notion de droits de l'homme pose un problème. Dans la Charte, nous avons contourné la difficulté. Je croyais que nous avions introduit la notion de « droit de la personne », or ce n'est pas tout à fait exact. Lorsque l'on examine la Charte, elle a été écrite de façon neutre à quelques articles près, en particulier les « travailleurs » n'ont pas été déclinés en "travailleurs-travailleuses", alors que le texte parle de "citoyens-citoyennes". En revanche, on n'utilise jamais l'expression "droit de la personne". On contourne la difficulté. On utilise l'expression "dignité humaine", "droits fondamentaux" et on parle de la personne. Mais l'expression "droit de la personne" n'est pas utilisée dans la Charte.

Ce débat reste donc ouvert et notamment c'est une bataille que j'ai engagée avec le Président Valéry Giscard d'Estaing qui, parmi les valeurs de l'Union, tient à inscrire les Droits de l'Homme avec un grand "H". Il y a là une conception de la modernité qui me paraît assez paradoxale. Une telle résistance ne peut pas relever d'une simple question linguistique ou de traduction. Une telle résistance par rapport à ce qui apparaît comme une évidence pour traduire l'évolution de la société ne peut pas être neutre; il faut, je crois, aller jusqu'au bout de la bataille.

Le dernier point, c'est sur la question des églises, sur laquelle je voudrais attirer votre attention. Jusqu'à présent nous avons échappé à Dieu dans la Constitution, mais il devrait revenir dans le préambule.

L'une des questions posées, c'est celle du statut des églises et de l'application aux églises des droits fondamentaux, tels qu'ils sont définis dans la Charte. La question de l'égalité entre les hommes et les femmes est aussi une question qui interpelle les églises. Jusqu'à présent, à Amsterdam, les églises ont obtenu une déclaration qui les autorise à s'organiser en dehors du droit communautaire. Le problème de l'articulation entre leur statut et le droit qui sera définie par la Constitution est une vraie question sur laquelle nous avons intérêt à anticiper les éléments de réponse, si nous voulons être acteurs dans cette discussion qui aura un impact sur la façon dont l'ensemble des concepts de l'égalité entre les hommes et les femmes sera appliqué.

Agnès Hubert

Advisor of the Committee for Women's Rights and Equal Opportunities of the European Parliament

It all started in Nice at the turn of the century, they say ; Or was it in Laeken a year later or can we trace it as far back as 1989.

Nice saw the rather meager conclusion of the last InterGovernmental Conference where it was finally admitted that a Europe of diplomacy had to leave room for a Europe of democracy, ie involve a wider set of actors to continue with european integration and relate more directly to citizens concerns (people's europe).

In Laeken, at the following summit under belgian presidency , a year later, a declaration was adopted setting up a « Convention », a process which had just been « tried » for the « European charter of fundamental rights » proclaimed in Nice. **The Convention was charged with paving the way for an open and transparent reform of the EU and make recommendations for what is now to become a European Constitution.**

1989 had created a new political landscape : The fall of the Berlin wall had not only opened the door for the most ambitious enlargement of the EU which we now see be almost realised, but the end of the communist regimes of eastern Europe meant also a more critical approach of our own, formally idealised democratic regimes. New demands on peoples participation rose from increasingly educated populations and the absence of women in decision making positions started to be seen as an anomaly.

Three evolutions have had a major influence in shaping the **reshuffling of power and resources** which is taking place world wide :

First evolution: *European integration* has created in the last forty years a vast movement of redistribution of economic, political and social resources, not only between different levels of government (what is often referred to as transfers of sovereignty) but also between groups of actors in society, including between women and men. *The enlargement of the EU* to 25 and more members is likely to increase the tension between policies favoring competition and those linked to solidarity. This is already strongly reflected in the debates which have taken place amongst members of the Convention.

Second evolution: *Globalisation* holds the promise of increased trade and wealth, the dream of the global village where communication has shrunk distances between people, but the reality is also made of increased inequalities and the mushrooming of criminal and terrorist networks. Thus the need to develop global policies to guarantee fundamental rights. Short of a binding international framework, the EU has a major role to play.

