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SERIES A

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INTERIM REPORT

drawn up on behalf of the Committee on Institutional Affairs

on the European Parliament's guidelines for a draft Constitution
for the European Union

Part A : MOTION FOR A RESOLUTION

OPINION

Rapporteur : Mr E. COLOMBO

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PE 141.140/A/fin.

A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

*	= Consultation procedure requiring a single reading
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**II	= Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment
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**I	= Cooperation procedure (first reading)
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***	= Parliamentary assent which requires the votes of a majority of the current Members of Parliament
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By letter of 23 January 1990, the Committee on Institutional Affairs requested authorization to draw up a report on the European Parliament's guidelines for a draft Constitution for the European Union.

By a letter of 13 March 1990 the committee was authorized to draw up a report on this topic. The Committee on Youth, Culture, Education, the Media and Sport was asked to deliver an opinion.

At its meeting of 29 January 1990 the committee appointed Mr Colombo rapporteur.

The committee considered the draft report at its meetings of 22 and 23 March, 22 and 23 May, 31 May and 1 June and 20 and 21 June 1990. On 21 June 1990 the committee adopted the motion for a resolution as a whole by 31 votes to 1.

The following took part in the vote: Oreja Aguirre, chairman; Prag, Vice-Chairman; Colombo, rapporteur; Aglietta, Arbeloa Muru (for Bru), Belo (for Avgerinos), Bindi, Blot, Capucho, Cassanmagnago Cerretti, Cooney, De Giovanni, De Gucht, Duverger, Elliott (for Donnelly), Ferrer i Casals, Galland (for Pimenta), Giscard d'Estaing, La Pergola, Martin, Metten, Musso, Newton Dunn, Pannella, Polak (for Dury), Ramirez Heredia (for Hänsch), Roth-Behrendt (for Marinho), Rothley, Roumeliotis, Trivelli, Valverde Lopez and von Wogau. Gangoiti Llaguno was also present.

The opinion of the Committee on Youth, Culture, Education, the Media and Sport is attached.

The report was tabled on 25 June 1990.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it is to be considered.

A.

MOTION FOR A RESOLUTION

on the European Parliament's guidelines for a draft Constitution for the European Union

The European Parliament,

- having regard to its draft Treaty of 14 February 1984,
 - having regard to its resolutions of
 - 23 November 1989 on the intergovernmental conference, and in particular paragraph 11 thereof¹,
 - 14 February 1990 on the Commission's legislative programme²,
 - 14 March 1990 on the Intergovernmental Conference in the context of Parliament's strategy for European Union³,
 - 16 May 1990 on Economic and Monetary Union⁴,
 - having regard to the motion for a resolution by Mr Luster and others on the drafting of a European Constitution (Doc. B 3-15/89),
 - having regard to the Single Act, in particular the first paragraph of the preamble,
 - having regard to its resolution of 16 February 1989 (Herman Report)⁵,
 - having regard to the results of the referendum held in Italy on the occasion of the European elections in which the Italian people voted overwhelmingly in favour of the European Parliament preparing a draft for European Union,
 - having regard to the conclusions of the Dublin Summits,
 - having regard to the report of its Committee on Institutional Affairs, and the opinion of the Committee on Youth, Culture, Education, the Media and Sport (Doc. A 3-165/90),
- A. whereas the objective of creating a European Union on a federal basis was set right at the beginning of the construction of the Community by its founding fathers; whereas this objective has since been reaffirmed on numerous occasions and whereas the transformation of the EC into a true European Union remains essential for the development of common actions which are stronger and more rooted in popular consent than those carried out hitherto,

