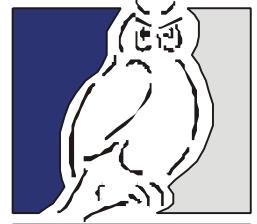Group of Policy Advisers

EUROPEAN COMMISSION

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Legal aspects of the relation between the European Union of the future and the communities of faith and conviction

The role of these communities and co-operation for a common European future

SYMPOSIUM   REPORT

Edited by Win BURTON and Michael WENINGER

Working Paper – 2002

The papers given at this symposium were delivered orally and not initially "written for publication".

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INTRODUCTIONS

Michael Weninger

Group of Policy Advisers to the President of the European Union

Ladies and gentlemen! It is my pleasure to welcome you on this fine morning here in Brussels – indeed, a morning just made for bringing us together to discuss a matter of great import for each and every one of us.

I am the member of the Group of Policy Advisers of the President of the European Commission who bears responsibility amongst other things for the dialogue with Churches, Religions and Convictions, and in this capacity I have been preparing this symposium along with my colleagues and friends from the "Soul for Europe" Initiative, and have thus invited you to come here today. This is a symposium that will tackle fundamental aspects affecting the dialogue between the European Commission – or indeed, European Union – and yourselves, the representatives of churches, religions and communities of conviction. We are intending to examine together the legal and institutional conditions that facilitate such dialogue.

The European Union – as we are all aware – is an institution whose future is an open one. It is an experiment if you like, an open-ended experiment. The European Union is an institution in a constant process of reform and self-critical enough to impose upon itself a constant striving after new forms that help keep abreast with the ongoing changes of the times – or even more than this, that are able to influence, actually shape to a significant degree the course of today's history. An experiment, a process of shaping, a concern for renewal and reform in which churches, religions and communities of conviction have their place. Unquestionably.

In the "White Paper on European Governance" that was presented to the general public in July 2001, it is stated on page 17, "Civil society plays an important role in giving voice to the concerns of citizens and delivering services that meet people's needs. Churches and religious communities have a particular contribution to make." This is a clear enunciation of the fact that "citizens' Europe" is a serious preoccupation for the European Commission. And indeed, we are going to be able to have a personal discussion later in this conference with the very creator, if you like, of this White Paper, Jérôme Vignon himself, about this document and what it will imply.

Furthermore, the very fact that the Group of Policy Advisers of the President of the European Union has been assigned four major working areas, one of which is purely devoted to the dialogue with religions, churches and communities of conviction, shows the importance being ascribed to you, the institutions you are representing, in terms of tomorrow's Europe. There are four areas covered by the Group, namely external relations, economic and finance policy, reform of the institutions and indeed fourthly the dialogue with churches, religions and communities of conviction.

But this dialogue must by definition be one that is open to all religions and philosophical groups waiting to join in. Linked to this, if a truly constructive dialogue that satisfies everyone is going to take place, there is a need to publicise the relative conditions and basic framework for this dialogue so that all are clearly aware of it. Many are the questions raised

on this front in my very office day in, day out, both legally and institutionally speaking, and these are the questions we want to tackle together in the course of this seminar.

Over the last fifteen years or so the European Union has concluded a number of treaties that affect communities of faith and conviction. There is maybe little primary level, EU level legislation as such compared with the secondary level which has become quite substantial – but these decisions are of great import.

The European Council in Laeken (December 2001) is setting up a Convention that will start work on 1st March 2002 (with a view to finishing in April 2003). This Convention is to work on proposals in key areas of the European Union "experiment", proposals for reforms that are then going to be decided on at the IGC in 2004. It will ultimately depend on your loyal cooperation whether that significant contribution of communities of faith and conviction will have an impact on the result of this Convention's works and consequently on the reforms that will follow - a contribution at both institutional and legal level which does justice to the significance they can rightly expect within this greater Europe to which we are currently moving.

I make a point of greeting explicitly, despite his regrettable absence, Dr Ricardo Franco Levi whom most of you will know as the Director of the Group of Policy Advisers (GOPA): he has closely followed the preparations for this seminar and is greatly interested in the outcome of our joint endeavours.

Our seminar is going to fall into three major parts. The first section will focus on "The significance of the religious factor in the construction of a humane and democratic Europe" and on "Legal aspects of relations between the State and faith communities throughout Europe". The second will look at the legal and institutional aspects of dialogue between the European Union of the future and the communities of faith and conviction. Thirdly we will come to grips with the "White Paper on European Governance" and finally also, I sincerely hope, have time enough for much useful discussion together.

Claude Wachtelaer

President of the "Soul for Europe" Initiative

Ladies and gentlemen, first and foremost, welcome, thank you for being here for this symposium organised by the Group of Policy Advisers of the European Commission and the Co-ordinating Committee of the Initiative "A Soul for Europe – Ethics and Spirituality". I should like to express particular gratitude to Mr Levi, who as Michael Weninger has already told us, cannot be with us over these two days, but who has let it be clearly known to the Committee of the "Soul for Europe" Initiative that it has the full support of the Commission and its Group of Policy Advisers – and this symposium is a token of that. My thanks go also to Michael Weninger for his help with shaping the content of this symposium and also on the logistical side – without which this symposium would not be taking place at all. Whilst I am into acknowledgments, let me continue by thanking the members of the Initiative's Committee who represent the major faith communities and who have helped give shape and content to this symposium, plus Win Burton, the co-ordinator, and the rest of the team that has worked to prepare your welcome today.

I am delighted that this symposium has come to pass – being as it is the fruit of good collaboration between the committee of the "Soul for Europe" Initiative and the Group of Policy Advisers of the European Commission. This symposium is for us as much a culmination as a point of departure. A culmination as it crowns the series of very informal, smaller scale seminars that have been organised annually since the Initiative began in 1995, followed by two more major symposia similarly co-organised with the Commission – at the time, the Forward Studies Unit – in this very same Borschette building in 1999 and 2000. A point of departure because today's event marks a process of reflections that are likely to stretch over a number of years to come.

The various seminars I have just referred to, and the work we do in our committee, have instituted among us a culture of dialogue – of that there can be no doubt. I am invoking this culture from the very outset. The subject we are going to treat is a tough one, and sometimes delicate. I am quite sure we are going to be able to discuss in fruitful fashion in a spirit of cordial frankness whilst genuinely listening to every point of view.

The title of our symposium talks of "legal aspects". The group here today is not however, quite deliberately, composed solely of legal experts. All present here however bring some special experience, and this is what I believe we can offer as an interesting contribution to the Group of Policy Advisers. Over and above our experience related to the subject up for discussion, we are also here with our diversity – in convictions, culture and origins.

From the very inception of the Initiative, our Committee has wanted to involve the salient features in the field of faith and conviction in all their European diversity. The fact that there are people here today that embrace religious faiths that are not regularly represented in the Committee of the Initiative demonstrates our desire not to seem to be monopolising the "representation" of the communities of faith and conviction. The fact that "non-believers" (to use an inadequate if commonly found term) are here today – and I am in a good position to mention this - is also a sign in the direction of taking in the reality of Europe in ethical and spiritual terms.

And lastly, while we are going presently to tackle a job which may be arduous but I believe is useful, there is one obligation we should not feel, which is – to use a legal term – the obligation to produce results. The ultimate objective of our meeting is not a final resolution or a protocol of agreement. If through our discussions we can help to enlighten the Group of Policy Advisers, we shall have played our part to the full, and the interactions between what will doubtless be many different points of view are surely going to provide that "added value" that a group such as ours can give.

But it is not for us to speak in place of our individual organisations, nor is it for us to negotiate amongst ourselves the way in which the Union will manage its relations with the communities of faith and conviction in the future. Our role is to enlighten those in politics not to take their place. The European Union has its institutions just as the Member States have theirs; it would seem to me prudent for us not to take upon ourselves a mandate that has not been legitimately conferred upon us.

It is now not just a duty but also a pleasure for me to introduce our first expert and speaker, Dr Grace Davie, a Reader in the sociology of religions at the University of Exeter, who is going to speak to us on the importance of the religious factor in the construction of a humane and democratic Europe. I will let you into a story - which shows to some extent the kind of dynamic this Initiative has set in motion . Some years ago I received an invitation from the

Faculty of Theology of the University of Edinburgh to attend a conference there and present the humanist perspective, and it was at this conference that I had the pleasure of hearing Dr Davie for the first time. And in turn, it is really in some ways thanks to all that that she is here today. And I think these are the dynamics that make up that added value to which I was referring just now.

The significance of the religious factor in the construction of a humane and democratic Europe

Dr Grace Davie

Reader in the Sociology of Religion, University of Exeter

May I first say thank you for the invitation to be here – it's a great pleasure and a great honour for me to be speaking at this meeting.

I was asked in the early summer to speak on the significance of the religious factor in the construction of a humane and democratic Europe. And if I felt my subject was important then, I feel it very much more deeply since the events of 11th September, and for one reason in particular – without opening of course the political consequences of that terrible day. The point I want to bring to your attention is the following: in my own country (and I imagine in the other countries of Europe, though I don't speak for them) I have been dismayed by the inadequacy of the subsequent debate, particularly in terms of its religious dimensions. It seems, if I look at the newspapers or television or simply listen to what is going on in Britain, that we veer from the vilification of religion to its trivialisation, and we are unable to accept what I would call the normality of religion in the everyday lives of the vast majority of people.

If you want an example of vilification, I refer you to the *Guardian* website, where people who I think should know better are saying very unhelpful things; if you want an example of trivialisation, let me mention the captain of the English football team, David Beckham, somebody I admire greatly as a footballer, but who says of his son, 'I would like Brooklyn to be christened but I haven't decided yet into which religion'. And this seems to me indicative of contemporary debate about religion: David Beckham is doing what many other people do, he is using Christian vocabulary - in other words he's using the word 'christen' - but he's confusing the debate about faith and the debate about denomination. And he's effectively trivialising – I don't think he means to – but the effect is to say 'maybe this, maybe that' (a kind of self-service approach), which to my mind is not helpful. We have little shared vocabulary and very little grammar of faith to help us in what is evidently a very serious situation, and this underpins a great deal of what I want to bring to your attention this morning.

When I talk about Europe in the next few minutes, I will be talking about Europe of the Western tradition – that is those parts of Europe which became Catholic rather than Orthodox in the great divide about a millennium ago. I want to stress immediately that I have great admiration and respect for the Orthodox, the Eastern tradition, but it is a very different one from the West, and in that I have limited time, I feel it wiser not to engage that debate as well as the one that I know better. With this in mind, I'm going to divide my remarks roughly into two sections. The first two-thirds of what I want to say I shall be talking about Europe as seen from the inside, and in the last part, I shall talk a little bit about my current work in which I look at Europe from the outside – a perspective which is very illuminating. In the first part, I shall be drawing on my published work: a book on *Religion in Britain since 1945* published about seven years ago, using the subtitle *Believing without Belonging*, and I want to develop that concept in particular. Then I'll go on to the more recent book which came out just over a year ago with Oxford University Press - *Religion in Modern Europe*.

The notion that I introduced in 1994, for which I used the phrase 'believing without belonging', does I think characterise the religious situation in contemporary Europe - Britain as well – and it became a phrase that was much repeated, used in the churches, and in the end, I think, rather over-used. I want none the less to make a few remarks about this situation. First, whilst it is true that the large majority of Europeans no longer have strong attachments to their churches or faith communities, expressed in regular attendance (of course that's much more true of the historic churches than of the minorities, to which we shall turn in due course), it is not the case that most Europeans have adopted secular or indeed any other alternatives. The great majority say that they believe in God - what kind of God is unspecific - and on the whole they retain an attachment, albeit a loose one, to the historic churches. 'Yes, I believe in God, no, I don't go to church on a regular basis' is normal for Europeans. Here a further point is crucial: exactly the same thing has happened to the secular institutions as the religious ones: if people have ceased to go to churches on a regular basis, they have also ceased to belong to political parties and the trade unions - in fact I think the political parties and the trade unions are having a harder time than the churches. This of course makes us think carefully about why people are no longer going to church. Is this a sign of religious indifference, or is it simply a sign of profound economic, social and political change of which the churches are victim just like their secular equivalents? In other words we need to think again about reasons. It is of course part of the contemporary debate raised by Robert Putnam about 'social capital': the shift in behaviour and attachments to voluntary groups can be found right across the board, churches included. Quite how we conceptualise the place of the church within this shift is complex but the immediate point is the following: in order to understand them properly, we should place the churches in a wider societal context (i.e. beyond the sphere of religion *tout court*).

In terms of church people, a second remark is equally important: to minister to a public which believes but doesn't belong is neither easier nor harder, better nor worse than ministering to a public that is straightforwardly secular. There's no question of value judgement in what I am saying – I'm simply trying to indicate as clearly as possible the present state of affairs.

What are very interesting, however, are the recent findings in terms of long and short-term trends. We had assumed that believing without belonging was a temporary situation; regular practice dropped first and fastest, looser attachments and religious belief would drop later but more slowly. There was simply a time lag between the two. In other words, the two variables, belief and belonging, were directly connected, one dropped first and the other would follow. But if you look at the data from the most recent study of European values, there are at least hints and probably something towards indications that this relationship might be quite other, i.e. that this relationship may be inverse rather than direct – as the disciplines of the institution diminish, what happens is not a slower and more gradual decline in belief, but a rise in heterodox forms of belief. Of course, anything close to creedal statements will be in decline in that they depend very largely on the disciplines of the church, but if you look at the looser indicators, and particularly, belief in an after-life or belief in a soul, or young people's conviction that there is a God but the God is in me, an immanent rather than transcendent God, these indicators rise sharply in younger rather than older generations and in precisely those parts of Europe where the institutional church is at its weakest. With this in mind, I would encourage considerable caution regarding the future - I think almost anything could happen.