Third evolution: *11 September 2001* should have been a catharsis for an increased stress on values. Has it enhanced the EU's "soft" way of securing peace by binding nations and people in networks of mutual interest ? It does not seem to be the case: the focus of public authorities is on terrorism and hard responses on singular targets, paying less attention to other deeply rooted forms of violence and crime, in particular against women

Three good reasons for women to place gender equality at the heart of the future of Europe :

First reason: The EU is a political construction based on « feminine » values, i.e. making use of negotiation and cooperation as opposed to gun and bomb power . The European Communities concept was imagined to be a rempart against the barbaric excess of brutal force. Weaving solidarity through webs of mutual interests between people, families and nations ; creating consensus through negotiations, and acting as feeders and nurses when comes the war (ie organising assistance and reconstruction), are functions that have traditionally been the fate of women and as such, seen as

natural, requiring no effort or investment, deserving no value on the market. The EU has transformed this concept into a political reality and a success story, creating attractive conditions of sustainable peace. Of course, as the logic is still driven by a "mars" culture (ref to Robert Kagan), when comes the war, it is seen as powerless and is criticised by its own citizens, by its powerful partners for not having the attributes of male power.

As neither women nor men have yet come to terms with the true nature of Europe, we cannot deny the importance of developing an armed Common Security and Defense Policy as well to cohesively be able to oppose force to barbaric behaviours. But coherence of the EU with its own nature would dictate to enhance the status of feminine values as another way to create peaceful solutions, ie to demonstrate practically that a change of culture is at work. To choose to have an equal proportion of women and men at the steering wheel, thereby giving a clear signal of the importance given to the «feminine way» of the EU to create peace is one of the possible practical translation of this. This would require to firmly and visibly embed the right to equality between women and men into the priority values of the European Union and an objective to be achieved

Second reason: *The promises of equality have not been realised in practice and women's rights are fragile.* The latest Eurostat report on the lives of women and men in the EU reveals that in Germany, the pay gap is still 17% in the public sector and 20% in the private sector; in Spain but also in France, the Netherlands, Greece or Luxembourg, there are more women than men amongst the poor, the working poor, the unemployed; they are scarce in management positions and bear the largest part of domestic work in all EU member states. In the UK, it was recently picked up by the media that girls get better A levels than boys, but enter the labour market on salaries 15% lower than their male contemporaries. **Statistics and surveys in every member state have a gender discrimination story to tell**, a story which sounds familiar to women in other member states, not to mention the «equality» situation in candidate countries, not to mention either that your situation is worse if you are a woman and belong to a racial minority, if you are handicapped, homosexual, etc...

Far from narrowing, the gap in income in aggregated terms is increasing as the shrinking of the public sector and increased economic competition on globalised markets tend to deepen existing inequalities.

This is not tenable on both grounds of legitimacy and of efficiency:

If the EU is to be legitimate, it has to deliver. So far, since the inclusion of equal pay in the Treaty of Rome, ambitious legislation and strategies have been developed by the EC/EU to promote equal opportunities for women. Recently, the adoption of a revised directive on equal treatment for women and men in professional life enhanced the EU commitment to the principle and is likely to further increase expectations. **But the « rights » to equality do not translate into « de facto » equality.** The impression that the EU is giving with one hand what it takes away with the other is strong amongst nordic women in particular who have consistently been a majority to vote no in eu referenda. The evidence that the strain put on public expenditure by most governments has created new obstacles for those who were not in a dominant position and in particular for women to be able to equalise their chances and to seize opportunities is underestimated but real. One should not have lived to situation of having to, simultaneously, care for an old parent,

look after young children and struggle to keep a full time job to establish the relationship between macro policies and micro situations. Some of you know only too well how the degradation of health and education systems falls on women's time and resources in the first place. What should be done at EU level ? What is best dealt with at national level and what should be a common responsibility of the different levels of government? To answer this question which is one of the central concerns of the new constitution (under the unappealing jargon of « subsidiarity »), women who have most often a different life experience to those of men in decision making positions should continue to raise their voices and state clearly which policies should be decided under qualified majority as a necessary complement of the single market.

