

Editorial

Towards a European Convention?

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President of the European Commission Von der Leyen was clear about it in her State of the Union 2022 of 14 September: ‘I believe the moment has arrived for a European Convention’. This conclusion was previously drawn by the European Parliament in its resolution of 9 June 2022, in which it also urged to ensure that the European Pillar of Social Rights is fully implemented, and social progress is incorporated in Article 9 TFEU, linked to a Social Progress Protocol.

Member States are less united when it comes to a European Convention. In a non-paper of 9 May 2022 on the outcome of and follow up to the Conference on the Future of Europe, 13 Member States noted that ‘While we do not exclude any options at this stage, we do not support unconsidered and premature attempts to launch a process towards Treaty change’. Another six Member States took opposite views in their non-paper: ‘We remain in principle open to necessary treaty changes that are jointly defined’.

Decisions on a European Convention are not to be taken lightly. In the past these things have gone wrong. The Dutch and French, for instance, voted against the European Constitution in 2005. It took quite some time to repair the damage done. And let’s be honest: the topics of discussion on the European Convention are far from simple. A genuine debate on the constitution includes the exact scope of the Union’s powers. The f-word (federation) will likely pop up. That is a thorny matter.

Then again: we as employment law lawyers do not shy away from thorny matters. We are able to deal with them on a daily basis. Take for example the question whether it is a requirement in order to qualify as a worker that a commitment to offer or accept a minimum amount of work is in place. A question that has been answered by the UK Court of Appeal. Or what about the question whether the right to collective action as enshrined in Article 6(4) of the European Social Charter

can be invoked directly by strikers in Belgium? This question has been addressed by the Belgian Supreme Court. Enjoy reading the answers to these questions, and many others.