I became convinced however when I wrote the second book, the book on *Religion in Modern Europe*, that the separating of belief from belonging, of belief from institutional commitment

or attachment, was going too far. That we ought to think a little bit harder about the way the relationship between the two variables is maintained even amongst populations which have ceased to practice. And in order to understand this better I began to use the term 'vicarious religion'. 'Vicarious' derives from the English word 'vicar', and denotes religion performed by an active minority on behalf of – that's the crucial phrase – a much larger number who, implicitly at least, understand and approve of what the minority are doing. In other words, the average British person or European, doesn't go church, but is really rather pleased that the churches are there. And this seems to me quintessentially European. I've travelled extensively in Europe and I've given this kind of presentation in most parts of the continent, and I have never yet not been able to convey this idea to Europeans, despite language difference, and nearly always my audience furnish me with a word in their own language to describe exactly what I had in mind, offering me empirical examples from their particular context. If, however, I cross the Atlantic, which I do quite often, and try to explain 'vicarious religion' to Americans who speak my own language, I'm wasting my time. To be more precise, they think it's rather quaint and un-American, but they have absolutely no conception of what I'm talking about. Why should they? Americans are not vicarious! Americans work on the basis of a market. If I were to pursue the economic analogy further, European churches work on the basis of public utilities. And we need our public utilities, we expect them to be there even if we do not make regular use of them. For my own discipline, moreover – the sociology of religion – the methodological implications are considerable. You cannot count 'vicarious religion', you have to have a nose for it, a sense for it. And if you have a sense for it, you can find it. It's a little bit like an iceberg. In my view, we have far too many studies of the tip of the iceberg, which we've measured upwards, downwards, sideways, this way and that way. It's shrinking, I know. What interests me is the huge mass under the water!

One way that you can sense vicarious religion – I shan't have time to develop this but it is very obvious once you have pointed it out – is if you are present in or read about European societies, or Europe as a whole, at a time when the normalities of life are stripped away. Something unthinkable, unimaginable has happened. The 11th September is a good example. But to stick to a purely European illustration, the best one I think is what happened in Sweden, supposedly the most secular society in Europe, or indeed in the world (though others compete for that title) when the Baltic ferry, the *Estonia*, sank. Where did the Swedish people go? Straight to their churches. They expected them to be there, they expected the Archbishop to articulate on their behalf the meaning of that terrible event. And in that expectation they were not of course disappointed. That is exactly what the Archbishop did and, for his part, expected to do. The equation of wider public and institutional church was evidently intact even though most Swedish people will rarely go to their churches and in terms of assent to conventional Christian belief will come out extremely low on any comparative scale. What Swedish people of course do do, together with many other North Europeans, is pay substantial amounts of tax to their churches, and having spent last academic year in Sweden (a delightful experience for me), I am convinced it would be most un-Swedish to pay considerable amounts of money to something of which you fundamentally disapproved! I think that is indicative of how Europeans think about their churches, and that's what I mean by 'vicarious religion'.

If we were to turn now to Europe's religious minorities, it is a paradox that just as Europe's historic churches are losing their capacity to discipline the lives of the great majority of Europeans, new forms of faith arrive in this part of the world. And here, I think, in terms of the deliberations that we are engaged in in the next day and a half, I want to underline one point very strongly indeed: we are inclined in Europe to confuse two definitions of pluralism. We think of pluralism meaning the fragmentation of historic belief, believing without

belonging, pick and mix, take what you like, New Age, bit of this, bit of that, and we call that pluralism. We also use the word pluralism to mean the extremely demanding dialogues between committed people of different faiths or different kinds of Christianity. In my view it is most unfortunate that we use the same word for both because it's leading to confusion - the assumption, for example, that the second form of dialogue can work on the basis of the first one, of choosing a bit of this and a bit of that and a kind of lowest common denominator. It certainly cannot, and the sooner we get those two meanings of pluralism apart in our debate, the better.

The other point I wanted to make in connection with Europe's religious minorities is to underline the difference between religious difference and ethnic difference. The European Union, quite rightly, is extremely attentive to racial or ethnic discrimination or insensitivities. It is also the case that secular liberals prefer to talk in terms of ethnicity, and race, rather than religion. The point I would like to make to secular liberals, including those who write in the *Guardian*, where I started, is if they stopped for five minutes to speak to those people from ethnic minorities, they would discover how important religion is to them. You cannot honour ethnic difference without taking religion into account. Which is not the same thing as eliding the two – I'm very aware of their differences. They are different, but to treat one seriously and the other with triviality seems to me both unhelpful and inappropriate.

I would like finally to say a few things about looking at Europe from the outside, which is the work that I'm doing now - the book that I'm currently writing which will be published next year. The point that I want you to consider in this respect is that we have assumed too often in Europe, that what we do today, everyone else will do tomorrow. I'm afraid there is a Eurocentrism in this from which it is quite hard to escape. We have assumed that the modernisation process in Europe which was accompanied by some form of secularisation, of that I have no doubt, is the global prototype, that Europe is a lead society. In other words, as the world modernises, it will necessarily secularise. That in my view is incorrect. One look at the parameters of faith in the modern world shows us that Europe is not the global prototype, if anything it is the exceptional case. Even if you confine your discussion to Christianity, if you look for example at the United States, or Latin America, sub-Saharan Africa, the Pacific rim, South Korea, the Philippines, you find high and growing indicators of religious activity. If you were to look at the hugely varied Islamic world, you would come to a similar conclusion. Two things follow from this. One is that we must think again about the reasons for relative secularisation in Europe. It is simply not the case that to be modern and to be religious are incompatible. They appear to be in Europe, but for specifically European reasons. We need, it follows, to discern what those reasons are. But I would conclude with a second (related but slightly different) point: it is as modern to draw on the resources of religion in order to critique the secular, as it is to draw on the resources of the secular in order to critique religion. Only in Europe has the equation become seriously imbalanced, and as Europeans, we need to discern very carefully the reasons for this, and not to assume (as we have done so often in the past) that what we do today, is necessarily what everybody else will (or should) do tomorrow.

Legal aspects of relations between the State and faith communities throughout Europe

Professor Dr Gerhard Robbers

Research in European constitutional law, Trier University

Ladies and Gentlemen. In this second part I have the thankless task of making further measurements of that tip of the iceberg Grace Davie spoke of so eloquently – and of what is probably a minor peak in a landscape that is as rugged as it is diverse: looking namely at legal aspects of relations between the State and faith communities throughout Europe. And picking up on another thing Grace Davie said – to overlook religion is to discount life. Religion is an all-pervasive phenomenon that traverses all circumstances in our lives. The constitutions of the different States in Europe have largely acknowledged this matter in widely varying ways. Growing religious awareness is therefore meeting with a change in legal dispositions brought about in fact by the European Union. The wide gamut of situations in religious law that exist in Europe – from State Church to « laïcité », from neutrality to co-operation - is rooted in that diversity that is immanent in our member states. One example : France alone has seven different systems of religious law within its frontiers. There are special cases in Alsace-Moselle, Guyana or again on the Island of Mayotte. The United Kingdom maintains particular requirements in England and others in Scotland, and again in Northern Ireland or in Wales and others besides. Greece has the peculiar status of Mount Athos, Germany many a nuance between individual Länder. Some member states pay exceptional attention to the special needs of a variety of faith communities by means of treaties between the state and religious communities.

This diversity is in a constant state of flux within the member states themselves. Things are moving towards a degree of convergence. The systems of religious law throughout Europe are in the process of converging. State Church ties are being severed – as in Sweden – or loosening up – as in England. In Germany things are moving in fields such as religious education, church courts or corporation status. Structures that have been antagonistic one to another from their very historical origins are deploying some energy towards co-operation. There is convergence in matters of self-determination in religious matters and a convergence for co-operation between States and religious communities.

We need to see where there are differences between member states and respect these. To alter the provisions in religious law in Northern Ireland from the European Union end for example would be nothing short of blunt insensibility. We should not however overestimate the differences. Most of all, we should not fall prey to a game of competing systems at EU level. The European Union cannot simply adopt any one of the existing legal systems into its legal practice. We have to resolve each problem as it arises at EU level pragmatically with an eye to each one individually and keeping in sight the right overall direction.

Core structures of member states' religious rights constitute building blocks of the very identity of those member states. If – and there is an if – if guarantees have been given that member states' competence and individuality will be preserved, what they share in common needs to be brought out more strongly. The right to « laicity » in France is nowhere near as far removed from the German system of co-operation as is often assumed, to take but one example. French laicity contains a political clause on appointment of Catholic Bishops and

another on pastoral care in the army. State schools in France allow timetable space for religious education. The particular status of « associations cultuelles » and « associations diocesaines » is clear as is the state support for religion in matters of Catholic church buildings and utilisation of church premises. The French constitution invokes the « Highest Being ». Germany – to continue with this example – talks of responsibility before God, and lays on religious education in state schools as a sign of separation between State and Church. The public law corporation status in Germany which many religious communities have, keeps State and Church separate. Church tax is a purely Church offering ; where the State collects it, the Churches pay the state for that service. Army chaplains in Germany have no military ranking and remain totally integrated within church structures in both religious matters and from the organisational point of view.

The French so-called « laïcité nouvelle », « laïcité positive », « laïcité neutre » should by no means be viewed as automatically diametrically opposed to co-operation systems such as exist in Spain, Italy, Germany or Austria.

That having been said, « Laicity » also exists as an underlying concept, a concept of historical relevance, underlying significance that goes beyond its actual content as a legal term. This underlying content of the concept of laicity at least persists in some perceptions from without, in a fading anti-religious mood in the sphere of public life, which is quite alien to other systems of religious law in Europe. For this reason it would be quite mistaken to speak of the « laicity » of the European Union. This would also be dangerous for the European integration process. It would be more accurate to speak of the religious neutrality of the European Union, or better still, its religious openness.

Attempts in the past to marginalise religion as a phenomenon in society amongst other phenomena in society have consistently failed. The religious context has a special position in public life across the board. The model of civil society – which in the final analysis is a state-type model – cannot adequately embrace the particularity of religion or the particularity of each individual religion. Its infinitum internum exceeds by far every persistent attempt to mediatise religion by relating it to limited interests

The religious legal systems of Europe also converge on the common ground of religious freedom, with tasks for the future in this sphere too. Religion must be given sufficient space in positively recognised, actively supported religious freedoms. While the European Union cannot escape from religion if it wants to further its cultural base, become truly European, neither can it minimalise religion as a mere purveyor of values. Religion is not the ancilla in ethicis of the state. It is not the handy dupe for purely economic and political interests, and it is not a cultural history museum for the European Union. Religion must have space for its own sake. The European Union has as task to make freedom a reality for individual people. It therefore also has a task to make possible precisely a life of religious fulfilment for people insofar as its competence extends. Giving Europe a Soul does not mean shopping round for whatever may be needed on the market of religion. Giving Europe a Soul means showing Europe where its goals are.

The European Union has to grasp religion in its institutional dimension. If it fails to do this, it is overlooking essential threads in the tissue of its citizens' lives. Religion comes in institutions each with a specific life of their own. The European Union cannot fail to respect this.

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The sovereign rights of the member states do not stand in the way of this. The European Union is committed to democratic principles. It therefore must take account of all needs of the population appropriately. This applies equally to the religious needs of people and of institutions. The European Union is therefore committed to dialogue – and no less than formalised dialogue with the Churches and religious communities.

The European Communities hold discussions with religious communities within the scope of what competences they hold. They take account in this process of the rights of the member states. A whole host of Community regulations at both primary and secondary level spell a commitment to dialogue between the European Union and religious communities. The European Union must quite definitely respect the legal position of Churches, religions and communities of conviction as found in the member states and must in no way encroach upon them. The fundamental precept behind building up any European religious law must be respect for the systems in the member states and this must continue to be the fundamental precept.

But the European Communities have sovereign rights of their own. Sovereign rights do not exist in isolation. Transferring them from the member states does not mean cutting out separate chunks from the total cake of sovereign competences and serving them up individually on a different platter. Sovereign rights are and remain related one to another in their overall commitment to the common good. That means regard for religion as well, consideration for religious needs many of which are already now catered for at European Union level.

More now than ever before must the European Union take account of how religion sees itself. Its law has to take in the structures and needs of religion and cannot marginalise them in market mechanisms. A monk is not a mere employee of his order, a missionary is not a self-employed entrepreneur – a person's background always shows in the way (s)he speaks and the spirit of law also comes out in its language, its concepts.

More now than ever before the European Union needs to open up to the Churches and religious communities for advice and dialogue. Their knowledge and wisdom are a source of inspiration for just decisions that the European Union – if it is to gain a soul – cannot afford to be without. In all member states, churches and religious communities are somehow tied into the process whereby decisions are arrived at – often in a formalised manner. The religious communities also have a public duty to the European Union ; that follows from the constitutional matters jointly transferred by the member states, from religious freedom and democracy and from the legal weight religious communities see themselves bearing.

More now than ever before the European Union needs to be aware of the potential thrust and need for integration represented by the demographic spread of religion across the Union. The more protestant North and more Catholic South have their own character, hallmarks that each bear relevance in terms of the Union, and in the East, Orthodoxy introduces new elements again. The dialogue with Islam is of fundamental importance from an internal and external political point of view and can only succeed in concord with the Christian Churches. The specific obligation of Germany towards Judaism cannot be subsumed in some European shroud.

The European Union has to recognise and respect the specificum in the way Churches and religious communities perceive themselves. Dialogue with them cannot be made dependent

on their getting organised for consultations or in joint interest groups. A type of ecumenism imposed and led by the Union would contradict religious freedoms and the right of Churches and religious communities to self-determination.