Third reason: What is a European Constitution for if it is not to set the highest common norms and standards for the functioning of a european democratic system ? **Gender equality is an indicator and a shaper of democracy** : *quantitative*, the more women in decision making positions, the more balanced and representative are public decisions ; and *qualitative* : Gender mainstreaming was introduced in the Treaty of Amsterdam as a tool to improve the equality content of policies. Within the few years when it has been implemented, it has increasingly proved to act as a scanning of policies for their impact on and relevance to citizens. The claims for gender equality are not limited to corporatist demands, they are

likely to benefit society as a whole.

Women's claims on the future of Europe

1. First and foremost, great strides have been made from Treaty to Treaty to steadily improve the legal framework to promote gender equality. From the "equal pay for equal work" provision of the Treaty of Rome to the Treaty of Amsterdam, including the revised directive on equal treatment in professional activity and the expected commission's proposal for a directive under Article 13, tools, practices and caselaw have progressively marked an improvement in the understanding of gender discriminations and in ways to fight them. This « *acquis* » should be integrally embedded in the new constitution.
2. Secondly, it already appears that the scope of this legal framework is too narrow to address questions which are attracting wide attention on the world and european scenes : ie violence against women
3. Thirdly, gender mainstreaming is only proved to be an efficient tool to actively promote equality in a context where there is a sufficient number of women in decision making and within the double approach where positive actions can be enforced. Only this complete framework if made highly visible is likely to guarantee progress and avoid intentional or unintentional backlashes. Within the present very complex web of conflicting interests and issues which is being knitted into a single text by the Convention , gender equality is there, but it is not engrained.

Chairman: Mr. Christos Yeraris, President, Supreme Administrative Court

Heleni Mavrou:

Representative of the House of Representatives of the Republic of Cyprus to the Convention

First of all I wish to thank the League for Women's Rights for inviting me to participate in this extremely interesting European Conference, which, I am sure, will substantially contribute to the efforts currently made at the Convention for the future of Europe, and even more so, to the efforts, the new Constitutional Treaty to come up to women's rightful expectations.

The effort to renew the European institutions started in Amsterdam in 1977, and later in Nice, in 2000. Up to this day, through these two Treaties only quantitative and not qualitative adjustments of the European structures have been achieved, in the sense that the big questions, such as the lack of flexibility, the democratic deficit, and other important E.U. problems have not been essentially addressed.

However, speaking of the Convention today, we cannot but rs

The inability of the E.U. to utter a decisive word and intervene on the international political scene have reduced its role to that of an embarrassed observer. Especially as concerns foreign policy, the distribution of roles between the Union and the member states never permitted the Union to have a leading role in the international scene. A recent statement by the Chairman of the Convention, that the European scene has so dramatically changed that the whole work of the Convention up to this day may prove to be useless, is very characteristic of the situation. I do not share this view. I believe that in the Convention substantial work is being done and will continue being done, work that responds to the needs of the citizens of Europe and to the expectations of the people all around the world. I will be a little bit more specific on questions of equality, especially on what concerns equality between men and women.

The Constitutional Treaty and its reference to basic principles and objectives of the Union is of importance, because it reflects on the everyday policy of the E.U., but also because it sends messages to Governments, to societies, to every citizen. It is therefore important for this Constitutional Treaty to reflect with accuracy the principles on which the European structure was and still is based. I believe, therefore, that peace, which was the basic objective that led to the union of the first European states many decades ago, remains, a basic principle. And it is with regret that we observe that, in the constitutional treaty we are now working on, no reference is made to this fundamental value. So, if we start our discussion from the question whether the *acquis communautaire* is being preserved or developed with the present Constitutional Treaty draft, we will observe the first severe regression.

