

Introductory Speech

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**Conference on:
Human Rights in Pandemic Times
Political Exceptionalism, Social Vulnerability & Restricted Freedoms**

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The Egmont Institute is particularly honoured and interested to be able to join this joint initiative of the universities of the Wallonia-Brussels Federation and the University of Luxembourg,

Not only because of its intrinsic value, but also because it is in line with the exercises that are essential to try to make sense of the exceptional moments we have been going through for almost two years.

We are in a crisis, that is to say, in a period of rapid and brutal change with an uncertain outcome. The pandemic has imposed itself with violence on communities and individuals, it has plunged us into a state of shock, it has allowed us to finally understand what « resilience » means, and it has challenged many blissful certainties about our present and our future.

The tectonic movements - or their aftershocks - are still in progress and we have reached a point that is perfectly illustrated by the conditions in which this conference was organised. The phase of pure containment is behind us, but we have not yet mastered risk management : we are groping our way back into the open air and experimenting with the virtues of the « hybrid » - without a doubt a candidate for word of the year 2021 - in much the same way as a convalescent cautiously rediscovers a way of life that has almost been forgotten.

But prudence cannot lead to restraint, and even less to paralysis. We need lucidity and boldness to begin to learn the lessons of the past 18 months and to create the « world after » that will not be a utopian planet.

As mentioned earlier, we have gone through – and we are still going through - a period of great violence. Physical and psychological violence first and foremost, of course. But also economic, social and institutional violence. Focusing on the subjects discussed during these two days, we will mention in no particular order: the decline in the democratic functioning of the political machine - cobbled-together states of emergency or the chaotic organisation of elections, for example, the collapse of legal checks and balances, the perceived subordination of political power or medical power, or the decline in freedom of conscience, with certain issues presented as sacrilegious being purely and simply excluded from any debate.

The urgent need for reflection is further illustrated by the recently published study by the European Council on Foreign Relations¹. It highlights the cleavages that the pandemic has created in European societies and that will undoubtedly have a lasting impact on political systems : cleavages between the victims of the disease - and its economic consequences - and those who have « fallen through the cracks », cleavages between those who trust their government against all odds and those for whom a lasting distrust has developed, and above all, cleavages between generations and cleavages between those who see the « others » as the main threat to their freedoms and those who see governments as the main threat.

A word in passing on the so-called « European dimension », as it deserves a hundred conferences of its own. Once again, the European Union was tested to its limits. Normally absent during the initial panic faced by the states, it regained the upper hand when the centre of gravity of the crisis management moved closer to its core business by presenting the « Next Generation EU » strategy. There are still areas where the demarcation of competences needs to be clarified, namely health policy and the movement of people. However, on these issues, the Council of Europe has been - timidly - the most advanced so far. An anomaly? Perhaps not, but much is expected from the case law of Luxembourg and Strasbourg.

And I am entering a minefield here : that of a possible disagreement with the co-organisers of this conference. The introduction to the programme of these two

¹ (1) KRAVTSEV (Ivan) and LEONARD (Mark), *Europe's invisible divides: How covid-19 is polarising European politics*, ECFR Policy Brief, 1 September 2021.

days stresses that « the confrontation of this crisis has constituted... an unprecedented laboratory for the emergence of new questions and hypotheses between rival rights, and on the required role of the public power ». However, this is true only outside « 9/11 », the sad 20th anniversary we have just celebrated. *That* was the original laboratory and we would be well advised to take up the terms of the debate that was opened then... and still.

Everything was there : the clash between, on the one hand, the affirmation of the fact that physical security is an essential prerequisite for the enjoyment of fundamental rights and, on the other hand, the defence of the principle that a right ceases to be fundamental from the moment that the slightest limitation is accepted; the question of whether an exceptional measure ceases to be so by the simple fact that it is not accompanied by a sunset clause; the perception that one more restriction on the exercise of a freedom can gradually be transformed into a welcome precautionary measure. One is reminded of the aphorism « if you sacrifice freedoms for more security, the only thing you can be sure of is that there will be less freedom » : does it remain valid if you replace « security » with « health »?

This is a space of 20 years, not 18 months, that is open to reflection. The questions are legion : if the goal is to return to a « normal » regime of freedoms, what will this (new) normal be? Have the restrictions on individual freedoms made public opinion more sensitive to the importance of those freedoms or have they led to an addiction to certain limitations on their exercise? Is the law the only reference standard for the reconstruction of a democratic society ? Should we refer to the elusive principle of proportionality cherished by jurisprudence or should we force the political debate on the framing of states of emergency which, according to climate, geological and health forecasts, may not be so rare in the future ?

This conference should allow us to resume a conversation that is undoubtedly difficult, but whose very persistence is an indispensable condition for understanding a future still under construction.