

**Transcription of the Debates Presided by Professor José Luís da Cruz  
Vilaça (Chair) and Moderated by Professors Pedro Madeira Froufe and  
João Sérgio Ribeiro (Debaters)**

**Professor João Sérgio Ribeiro**

I would like to begin by asking Professor Elaine Dewhurst a question. I will address you in English. It's probably easier to have a direct communication. I would like to thank you for your presentation. It was very inspiring and made me think and triggered some questions, some of them provocative such as the following. First question, although this is a serious problem, should we address it now? Is that a priority? The second question, is it possible to solve this problem? And now I will explain why I am asking you these two questions. First reason: As you said the European population is aging, so probably this problem will get solved by itself because in the future there will be a shortage of young workers. As you also mentioned the number of migrant workers from third countries is dropping, therefore companies will have to resort to these older workers. And we have another serious problem which can be even more serious than this one. There is a really high rate of unemployment amongst young people and although, I agree, this is not incompatible with the protection of older people, there are some links we can establish between these two realities. Older people normally take over top positions blocking the progression of younger people. How can we solve this problem? It's very hard. Are you thinking about quotas for older people? This can be tricky? Because, as you said, making a parallel with quotas for women, you don't keep the most competent people but those covered by quota. I think corporations are sensible and if the person they have working for them is competent, they will keep that person, no matter how old he or she is.

And then we have another tricky issue, should we abolish mandatory retirement age? Because that can cause some serious situations, very degrading for older people because some of them can't keep on working, and may be forced to do so because of these policies. And on the other hand, those who still think that they are capable of performing their duties as if they were younger or as they did before. They can be forced to admit in court, for instance, that they lost those capabilities and that, as you know, can cause some pain and very serious psychological effects. So I think it is important to protect these people but is that a priority? Is it possible to solve that problem using the mechanisms we have?

Now I will address professor Katarzyna, I just have a very simple question. I would like to ask you if you think the only way of putting this social agenda in place is to move to a fiscal federalism, because to put in place all these policies you need money, the revenue and as everyone knows the European Union is facing some budgetary problems, and without money you can't implement all these measures. And on the other hand if you move to fiscal federalism you will have some instruments, such as income taxes, to redistribute wealth so I don't see that you can put all this in place without moving to a full federalism. I think some people acknowledge that there are only two things missing to move into a federation. First the institution should be able to change the treaties without intervention of the states, and then we need an assumed fiscal federalism.

And now addressing professor Raul Trujillo, I would like to ask you what has been done so far to remove these obstacles, I know these policies affect changing students because one of the serious hurdles to the movement of workers is the language as you said, is it possible to solve this problem, are you thinking about other instruments? I am sure a lot has been done, until this moment a lot of policies have been implemented but the problem still persists, we are still facing this problem, what more can we do? Can you imagine any concrete measures?

Now, following the order here, I'm going to address Professor Nuno Piçarra. The question I wanted to ask is the following, first, a question almost of common sense, is

whether in fact the level of harmonisation of criminal laws, procedural laws and security policies achieved has been sufficient to ensure that states no longer have the power to decide whether or not to open or close their borders. And then another question, which is a very sensitive issue, but this is not really a question, it is more the sharing of a concern. At the European Union level, we are fighting major battles, should we not choose the most important battles, because this issue of involving the Court of Justice in accordance with the proposal that the Commission has recently suggested to, in a way, monitor this provision of sovereign power, which is, at the end of the day, almost a safeguard, sovereignty has practically disappeared, let us not deceive ourselves, sovereignty is a myth at the level of European Union countries and beyond. But the illusion is maintained that, at least in terms of territory, there is still this remnant of sovereignty. Should we not concentrate on the most important battles and leave this sensitive issue for another time? Because this is very sensitive to the states, the power to maintain its territory, it is almost the last bastion of sovereignty. Should the Commission intervene, is the danger that states will close their borders so real as to justify this battle?