Practically all member states of the European Union regulate their relations with religion, Churches and religious communities at a constitutional level – France, the United Kingdom, Italy, Spain, Denmark, practically everyone. It would therefore be appropriate for the European Union to treat them likewise. That can but underscore the Union's sense of responsibility, its thrust towards integration and its future.

European religious law must evolve with regard for religion and its particularities. European religious law must evolve with regard for the member states and their respective religious identities. These are the first steps up a pyramid of a European Union religious legal system which is evolving in the direction of religious freedom and religious neutrality in the positive sense, a European Union open in religious terms.

There follows here a summary of the discussion which related specifically to these two keynote addresses.

Specifically related to Grace Davie's address

The catch phrase "believing without belonging" has to be nuanced and probably cannot be applied to all denominations and faiths. For a Greek Orthodox, to believe is to belong. For the Jewish tradition, one can conversely belong without believing as Judaism is as much a way of life as a religion. Indeed, how can one draw the line between religion, religious practice, way of life, customs, traditions, history, memory, culture … ? In former communist countries (eg Slovakia), we see a new wave of deliberate affiliation compared with ten years ago. For "newly arrived" (as distinct from historic European) faiths, the trend observed particularly amongst Christians may be less true – although these too become equally part and parcel sooner or later of the host culture. However, they tend also to challenge the traditional religions – and in turn help them to be self-critical. (The limelight on Islam has made Christians think again about how they publicly profess their faith – or have increasingly tended not to.) This may in turn re-dynamise the historic churches into presenting themselves differently in public, and once again acquiring membership. This culture is the environment where dialogue now takes place, including dialogue with other faiths – but it is important not to pretend that the playing field is level, as it is not. Within this environment, it needs to be acknowledged that the faith communities will not meet as equals – but then to proceed to find the best and fairest way to operate within it. They can meet as equals in terms of theological debate and exchange of ideas – but not in terms of culture. Vicarious religion is part of culture and part of the residue of two millennia of Christian tradition.

Maybe in some instances the qualifier "practicing" is more applicable than "belonging". Creedal beliefs maintain a strong link with the institutions that have been set up to "represent" them. Once people loosen their links with the institutions (see below under "secularisation"), these beliefs are formulated differently though may be felt just as strongly. Such latent religious sensibility is then reactivated at times of crisis, whether public or private, (such as bereavement), and people in Europe then expect "the Church" to be available as a "public utility" and would be very shocked if it were not.
(see also below, on defining and quantifying "belonging")

When people talk about increasing "secularisation", this phenomenon spells not so much the fact that religious belief has become "less fashionable" over the 19th and 20th centuries, but rather that churches, just as all other organisations, have suffered from people's change in attitudes (individuality, living within their four walls, anti-social, general decline of associative movements): interest has not changed, people are not indifferent about football but watch the match on television rather than going to support their local team.   A mutation has occurred, a move away from a culture of obligation to a culture of consumption in society – and we in Europe now feel free (unlike earlier generations) to choose to practice a religion, any religion, or none. This is a good thing, a release from an oppressive duty – but presents new problems as what we choose may be extremely varied and different, and so this is going to be demanding on our norms of tolerance.

Does this mutation not reflect current thinking of the individual with his/her own rights and freedoms, both as person and as citizen, within a society, a public space, which therefore has to be essentially neutral, lay? And these individual rights outweigh those of any group.

(This idea is picked up by Jérôme Vignon the next day when talking of the moral responsibility of both the citizen and of institutions)

Apparent secularisation, whether in terms of believing without belonging, or the mutation from obligation to consumption, is a relatively passive evolution. What then can emerge in more dynamic terms is the exercising of new choices – which indeed may be an explicit and publicly affirmed choice for another faith or for non-belief, and not at all a latent, private matter.

Little research has yet been done on "unbelief" – it is extremely diversified, socially patterned and deserves to be represented positively for what it is and not in terms of a rejection of something else. Unbelief is as patterned by historical tradition as belief is, an unbeliever who was a Catholic is not the same thing as an unbeliever who was a Protestant, the culture often goes forward into the unbelief, and the way you don't believe is extremely different in Belgium and the Netherlands and the Nordic countries from in France. Non-believers are not atheists, they have not rejected religion. They do have structures, democratic organisations and rituals (eg to mark a birth or bereavement), and having no religion is not the same as having no convictions: all too often people assume that society is divided into the religious and "the others". The non-believers – such as humanists – subscribe just as much to values, and have ways of expressing and transmitting this, and are actively seeking after something they are convinced of, believe in – not just rejecting traditional faiths. The European Union – along with all too many other instances – all too readily forgets to cite this very significant community of people throughout Europe.   This neglect amounts in fact to flagrant discrimination insofar as not all member states grant facilities to this community as they do to religious communities (eg to perform such ceremonies, teach ethics in schools etc).

On the subject of "vicarious religion", might this not spell the beginning of the end of religion? In the transitional, reactive phase, there is a generation that was brought up believing and belonging – but in the generation that consumes with no obligation to sign up to a creed, that then has to make a dynamic choice, there will be but a minority who choose religion or even unbelief. Moreover, faith itself requires active supporters to survive, cannot rely on others bearing the torch.

In fact, in a situation of "vicarious religion" one needs to look not only at who, where are the loosely affiliated (majority) believing residue, but also at who are the minority carrying on on their behalf: in modern Europe, these tend to be relatively influential people, professional people, older people and disproportionately women – not a random sample of the population by any means. This requires some reflection – especially in terms of the way in which this faith will be carried forward by them and renewed (or not).

What is the current role of the ecumenical movement in the context of the mutations in today's society? The ecumenical movement, the move towards Christian unity, was partly self-protective in face of what was perceived as encroaching secularisation – though it was also very positively motivated in terms of the body of Christ. But the current challenge comes less from pervasive secularism than from forms of conservative faith – the movement should maybe rethink its aims and strategy.

Specifically related to Gerhard Robbers' address

On the subject of religious freedom – how does one deal with proselytism? The word proselytism tends to have negative connotations – more positively one talks of mission. Rights under European law include and must include not only the right to believe, oneself, but also to share one's convictions with others and the other has the right (possibly as a result of hearing this message) to change religion. However, European law looks carefully at the circumstances in which this takes place to assess whether there be any coercion, compelling circumstances, preaching to a captive audience in any way, or whether the message has been shared and received completely freely.

Where then does the value of "tolerance" fit in – where one a priori accepts the other for what (s)he is and harbours no thoughts of changing him/her into something different in line with what one is personally convinced is "right"? At what point is one not violating the identity of the other person?

In cases where state and religion are (still) very closely interlinked, the proselytising activities of others or any suggestion one might or could change religion, leave the majority, can be construed socially if not legally as tantamount to treason – and this becomes very dangerous, for that is violation of one's personal freedom and identity. There are rights and freedoms on both sides and the balance in terms of respect and tolerance is delicate, particularly given the different cultural contexts which no European-level ruling ignores. Interfaith dialogue and better mutual understanding of the other is the only way to overcome such difficulties.

Everyone has equally the right and freedom not to believe.
Religion – and unbelief – are intimately private things, which indeed relate, link to one's rights as an individual citizen - but are also public phenomena, the freedom to manifest belief or unbelief, individually or collectively is also a basic right. If it is not allowed into the public arena (because this must be kept "neutral"), then it is not really free, does not have full rights. In all EU states, religion has some kind of an official public function.

<u>Legal aspects</u>

Can and should the vicarious or latent religious belonging be quantified and accounted for in any way by the law? (This may sometimes be necessary in instances where the numbers game becomes important – especially when one main denomination more or less "accounts" for" (or behaves as if) the majority of the population, or when the state behaves as if it assumes its acts are sanctioned by the main religion, the State Values.) How does one evaluate "belonging"? It cannot (any longer) be quantified by regular church attendance, this is not a relevant criterion. There is indeed hardly an objective criterion for "belonging" – each person may manifest "affiliation" in a different way. Our legal system has to keep up with – and be as flexible as the mutations within society – with new "norms" of tolerance for example.

How can Church/state relations be enshrined constitutionally at national level in such a way as to encourage religious openness rather than merely state neutrality? Is this a question of registration? Such registration is a political move as it endows status. What sort of criteria should be used – should it not be regulated as little as possible?

Much depends on what rights are endowed by the State or the collectivity as a result of registration, membership numbers etc. If registration is meant to allow a religion to be performed in community, you should have a minimum number; if it is to attribute perhaps certain tax rights, or access to the media or other institutional rights, then the number becomes debatable.

It should be borne in mind that some faith communities that are commonly referred to as "religious minorities" (Sikhism, Jainism, Buddhism, Baha'is, Muslims, Zoroastrians) may be minorities in Europe but are major religions worldwide which in some cases have existed for several thousand years. Just as the EU has managed to achieve equality between smaller and larger countries, there is no reason why similar equality cannot be for religions in Europe, especially given the likelihood of still more immigrants in future who are likely to be of other faiths than Christianity. Numbers are not an acceptable criterion for "registration" of a faith community. "To be a European citizen you only have to be "one" really!". And as a member of a worldwide religion (such as Buddhism) one feels a citizen of the world.

Can one speak of "European Church Law"?
We do not need European Church Law but we do need European religious law – and this indeed already exists (or is it more that European Community laws exist that encroach upon the territory of religions? … - as for example in the case of the Evangelical Church in Austria as concerns employment legislation.) There is already a lot of EU-level legislation that in one way or another, some more some less, impinges on religion. Gerhard Robbers has compiled a fifty-page brochure on existing EU legal provisions of this kind (copies of which are available). However so far, this has been somewhat haphazard and one could only speak of a clandestine, creeping, non-deliberate European religious law. It now needs some deliberate structuring, as while it is not a codex as such, it is certainly a corpus, and there is meanwhile a considerable amount of jurisprudence. This could be arranged under four headings:
- religious freedom in the positive sense, based on the assumption that people may want to practice their faith in some way
- there will never possibly be a European State Church (as has sometimes been the case explicitly or implicitly at nation-state level) – but nor should religious belief/unbelief be dismissed as an irrelevant phenomenon at European level there

- needs to be some way of recognising "equality" between all faiths and denominations, and those who choose not to believe – however difficult it is going to be to find norms to define this equality there needs to be acknowledged that European religious law is a regional affair – developing in different ways and at different speeds in the different states and regions of the EU.

If one were to imagine an EU religious law, no single model currently existing in a member state could be applicable as a precedent; but there are instances of a common legal stance, and the European Court plays this role at times of unifying the law in relation at least to the principles of rights governing religion. What might therefore be the specificity of a legal ruling at EU level? The model presented by Gerhard Robbers is institution-related: but Grace Davie's sociological perspective shows this to be problematic insofar as there is no (longer a) clear link between the individual citizen, his/her religion and the institutionalised form of that religion. To what extent therefore can the EU institutions relate to "religion" only through the religious "institutions" present at European level? The EU is not a super-state, not comparable to a nation state, and its institutions and legal constructs are not comparable with national ones. Its legal character is peculiar, original, and evolving. The legal relation of religion at EU level can be seen on the one hand through the perspectives of "governance", on the other in terms of subsidiarity, or again through the instruments of the Courts in Luxembourg and Strasbourg, and their respective jurisprudence. This is extremely complex but this complexity has to be taken into account – just as both the institutional and the individual nature of religion has to be taken into account.

Within virtually all constitutions of the Member States there is some indication of how the State should react towards religion and religious institutions – so it is at least possible for the EU as such to have some indication of its own relation to religious communities and religion within or around the treaties. The question is, at what level?

Any institutionalisation at EU level of religion as a phenomenon could run into dangerous "communautarisme" waters, whereas the "European model" has on the contrary led to the concept of citizenship, that is currently upheld, the citizen who has the right to stand as him/herself and not be branded, laden with the reputation of any group with which (s)he may (or not) consort. The EU with its free movement of persons (to some extent also from cultures outside the member states) requires tolerance, and does not encourage ghettos nor groups (minorities/majorities) to compete, nor can the precepts (or even rights) of any group (including minorities) be given priority over the fundamental rights of individuals (eg to change religion). Does this not plead more for a neutral rather than positive "laïcité" approach at EU level?

The Greek orthodox Church, in an official statement delivered to the symposium, would indeed plead for such complete neutrality, for a secular state as in the US, within which there would be complete religious freedom and mutual respect.

No one approach at EU level (communautarisme, membership or affiliation, civil society, citizens' Europe …) is adequate – and the only way forward is pragmatically, flexibly, experimentally, case by case. But this complexity does not relativise everything: a freedom such as the right to change one's religion remains fundamental and incontestable. Groups however also have legitimate rights, and tolerance and pluralism are concepts that have to be applied in relation both to the individual and to the collectivity.

The positive side of "communautarisme" or community life (as distinct from the negative connotation of ghettoisation) is that it encourages, generates positive thinking about other members of the same community and acknowledgment of other communities or groups or organisations – as distinct from the individual citizenship attitude, each in for him/herself, where the pressure is largely to assimilate. Even though a major institution like the Catholic Church may rightly have difficulty seeing itself as just another voluntary organisation or NGO within civil society, one should also look at its membership which can readily be compared to such organisations, for the Churches are one of the central meeting places of European society, and it is not simply because of ethical or theological reasons that churchgoers of all types, shapes and sizes are disproportionately present in voluntary activities. There is of course a motivation there, an ethic of altruism, but there is in addition simply the capacity to meet and exchange ideas.

Legal aspects of a dialogue between the European Union of the future and the communities of faith and conviction

Claire-Françoise Durand

Principal Legal Adviser, Secretariat General of the European Commission

I am not entirely at ease opening this afternoon session, in the presence of an assembly representing religious communities, on legal questions – for they always tend to be arid and somewhat lacking in poetry and emotion. But the Community is a legal community underpinned simultaneously by the treaties, the regulations adopted by virtue of these treaties and the jurisprudence of the Court of Justice. It is therefore important to be familiar with its legal parameters if one is going to understand it and also if one is going to influence it – as, if my understanding is right, this too is to some extent what you would wish to do. But I am also going to try and illustrate how the Community is also a community underpinned by values, founded upon fundamental rights that at the same time engender respect - respect among other things for the freedom of religion – and a community that promotes dialogue with civil society as a whole, and with the communities of faith.