Now on the question of equality, also a fundamental value for the Union, absent again from the draft of the constitutional treaty. The fact that equality, and especially equality between men and women, is not mentioned among the values of the Union in Article 2, is also a severe regression. I might even say that in my view, Article 2 should also include reference to freedom, democracy and the rule of law, as well as to the Union's adherence to the social state, prosperity, respect of human dignity. These are

principles and values common, as I believe, to all member states, present or under accession, of the E.U. Article 3 refers to the objectives of the Union, and I believe that equality between men and women is an objective, as well as a duty of the E.U. Therefore, not only this objective should be included in this article, but gender mainstreaming policies and positive measures promoting equality in real life in all sectors between men and women as well.

This morning we heard from Mrs. Yotopoulos-Marangopoulos an interesting presentation on the meaning of substantive equality and the importance of positive measures. I personally support the need for a separate paragraph to be included in the constitutional treaty on the equality between men and women. Inequalities of course exist in many sectors, but women are not a small group with special problems and needs. Women are half of humanity and should not be treated as a fringe group. And I believe it is important to stress the need for questions of equality between men and women to be a common responsibility of the Union and of the member states.

My last comment will be for the Charter of Fundamental Rights, since I am under the impression that perhaps the discussion being held here leads us away from the essence of the matter. Having the Charter incorporated in the constitutional treaty is, as I believe, a success of the social and the human rights movements, all those who are in favour of a E.U. with a social character. Consequently, and in spite of my critical views on the contents of the Charter, I am among those who support that the Charter as is, should be incorporated among the first articles, in the first part of the treaty.

A problem however arises. The efforts to bring about technical adjustments to the Charter – the so called drafting adjustments – in order to make its incorporation to the new treaty possible, in essence limit its substance and its effectiveness. **These adjustments must be rejected, and this is where we must pay attention.** The Charter of Fundamental Rights can become the basis for a substantive change of the policies of the E. U. and of the member states in the sector of social rights. **We must not permit the Charter to be mutilated by reservations of various member states that are against its provisions.** (By that I do not mean to say that the Charter has no faults or omissions). It is therefore important, when insisting to have the Charter incorporated to the constitutional treaty, to insist for the respect of all the provisions of the *acquis communautaire* dealing with citizens' rights perhaps not included in the Charter.

All the above are of value only to the degree that they become concrete policies and do remain an empty letter. Unfortunately, the E.U. was not able, up to this day, to respond to all the expectations and demands of its citizens, those who were looking to it as a means for social, political, economic development of people and not only of statistics.

Further to whatever we are discussing here, we must therefore, as women's movement, continue fighting in order for policies to become actual facts of life by concrete measures.

Nikos Konstantopoulos

President of the Coalition of the Left and Progress

Representative of the Greek Parliament to the Convention

Thank you for inviting me to take part in this meeting, where the central problem concerning the common future of the people of Europe is discussed. The future of the people of Europe cannot be but common for all, and in this sense to day we have, all of us, the duty to think hard and give an answer to the question "what kind of Europe do we want".

Speaking of the European Constitution, I would like to start with certain remarks relating to the meaning of the words and terms used. A Constitution creates a State and organs with constitutional powers, which implement it. It is therefore better to be exact in the terms we use, and rather speak of a European Treaty, since the new European "Constitution" does not originate from a body with constitutional powers, and it does not create a European State. The Convention for the future of Europe itself, if we examine its essence and the way in which it was established as a representative body, has a democratic deficit.

My second remark refers to the term *acquis communautaire*. Do we all mean the same thing when we use this term? Is the *acquis communautaire* the same for the governments of the European states, for the NGOs, for the social organizations, for the jurisprudence and the theory of the European institutions and the European Courts? It is not the same, and we must recognize that here we are faced with a problem, because the way in which member states governments and bureaucracies use this term results in curtailing many of its guarantees.

A third remark relates to the Charter of Fundamental Rights. It must be incorporated in the Constitutional Treaty, but here also we must come to an understanding. Is the Charter a mere list, a mere proclamation so to say, or is it a list of guarantees of a binding character? In my view the Charter of Fundamental Rights must be of a binding character, namely, all corresponding policies must stem from the Charter. We must therefore be clear that human rights are rights that must be exercised and implemented, they are not decorative principles, they are not a theoretical approach.