Moving on to Professor Marcílio Franca, to whom I also wanted to ask a very simple question, which is as follows? It is true that at the level of international organisations, particularly those of a more economic nature, the basis of regulation is the protection of markets, no doubt. But at the level of the state, can we say the same? Perhaps there is a touch of imitation, a certain, let's say, ownership of the economic areas that make one forget that the basis of internal regulation is not exactly protecting the market but defending the interests of citizens or the public interest. And it is nonetheless significant to see that there is often regulation that goes against the market, this has happened historically and it is currently happening, now these protectionist measures do nothing to favour the free market. Another issue that is linked to this is whether progress toward a global constitutionalism involves a change of paradigm. I suspect that we may only assert a global constitutionalism if there is a basis, which may not be the state as we know it, but solely a political community. And if this happens in a political community of association, such as the European Union, for example, I see the emergence of a global constitutional law as being highly unlikely. And should this paradigm shift become a reality, the regulation will probably not be at the service of the market, but perhaps the protection of the interests of the people who are part of this political community, even if it is simply a political community of association (not necessarily a state).

Finally, moving on to Professor João Rodrigues, I would say his contribution is difficult to separate from any political orientation, it seems that there is some anti-liberal drive at work here, so I cannot avoid also relating these questions of mine to a more political context. I agree that monetary policy and the Euro, which made life difficult in the southern countries, because the rate of the single currency has been too high, may have favoured Germany, which exports products that so far don't have much competition, and has benefited from a currency weaker than the former Mark ... However it is a little simplistic to make this argument because if it's true that it contributed in some way, and that perhaps in terms of economic analysis it's easier to capture a variable like this; there are certainly other very important sociological, political and cultural variables that may have an influence or count at least in large part, perhaps even more, to the crisis that we are now experiencing. Note that issue of debt related to easy credit does not exempt countries from responsibility, if there were proper public policies developed by Portugal and other countries that are now experiencing this situation, it's clear that the Euro could complicate the situation somewhat, but it isn't responsible in any way for the problems we are experiencing. It's simplistic to talk about the profligacy of the south to justify all these problems, but doing the opposite is also simplistic, saying it's the fault of the monetary policy conducted by the ECB or Germany is to blame... There were structural funds misused for non-productive investments, the citizens themselves borrowed excessively, businesspeople often do not have a culture I would even describe as moral, there is much of that spirit of taking quick profits, and here I have no implication and as you can see, this argument will be attached to the left, but a lack of corporate vision regarding short-term profit with no vision of the future, without creating activities with the chance to compete in the future. Therefore, I think this reasoning is a little

simplicistic, we really are in this situation because of monetary policy, there were all these imbalances, which have harmed us, but that is not all, we must take a lot of the responsibility for this situation, a lot. Reforms were not implemented; we can neither exempt political power nor citizens from blame. And then the question of currency devaluation, you said that in certain situations you were in favour, but, again, this is not a path of sustainable development, let's say it has no future, it's competing with Asian countries you mentioned that do not provide social protection. We cannot go down that route. Compared to the United States, I think the attacks on the social state that are talked about so much, and also drawing a parallel with the United States, comparing our social state, despite the attacks, it's a lot more, I would say, social, in the United States it doesn't exist and it's not so developed. But these are only reflections, I did not want to provoke you in any way, but I just wanted responsibility to be shared somewhat, it seems that we are all victims of something that happened without our knowing how it happened, it's not like that, we have a to take a great deal of responsibility for all this.

### **Professor Elaine Dewhurst**

I think there are two issues here, the first issue was whether addressing age discrimination is a priority or not and the second issue is how we can achieve intergenerational balance. In relation to the first issue, from an economic perspective, I think it is a priority because of the pension crisis which is going to affect people in Europe significantly. I also think from a social perspective as people are living longer, asking such people to leave work at a young age comparative to their lengthy life, is going to create a number of social issue. I also think, more fundamentally, it is a significant human rights issue and there is a danger that we are creating a hierarchy of rights, with sex and race being at the top of this hierarchy and with age being at the very bottom of that hierarchy. So from these three perspectives, I think it is important to deal with it now as opposed to leave it. The second question relates to the balance between the generations. This is a really difficult question and I don't pretend to have all the answers but there are some issues that I would like to raise. Firstly, in relation to the high rate of unemployment of younger people, reports have confirmed that the jobs left by older workers are, for many reasons, not necessarily filled by younger workers. Therefore, mandatory retirement policies do not necessarily lead to reduced unemployment of younger workers. Also mandatory retirement should be replaced by a more flexible retirement system so that if people want to retire at the age of 65 then they should be entitled to do so but if they would like to continue on their work, maybe on a part-time basis or on a contractual basis that also could be accommodated. There are accommodation schemes that we could put in place that are not as discriminatory as mandatory retirement policies.