I will begin if I may with a comment on the limits of the law – and of religion too perhaps. I find the choice of the term « Community » to define the European Communities is altogether symbolic when one is talking of the very goal of the Community. This term in my view expresses both the will of the people to join in a common duty and also the feeling of belonging to a group that wants to build something together. I am one of those who regret that the term « European Union » has supplanted « Community » in common parlance, for the Community is indeed a joint project, uniting men and women and not just states, and at the same time it is founded on the common values of all these people – and religion is undoubtedly an important element in that.

I am intending to deal with the theme I was given in three steps ; in a first phase I feel it is interesting to see how the treaty establishing the European Community and the European Union – which was originally targeting the economic field – little by little drew in other objectives, other values, other goals up to the point – and maybe that is the paroxysm, where a Charter of Fundamental Rights was adopted in Nice last year. Secondly, and perhaps more concretely, I plan to examine something you are doubtless already familiar with but which maybe needs spelling out once more : what is the place of Churches and of religion in Community law ? And lastly we shall be able to cast a quick look at how Churches and religious communities can play their part in the way the Community is evolving. My few remarks will then lead to what Martin is going to elaborate on further.

The evolution of the treaties

I feel it is important to recall that the prime goal of the European Communities was one of peace, to guarantee peace on the continent of Europe, a goal of peace, freedom and solidarity. What however is curious is that the means taken to attain this goal were right from the outset economic means. In 1952, when the ECSC Treaty was concluded, the first treaty of the European Communities, it concerned solely the coal and steel sectors with the idea of combining, managing in common these sectors of coal and steel – initially between six states. In 1948 with the Treaty of Rome, the Communities' competences were widened to include all sectors of the economy but they still remained essentially economic by vocation. This treaty was established as you know upon the four basic freedoms : freedom of movement, goods, services, capital and labour – and it covered a few significant matters relating to just a few areas of policy : agriculture, transport and competition.

In the years '80 – '85, when various people like President DELORS started to try rousing this Europe which was languishing in a degree of torpor, they looked for a new project. And because in fact it proved so difficult to agree on one single common policy for the future Europe that would stand a chance of lasting, the part chosen in the end to knit Europe tighter together was economic integration of an even stronger kind. And that was the purpose of the Single European Act which was the first modification of the Treaties in 1986 and which basically aimed at strengthening European integration by setting up an internal market between then and 1992. On the institutional front, the Single European Act extends the cases where a qualified majority can be applied. And on a legal institutional front it is enormously important as we went from unanimous voting in the Council - that is reaching consensus which is the classic rule in all international organisations – to a qualified majority of the member states which means any one member state could have a decision imposed upon it with which it is not in fact itself in agreement.

The Single Act also attributed various new areas of competence to the Community – the environment already, and certain social matters, and this is the first treaty where you find written in to the preamble the reference to fundamental rights and the Strasbourg Convention. The authors of the treaty assert their wish to join in promoting democracy on the basis of the fundamental rights recognised in their respective constitutions and the rights of the Member States, and in the Convention of Fundamental Rights of Strasbourg.

The Treaty of the European Union – the Maastricht Treaty of 1992 – is without doubt the one that marks a real turning point in it all. There is no doubt but that it further deepens economic integration by instigating economic and monetary union, with the Euro that we are going to be able to use in 2002. There is no doubt that this treaty also marks a fundamental turning point politically as for the first time among the competences of the Union, we find a common foreign and security policy being determined. In our legal institutional jargon this is what we call the setting up of the second pillar in the Treaty on the European Union, the Treaty on the European Union being a treaty that encompasses the second pillar relating to foreign policy plus the third pillar relating to justice and home affairs, while the European Community remains the first pillar of this ensemble.

But over and above all this, with the Treaty of Maastricht the Community is granted competence for health matters, education, vocational training – this is the first time it has been allowed to touch matters that affect the citizen so directly. It also gains competences in the field of free movement, asylum and legal cooperation – this coming under the third pillar we

have just mentioned. And finally – for the first time perhaps – the citizen is mentioned as such in the treaty as entitled to rights – via this notion that has been termed European citizenship. And last of all, there is an explicit reference to fundamental rights in the Treaty of Maastricht – not just in the preamble either, but in an actual stipulation of the treaty which has become article 6 of the EEC Treaty, a stipulation that the Union respect fundamental rights such as are enumerated in the respective constitutions and in the Strasbourg Convention, as general principles of Community law.

On the institutional front, just to mention this aspect a bit too, Parliament, that represents the people, acquired a genuine co-legislative right with the Council in the wake of the Maastricht Treaty via the process of co-decision, which means that most of the acts passed by the European Community nowadays have been adopted jointly by both Council and Parliament, both have to agree to the same text.

The Amsterdam Treaty in 1997 continues this trend. Article 6 of the Treaty on the European Union, which I have just mentioned, is joined by an Article 7 which explicitly provides that where any one member state is found to be in serious and persistent violation of fundamental rights, the Council can instigate a process of sanction with respect to this member state whose rights will then be suspended. This is a considerable evolution in the institutional order of things where the Community institutions can assess the individual behaviour of a member state in any field whatsoever - this is not specified – as contravening fundamental rights. There is also strengthening of the arrangements that are seeking to facilitate freedom for people to move around – collected under the heading of creating an « area of justice, liberty and security » for our citizens.

The Amsterdam Treaty is definitely the first time churches and religious communities are mentioned. And this brings me on to my second part, which is the place of the churches and of religion in the treaties. In the Treaty of Amsterdam, the churches are explicitly mentioned under a Declaration no. 11 relating to the status of churches and non confessional organisations. Allow me to read it out to you just in case you are not familiar with it – though I am sure you must know it off by heart ! « The European Union respects and does not prejudice the status under national law of churches and religious associations or communities in the member states . » This text clearly sets out both the obligation and the commitment of the European Union not to interfere with or in any way affect the legal status that churches have in each of their member states, whatever that may be, and whatever the church. So respect for the peculiar legal status that churches can have in the member states.

Second legal item in the mention of religion in the treaties : article 13 of the Treaty of Amsterdam. This Article 13 enables the Council to adopt measures to combat discrimination arising on grounds of sex, race, ethnic origin, disability, age, sexual orientation or religion and convictions. This facility allows the Council to pass an act enforcing non discrimination in these fields. And in fact one act has already been passed on the basis of Article 13 aimed at discrimination arising in all these fields combined, relating to employment or working conditions. It is the Council Directive no.2078 of 27th November 2000 that prohibits any direct or indirect discrimination based on religion or belief in the conditions of access to employment or in conditions of employment, be they in the public or in the private sector. So as you see, a very broad field of application to guarantee that employment is possible throughout all areas of the economy in the different member states without consideration of any factors such as sex, sexual orientation or religion. What is interesting is that a derogation to this rule of non-discrimination was explicitly introduced into this directive in its article 4,

for particular cases where religion constitutes a genuine, legitimate and justified occupational requirement having regard to the ethos of the professional organisation wanting to employ somebody. To some extent this provision implements Declaration 11's respect for the legal status of any enterprise, and from a legal point of view I would say it even goes a bit further as there is quite explicitly a derogation made from a rule of non-discrimination, because it is deemed justifiable that taking the religious factor into account be considered an aspect of the decision up for consideration. So this provision recognises the right of churches whose ethos is based on religion according to whatever national provisions are in force, of course, requiring of people working for them an attitude of good faith and loyalty to the ethos of the organisation, to take into account the religion of the person these churches would like to employ. In this Directive you will also find some specific provisions along the same lines for teachers in Northern Ireland where there is a particular problem – as you know – and where it has been accepted that the religious factor can be a factor in the selection of people being recruited.

Third legal item : the Charter of Fundamental Rights
To arrive at this charter was a major undertaking. Institutionally speaking there was a Convention which managed to compile a legal text of great precision. And as you probably know, this idea of a convention – bringing together at the same time representatives of governments, parliaments, the European Parliament, the Council and the Commission – this idea of a Convention has gathered momentum as for the modification of the treaty being planned for 2004, this is the model that is likely to be adopted as the forum for developing ideas . The convention on the Charter of Fundamental Rights succeeded in compiling a text that was perfectly adequate from the legal point of view and which was proclaimed in Nice in December 2000 by President Prodi, the President of the Council and the President of the Parliament. This Charter mentions freedom of religion at a number of points. Article 10 proclaims that everyone has the right to freedom of thought, conscience and religion including freedom to manifest religion or belief, either alone or in community with others, in public or in private, in worship, teaching, practice and observance. This wording is very precise and recognises not only the freedom of conscience but also the freedom to practice religion. Maybe article 12 concerning freedom of association is potentially of interest for your communities too. And more particularly article 22 as well which asserts that « the Union shall respect cultural, religious and linguistic diversity ».

Now you are certainly going to say to me, « what is the legal value of this charter ? ». This Charter is not part of the Treaties as they stand today, it has merely been proclaimed by the three institutions. It has received the blessing of the convention but the convention has no constitutive powers however much it might fancy it does. So it is not a legal text. As you probably know, looking ahead to the Conference of 2004, one of the four subjects that should fall to the mandate that the European Council of Laeken ought to bestow upon the convention and the IGC, should include the question of integrating the Charter into the Treaties.

As at the present moment, what is the legal value of this Charter ? In fact this Charter takes up the basic principles we find in our constitutions, the EEC Treaty and the European Convention of Strasbourg, while at the same time updating them in respect of new matters arising such as biotechnology. It is to some extent a reference document that collates the fundamental rights with which everyone can agree. Now the Court of Justice of the European Communities has been saying for some time that it could exert control over the acts of the European Union and the member states in so far as they complied or not with what it called the general principles underlying community law, which means the general principles one

finds in the member states, in constitutions, legislation and in the Convention of Strasbourg. The Court of Justice has not so far made any reference to this when it has taken a stance on an alleged violation of fundamental rights but the Solicitors-General of this Court have done in more than one instance. In any case the Charter is going to become a document that the Court will bear in mind whenever it takes position on the way in which the European Union or the member states are respecting fundamental rights. What does this mean in concrete terms ? In concrete terms this means that if the Court were to find the European Union in violation of one of the fundamental rights enshrined somewhere in the Charter, it could rule against the institution that has violated these fundamental rights. But where the member states are concerned – and this is an important point – by virtue of the jurisprudence of the Court and by virtue of the Charter, they are bound to respect these same fundamental rights when they implement Community law. Let's take an example : when they transpose a directive or when they take decisions for example on implementing the agricultural policy, there are often problems of fundamental rights that arise, freedom of enterprise, freedom of ownership. So the member states are also bound by the Charter of Fundamental Rights when they implement Community law. They are of course not bound by this Charter when they are acting in the framework of their own competences not covered by Community law.

Now I'll try to move rapidly on to my third part – but here I think I shall largely leave it to my colleague to elaborate on the institutional aspects of how religious communities can get involved in the Community decision-making process in order to be able to influence this process. There are two levels that are absolutely crucial. At the point when acts of legislation are actually passed and where whatever problem you may be concerned about might have been overlooked and you should be pointing that out. The second is no doubt when the wider definition of political goals is being etched out, those that are going to point the general overall direction of future European policy. This second area is more political than legal so you need more to be knocking on the doors of your opposite numbers at a political level in such instances.

On the first score, when acts are being passed, I would merely point out that there are two phases to passing an act. The first is the preparation of the proposal by the Commission. The second is the adoption by the Parliament and the Council. The preparation phase of any proposal is absolutely crucial because the Commission's proposal takes in all aspects of the subject under discussion and more often than not, it is more or less, give or take the odd change or nuance, what the Council and Parliament are going to adopt. So to influence the tenor of the proposal is a crucial point, and when the Commission is going to prepare such a proposal it does not sit within four walls behind closed shutters. Of course it looks at national law, international law, makes contact with national civil services, and then it listens to all interested parties, all the people likely to be affected and anybody wanting to express a view on the subject. This primary level in the dialogue is where it seems to me some dialogue should be taking place between the services of the Commission and the interested parties or religious communities with a view to influencing what goes into the Act. I don't know if you had contacts over the formulation of the proposal on non-discrimination in the field of employment that I mentioned earlier, but I'm fairly sure you will have done.

The second level as you know is the Council. It must not be forgotten that it is the Council and the Parliament that actually take the decision not the Commission : this is an important point. They reach a co-decision, that is they decide by common agreement. The Parliament as a body is very open to dialogue with all partners in civil society, and as for the Council, as

a body it is probably through national governments, that is national parliaments that it is going to be easiest to bring one's point before the Council.

There we are : I was asked to be brief so brief I will be ! I would simply like to close if you will allow me, by quoting once again one of the phrases in the preamble to the Treaty which seems to me to sum up the basic purpose of the Community and which ought to ring a bell for you as representatives of religious communities. The Treaty itself says that the authors of the Treaty – and thus the Community itself – is founded on the idea of deepening « solidarity between the peoples of Europe while respecting their history, their culture and their traditions ». For me this is a sentence that defines the purpose of the Community pretty well, proclaiming the respect there needs to be for the culture, religion, traditions of all these people while at the same time striking the note for the project of Europe as a whole of solidarity between peoples. This seems to me to be a common notion for the Community and for religions and churches. And to return perhaps to your theme – or the motto of your association – giving a soul to Europe : Europe needs to have a soul and every individual can take part in the endeavour to give a soul to Europe.

