

EU: THE KEY DEMANDS OF CAMERON

As the current mood among most EU governments continues to try and improve the functioning of the EU while absolutely avoiding a revision of the Treaties, most of Mr.Cameron's key demands (as expressed in The Daily Telegraph, 15th March) could nevertheless be given adequate answers. However, the hardest would be to get the political will from others to «repatriate» powers from Brussels.

1.POWERS FLOWING FROM BRUSSELS, NOT ALWAYS TO IT

Since the Lisbon Treaty, there is no legal impediment to that. A revision of the treaties is possible « *either to increase **or to reduce** the competences conferred on the Union in the Treaties* »(art 48(2)). Member States may request the Commission to submit proposals **to repeal** a legislative act (Declaration 18). The flow of powers in the case of shared powers with the member States is limited (art 5 and Protocol 25).

2.NATIONAL PARLIAMENTS ABLE TO BLOCK EU LEGISLATION

Art 12 and Protocols 1 and 2 of the Lisbon Treaty conferred powers on national parliaments (NP). According to the domain concerned, either one third or one quarter of NP may, based on control of subsidiarity, oblige the Commission to review a legislative proposal. It is true that it has rarely been used: too short delays are imposed on NP, their cooperation is not well organised and their opinions are not binding («yellow card»). This could be improved by offering practical facilities to NP, applying flexibility for delays, and agreeing on a political commitment to follow their conclusions. A treaty change could of course go further, by conferring larger powers to NP: «red card», special powers for NP of the Eurozone.

3.RED TAPE

First, by construction, one EU legislation replaces 28 national laws (28 red tapes...) and allows the single market to function better. Second, preventing EU legislation from creating red tape is day-to-day work, which is taken more seriously today by the member States and the EU institutions (see Program REFIT). However, there is no simple legal option available to avoid red tape: this cannot be decided by a Treaty. A closer scrutiny of the Commission's proposals by *national* authorities is the pre-requisite. I would suggest also non legal mechanisms, such as seriously improving the current Impact Assessment system, developing performance indicators and regularly assessing some EU laws after a few years of implementation.

4. POLICE, JUSTICE, ECHR...

The ECHR is a Court which works in the framework of the Council of Europe: it is not part of the EU. As for the EU, the UK had already obtained several opt-outs from policies in that domain, including Schengen and the area of freedom, security and justice. It has a special position on the Charter of Fundamental Rights. Based on a Lisbon Protocol, the UK is now on the verge of ceasing to apply all acts adop-

ted in the past by the EU in the field of police cooperation and judicial cooperation. One may wonder what could be legally or politically added to that.

5. FREE MOVEMENT TO TAKE UP WORK, NOT FREE BENEFITS

This is an issue on which several EU States agree. There were some limited abuses (well publicised), despite EU legislation allowing Member States to adopt measures to avoid that. A stricter interpretation, or even legislation's improvements, have been wished and are under scrutiny. This does not need any treaty change. The principle of free movement of EU citizens is a cornerstone of the Treaty: its questioning would be a non-starter for most EU States.

6. CONTINUING EU ENLARGEMENT, WITHOUT VAST MIGRATIONS

New accessions to the EU will not happen in the medium term, as the Balkans are not ready. In any case, a treaty of accession has to be negotiated, signed and ratified by each EU State. The latest accession treaties, in 2004 and 2007, included an option for « old » member States to suspend during seven years immigration from the new ones. Future treaties of accession could include longer periods of adaptation and safeguard measures. But, again, questioning the very principle of free movement of persons would be a non-starter.

7. THE CONCEPT OF « EVER CLOSER UNION »

It is true that « *the process of creating an ever closer union (with a small « u ») among the peoples (not the States) of Europe* » is enshrined in the Treaty, both in its Preamble and in art 1. A request to delete this would probably be opposed. But this political concept does not mean that the aim is to establish a Federal Union among the member States. Actually, the Treaty obliges the EU to respect the history, culture and traditions of the peoples of Europe (Preamble and art 3(3) and to respect the national identities of the member States, their fundamental structures, political and constitutional, as well as their essential State functions (art 4(2)). Maybe a political Declaration, recalling that, would help.

8. PROTECTING THE RIGHTS OF THE « EURO-OUTS »

More and more people think that, in the medium term, the Eurozone will integrate further, either through a EU Treaty revision, or through a « Eurozone treaty » outside EU Treaty. In such a case, non Eurozone EU members fear that the Eurozone might adopt decisions having a negative impact on them, especially concerning the single market. In order to reassure them, the Eurozone, or probably the Eurozone plus some other EU members, could confirm in a new treaty their legal obligation, under the control of the EU Court of justice, to guarantee the rights of non Eurozone countries, including on the integrity of the single market, to respect the «*acquis communautaire*» and the exclusive and exercised powers of the EU under the Treaties, as well as the EU Treaties' and EU's law primacy over the Eurozone treaty. On top of that, they might also accept to ensure openness of their activities and to give the right to participate in meetings for those willing to join the euro within a given delay.