### **Professor Katarzyna Gromek-Broc**

Well I don't think that to straighten social dimension would lead to federalism and needs to lead to federalism. But obviously the Europe policy of 2020 underlines the need for financial means to sponsor all of those and for effective policy, so, this is an issue and a very important issue and if it is a priority well it depends on the point of view it could be seen as a priority it depends how you look at Europe and everything that happens now.

### **Professor Raul Trujillo**

I can summarize your questions in two which are related to each other. First one, measures to be taken in order to tackle all existing obstacles for an adequate functioning of this fundamental freedom, how to remove existing obstacles, and then secondly, a more "provocative" question if I may qualify it that way, on whether this is possible and feasible.

Let me sum up, there are obviously obstacles, this is a constant juridical struggle if we can put it in those terms. According to our information from our day to day contact with citizens, one could list mainly four obstacles. To begin with, obviously the non-conformity of national law with EU law, when I say national law this is, either, national, local or regional law. Then secondly, the incorrect application of EU law by national,

regional or local authorities. Then number three, the incorrect application of EU law by employers whether public or private, and then lastly but definitely not the less important one, the non-use of rights of freedom of movement of workers.

Obviously, one has to bear in mind, in order to give you a valid answer, that when we are talking about freedom of workers this is a fundamental right. I tried to stress this in my presentation, this is not soft law or a recommendation, but part of the EU legal *acquis*, so you have to think in those terms. Being as it is a right; there are practical, concrete implications thereof. And what are these implications? Obviously that you can enforce, you are entitled to, as an EU citizen, to make use of existing juridical means in order to challenge a decision that you believe is contrary to your rights based on EU law. So here the way to search for a solution in order to remove an obstacle involves a twofold level for the citizen and/or if necessary for the Commission, being both of them complementary and necessary, and both of them play a substantial role. The Commission cannot interfere, cannot intervene in individual situations, as you probably know, but if it is a question of non-conformity of EU law whether regional, national or local, there the Commission can use its competences as “guardian of the Treaties”, which include the possibility of launching an infringement procedure against the Member State in question, and then eventually its referral to the Court of Justice of the EU. And let me tell you that this system, characterized by the application of the “rule of law” to EU matters, works. It might indeed take some time, but as a result of it there is a ruling which is obviously compulsory, and the necessary legal adjustments must be done.

It is also in the Commission’s remit if there is an administrative practice from the national authorities which is not in line with EU law. Let me underline again the very important principle of the direct effect of these legal provisions, which means that you can contest; you have the right to contest local situations before the national courts based on them, so this is a basic right of EU law that needs to be enforced.

So with the two approaches at the end of the day one has to bear in mind that unfortunately the big problem here is the lack of information, not the lack of legal means. We very often see the situation where the citizen does not have a precise idea where to turn to in search of a solution, but the solution is very often around the corner, before your local courts of justice. Proper information on, and enforcement of these rights appears therefore to be the real big challenge, and the Commission is working to contribute to overcome it.

### **Professor Nuno Piçarra**

The objective, explicitly enshrined in the EU Treaties, of transforming the EU into an area within which anyone may move as if within a single State is certainly, given its implications, the most federal of its objectives. I think it should be taken seriously.

The idea that, if a Member State is declared to be in default of its obligations to control its external borders, the other Member States may ostracise it by ultimately reintroducing controls at their common borders with that Member State conceals an aspect essential in this context: there are major imbalances between Member States in relation to the control of their external borders. As long as there are Member States subject to very strong immigration pressure because they are geopolitically exposed to it, these Member States, mainly southern States, are at a major disadvantage and deserve particular assistance from the EU and the other Member States. That is why it seems to me that the idea, which was advanced by the German-French axis in April of this year, is a dangerous premise and contrary to the spirit that should govern the area of freedom, security and justice.

Concerning, on the other side, the proposal of the European Commission to decide, only in the so-called foreseeable cases (for instance the organization of an international political summit or an international sports event), on the reintroduction of border control at the internal borders of the EU on grounds of public policy or internal security, that proposal seems to me basically appropriate. In contrast, in cases where the reintroduction of border control at some internal borders has to be implemented immediately (for instance after a terrorist attack), the Commission proposes that the power of decision of the Member States remains intact. If we want to take the principle of subsidiarity seriously, it is crucial to decide who really is in the

best position to allow such exceptions to a fundamental freedom under uniform conditions.