Institutional aspects of a dialogue between the European Union of the future and the communities of faith and conviction

Martin Kroeger

Secretariat General of the European Commission

Ladies and Gentlemen, there are sometimes speakers who find the title imposed on them by conference organisers rather daunting - and that is the case with me today. Let me just read out what I am due to speak on and shall speak on : "Institutional aspects of a dialogue between the European Union of the future and the communities of faith and conviction".

I must immediately retract somewhat from what you are probably expecting of me. What I cannot do - and I doubt whether anyone round this table would easily be able to - is present you with a blueprint for what a structured dialogue between the Commission or all the institutions of the European Union, and the communities of faith and conviction should look like in an ideal situation. My colleague has painted the broader legal frame. I am grateful to her for already going in to what this implies in practice to some extent. I feel it could be very useful for us all if I try - in a very practical way, being the practitioner I am - to explain to you what dialogue, political dialogue between the Commission and the faith communities - but also with civil society in general - actually means and how it occurs in practice. You need that before you take the next step from where you stand now to say perhaps, from this current situation we want something else or better. That presupposes on the one hand that one knows what legal framework there is to operate within, and on the other, how the institutional framework fits together and functions in practice: this latter is what I would like briefly to explain to you.

Perhaps first one word quickly on the subject "Who actually does what in the Commission?", in other words, why am I sitting here now and how come it is my job to speak to you about this? I work in the Secretariat General of the Commission. That is a department which - along with the Legal Service - is directly attached to the President. The job of the Secretariat General is among other things to ensure the political coordination of horizontal political questions. One such question is the whole area dealing with the relation between the Commission and the citizen, the citizen as an individual person and phenomenon but also where he is involved in organisations. So this is the area which also handles the political links between the Commission and civil society.

What now is the present position regarding co-operation between the Commission and civil society? Perhaps we have to start by asking - and the question is not purely academic, far from it, very practical in fact - what this concept actually means? I have at least three files in my office full of theories on the subject. What this concept actually means has been well argued over. The Commission has taken a fairly pragmatic line on the subject and, in its White Paper on European Governance, adopted a definition developed by the Economic and Social Committee. We use this definition as a reference for our work on a day-to-day basis and I will just quote it here. This definition can be found in the White Paper on European Governance amongst other places. This definition worked out by the Economic and Social Committee talks of civil society as encompassing trade unions and employers' organisations - what we call the Social Partners - non-governmental organisations, professional associations, charities, grass-roots organisations and organisations that involve citizens in local and municipal life, and churches and faith communities.

One can ask quite rightly, can these all be put in the same basket? Is that a correct definition of civil society? When we come to discuss these questions maybe we can have a real dialogue on just this subject. But then one also has to keep in the back of one's mind how each of these groups I have just listed individually positions itself in relation to this concept. While working on the White Paper on European Governance - and well before that in my earlier work - I have had many contacts with widely different interest groups.

One can basically say that there are two main categories of groups. On the one side the interest groups and associations who have always in the past had a good relationship with the Commission and been in regular dialogue with it. There were historical reasons for this as Mrs Durand has already indicated, particularly for the social partners, that means the associations of employers and workers. But there are other groups working in the economic field that belong in there too, the traditional lobbies one might say. Alongside them a dialogue has grown up increasingly with different types of non-governmental organisations. This is linked to the progressive evolution of competences falling to the European Union. It is obvious that if the European Union as a Community starts playing an important part in the framework of negotiations on global climate change, this is going to be a theme of major interest for environmental protection agencies. Similarly - and here the Union is even more strongly and directly involved - with issues relating to a new round in the framework of the World Trade Organisation with far-reaching consequences in areas like working and environmental standards. It is therefore quite normal that the Commission, which is negotiating here on behalf of the European Union, is a direct target for interest groups of all kinds, active in the economic but also in non-economic fields. The economic activists have in fact never had much of a problem to organise their lobby work although there is still a wide variety of traditions for this between the different member states that are then of course replicated at European level when they come together in Brussels. I will say more on this in a moment. The NGO side vacillates somewhat between two positions. Some will say quite clearly, "yes, we are representing particular interests, we are on the same footing as the economic activists. All we want now is for our voice to be heard." Whilst other NGO representatives will claim to be bringing a note into the discussion that is qualitatively different from that of the economic players, insofar as they claim to be speaking for the common good and not for so-called "vulgar" motives like economic growth, full employment etc etc.

The Commission has never gone along with this idea. For us, and this is the base-line for our action, every citizen and every interest group has the right to address the Commission and present his or her concerns. That means access to the Commission is a priori open for everyone. How potential decisions are arrived at further down the line is then of course dependent on a series of other aspects.

But I should like to press the point still further. If we talk of dialogue and consultation, these are relatively modern concepts. In a somewhat different context people used for a long time to talk of lobbying. This idea of "lobbying" has a variety of connotations depending on which EU member state one comes from. My view - and this is also important for you - is that one needs to keep in the back of one's mind that by and large there are three main schools of thought on the subject "relations between public authority and interest groups". Firstly a school of thought that I would link rather to the French tradition where the idea of "lobbying" initially leaves a bit of a bad taste. There are historical and legal philosophical reasons behind that. According to Rousseau, the state was not just acting simply to find a balance of interests

between different shades of opinion, but the political debate in parliament produced "la volonté générale" which is something very different from a simple balancing of individual interests. That is the historical background for an attitude which views lobbying with a degree of scepticism. In a more Anglo-Saxon tradition I get the impression that the prevailing idea is that politics is done like bargaining on a market-place, that is interests are set forth on the great market-place of parliamentary democracy and lead in the end to compromise emerging between different interests. And lastly I would say that in my home country, Germany there has traditionally been a very co-operational approach, whereby politics has always strived to tie interest groups - which in Germany are called the socially relevant groups - including the churches and faith communities, to tie these groups into the political process well before the actual political decision is taken. This co-operational model is the one that more or less characterised the process in Holland too although all this appears increasingly to be changing now.

So those are the three major approaches and we need to realise that here at European level there are representatives of all three of these different schools of thought, and that is not always easy.

What then is the position of the Commission on this issue? The Commission initially put out a communication in 1992 on the subject "Open and structured dialogue with interest groups" restating the principle I mentioned at the outset: the Commission is open to all interest groups along its path to reaching a decision. There is no limited access, anyone can address the Commission. In order to increase transparency, a voluntary directory of interest groups was initially published - that by the way has nothing to do with some kind of accreditation process as you have it for example with the Council of Europe or United Nations. It was a voluntary directory of pan-European interest groups. We are currently working on an extended version of this directory. This open access is also in my view the by-product of a number of legal provisions. Mrs Durand indicated various regulations. As concerns civil society in general, it is particularly Article 12 of the Charter of Fundamental Rights that covers what is already a legal ruling in our member states: freedom of association. Freedom of association leads de facto to these associations - and this is the point of freedom of association - having political influence. The members do not merely want to sit down in each others' company but to have some effect on the outside world. And on the other hand there is also - though Mrs Durand may be rather sceptical when I say this - the administrative right to petition under Article 21 of the Treaty of the EC. That means that every citizen has the right to put a question to the European institutions and expect to receive a reply in his or her mother tongue. The formulation of this article is rather vague but certainly sets out from the premise that petitioning the Commission in writing is a possibility.

The first step in the direction of structuring or more closely defining the consultation mechanism of the Commission in relation to civil society was a Commission communication back in 1992. The social dialogue then developed in parallel to this, meaning a particular framework for dialogue between the European partners at European level. And last year the Commission published a discussion paper on co-operation with non-governmental organisations which starts out with a sort of inventory of all the different relations we have with non-governmental organisations. A specific chapter in this discussion paper deals with the question of dialogue and consultation with non-governmental organisations.

Let me give you a few examples of how this dialogue looks in practice to give you the possibility of seeing yourselves in this perspective, that is able then to raise questions such as

"Is this something we simply don't need to bother with? or is this something that should perhaps be interesting us? And where is our place in this framework?". In various sectors there are regular consultation meetings between Commission representatives and non-governmental organisations. In particular one thinks of the main families of non-governmental organisations at European level such as the social NGO's, that meet the General Directorate Employment twice a year; the environmental organisations - there there is a group called the G8, the eight chief environmental organisations active on an international and European scale. Another structure is a regular dialogue between the development organisations many of whom come from a Church background, and the Commission. And then in a less formal manner an exchange between NGO's dealing with human rights and a whole range of different Commission services. Besides these there has developed of late - and Commissioner Lamy is particularly promoting this - a regular dialogue between the Commission and civil society on the question of the WTO and the new WTO round.

So those are just a few examples of consultation mechanisms that have been systematised - some of them have been ongoing for more than twenty years and have de facto found a form of structure.

With the *White Paper on European Governance,* the Commission has gone one step further in bringing more order into this consultation process. Tomorrow Jérôme Vignon will go into this in full detail, today however I'd just like already to anticipate the three main thrusts you will find there. Our first goal is to bring more transparency into the consultation process. Transparency is of course not first and foremost a mere slogan but has an operational meaning: transparency means putting the general public in the position of being able to see how the Commission is conducting its consultation process. This is not altogether the case just now - not from any bad intentions or because these things are so frightfully secret but because of long held traditions and because of the way the Union's competences have increased and so hundreds of different consultation fora have sprung up that no-one really entirely has the measure of. We want to come to grips with them now and then present this to the public at large. This means we are going to compile a data bank of all the structured consultation mechanisms we have with representatives of civil society, who takes part, what topics are treated etc. This part of the data bank will be linked up with a new data bank that takes over the old data bank on interest groups and extends it. The data bank is called "CONECCS" for short (Consultation, the European Commission and Civil Society). It is a data bank of pan-European interest groups or organisations within civil society - here we apply the definition and categories developed by the Economic and Social Committee. In this there is already - and already was in the old data bank - a category "religious interests" where some of your organisations are listed.

So the data bank is a resource to gain greater transparency. Rather a technical resource, it is true, but I consider it an important one. The second step is going to be that we will work out standards by which the Commission should conduct its consultation process. This is the job of the Secretariat General at the present time, we are working on these standards now as well as completing the CONECCS data bank.

And then there is one further suggestion in the White Paper more linked however to the specific NGO interests: we want to put on an institutionally firmer footing the consultation practices that have evolved historically in a range of different sectors insofar as we should like maybe to make it possible to draw up consultation partnership agreements in various sectors - in the form of a *"Memorandum of Understanding"*.

These are three things that the *White Paper* puts forward.

I have one further concern in my own area that is often echoed by colleagues from the different operational sectors. What is all important for the Commission in its consultation mechanisms is to have a single European-level partner with whom to dialogue. What I mean is that, purely practically speaking, it is simply not possible in many areas of the Commission to listen to each and every one. Obviously that would be the ideal - and each and every one has the right to address the Commission, but there are practical examples of Commission services involved in consultation processes that are quite simply inundated by petitions. It is therefore the ideal prospect for every European civil servant to find just one person who is so to speak able to cover a whole area with one voice. I can quite see that for the communities of faith and conviction this would almost constitute a contradiction in terms. I would nonetheless have to ask you to take this thought on board: we are very keen to promote European federations and contribute to setting up fora at European level. So much for the practical aspects of this subject.

There follows here a summary of the discussion that related specifically to these two keynote addresses.

Are "Churches" part of organised civil society … ?

Equally, are "churches" part of culture? Why does the EU not automatically think of consulting or mentioning them (for example in the White Paper, where it seems it was an afterthought)? What is the relation between "civil society" and Parliament? - who "represents" the individual citizen? Organisations grouped within civil society nonetheless claim to "represent" a certain grouping of citizens; the EU has traditionally always consulted civil society organisations as well as the European Parliament – eg through the Economic and Social Committee and other fora (experts groups etc). But churches and communities of faith and conviction make no claims to "representativity" when they encounter the political institutions for that is not their raison d'être. The churches however have a different weight within the culture of any society – whether national or European – because they have a tradition, a history, and a very wide "catchment area" throughout the population. Furthermore, the Churches are not "one issue oriented", whereas most "organisations" are (environmental protection, employees rights etc …). Might this more general, and broader perspective and concern not mean that communities of faith and conviction should be consulted at an earlier stage than issue-oriented bodies?

On civil society and democracy … ?

There would seem to be a tension between the right of the individual in civil society and groups that represent or claim to represent numbers of individuals. As an individual one has the right to privacy – which means that when the Commission invites "groups" from civil society to participate in a debate, they can ultimately only speak up as "A Citizen" - for one is who? No-one but oneself as one cannot assume anyone else shares the same convictions. Some groups, some religions may delegate representatives who claim to speak on their behalf – but can they really, are they democratically accountable representatives? – or do they not ultimately represent no more than themselves as private persons? Therefore while hearings, dialogue are eminently desirable, there should not be an attempt to institutionalise "representations" of this kind. The humanists are an "asbl",

an association under Belgian law, and the AGM decides on and could, for example take a position in relation to - the Charta of Fundamental Rights, for example – thereby genuinely, democratically representing and speaking for the grassroots membership throughout Europe. Can Churches or other faith communities make the same claim? There is a need for democratic criteria – one cannot put every community into the same basket.

Many traditional religions are very much ruled from the top down – for very often religions even by their definition are the message of the divine, through prophets and other people to the people. The duty of a religious leader is to get people to do what normally through their laziness and humanity they won't do: but all our religions, whether or not they can be called democratic – bottom up or top down – would surely agree on the need for charity and kindness, that the message to be transmitted to the leaders of the EU on behalf of the communities of faith and conviction is that the soul of Europe needs to be a charitable soul that does more for others. This must surely be the attitude, the role, the approach, the message, the purpose and level of dialogue, and not one of lobbying on bended knees, finding one's way round a labyrinth of mechanisms to pick up a few crumbs – or not…

Any group or community, religious, non-believers or other can form an organisation of like-minded people but there is no obligation for that to be democratically structured according to a set "parliamentary" pattern if the members do not tend to behave that way. If one of their spokesmen says something in the name of this community with which other members disagree, the basic freedom to adhere or withdraw from such communities still applies – and another community can then be set up as needed.