I believe that human rights, at a European level, can contribute significantly to the shaping of a European conscience, at the same time conducing to the formation of a European public space for policy. I find it necessary to stress this point, because all of us today feel uneasy seeing that Europe has a sense of direction in the management of the economy, but has no sense of direction in politics. This is very obvious, not only in the stand Europe has taken in matters of major importance as the wars in Yugoslavia and Iraq, but also in the great problem of population movements, which is today treated as a threat and not as a central problem of exercising social policy.

We must, therefore, put the question again: what kind of future do we want for Europe? Do we want to consider the *acquis communautaire* as synonymous to the continuous shrinking of the welfare state, as is the case today, although we know that the welfare state constitutes an achievement in the field of civilization for humanity, Europe in particular? Do we want to consider as *acquis communautaire* that today constitutes a common practice, namely the questioning of democratic guarantees aiming at the protection of such rights? We know that today political demonstrations and social claims are treated as suspicious, because the false dilemma,

democracy or security, prevails. The answer given to this dilemma today is: let us restrict democratic guarantees in order to achieve security. The correct answer, however, should be security with democracy.

Is the *acquis communautaire* the dismantling of all institutions of the international community? What we see today is that the United Nations do not exist, the European Union is disputed, the principle of unilateral action is becoming common practice.

It is not, therefore, accepted to consider as *acquis communautaire* the practices of governments shrinking the welfare state, limiting democratic guarantees aiming at the protection of rights, and dismantling the international law, which constitute achievements of democracy and civilization after World War II.

The economic model proposed today in the framework of a globalized market, imposes different speeds for societies and people, different positions for human beings, a different status for institutional arrangements within each state.

Consequently, the demand to have the Charter become part of the European Treaty is not merely of a symbolic nature; in fact, what we demand, is that the articles of the Charter be binding, and include all human rights.

The Global Social Forum and the National Social Fora are struggling for the expansion of rights, the expansion of democratic guarantees, for the establishment of peace and equality; this is why they are becoming 'all the more interconnected with political movements. The movement against the war is all the more interconnected with the movement for peace, with that for the protection of rights, with that for the protection of environment, with that for the elimination of social poverty, with that for gender equality, with that for international stability.

Among the human rights, the human rights of women and the *de facto* equality between men and women automatically come to the centre of the discussion about what kind of Europe we want, what kind of democracy we want, what kind of institutions we want.

It is a matter of major importance that the *de facto* gender equality to be promoted, so that the leading role of women in structuring the society of to morrow be established at an institutional level, as well as at the level of the organization and the functioning of the state. Equality and peace must therefore be included as basic principles.

Among the policies put into practice today there are conditions of inequality, exploitation, violence and discrimination. There is unequal access to work, unequal pay for work of equal value, unequal representation, and there is gender based violence. As a result, it is necessary, in the framework of a European regulation of these rights, that affirmative actions and positive measures be strengthened. The new "constitution" does that, though discreetely.

One of the most severe problems we are faced with today is that of refugee women, namely women without a country, family, home or work, who are exposed to conditions of violence, exploitation and trafficking. This problem must find a solution.

I must-make a final remark with regard to human rights. These rights are not in the abstract, they are not unrelated to

the conditions of production, to rule and power, to applied policies.

We already mentioned the rights of refugees and the existing danger of Europe falling back into the logic of a Europe-fortress, which cannot provide for them, which sends them back to their countries, persecutes them or exploits them. There is no common policy for refugees, on the

contrary, there is a common fear, and thus in all European societies conditions of social exclusion are formulated.

As regards women's rights all the above appear in a greater intensity and need to receive priority. Equality among men and women is one of the most crucial sectors of the *acquis communautaire*

Gerassimos Zorbas

Chargé des cours, Université Catholique de Louvain, Member of the cabinet of Commissioner Diamantopoulou.