In this context, it should be noted firstly that according to Article 291(2) TFEU, “where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or in duly justified specific cases, on the Council”. It should also be recalled that every decision to reintroduce checks on persons at the internal borders of the EU is an implementing act of the Schengen Borders Code, not something else. So if it is an implementation decision, let us see who is best positioned to take it based on uniform conditions. Is it the Commission or each Member State? Finally, it should be noted that, according to the Schengen Borders Code, the Commission participates extensively in the Member States’ decisions which lead to the reintroduction of controls at their internal borders.

Therefore, if that implementing power were transferred to the Commission in these very specific cases – the so-called foreseeable cases – I do not think that it would be tantamount to granting the Commission a power to decide by itself and assume sovereignty. As a matter of fact, the decisional procedure proposed by the Commission for those cases is a comitology procedure named an examination procedure, established by Regulation No 182/2011, laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers. In this respect, I allow myself to quote recital 11<sup>th</sup> of that regulation: “That procedure should ensure that implementing acts cannot be adopted by the Commission if they are not in accordance with the opinion of the committee except in very exceptional circumstances, where they may apply for a limited period of time. The procedure should also ensure that the Commission is able to review the draft implementing act where no opinion is delivered by the committee, taking into account the views expressed within the committee”. Such committees are, as we know, composed of the representatives of the Member States at administrative level.

In spite of all those legal arguments, the defence of Commission’s proposal under analysis may prove to be, politically, a losing battle. But absolutely fundamental issues of principle have been raised here, and I think that lawmakers should at least approach these issues with the maximum clarity and calmness.

### **Professor Marcílio Franca**

Professor João Sérgio asked two questions and in the first he asked about the basis for regulation, I think you already gave an initial clue when you said that the basis is to protect economic actors, understood not only as capital, but also work at the end of the day, but there is on the other hand a second basis, which is to attract more investment, I think this is also a legitimate basis, worthy in terms of regulation. I remember my time in East Timor with the World Bank, when the World Bank invested a lot in creating these market rules, it was essential; indeed the World Bank released a report every year called Doing Business, which measures the chances of doing business. Brazil is in a ridiculous one hundred and something place and clearly this has a very negative weight in terms of the Brazilian economy. The second question was; can we have global constitutionalism with some sort of institutionalisation, not as if we had a global state, but ultimately some sort of institutionalisation? I think not necessarily, I anticipate that response a bit when I said I believed that constitutionalism would just be the limitation of power, of this national state or transnational global governance coupled with prestige, the strengthening of fundamental rights. This does not necessarily mean the construction of supranational institutional structures, in fact there are some Greek colleagues here, recalling once again a story from Greek mythology, Perseus only defeated Medusa when he managed to stand on the clouds, i.e., it was when he was supported on precisely what was most ethereal and light than he was able to defeat Medusa, and the contemporary Medusas are pollution, degrading working conditions, cross-border corruption, organised crime, then perhaps supported by principles... am I being optimistic? Maybe, but supported on a basic principled network, I think it's possible to have this global constitutionalism capable of facing the contemporary Medusas. I hope I have answered the questions.

## Professor João Rodrigues

Starting from a previous point on this so-called anti-liberal drive, the arguments of political economy, like all arguments that are developed within an academic context, are valued by their validity, i. e., either they are correct or incorrect. Their political implications, or even their political assumptions in themselves, do not invalidate the arguments developed, it's clear that the arguments that I develop, I hope anchored in the identification of some objective mechanisms in the literature, have anti-neoliberal implications, I don't deny that, on the contrary, I say so explicitly. The arguments must still be evaluated using the same kind of scrutiny. In relation to the methodological issue of emphasis on the monetary variable, my point of departure isn't a monetary variable, it's the identification of an institutional process that is asymmetric, and this asymmetry is reasonably identified in the academic literature from critical political economy to institutionalist political science. For example, the political scientist Fritz Scharpf has emphasised this without starting from a critical standpoint, let's say, from a neo-