As far as these structures are concerned …

There is a plea from the so-called minority faiths for patience on the part of the EU and the other large religious communities: structures are not always within our faith, nor do we work through hierarchies. But now in the European situation we are inventing structures so that our voice can be heard – but we are wary that these structures may prove more divisive than cohesive, so we are treading carefully. Maybe one could look at other models of consultation, dialogue and representation.? The Interfaith Network in the UK is accepted by the British government as the partner in dialogue with faith communities; there are also local level interfaith organisations which provide fora for dialogue and activities, that are proving very helpful in defusing potentially inflammatory situations where racial or religious issues can be at stake. Could such a forum – including also Humanist organisations – also be created at EU level?

There is also in the UK a body called "INFORM" which is relied on by the government and the faith communities to provide independent information on religious communities, sects, new religious movements.

In Scotland, the Scottish Interfaith Council (an intermediary body between the new Scottish Parliament and the faith communities in Scotland) serves a similar purpose. Many of the minority faith communities are indeed not structured and prefer not to be, choose to remain separate units as an individual mosque or monastery. Even if some communities round the table cannot be termed "democratic", the government at least has the chance to get to know them, know with whom it is dealing. In the Interfaith Council

time is given over to making contact with these people, sound out their views, report to the government a consensus when there is consensus and report a divergence when there is divergence (eg recently on new legislation being prepared on organ donation). In the other direction this Council also serves to transmit government moves to people in the communities who may not have fully grasped the impact on their community. Since September 11th, the government has realised the need for even greater general understanding of these faith communities to the extent of financing them. Will the EU show its respect for such channels in a similarly concrete way?

It is indeed difficult for the communities of faith and conviction to slot into the "standard type" of partners in dialogue the EU is looking for – social partners all with similar legal, democratic structures guaranteeing their "representativity", justified in claiming such a statute in the eyes of their members. The communities of faith and conviction do not largely conform to this type and so have not been able to slot into the only framework the EU is currently offering for social dialogue to take place. Must the EU recognise this difference and make allowances or alternative fora available, or must the communities of faith and conviction conform? Such a reorganisation of the Roman Catholic Church, for example, is unthinkable, to make it an asbl like the Humanist Federation! Yet relatively formalised relations between national leaders and the leaders of the Roman Catholic Church exist in most Member States. However cooperation in general with communities of faith and convictions in most member states is selective – the partners must accept the conditions (and not all do, or can), and these conditions vary. How general will cooperation at EU level prove to be? Ultimately maybe things have to move at national level first – for the "highest" point of EU legislation in the domain of the communities of faith and conviction is the Amsterdam declaration, which sends the matter back to the member states' responsibilities.

Maybe the Belgian model could be helpful: State recognition and respect ("double incompétence" – neither interferes with the internal affairs of the other) for a community of faith or conviction which is manifestly a "fait social evident" – a fact of social evidence.

The respect of existing models and structures that the Amsterdam declaration refers to is already a positive acknowledgement of a dialogue that exists and has to be "preserved and not jeopardised". But then there is also the "Soul for Europe" Initiative, a specifically European initiative, and an active one endorsed and promoted by Presidents DELORS, SANTER and now PRODI. Is there not a need here for new, original structures to carry this forward? Here is a specific challenge to the communities of faith and conviction of the EU which is not merely the challenge to each and every citizen of Europe as found in civil society.

The fact that Michaël WENINGER has been given the dossier of links with religions and humanisms within the Group of Policy Advisers (GOPA) of the President of the European Commission – a role already given to others before him within the Forward Studies Unit or Cellule de Prospective – is already a position that gives the communities of faith and conviction a head start over any other issue-linked organisation! But the question of whether and how to improve the structure of this dialogue is a political one Michaël WENINGER needs to tackle with the communities of faith and conviction. The degree of respect the Commission has for them and for this dialogue cannot be measured in terms of

subsidies – though a large number of communities of faith and conviction at some level do get subsidies. Subsidies however are the remit of the European Parliament.

The Cellule de Prospective was a wide-reaching think-tank covering everything and ultimately nothing. The GOPA is much more focused – as it only covers four key sectors for the President: foreign policy (external relations), economic and finance policy, reform of the institutions and dialogue with the Churches, religions and communities of conviction. Together with people from these communities of faith and conviction and with experts from the various areas of the European Commission, it must be possible to devise a new instrument for this dialogue – not merely a mechanism for allowing these communities' voices to be heard but also to enable them to participate in decision-making. There are some seventeen different scenarios on the table facing the forthcoming convention that will prepare suggestions to the IGC of 2004 on how the new EU will look : and the communities of faith and conviction will surely make their voices heard in contribution to this.

A few specific legal issues were raised …

- What is the situation over the right to conscientious objection – which can often be
   related to religion or conviction?
  It is mentioned in the Charter of Fundamental Rights that this right is accorded and
   member states' respective legislation in this domain is respected.
- What about the derogations from universal rights (even those endorsed in the European
   Charter) which some churches or religions appropriate ? (eg women's rights negated by
   the Catholic Church in Poland, restrictions concerning homosexuals teaching ethics or
   religion in schools, …) Are there plans to introduce legislation which would protect the
   general public against abuses and violations of freedoms and rights resulting from the
   policies or exaggerated influence of one or other church or faith community?
   Sometimes there is an apparent clash between principles of non-discrimination and
   religious pluralism (one respects a religious community's precepts on the one hand – yet
   they sometimes clash with what are considered basic principles of non discrimination eg
   on grounds of sex, sexual orientation etc). Can the EU not assert the supremacy here of
   the principle of non discrimination? Or can there always be derogations for certain
   religious groups?
- It is difficult to intervene when the discrimination occurs in areas where the Community
   has no competence (eg education, marital law) except for example where covered by
   free movement of labour. To apply the principles of non discrimination at European
   level it has first to be established that the situations being examined are entirely
   comparable, and if a difference of treatment appears, is there not a reason for that?
- Does there now exist a structure for a European-level "association cultuelle"? so that
   organisations like the Rabbis Conference can be officially recognised?
   Alas, not only has this type but even a general type of European asbl not come about –
   all legislation has to be linked to the economic apparatus that underlies and motivates
   the EU – and it is difficult to tie in not-for-profit organisations!

The White Paper on Governance. Future Prospects ...

Jérôme Vignon

Principal Adviser, Secretariat General of the European Commission

I am very moved that Mr Prodi's Group of Political Advisers has organised this seminar ; I am very touched that you have maintained the link with the Initiative "A Soul for Europe - Ethics and Spirituality". I have to tell you that this Initiative still means a lot to me personally and I am delighted to see today that it is finding ways of opening up to representatives of all the major religions with participation - and I'll return to this shortly - of humanists and communities of faith and conviction. For me this was a venture bound up with the relaunching of the European integration process in the mid-eighties and how glad I am to see the Churches, religions, communities of faith and conviction were not mistaken there: they saw this relaunch not as a boost to economic integration but as a genuine political and ethical relaunch going right back to the very roots of building Europe.

I should like firstly to look at three points relating to the White Paper on European Governance. Firstly I will recall the reasons for this White Paper - which were rather odd, and rather unique in the history of the Commission. In second place then examine the place given in it to civil society and at the same time see what the reactions have been to that - in the European Parliament for example which I've just come from today. And thirdly stress the place of the churches and communities of faith and conviction which receive a mention - over and above the general talk of civil society - in the *White Paper.*

First we should look at the *White Paper on European Governance*, for which Mr PRODI took the initiative as a strategic priority for the Commission nearly two years ago now, as a phenomenon in the context of the turn the European integration process itself has taken - and which I would personally locate at about two years ago. Obviously we have been in the process of building a political Europe for the last ten years now since the Maastricht Treaty and its follow-up - but I feel something of another order came along about two years ago - under the instigation of the Federal Republic of Germany. This additional aspect took on shape and form I should say with the adoption of the Charter of Fundamental Rights and its proclamation in the Treaty of Nice at the end of the year 2000. What I mean by this, is that from this point a vociferous call has been heard from a part of European public opinion - and in Germany in particular - that this integration process should not simply carry on adding more and more pieces to what is already there, completing the "acquis", filling in the gaps, remedying the left-overs, but that this process should go back to its very identity and foundation. This need for an explanation of the basic principles behind building Europe, in a nutshell what in institutional terms is called expressing in constitutional terms or the constitutional character of the impact between nations seems now to me to be irreversible and constitutes a new step in the direction set by the founding fathers. To refer back to the great declaration of Robert Schuman, I should say the moment is no longer - or rather "it is not just by small steps, one-off achievements that Europe is built" but in future also - and I am not saying it will be one or the other - also by enunciating the constitutive foundations in a world context that is crying out for statements of this kind.

In some manner the promise Chancellor Schröder made to a part of his electorate at the European Council meeting in Cologne to launch a convention for a charter of fundamental

rights, the demand by the Länder that in future, it be clear in the European integration process when competences fall at European level and which fall to the states that make it up - all this set in motion a massive call to identify the very nature of the project that is Europe, as a political project, and consequently what are its constitutional foundations. That's how we came to have the surprise of finding in Nice that the old construction methods were carrying on - the Nice Treaty - but at the same time there was a great determination to enter upon a new process, a new convention, which will work towards 2004 with matters on its agenda which are altogether constitutional in nature.

The *White Paper* on "*Governance*" falls into this context. It does not speak of additional policies, additional goals to be attained as was the case in the early stages - it speaks of how to govern. It puts basic questions to those holding the reins of power in the European Union - whether it be power of a legislative kind or a power to initiate proposals - to account for how they are governing and to do so according to a set of ethical principles. The definition of "governance" that has been put forward in the White Paper is an ethical definition - the word itself does not feature but that is the reality: it means calling on those wielding power for European policies to do so in a manner which respects criteria of openness, truth - the word does not feature either but it is not far off - participation, responsibility and that is doubtless the most fundamental, what most justifies the word "governance" - but also efficiency and coherence. I suspect that for all of you working in fields of ethics, the anthropology of what can be identified as human destiny, this list of criteria must echo loud and clear and the fact that questions are being asked about actual seats of power themselves, how they are doing their job and not simply justifying everything as being part of a greater scheme of building Europe, simple responses to major challenges, is a part - let me say it again - of the change that has occurred in how we view progress with building Europe in future.

In second place, these criteria of openness, participation and responsibility lead on in the White Paper to giving quite some consideration to the way that European civil society is involved in this building of Europe. I think it is already important to see that for the first time in an official document of the European institutions - no, I am wrong, not the first time, but in an official Commission document, the term civil society is recognised in its full scope. The paper not only includes the definition of the Economic and Social Committee which, it has to be recognised, was well ahead of us in analysing this phenomenon of so-called organised civil society. But it also tries to describe non-organised civil society, that which by its very effervescence, its very presence in the manifold and novel aspects of European and world existence alerts us to issues that the civil services and the public authorities in power do not always see. My feeling is that the European Commission has never hitherto gone so far in recognising positively the function taken by organised and non-organised civil society in democratic life.

This document, the *White Paper*, is very short - a mere 60 pages or so - so it has not been possible to go into the background to it in any depth. I can add however that the underlying motives for this recognition of the mature and dynamic nature of European civil society - and this is also true of the countries of central and eastern Europe - is the result of reflecting on how ever since Maestricht, the various treaties of the Union have drawn in dimensions such as the fight to combat racism and xenophobia, such as the recognition of the importance of equal opportunities elsewhere than simply in the workplace: two questions that would probably not have had this force in the Treaties of the European Union if they had not been brought to the forefront precisely by that civil society. The White Paper also says that civil society is acutely

aware of the contribution of the European dimension to the very existence of our nations and how they pursue their projects.

So in a certain fashion the *White Paper* highlights the importance of civil society being honestly and loyally associated with deliberation processes in the European field on the basis of experience that has been building up over the last two years - and in so doing in fact only acknowledges a phenomenon that has taken European legislators by surprise in the last ten or so years.

At this point let me stress that it was the express wish of the European Commission, its President, a number of Commissioners and the Commission as a body (for the White Paper was adopted as a text at collegial level) to underline the importance of the role of organised or non-organised civil society in terms of quality of deliberations in the European political gremia; but quite apart from that a specific place is given to the Churches and faith communities because - it is not put how I am going to put it but nonetheless - of what they do to shape the general conscience. What is in fact said is quite simply that they have a specific role. The use of this term "specific role" means they cannot be considered just one among other factors in civil society as such - and particularly within organised civil society. They have a function to perform in the shape citizenship takes and this, as you know, is absolutely crucial in all our European Union states. For there to be citizenship - and it is stressed that this citizenship is not just a matter of rights but also of responsibilities - it is necessary for there to be citizens who have agreed to bear responsibilities and they will do this if their conscience so tells them. I believe that is why President Prodi and the Commission agreed to a mention that designates the specificity of the Churches and the faith communities.

Here I must also say in all humility - having Claude Wachtelaer beside me - that we could have added "communities of conviction" and let me say how much I regret that could not have been done - partly due to the pressure of time under which we were working, but it was not at all a deliberate omission. In my mind in any case they are there in this specific mention, and I will also tell you why: because it seems to me that the programme "A Soul for Europe", which is the heir to the new awareness Jacques DELORS roused in us, taken further by Jacques SANTER and restated by Romano PRODI, this new awareness could never have come about without the part played by the philosophical and humanist communities of conviction. It is because they are part of the whole phenomenon that we can really avail ourselves of what we all have in common - which is precisely educating the human conscience in Europe and in the world.