There are six phases in the long history of the European Convention regarding the Community social *acquis*. The first phase dates from 1957 to 1973 where the focus of the Community is exclusively on economics. The second phase lasts from 1974 to 1984 when there was economic decline and the adoption of the first Social Community Programme. The third phase lasts from 1985 to 1992 with the Single Act in which health and safety issues are introduced for the first time. The fourth phase, from 1993 to 1996 is marked by the Treaty of Maastricht and increasing unemployment all over the EU. Social policy is in the heart of the conflict with the United Kingdom and the Social Protocol was adopted only by 11 member states. The fifth phase, from 1997 to 1999, is marked by the Treaty of Amsterdam introducing the Title on Employment and initiating the European Employment Strategy and the

"Open Method of Co-ordination". The last phase is the current one. It is a time where globalisation calls for continuing Community action on social issues. Nowadays, we have the Euro but also an economic decline due to the events of September 11th. The Charter of Fundamental Rights, adopted in Nice, introduces concepts like dignity, freedom, equality, solidarity as axiomatic EU values and not only in relation with economic targets.

Regarding social rights in the text of the Draft Treaty, I think that it is preferable to consider rather the Charter than the Treaty as the basis of the future European Constitution. The current 16 clauses do not seem to guarantee the *acquis* and the legal basis for combating discrimination as defined by Article 13 of the Treaty of Amsterdam (sex, race, ethnic origins etc.), are supposed to be included in the second part of the Treaty, which will be of a lower status.

CONCLUSIONS

On 2 April 2003, a European Conference took place in Athens, within the framework of the Greek Presidency of the EU, with the support of the Greek General Secretariat for Equality, on "Social Rights: a Lever for Equality. Proposals for the European Constitution".

The Conference was organised by the Greek League for Women's Rights, in collaboration with the International Alliance of Women, the European Women Lawyers Association (EWLA) and the Association of Women of Southern Europe (AFEM), with the participation of members of the Convention, politicians, jurists and NGO representatives.

The women and men who participated in the Conference

❑ Expressed their great concern that the Draft Constitutional Treaty:

- privileges the economic aspect of the Union to the detriment of its social *acquis*;
- ignores the Report of the working group "Social Europe" of the Convention;
- restricts the *acquis* in fundamental rights, including gender equality;
- leads to deregulation in many areas, including employment.

❑ Welcomed the statement of the Minister of the Interior, Public Administration and Decentralisation, Mr. Costas Skandalidis, that the European Constitution must maintain in full the *acquis* and build on it, including in the field of gender equality.

❑ Agreed to support:

- The Conclusions of the Jean Monnet Conference on "Gender Equality and the new European Union" (Brussels, 4 March, 2003)¹, which express the concerns and proposals of a large circle of politicians, academics and NGO representatives.
- The Athens Declaration for the European Convention adopted by the Network of Parliamentary Committees for Equal Opportunities for Women and Men in the EU², of 31 March 2003.

PART I

Article 2. Values of the Union - Add: "peace" (first value); "equality, in particular equality between men and women".

Article 3. Objectives of the Union - Add: "to maintain in full the *acquis communautaire* and build on it" (Article 2(5) TEU) "the improvement of the quality of life and employment", "the combat against violence and trafficking in persons".

- Add a final paragraph repeating Article 3(2) TEC: "In all its activities, the Union shall aim to eliminate inequalities, and promote equality, between men and women"

After Article 6 which prohibits discrimination on grounds of nationality, New Articles, in accordance with ECJ case law and international human rights treaties ratified by all Member States, complementing the Charter of Fundamental Rights of the EU:

Article 6A (new): Any direct or indirect discrimination based on any ground, such as sex, racial, ethnic or social origin, genetic features, language, religion or belief, political or other opinion, membership of national minority, property, birth, disability, age or sexual orientation, is prohibited. Everybody has a right to equal opportunities, without discrimination. The rights of minorities shall be ensured.

Article 6 B (new): "1. Women and men have equal rights in all fields.

2. With a view to ensuring full equality in practice between men and women, positive measures should be adopted, in all fields, aiming in the first instance at improving the situation of women, including ensuring the balanced participation of women and men in decision making.-

3. The Council, acting in accordance with the procedure referred to in Article... [co-decision], shall adopt rules designed to prohibit any discrimination on the grounds of sex and adopt measures in order to promote full equality, in accordance with paragraphs 1 and 2 of the present Article

Article 6C (new): 1. The protection of pregnancy, maternity and paternity, as well as the reconciling of family and professional life by men and women, shall be ensured. Any unfavourable treatment, in any field, directly or indirectly related to pregnancy, maternity, paternity, including adoption of a child, or the reconciling of family and professional life is prohibited.