-Gramscian critical political economy to which I am affiliated. For me, this institutional asymmetry has a very significant monetary and financial aspect, because I consider that money is a total social phenomenon, it has a political dimension probably unlike any other variable of the economic process, as we're seeing today. Whoever controls the currency in a productive monetary economy, in a capitalist economy, has major political power, especially in the political response to economic crises. Those who sought to, let's say, depoliticise the conduct of monetary policy in my opinion were mistaken. I am also quite critical of the idea, which I think is partly ideological, of the independent Central Bank. No institution that controls a variable of this significance is independent of the various powers that coexist within society, although it may be formally independent of one of those powers, which is democratic political power. Therefore, I think this issue of political bias is also institutional, I think the European Union has many political biases, largely because its institutions correspond to the crystallisation of a neoliberal ideological consensus, and that ideological consensus is promoted by certain social forces. Your question alerted me about the problem of articulation between the European dimension and the national dimension, when considering the national reality. We must avoid giving it connotations of a moral nature which tend to generalise patterns of behaviour, because national societies, like others, are characterised by deep rifts and deep imbalances, deep inequalities and therefore deep heterogeneities. For example, saying that the Portuguese became indebted is a great oversimplification, primarily because only 40% of the Portuguese owe money to the bank, secondly because, generally, the Portuguese who have bank loans belong to higher income brackets, and the higher the income level, the higher the percentage of debt to the bank. This is not generally known... As in the analysis of European integration, we have to think also in terms of social forces, the fraction of capital, and the type of capital that benefited and promoted the process of European integration. I have also sought to do that, precisely to avoid falling into this game that I call moralist, which is trying to essentialise countries, the countries of the south that lived beyond their means versus the northern countries that are the repository of a kind of Protestant ethic. In my opinion, analysing the economic and institutional mechanisms is the best way to avoid such moralising tendency. Regarding currency devaluation, just one last point, currency devaluation is an adjustment mechanism that countries at different stages of development have always used, the alternative to currency devaluation in the current framework and under current European rules is internal devaluation, in other words, the process of changing labour rules, social rules in order to make the direct and indirect wages and incomes of a major part of the population fall, so that through the contraction of the internal market and cost-competitiveness, the current account imbalance of the country is corrected. I do not think that is a particularly, and I use this term with a moral tone, decent mechanism, nor is it very effective economically, nor is it politically very legitimate. It causes a problem of legitimacy in the institutions that promote these processes. In my opinion, it is at the root of Euroscepticism, which may or may not be justified. As for the United States, I agree with your point that the United States does not have a social model, is marked by greater inequalities, in fact that is one explanation for the crisis having erupted in the United States of America. I just noticed the following: how do we explain this paradox of it being in the United

States that the epicentre of the crisis appeared, and yet it is in the European Union that it has been felt most violently? In my opinion, one of the explanations for this paradox is that the United States of America, unlike the EU, the Eurozone, has not broken this link between monetary policy and fiscal policy, quite the opposite, due to the federal nature of its structure, this link has been maintained. This link allows redistribution between regions that are in a favourable phase of the cycle and regions that are at unfavourable stage of the cycle and allows you to conduct a counter-cyclical fiscal policy supported by a monetary policy that, given the economic problem of the United States of America, has enabled them nonetheless to find a way out of this crisis quite slowly, but with much more ease than the Eurozone. The EU is in a much more difficult situation because of its asymmetric nature. This difficulty was anticipated even by liberal economists, I remember the great scepticism of many liberal American economists such as Milton Freedman and Martin Feldstein who, precisely because they value the exchange rate adjustment and also the conduct of monetary policy, despite everything, warned at the time about the unsustainability of this monetary integration process. There are a number of arguments that, while departing from different political and ideological viewpoints, have explanatory power and ability to identify actual mechanisms. I think social scientists to a large extent should expose very clearly their political/ideological point of departure, because this is the best way to monitor them for the sake of transparency and because it's the best way, I think, to have a more objective political debate.

