

## EDITORIAL COMMENTS ON EUROPEAN UNION

Already at the Paris Summit Meeting on 19-21 October, 1972, it was decided to request the institutions of the Community to draw up a report on the question of transforming, "before the end of the decade and with the fullest respect for the Treaties already signed, the whole complex of the relations of member States into a European Union". Another Summit conference in Paris on 9 and 10 December, 1974, repeated this request and invited Mr. Tindemans, Prime Minister of Belgium, to submit a "comprehensive report" to the Heads of Government before the end of 1975, "on the basis of the reports received from the institutions and of consultations which he is to have with the Governments and with a wide range of public opinion in the Community."

In the meantime the European Parliament, the Commission, the Court, and, using its newly required right of initiative, the Economic and Social Committee, have made their ideas known. It is now up to Mr. Tindemans to draw his conclusions from the reactions of the institutions and from the wide-ranging consultations he conducted over the past year in the various national capitals. His comprehensive report to the Heads of Government will not be available to the December Summit in Rome; but he should not be blamed for this delay. His task is far from easy. The whole idea of a European Union was born out of the clearly uncontrollable need of the assembled Heads of Governments to find something to cheer up their nations when the situation looks grim, or to divert their attention from the failures of the past. Nobody seems to have had any clear-conceived ideas about what was meant by the phrase "European Union", or, at any rate to have expressed such ideas at the Summit meeting, which, of course, facilitated reaching agreement as to the launching of the phrase.

But once it is necessary to elaborate the concept of a European Union, disagreement as to form and substance will appear, as Mr. Tindemans will have discovered when studying the notes he made of his visits to the capitals of the nine member States. Will he be able to bridge the gap between the desirable and the attainable? Or will he fall in to the trap of presenting something as a "European Union" that will not be unlike the new clothes of the emperor in Andersen's fairy-tale? It would be better to forget about a European Union, if it would only consist of dressing up what we have now. It does not make much sense to add new subjects of co-operation to the already rather long list, to further inflate the already top-heavy intergovernmental superstructure, to amend again the fairly complicated decision-making procedure, and to further reiterate the exhortations directed to the governments to apply the majority principle

and to improve the co-ordination of national policies.

In a European Union that really deserves the name a satisfactory solution should be found for the problem of how to move from the rather easy stage of "passive" integration, *i.e.* the elimination of barriers to the free movement of the factors of production, to that of "active" integration, *i.e.* the implementation of common policies and action. The urgency of solving this problem should be stressed, because it is to be feared that "passive" integration will be mortally endangered in the absence of substantial progress in the field of "active" integration.

As the European Commission rightly observes in its report (para. 30), domestic and international economic and social developments and public demands lead to ever increasing interventions of national authorities in the national economy. Such interventions threaten the functioning and, in the long run, the continuing existence of the common market. In order to save the common market from withering away such interventions should not take place in a purely national framework, but in the framework of policies and actions developed and determined at the Union level. The existing co-ordination mechanisms have proved to be completely unsatisfactory to this end. Common rules for national policies should be adopted and enforced by the institutions of the Union. And these institutions should be given the necessary legal and financial instruments enabling them to influence directly certain structural and conjectural elements of economic and social development within the Union. (Cf. para. 34 of the Commission's report).

But how is one to find an adequate institutional structure capable of setting and enforcing such rules, and of handling such instruments in an effective and democratic way? On this point the European Commission is most explicit by proposing a kind of federal structure. A rather daring proposal, taking into account that one of the most influential Heads of Government, Chancellor Schmidt, is thinking in terms of expanding and strengthening the European Summit Council and the co-ordinating Council of Ministers of Foreign Affairs at the expense, one may expect, of the functions of the only embryonic element of a federal government in the existing Communities, the European Commission.

Nevertheless, as to the substantive and legal aspects of a European Union, the European Commission's report and, to a lesser extent, the opinion of the Economic and Social Committee, are worth consideration. It is interesting to note the priority that is given by the Commission to the realization of the Economic and Monetary Union as an essential element of a European Union. Studying this part of the report one gets the impression that the "monetarist" approach is gaining some ground in Brussels. Following the suggestion of the report of the Marjolin study group, the introduction of a European unit of account and official means

of settlement is recommended. Much importance is attached to a gradually expanding Community budget as a means of influencing demand within the Union. Such an expansion of the budget is to be expected, if the proposals of the Commission are accepted that ask for the assignment to the Union of considerably more financial resources for the support of an active economic and social policy.

Unlike the European Commission, the European Parliament has not seized the opportunity of making a substantive contribution to the debate on a European Union. Its resolution is of an exhortatory nature, lacks any evidence of an earnest search for new solutions, and is largely devoted to the question of short-term improvements of the Parliament's own role in the decision-making process. One wonders whether this kind of a "report" to the Heads of Governments is the result of a sublime sense of realism, of want of time, or of political impotence. Anyhow, the resolution is rather sad reading for someone who believes that the real impetus for a European Union should come from parliamentary quarters.

The European Court's report deals mainly with the Rule of Law in a European Union. It contains a number of valuable suggestions for the improvement of judicial procedures to sustain it. We hope to publish in one of the forthcoming issue of this Review a contribution which will comment on these suggestions and on those concerning the same topic that are contained in the European Commission's report.

*Editors' Note:* since the time of writing of these Comments, the Tin-demans Report has been presented to the Council. The Common Market Law Review will return to the subject of this Report in forthcoming Comments and articles.