2. The Council, acting in accordance with the procedure referred to in Article ... [co-decision], shall adopt rules designed to implement paragraph 1 of the present Article.

Article 5: 1. The Charter is set out in a **Protocol** annexed to the Constitutional Treaty³.

2. The Union may accede to **international human rights treaties, in particular** to the ECHR.

3. The Union respects and applies fundamental rights, as guaranteed in the Charter of Fundamental Rights of the Union, the other provisions and principles of Union law and the international treaties to which the Union or Member States are parties, including the ECHR, and as they result from constitutional traditions common to the Member States.⁴

Note: Irrespective of the modality of "incorporation"⁵ of the Charter in the Constitutional Treaty, **it is absolutely necessary that the "drafting adjustments" proposed by the working group "Charter" of the European Convention be rejected**, as they will create great confusion and a serious risk of further restriction of fundamental rights.

Article 12. Shared Competences

Add: - "equality between men and women, protection of maternity and paternity, reconciling of family and working life"
- "employment".⁶

PART II

Acts of Violence must be among the crimes regarding which there will be approximation of national penal laws.

The Protocol on the principles of subsidiarity and proportionality must require that the application of these principles respect the *acquis communautaire*, as the Protocol on the same subject, annexed to the Amsterdam Treaty, currently requires.

DEVELOPMENTS REGARDING THE DRAFT CONSTITUTIONAL TREATY

Over 200 international, European and national, women's and mixed, NGOs have endorsed the above proposals with great enthusiasm. In the Conclusions of the informal meeting of ministers for equality (6 May), at the initiative of Minister Skandalidis, the ministers "*expressed the wish that gender equality, an essential feature of the European cultural identity, be included in the Constitutional Treaty among the values of the Union*" and encouraged the Greek Presidency to take appropriate initiatives. Moreover, Foreign Affairs Minister Papandreou declared at the Athens Peace Forum of 28-30 May that he supports these proposals and would present them to his counterparts.

In June 2003, the President of the European Convention, Mr. V. Giscard d'Estaing, presented to the Thessaloniki European Council the 1st and 2nd Parts of the «Draft Treaty Establishing a Constitution for Europe», and in July 2003, he presented to the Italian Presidency the finalised text of this Draft, as a basis for the work of the Intergovernmental Conference (IGC) which started in October 2003. Unfortunately, very few improvements were made to the Draft, which is still marked, in particular in the social area and as regards fundamental rights, by the weaknesses that are highlighted in the Conclusions of our Conference. Regarding gender equality, the Swedish Government requested that it be expressly listed among the Union's values, as we also demanded. **This proposal was also made by the Eur. Parliament at the initiative of M.P. Beres and Ms. L. Dybkjaer. Ms Dybkjaer submitted this proposal to the Irish Presidency. AFEM and AWLA appealed again to the IGC to endorse this proposal (see Futurum website of IGC).** However, no decision has yet been made by the IGC on this issue.

The initial prospect was for an agreement on the Constitutional Treaty to be achieved the soonest possible, so that, after its ratification by each Member State, it could come into effect before the European parliamentary elections of June 2004. As no progress was made on this matter during the Italian Presidency, it is not certain that this schedule will be kept, the more so as the Irish Presidency, which started on 1st January 2004, will not convene the IGC before March 2004.

Therefore, the combat is continuing, this time at the national level, so that we can achieve the support of the Government and Parliament to our proposals.

Sophia Koukoulis-Spilliotopoulos

1. See <http://www.europa.eu.int/comm/education/ajm/equality/index.html>.

2. See http://www.europarl.eu.int/comparl/femm/ccoc/default_en.htm

3. While certain provisions of the Charter reflect the *acquis*, others, in particular Article 23(2) (positive action) and Article 33(2) (family/professional life), fall short of it. Moreover, the Charter's scope is restricted in comparison to the scope of fundamental rights provided by ECJ case law, while certain derogations are allowed according to non-transparent criteria. As a Protocol, the Charter will have constitutional force, it will not disrupt the *acquis*, and it will have more chances not to be further restricted.