### **Professor Serafim Madeira Froufe**

Given the time constraints, I cannot develop as many questions as my colleague, João Sérgio, has done, and very well, but I could not resist making a kind of synthesis, also because there are students in the other room listening to us and therefore, with these syntheses with educational intentions, also obviously they will excuse me, there is no challenge in terms of responses to questions, I will raise some issues in passing. I'd to make the following observation, very briefly, those who have been here all day and could also attend the morning session cannot have failed to notice that, both in the morning panel discussion, and now, when we are discussing development and competitiveness, and there is a constant underlying tension. And now, the contribution made by Professor João Rodrigues pointed out, in my opinion, exactly that, I'd like him to comment on what I'm going to mention, the on-going tensions between the supranational or integrationist standpoint, between a path towards federalism beginning now, especially with the Greek case, to be adopted abruptly, inevitably, also necessarily in monetary and economic terms, and, on the other hand, an amalgam of interests, of resistances which, deep down, have served to provide a counterpoint in relation to the sense advocated by the integration process, I would say on a national scale, selfish national interests and within this dialectic we have been tortuously building integration. Indeed, I note the following, and I will shortly return to this point, we are supposedly here to debate development and competitiveness. Of course, this is assumed to be external competitiveness, of the EU with the rest of the world, because in fact, as Professor João Rodrigues pointed out, internally the issue of competitiveness has to be approached differently given the economic disparities that exist and which mark the fabric of the EU. Now, when we talk about development and competitiveness, and this seems to me to be very interesting, we end up talking about people, primarily about people, Professor Nuno Piçarra's contribution was like that, Professor Elaine's comments were about people and about non-discrimination on grounds of age, Professor Raul Trujillo talked about people, it was still about people, in another light, from a more conceptualised standpoint, the welfare state that Professor Katarzyna Gromek-Broc told us about, and, in fact, this is a dimension that I find very interesting. On the subject of competitiveness, we talked about people and, in fact, the links are obvious, and going back a little, picking up on Professor Elaine's contribution, I noticed the following, the issue of discrimination on grounds of age, and here I move away from the position of my colleague Professor João Sérgio, is also a key issue for competitiveness. Obviously, we cannot be taken in by the economic dimension of a fundamental principle and a matter of equity or of securing a principle of equality. But maybe that is the *leitmotiv* for the advancement of these anti-discrimination regulations. There is, however, one problem that I notice, a problem that may justify

the concern that Professor Elaine has shown here, the fact that in one way or another, reaction to discrimination on grounds of age does not have the same force, and doesn't, excuse the expression, provoke the same militancy as another types of discrimination, namely on grounds of sex and gender for example, and this difficulty seems obvious to me. The truth is that, in fact, we do not yet have a pattern of discriminatory behaviour; we both invoke protection of the elderly when it comes to combating an untimely termination of a contract of employment and do the same when we demand that the person retires. This duality, this lack of standard in operational terms, legal/operational terms, there may be a little, or maybe we note a little of this relative weakness, or, ultimately, little militancy compared with other forms of discrimination, at the time of the quotas, as was mentioned against discrimination, in relation to this very important battle. Which is also, starting on the side of the people, a battle of competitiveness, because it allows me to consider something else, and here we come back particularly to the fields of free movement of workers that Professor Raul Trujillo mentioned, which is as follows, and we return to the issue of the crisis, we are here to discuss competitiveness and development in a scenario of crisis and political indecision, which is perhaps the main reason for the crisis, beyond the institutional crisis that already reflects that political indecision. Much of our economic order is supported by a rationale of relationship of the various factors of production, and we mustn't forget that the internal market establishes freedom of movement of all factors of production for us, that is the meaning of the four economic freedoms, of which there are five in normative terms, is the total freedom of movement of all factors of production, that is how you integrate the economies. But we are based on a rationale of relationships of production processes in which the factors of production are not balanced in their operation, and this seemed evident in Professor João Rodrigues' contribution, particularly regarding capital, there has to be here another interaction, but this also has much to do with the question of the legal institutionalisation of these factors of production and economic freedoms and the internal market, and in particular the free movement of workers, in that, we are probably here at the dawn of an era in which we break paradigms that support our economy and they will in fact another evaluative relationship will be imposed between the various factors of production, specifically in the relationship between labour and capital, a new work model. And the Court of Justice has moved forward in this regard, the *Trojani* judgement opens up prospects for a new understanding of what work is, probably in the future, the individual employment contract as a paradigm of the system of economic labour relations will disappear. Probably ten years from now, we'll be here to discuss a new relationship paradigm that will be very different, and here the role of the Court of Justice and the role of integration have been instrumental in my view in the Michel Trojani judgement, it actually opens the doors for a new paradigm of the individual employment contract or understanding of a worker. As in other areas, on the pretext of economic freedoms, the court ends up guaranteeing us great advances in terms of the social model without the need to conceptualise a European social model. Moreover, and this was from the morning session and not this panel, Professor Emilio's, a Greek, actually suggested something that is beginning to gain consistency in terms of discussion at community gatherings, which is in fact a separation between the economic component of integration, which is, yes, federal or pre-federal, and the social component, which should primarily be carried out at national level. And it is in this, shall we say, linking and unlinking of European integration with the internal market, with economic freedoms, that, in my view, the challenge of competitiveness and development of the internal market will lie. I found it very significant that most of our comments this afternoon, focusing on competitiveness, have taken the person from various perspectives as their immediate theme, effectively competitiveness is a matter of people, it's the assumption of an economy, someone also commented in the morning on a social market economy, and this is what brings magnitude to the social market economy. Going back a little, and now directly addressing Professor João Rodrigues and whoever feels inclined, as I end up feeling that this whole issue of competitiveness has been approached by all of us in a rather unorthodox manner, effectively taking up the issue of people, I put this question, there being this tension between federalism on the one hand, or pre-federalism, in European integration and selfish national interests, whereby economic