Now let me say just one word - and with that I will close - on the reactions this menu of the *White Paper* has provoked, and in particular those two points in it which I have just covered, the place taken by civil society, and associating it with institutional deliberations in a loyal and transparent fashion. I have to say that to my surprise, the reaction by civil society to this aspect of the *White Paper* has been somewhat mitigated - in contrast to the generally positive noises that have come out of the institutional debates particularly on the preparation of the intergovernmental conference in Nice. Rather the contrary - we have had a series of warning, cautionary notes, from various quarters. The questions arise largely around the representativity of this civil society, for which there are insufficient guarantees, the risks stemming from memories of how some earlier non-democratic powers established their legitimacy by propping themselves up on a civil society that was not only highly organised but all enclosing, all enclosed. There is the fear of a real risk of short circuiting the way the democratic legislative process functions if there is direct collusion between the European

Commission and civil society. This is the kind of message we have been receiving in reaction to the White Paper rather than what a good thing it is for the Commission to be formalising - albeit not in a framework of legislative rights - its relations with the world of civil society and thereby inviting the European Parliament at the very heart of European democratic life, and the Council, to do the same. No, I have to say, somewhat to my own surprise, we have rather had reactions expressing fears which I have to interpret thus: the European integration process is not over, these institutional aspects can see that their legitimacy is I won't say fragile, but does not yet have that solidity that is expected of the European integration process. The weights that bear down on the European integration process are so heavy, so important - and this has become even more apparent since September 11th but was already perceptible two years or so ago - that everybody feels that the bases for legitimacy in the traditional sense of the term have to be reinforced. And in this climate of disequilibrium there is the risk people might feel there is some competition between things, how can I put it, moving too fast, falling over ourselves to grant a place to civil society which could well be out of proportion, just because it attracts media attention, whereas the political authority is shunned by the media. In other words, the public authorities in the European Union today feel they are too weak to be able to establish a really strong, balanced, loyal relationship "vis à vis" civil society, in partnership, full recognition. They want to grow up a bit more, they are awaiting one more stage of an institutional type - whereas the paradox is that precisely in order to come a stage further (look at the Irish example), civil society needs to have confidence in its political representatives and in the way they behave. This is rather the dilemma I have been aware of, I must tell you.

I have not spoken much about the particular expectation from communities of faith and conviction. To some extent I have the impression that the communities of faith and conviction, the Churches, escape this suspicion I have just been talking about as regards civil society as a whole. This may be a purely circumstantial phenomenon, that means linked to the events that took place on September 11th. Quite frequently I hear at European Commission level itself, when there is talk of the Convention, that people are insisting that the future charter which will in all likelihood be integrated into the European institutions should include the reference to religion, the importance of inter-cultural - and is added, inter-religious dialogue. That frequently crops up in debates inside the European Commission. So there is a real hope invested in a movement that has started up in Europe and in the world - not just in Europe - over the last few years, hope in dialogue, in I should say inter-cultural, inter-religious self criticism - and those in positions of political responsibility endorse this hope now more than ever before. And at the same time I think one has to help them not to shy away from tackling head on the reinforcement of the democratic legitimacy of the European Union to a frank, open, transparent participation with civil society as it actually is, that is seething all over the place, massively inadequate but also enormously rich.

In the wake of Jérôme Vignon's address, more discussion ensued …

What is this "civil society"?

There remains a problem concerning "representativity". Everyone now "consults" civil society – the Commission, national ministers, the Economic and Social Committee – but no-one has actually had a mandate from the European electorate, only the European Parliament has.

Is civil society not a parallel, non-democratic level or grouping alongside elected parliament – and is each citizen not being "represented" more than once, expected to play his political part more than once? As one Austrian writer said, "Wer ist stärker, ich oder ich?" Is it tantamount to saying that the parliamentary way is not functioning, the elected politicians do not communicate well enough with the electorate to be able to speak on their behalf? Maybe what is needed here is a sharper look at how this system is working and an overhaul if necessary, rather than setting up some provisional kind of half-way house?

There is such diversity between the member states in the way the voluntary organisations operate and even communities of faith and conviction – and even greater diversity when one takes in also the applicant countries. How can this diversity be respected sensitively if one is talking about dealing with a "European" civil society? People are generally not ready to think of themselves as European citizens.

We can no longer pretend to be in the agora of Athens where every man speaks for himself – groups and representatives are an inevitable fact of our society. But no group in civil society can represent more than its members even if it is aiming to speak in the "general interest": it is therefore bound to listen to other groups behaving similarly, bound to identify itself, and indeed that is what is happening round the "Soul for Europe" table: not consensus but dialogue between communities respecting each other as different and acknowledging very often, in respect, a difference of opinion. This comes about by listening to each other more and getting to know each other better – such openness to others' points of view even without agreeing with them is the only way to prevent fanatic extremism taking hold, fuelled by prejudice. This stage precedes any decision-making procedures.

What might be the content of the communities of faith and conviction's focus?

The communities of faith and conviction were "consulted" over the Charter of Fundamental Rights, over the White Paper on Governance – what now? What are the Europe-level issues the institutions might consider fall to our remit?

Jérôme Vignon responded by throwing out some subjects for mutual concern:

1. *Integration and national identity*: which will become an increasingly acute issue post-enlargement with increased migration of people coming to stay. As the inevitability of more European integration dawns, there is increased anxiety that national identities will dwindle, the negative side of this being that it is above all national culture, language, education – all part of what constitutes "identity" – that facilitates integration. This very anxiety is presently having the opposite effect, creating tension that surfaces in a variety of pro-nationalistic (and anti-European) manifestations. The underlying question is maybe coping with one's multiple – but overlapping – allegiances – as citizen of one's land, of Europe, and with a worldwide perspective as well. European leaders find all this hard to express in words for the population at large without clashing with the political parties at national level – and it needs a universal approach to explain that such multiple allegiance does not spell treason nor any loss, effacement, dissolving of identity.

2. *rights and responsibilities*. The European Charter of Fundamental Rights attributes rights to citizens as responsible co-citizens in a collectivity and not just as individuals. However, the ethic underlying much EU level legislation is not so much anthropological

as the outcome of some form of consensus, the lowest safest denominator, with no element of vision and concern for the way each such move fits into the greater vision and purpose. This inconsistency and tension between a general call for overall solidarity and the response to market forces, the overriding phrase "there is a need for …", removes the dimension of responsibility linked to such rights. The communities of faith and conviction could recall, rekindle and re-illuminate the vision.

In relation to the first of these, it might be said that the ecumenical movement has, as the European integration process, suffered from moving too fast over the past fifty years in its openness, tolerance, participation – in relation to the weight of thousands of years of history and tradition: people are looking up saying "who am I?" The initial movement was fast because its instigators were fired, motivated by the excitement of pioneering; the followers on cannot share such excitement but are all too conscious of the unresolved polemics. And in relation to the second, one could say that the "Soul of Europe" is something of this generosity of spirit – not something that we create or cast into structures and institutions but something that requires recognition and affirmation. An affirmation that the religious and spiritual dimension of life are part of the normal aspects of human living, including those who choose not to participate. It is not something exotic, pre-modern or abnormal.

The *White Paper* refers to a "specific role": what might that be? "Merely" the formation of conscience? In the past, the Christian communities at least have over the past years tackled a wide range of issues of a political, economic and social nature with the European institutions, from an ethical perspective. Is there some form of channeling taking place whereby the institutions are designating specific partners (but not others, or not leaving it open) as acceptable or mandated for specific policy areas: this might be limiting both in terms of the relationship and the content. Indeed, might this whole tendency not (if not deliberately) run the risk of seeking some kind of administrative tidiness and efficiency in organising these relationships which might in turn lead to an instrumentalisation of civil society by the institutions? It must be remembered that the richness of civil society is precisely its diversity, its flexible response and remodulation in reaction to evolving circumstances which such institutionalisation may not do justice to and keep abreast of.

Mr Vignon replied: "channeling" may indeed be a risk but a price worth paying if these voices <u>are</u> going to be heard at all. All too often for example, the media fail to pick up what the communities of faith and conviction <u>are</u> saying and doing. The media have an a priori prejudice, precast image of the role of communities of faith and conviction, <u>they</u> channel them, force them into a limited category on a side-track, with a prior assumption that behind any message is proselytism and harking back to a past era when communities of faith and conviction had a status in the general public eye different from what is estimated by some now. By having an "institutionalised" relationship with, slot in the Community procedures this status can be revalued and the message put across. The Commission has already made some attempt to redress this – but frankly, that has been thanks to the efforts of a very few, personally convinced individuals in the right place at the right time, and now it is time that all the institutions – not just the Commission – take this line seriously and develop it. The White Paper sees the relationship with organisations in civil society developing progressively – first the setting of minimum standards, then entering into contractual arrangements with commitment on both sides, and culminating possibly in some form of agreement that would implicate the other institutions. Therefore the more these organisations – including the communities of faith and conviction even if they are not explicitly cited – can create "representative structures" (whatever that may mean), the better ready they will be to join in

and in turn influence this process. The time is past when they can play it informally and trust in the good will of one or other well placed individual.

What might be the style, the form of such work in future?

It is not the job of Churches to represent their members to the political institutions. The members will have to do that via other fora, and the Churches have many other tasks and certainly do not exist "for that purpose". So what relation are the "Churches" seeking and what legal or other form should this take? The communities of faith and conviction are certainly interested in participating actively in a process that will lead to good governance – so where and how do they take part?

Maybe the communities of faith and conviction can – like experts' groups – constitute a forum where the EU seeks advice and ethical input, sounds out opinion – rather than anything resembling a lobby which implies self-interest. (Individual communities may also want and need to be this too if needing to protect their institutions in certain legislative situations but this should remain separate.) In this case (expert group), the initiative should come from the EU side plus organisational support. For even if we hear that we should now organise ourselves, such work is already complex nationally, and expensive. It would need a lot of support : is anything forthcoming at European level? This would also endow this dialogue with status – for the same faces tend to turn up at all interfaith meetings, and moreover, these people are very often on the edge of their own faith community – because not everyone within a faith is keen on dialogue. So these people themselves are not representative, sometimes more self-mandated than officially designated: it is just the people who are keen on dialogue who come together. Not everyone within a given community agrees with going down this path – so if the only dialogue at EU level is interfaith, it presupposes a reality which does not yet exist, and overlooks problems that have still to be solved. Indeed, it always seems to be the same faces at these meetings, like a "club d'anciens combattants". There is a need to think of involving, training a new generation – especially if the demands are suddenly increasing in the light of current events, and everyone is going to be heavily in demand, oversubscribed. Maybe such training – at a high level in theological, philosophical and cultural thinking on a European content – should be encouraged by the EU at academic level?

Similarly, those in public services, European just as nationally, need awareness-training about minority cultures (for there is much prejudice, minorities can be almost criminalised!).

Vignon replied: the "anciens" are good! Not least as they are a rare species: it requires humility and ability to be self-critical if one is going to speak out from within the conviction of one's own tradition in favour of multi-faith dialogue – and increasingly not only with the great monotheist traditions. The "Soul" Initiative tried indeed to encourage such contact and activity and other initiatives do exist and are increasingly going to be needed.

One should not overlook the major innovation at EU level: our nation states have their history, traditions, where usually one major faith has emerged as dominant and the relation between "church" and state has been coloured by that. The EU has no such history and tradition of its own, indeed, on the contrary, has called from the outset of its dealings with the communities of faith and conviction for an interfaith approach. The European institutions have no need to declare themselves "laïques" or neutral and then situate the communities of faith and conviction in relation to them: they may also do that, but meanwhile the interreligious approach has been established and is taking shape. Moreover the EU is asking

the communities of faith and conviction not to speak with one voice, pursue one line, concentrate on one issue, but nonetheless to come together, make a joint contribution and then dialogue. This presents major organisational challenges on both sides. The ecumenical institutions may prove facilitators in this process, having already embarked on such a path.

As already mentioned, local interfaith work (cf Interfaith Network in the UK) already prepares the ground for this approach at other levels, and plays a major part in defusing potentially violent, extremist reactions in local settings. There is also a need for an Intrafaith dialogue (eg Pakistani Muslims in the UK are very different from the German Muslims and different again from the Muslims of Bosnia Herzegovina). The work has to be done from the bottom, not just the top. The initiative may differ according to the tradition – in some communities it is the "bishop" who has to give permission to his flock to dialogue, whereas in other communities it is the grass roots that convince the "bishop" that there needs to be a dialogue.

One should be careful to separate two issues on the table here. There is a need for interreligious dialogue – at many levels, including European. The EU is calling for an interreligious approach in its dialogue with communities of faith and conviction – but that is a separate, institutional question and should not be confused and mixed up with the need for interfaith dialogue per se, which is a theological question, a need for better mutual acquaintance … The fora, style and content for these two may well be very different. One however may be the antechamber of the other and there is a link, a need to be aware of issues in the one that could arise in the other, also of the broad presence and footing of those involved: at least in the stage of exploratory dialogue between faiths every voice must be heard. It cannot be assumed that when major religious traditions speak out in the name of religious freedom, they by definition speak on behalf of the minority religions.

There need to be some rules, criteria and structures to avoid the risk of extremist views upsetting the applecart. Structures, laws do not solve such issues but serve to restrain. We need to work together at this, we cannot improvise just to fall in with the EU way of relating to outside bodies, and we are not automatically "competent" to respond as experts. Indeed, the "Soul" Committee was initially a committee of experts the Commission consulted on grant funding – and then dropped it: now we are like a mistress who may or may not be called on, receive windfalls, but not regularly and not publicly acknowledged, whereas before the Initiative seemed more like a legitimate wife. The danger of this status is we will become mere alibis for what the Community feels it is "right" to do – be called upon to endorse this, "we have the communities of faith and conviction behind us". This is not the position we want to find ourselves in. Moreover it must be remembered that a dialogue does not take place between two sides that agree from the outset : the conversation with one's mirror image is not a dialogue. But that will be precisely the beauty and richness of such an exercise, the challenge, to incorporate all opinions, all contributions that make up the European Union so that we can reflect all the strands of thought that we find on this continent.