4. This provision maintains the whole *acquis communautaire* in fundamental rights, including the Charter.

5. I.e. whether it will be in a chapter of or in a Protocol annexed to the Constitutional Treaty.

6. The Draft initially classified employment under the "supporting actions" where the Union cannot legislate. The revised Draft of Part I, deals with it in a distinct Article which refers only to policies and guidelines. There is thus a risk for Union employment legislation, the source of workers' rights, to stop. Therefore employment should be under the "shared competences" where Union legislation will be possible.

Initiatives on Gender Equality taken by the Greek Presidency Conferences and experts meetings by the General Secretariat for Equality

European Conference: "Equal Pay-Mind the Gap" 30,31 January, 1 February 2003

The Conference, organized by the Research Center for Gender Equality (KETHI), addressed the issue of equal pay for equal work and work of equal value among women and men since it was the closing event of a European project on comparative research and study of issue.

This keynote speaker was Anna Diamantopoulou, European Commissioner on Employment and Social Affairs, who spoke on the political problem of unequal distribution of wealth and power between the sexes, since the female population is highly concentrated in lower paid occupations. She made the connection of the issue with the European Employment Strategy and put forward a new challenge which is the relation between competitiveness and gender

equality in the labour market. Women's position in it needs to be improved not only in quantitative terms but rather in qualitative. Indeed, as the President of the Commission on Women's Rights of the European Parliament, Anna Karamanou pointed out, the national quantitative target of Greece aiming at reaching a 60% female employment by 2010 would lose its meaning if women work in positions of low pay.

The studies conducted in the context of the European project entitled "Equal Pay – Mind the Gap" were presented in the Conference.

Natalia Sereti

European Congress on "Gender and information society" 5-6 May, 2003

The Congress was organized by the General Secretariat for Gender Equality with the Support of the European Commission. It aimed at investigating the new possibilities to fight against social and geographic exclusion and promoting women's participation in entrepreneurship and leadership in the information society. Speakers included personalities from several EU countries as well as representatives of NGOs and social partners' organizations.

Maria Stratigaki

Athens Forum: "Gender, Peace and Foreign Policy: The European Perspective" 28-30 May, 2003

The Forum was organized by the Ministry of Foreign Affairs aiming at examining the ways that gender make a difference in foreign policy. The international panel included women peace activists from Cyprus, Turkey, Palestine, Israel, Iraq, Afghanistan, etc. and the keynote speaker was Nawal el Saadawi from Egypt. The "Athens Forum Statement" formulated important demands from EU, UN and national governments with the objective to integrate a gender dimension in decision and policies in foreign affairs.

Maria Stratigaki

Experts Meeting: "Combating Domestic Violence and Trafficking in Women" 30-31 May, 2003

The Meeting was organized by the General Secretariat for Gender Equality. Experts on issues of domestic violence of the member states and the states that are to become EU members discussed issues on: Violence and Prevention, Violence and Service Provision, Domestic Violence and Legal Measures for Suppression of Violence.

Irene Fereti

European Conferences Organized by Greek Women's Organisations with the support of the General Secretariat for Equality

- 1) **"Pan Athenian" Women's Organisation**
"The Reconciliation of Women's Family and Professional Obligations", Athens, 25, 26 February 2003
- 2) **Greek League for Women's Rights** "Social Rights: A lever for Equality. Proposals for the European Constitution", Athens, 2 April 2003
- 3) **The European Women's Lobby-Greek Department and the Greek Women's Union**
"Women's equal participation in high positions – New policies in Europe", Athens, 7 May 2003
- 4) **European Network of Greek Women Journalists**
"The Effect of the Model of Globalization in the structure and the function of Mass Media"
and "Gender Equality Issues and how they are dealt with, through the Press", Athens, 28, 29 May 2003
- 5) **Soroptimistic Union of Greece**
"Our common future", Thessaloniki, 6-8 June 2003