interests are also national interests and are mainly viewed in normative community decision-making processes from the perspective of national interest, what solution do you recommend, greater federalism, or should we regress to nationalism or sovereigntism? At this point, it is largely, whether we like it or not, sometimes even unintentionally because of the Greek case, and after the Greek comes the Portuguese, at least, and then who knows what comes next, at this time, that is the great dilemma that we are facing. Notice willingly or unwillingly, therefore we either decide one way or we decide the other, it also being certain that one of the side effects, one of the negative externalities, in my view, of the last major enlargement not thought through and a little hasty in terms of the anticipation of the geopolitical effects and internal dynamics of integration, is indeed a change in the nature of the integration process. Therefore, we are also here taking the risk of discussing something to which we are attached, but which in reality no longer exists, or is about to disappear. It seems to me that the great enlargement to the east, giving the EU an almost continental scale for the first time in its history, with the EU being extended to areas outside the influence of the so-called hard core of the West European continent, i.e. the Old Allies of World War II and its restricted area of influence, ended up changing a range of assumptions, and maybe we in our analysis have not yet realised it.

### **Professor João Rodrigues**

One of the expressions of the institutional asymmetry is the freedom attributed to capital while there coexist different social and fiscal systems. This leads to the power of capital to arbitrate between different national political economies, which has largely eroded the tax schemes that focus on the more mobile factors and has been fuelling pressure, especially in times of crisis, to use social policy as an instrument for reducing costs to promote so-called competitiveness, through said compression of labour costs. This, coupled with the on-going democratic deficit within the European Union, to which Professor Alessandra Silveira alluded this morning, is the perfect recipe for the national emergence of what Karl Polanyi called counter movements of reaction against market society. The national terrain is still where most democratic practice and social dialogue take place. I wouldn't necessarily describe the national base as selfish, because selfishness may itself be multi-scale, i. e., selfish interests may have more strength and power in precisely those areas, in those bodies, of this multi-level governance scheme where democracy is less intense, which may precisely be the European level. We have 15,000 lobbyists in Brussels and we have 11,000 in Washington, there are more lobbyists in Brussels than in Washington, and this has much to do with the kind of importance attached to decisions, but also the lack of democratic pressure that exists at the top of this multilevel system of governance. This is one of the problems we face.

### **Professor Serafim Pedro Madeira Froufe**

But Professor, using the powers of the chair to make a small aside, a little observation, the fact is that the question of supranational democracy took us to many fields, but this was already discussed in the morning curiously, and brilliantly explained by Professor Alessandra Silveira, who definitely put the question here in terms of the equation of democracy, the traditional component of supranational democracy and national democracy, but in fact deep down, deep down and I gather from your words that, inevitably, and to delimit them, in your view, not mine, an excessive lack of democracy, or rather, a lack of democracy in excess, clearly conceiving it as a fiscal structure of the old classic elements of the Westphalian State, so even for this the only way to overcome these risks will admittedly be federalism, at the expense of any contrary movement of sovereigntism.

### **Professor João Rodrigues**

This is one of the solutions, it seems to me, as you are asking me directly, that this would be the normatively ideal solution, but it seems to me to be the least likely solution, and the political actors, the social actors also work in the field of possibilities, we academics can work on other planes. The social actors move on other planes, within the framework of possibilities that is institutionally established.