And finally, some tasks that were mentioned in the discussion that might be on the future agenda :

- the need to clarify between each other to what extent mission/proselytism is acceptable. Where do respect and tolerance begin and end – in both the private and the public sphere of practicing one's convictions?

- Does the ecumenical movement help interfaith dialogue in a pluralist Europe? Is it still relevant to be striving for Christian unity in such a context?
- Should the representatives of the communities of faith and conviction as represented institutionally at EU level not be pressing for this structured "constitutional" type recognition in the treaties in some form?
- "se donner la main" to obtain equal, non-discriminatory facilities in all member states (eg rights to perform ceremonies such as marriages, teach in schools etc)

At the close of the symposium, two rapporteurs summed up the content of the two days' discussions :

Conclusions

Felix Leinemann

COMECE

« Unity in diversity » - the motto the EU selected in May last year has proved itself during our two days of discussion. The European integration process does exist and is successful precisely because it respects and does not prejudice the traditions and cultural identity of the Member States. This is particularly true for the religious identity of the Member States, that is for the question as to the form of each respective relationship between the State on the one hand and churches, religions and communities of conviction on the other. This is legally enshrined in Declaration no. 11 annexed to the Treaty of Amsterdam.

When we start talking with Professor Gerhard Robbers of « European religious law », we are not meaning harmonising the relationships between State and religion in the Member States, but the EU legislation that actually has some effect on this relationship at the national level. As we can tell from Robbers' 50 page collection of EU religious law provisions, this religious law is a genuine reality today. It is not a question of some sort of area of future legislation.

The many and varied potential points of contact between EU law and Member States' religious law will take on even greater importance in the future with increasing integration. It will be necessary to awaken greater awareness for this both in the churches and religious communities and in the organs and institutions of the Union.

1. Ecumenical and interreligious dialogue has shown similar unity in diversity over the past day and a half. We have discussed together, harmoniously but controversially too at times, always in a spirit of mutual respect. Despite there being so much in common, the major differences surfaced that exist across this broad spectrum of communities of faith and conviction as represented here. Alongside the major institutionalised churhces there are many smaller faith communities. Some of them are minority religions in Europe but have major significance on a world level.
    These differences are reflected in the diversity of interest that churches, religions and convictions hold and defend in respect of the European Union. It is not for nothing that the traditional and institutionalised Churches have long had their own offices to represent them in Brussels.

2. Interreligious dialogue, « le dialogue des identités » is the basic prior assumption underlying any dialogue between religions and convictions with the EU. It also takes place on the quite practical question of what shape common dialogue with the institutions should take. After fifty years of the European integration process we have come to a turning point. This can be detected in the wording of the White Paper for example which stresses the specific role of communities of faith and conviction. Jérôme Vignon challenged us this morning : « get your voices organised, we need them ! ».

An interesting point in this respect was raised by Professor Marco Ventura : in contrast to what we find in the member states, religious policy at EU level is not based on any traditional link with one particular religion that has evolved historically. Its basis is much more plurality and inter-religious dialogue as a principle. What this policy will look like is an open question – still unresolved as the symposium closes.

In conclusion I should like at least to pinpoint the <u>specificity</u> of churches, and communities of faith and conviction as it should be considered in the context of any future policy on religion.

All our communities are concerned with shaping human conscience. A further aspect is the question of representativity. Churches and religious communities do not represent their members in the same manner as other organisations within civil society. They stand rather for the fact that religion is an essential element of human existence, and that there is a transcendental dimension to human life which also finds expression in the public sphere. Dr Grace Davie spoke at the beginning of the conference of « vicarious religion », being the trend whereby a growing part of the population is not religious as such but sees the fact that there is religiosity and religious commitment as an essential element in society.

A last point is the fact that between the citizen and the state, between the individual and the collectivity, there exist other organs and groups which have the specific role in society of pointing up the transcendental nature of human existence. To close let me cite a former German constitutional judge, Wolfgang Böckenförde,,, « The State lives off pre-existing conditions that it cannot itself create ». This is equally true for the European Community as a community of values.

Paul Clairet

GOPA

A number of observations and considerations can be drawn from the addresses and contributions delivered over these two days.

1. The European Union is the **common property** of its <u>people</u> and its <u>citizens</u>.
2. The relationship between the power politic and the citizen is under strain
   - In general - in all member states as in most democracies
   - In particular - at the European level due to the fact that the project for Europe and its goals are not clearly put across.
3. It looks as if civil society must be brought in. However this dialogue authority/civil society only has a "raison d'être" if it brings some **added value** and if it in no way undermines
   - democratic representation
   - the expression of the common good as incorporated in the act of legislation (with no trace of corporatism)
4. Within civil society the <u>communities of faith and humanism</u> can play a uniquely specific part so long as this role is quite unambiguously distinct from that played by lobbies and other single interest groups : this is where their specificity can be found - and hence their added value.

If they are going to be visible, credible and heard, these communities have <u>first to organise themselves</u> in a manner which is at once <u>autonomous</u> and <u>non-exclusive</u> - simultaneously at European, national and local levels and in relation to individual thematic areas.

(It is namely not the EU that should have to make a choice of partners for such dialogue: the choice will emanate from the combined wisdom of the communities concerned.)

5. This added value comes as a response to the need for **ethical** light to be shed on a context which is otherwise determined by other conditions such as efficiency and coherence, participation, responsibility.

6. Institutional and legal solutions exist that allow for relations between the EU and these communities to develop - as two of the addresses and the COMECE rapporteur have pointed out.

7. This collection of concurrent conditions both reflects and has in turn to take heed of the "schizophrenia for the citizen" that Mr Kuhn pointed out : the citizen who at one and the same time elects his or her representatives and "represents" him/herself via civil society.

8. For the communities of faith and humanism - and the churches in particular - this overall situation means that the decisive criterion must not so much be one of **quantitative representativity** as legitimacy.

In our complex, democratic societies it is no longer so much a question of "one ethic with how many divisions?" : the important notion is that of <u>moral authority</u> in the sense Dr Davie gave it.

9. This fact underlines the need for an <u>inter-religious</u> dialogue which given the EU's openness to the world as a whole is becoming increasingly <u>inter-cultural</u> in character. This is one more reason why this dialogue has to precede any legally organised type of dialogue or concertation process between the EU and the communities of faith and humanism.

10. While not pretending to supplant the intermediate political powers in place, this prospective dialogue and concertation should ultimately have as their purpose, their goal, their chief if not sole "raison d'être"

- to help reconcile the common objectives with a respect for the cultural, ethical, religious, national etc diversities with at once this thrust and limitation : "**drawing nourishment from such diversity without nourishing it in turn**, so as not to tend to multiply the disparities and obstacles that keep us apart under the cover of being so-called separate identities"

- to help allay people's fears as to identity and one stage further, sublimating these identities within an identification with a **common European ideal** where each could see him or herself

- to assist with creating that sense of **multiple belonging** that Jérôme Vignon reminded us of the need for: as a national citizen, a European citizen, with world-wide awareness

- to reconcile but not supercede - for therein lie the originality of Europe and the calming of the passions that have transfused it - the balance between <u>politics/public domain</u> and <u>belief/private domain</u> in a spirit of positive **laicity** (and not "positive neutrality"!?)

Were they to step outside this role and go in for "defending and displaying" their own interests and prerogatives, these communities of faith and conviction would run the risk of contributing in turn to that general <u>feeling of disenchantment</u> which can be perceived among our citizens.

CONCLUDING REMARKS

Michael Weninger

GOPA

One short comment. In the course of our very lively discussions a whole series of topics were raised that have addressed me directly as the member of the Group of Policy Advisers to the President of the European Commission with responsibility for the dialogue with churches and communities of faith and conviction. First of all, before anything else, the European Union is ALL OF US. So when we talk of « the European Union » we are in fact talking about ourselves, each of you is addressing him or her self and all the others who as individuals belong to one big whole. In so saying however that also means that every individual amongst you, as an individual and also in common solidarity with the others, is co-responsible for the way the process is going, the shaping of our common future, for the Europe of the future.

Secondly however this also means that each of you is invited, requested to take initiatives, throw in ideas, launch moves, individually or collectively, which will contribute to bringing about successful reforms.

Thirdly however you can likewise quite rightly expect me and the various decision-makers and members of the different institutions to be prepared and in a position to make whatever contribution is required of me and of them.

Fourthly, coming to our very own original area of operations, churches and faith communities have to assume a quite specific task and responsibility in the mass of opinion shapers, multipliers and communicators. You, the representatives of the large number of churches and communities of faith and convictions are particularly valuable and quite significant co-builders of our common edifice. In carrying out this task it also becomes apparent just how serious a matter is this dialogue which we have come together to pursue.

Fifthly : as for me, in my capacity as the civil servant who so to speak also carries the professional duty to show concern for this much-needed dialogue, I essentially have the job among other things of providing an open space that is available for your activities – a space that of course already exists anyway but which one or other of you may feel is not as big as it might be one way or another. So it has to be my job to help reserve this open space so that you are then able to come together indeed whenever, wherever, with whoever may be responsible and whatever the topic may be.

In any case, this open space, freedom, requires some form of order, some system, some structure. Freedom with no order is as we all know, anarchy. Conversely order with no freedom spells dictatorship. So the important thing here is to broaden and deepen this open space so you can pursue your dialogue in any direction whatsoever.

And here I'd like to go one step further. We always talk of dialogue. I have the feeling that the model for the future will represent more than verbal dialogue. What we need is not only the talking with each other and listening to each other (this being of course equally of vital importance) but quite concrete, really substantial cooperation inside this open space the European Union is providing.

We are approaching a further stage of enlargement of the European Union : ten, twelve and possibly a few more applicant countries are standing at the door, some waiting more, others perhaps less longingly to come in, but all are waiting in their own way to come through that door into the shared open space that is Europe. The coming enlargement of the European Union is of historical import. It will enlarge, enrich, europeanise the Union along with an institutional deepening that the reform of the institutions will bring about. And this reform of the institutions will strive to realise the vision of a Europe of the citizens, a Europe of each and every one of you and us. If we manage to make it possible for churches and communities of faith and conviction in this new Europe of the future to be heard in a manner commensurate with them, their interests and their potential, then we shall indeed have achieved something which will be of benefit to future generations.

I am grateful for this conference. I have noted a whole series of things to take back to my office and I want to encourage you to go on seeing in me your partner for dialogue. I am available to receive you and if I can be so bold, would hope I can come and see you when I have any concerns, complaints or wishes – and thank you for this in advance. I express my thanks to all who have taken part, also to my co-chairman Claude Wachtelaer for his efforts, Win Burton for all the preparations of the past months that made it possible for this conference to be held, also my own staff colleagues and friends from the Group of Policy Advisers.

CONCLUSION

Claude Wachtelaer

Initiative « A Soul for Europe »

Thank you Mr Weninger for this message from the Group of Policy Advisers which I think will have been received with great interest by the members of the Committee of the « Soul for Europe » Initiative. So here we are at the end of the work we set ourselves for today. I should like just to add a few words of my own, alluding as I do to the work of the philosopher Jean-Marc Ferry who in his book « La question de l"Etat Européen » spoke of « the emergence of a post-national moral community ». This moral community would be founded on the existence of a shared, pluralist public culture emanating from a practice of discussing together. This links up with our ethic of dialogue in such a way that we can use as our model, the approach of of consensus through confrontation for indeed, there is no point discussing solely with people who entirely share your own point of view. Yesterday I was reminded of a saying of Disraeli who said « My idea of an agreeable person is a person who agrees with me ». In that case, as Mr Hussain so rightly remarked, we might just as well discuss with our mirror image ! But I do not think such is the purpose of meetings like this one where one also needs to be able to discuss with those who are not in agreement with oneself. There was dialogue throughout our two days work and I thank all the participants for that. There is perhaps still some latent and underlying mistrust – I overheard shades of that during the coffee breaks – and maybe we need to probe them further. But however legitimate this mistrust and these apprehensions no doubt are, here, at least, they were not what dominated the proceedings.

Obviously we came up with no final answers to the main theme of the symposium, the legal relations between the communities of faith and conviction and the European Union. But I think the question was too vast for any specific technical answers to be delivered after a day and a half's symposium. However I can see two areas of work opening up for the Committee of the Initiative : we should think more deeply about the institutional framework that governs the relations between the communities of faith and conviction and the European Union while bearing very much in mind that there must be no question of being instrumentalised – as Keith Jenkins reminded us so pertinently. It needs also to be remembered that examples already exist of structured regular relations between the European Union and at least a few groups. I am thinking of the group of bio-ethics specialists where the communities of faith and conviction are regularly invited to express their points of view. The second area would be to go more deeply into what « joint co-operation » might mean : I think we should bear in mind when Professor Ventura pointed out how original this process is, though not overlooking the reservations Rabbi Sirat raised : this new, original process invites us, the representatives of a variety of religious or philosophical traditions present around this table, and those who are not here today as well, to reflect on our own practice of dialogue and how we take on board the point of view of the other.

I think we have done some good work. I believe above all that the field is vast and far from being accomplished.

I should like to express my thanks to Michael Weninger for the support he personally has given us, and through him the Group of Policy Advisers : this gesture is of importance to us in the Committee of the « Soul for Europe » Initiative.

Group of Policy Advisers
European Commission

Initiative
« A Soul for Europe –
Ethics and Spirituality »

SYMPOSIUM

Legal aspects of the relation between the European Union of the future and the communities of faith and conviction
The role of these communities and co-operation for a common European future

Monday, 12 and Tuesday, 13 November 2001
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