¹ OJ No. C 323, 27.12.1989

² See provisional edition of minutes of 14 February 1990

³ See provisional edition of minutes of 14 March 1990

⁴ See provisional edition of minutes of 16 May 1990

⁵ OJ No. C 69, 12.3.1989, p. 145

- B. whereas the constitution for the European Union is an essential and now urgent requirement for achieving an ever closer union of the peoples of the Member States, as stipulated in the Treaties, harmonious development of their economies and societies and full development of their scientific and cultural potential, while respecting and valuing the national and regional differences which make up the cultural wealth of Europe,
- C. whereas the Community's institutional structures are already inadequate and will be increasingly unable to cope with the extension and development of the Community enterprise, particularly with the establishment of economic and monetary union,
- D. whereas the establishment of the European Union is necessary to ensure that all the Member States effectively exercise their responsibilities on the international scene, in expressing their identities, representing the values and interests of their peoples, guaranteeing peace and security and making a proper contribution to the development of less-favoured areas,
- E. whereas the present institutional structure seems increasingly inadequate in view of the new and greater international responsibilities arising out of the recent events in Central and Eastern Europe, German unification and the need to re-design a new European structure in which the Union must be an element of peaceful stability, cooperation and the development of democracy,
- F. whereas, therefore, it is imperative to create a new institutional framework which expresses and fulfils the characteristics inherent in a federal-type political Union, based on the principles of respect for fundamental rights, democracy and the efficiency of the Union's activities,
- G. whereas the Political Union could not call itself such without including among its powers not only those deriving from the existing Treaties (*acquis communautaire*), including those deriving from the establishment of the Economic and Monetary Union or those relating to the social and environmental sectors, conferred or developed by the Single Act, but also those more essentially political powers necessary to exercise the responsibilities cited above, in particular those relating to foreign policy and security,
- H. whereas the Union will exercise all the powers currently assigned to the Community and those which will be assigned to the Community following the broadening or amendment of the treaties, and whereas the definition of the future powers of the Union can only be based on the principle of conferred powers and on the principle of subsidiarity, on the basis of which the Union will have to carry out those tasks which because of their scope or impact or efficient implementation may be undertaken better by the institutions of the Union than by the individual Member States,
- I. whereas an organic constitutional framework setting out the Union's objectives, powers and institutions must be defined to ensure that specific decisions to improve the institutional structure or to devolve powers are consistent with the overall design, and whereas the forthcoming intergovernmental conferences are an opportunity to make progress and Parliament is preparing specific proposals to make in this context (MARTIN report),

- J. whereas in the current political climate and in view of the urgent need to define and achieve a true political Union, it seems increasingly clear that only the European Parliament, the representative of the will of the people, on the basis of a mandate which it claims for itself once again, can determine the objectives and institutions of the Union, thus interpreting the increasing popular aspirations to this end, through a draft constitution to be submitted to the parliaments of the Member States for ratification,
- I. Decides on the following guidelines for its work on a draft Constitution:
1. The Constitution must establish a union of the states and peoples of the Community, based on the principle of equal rights and equal obligations of its members;
 2. The Constitution for the Union shall provide for:
 - (a) the rights of citizens vis-à-vis the Union to be identified and fully respected and for their obligations vis-à-vis the Union to be established;
 - (b) the rights and obligations of the Member States vis-à-vis the Union to be identified;
 - (c) the principles of constitutional democracy to be respected;
 - (d) a democratic institutional structure having an effective decision-making process and, therefore, the efficiency to achieve its objectives;
 - (e) an allocation of powers based, above all, at the time they are conferred or, in particular, in the case of concurrent powers, at the time they are exercised, on the principle of subsidiarity;
 - (f) the precedence of the law of the Union over national law;
- A. Democratic legitimacy
3. The Constitution shall guarantee respect for the rights and fundamental freedoms set out therein, those provided for in the Community Treaties or established by the Court of Justice and those contained in international agreements to which the Union has acceded; the citizens' obligations towards the Union shall be those deriving from the legal system of the Union;
 4. The Member States shall have, vis-à-vis the Union, the rights and obligations laid down in the Constitution, the Treaties establishing the Communities and the legal system of the Union;
 5. The Union's legitimacy shall derive from the institutions directly or indirectly elected by the people, and in particular from the European Parliament and the Council;
 6. Parliament shall represent all the citizens of the Union, by whom it shall be elected by direct universal suffrage, in accordance with a uniform electoral procedure;

7. The Council shall represent the Member States, without prejudice to the weighting of votes;
8. Legislative and budgetary power and the power to authorize the ratification of treaties shall be conferred on the European Parliament and the Council; they shall exercise these powers in accordance with co-decisional procedures which shall entail:
 - the consensus of both, determined by the majorities laid down in the Constitution (depending on whether ordinary laws, laws requiring a special majority, budgetary law or law authorizing the ratification of treaties are involved);
 - in cases of disagreement, a conciliation procedure;
 - in cases to be defined, the final say of Parliament;
9. The President of the Commission shall be elected by the Parliament on a proposal from the European Council; the members of the Commission shall be appointed by its President; the Commission thus constituted shall present itself to Parliament for a vote of confidence;
10. The Council shall hold its legislating meetings in public;
11. The Parliament must be involved, through the assent procedure, in the appointment of the judicial and control bodies and of those responsible for administering the Union's monetary powers;
12. The Court of Justice, consolidating its role as the Supreme Court of the Union, shall have wider competences with regard to the verification of legitimacy, fundamental rights, relations between the institutions and relations with and among the Member States; it shall have jurisdiction, as stipulated in the existing treaties, regarding the demarcation of powers between the Member States and the Union laid down in the Constitution, taking account of the principle of subsidiarity; provision shall be made for appropriate sanctions against Member States which fail to comply with its decisions within the time limit;
13. Relations and the dialogue between the European Parliament and the parliaments of the Member States must be strengthened, in order to guarantee more effective control at the various levels;
14. Appropriate importance must be assigned to the role of the regions, both when the laws of the Union are drafted and when they are implemented, with due regard for the constitutional structures of each state;

B. Efficiency of the institutions

15. The European Council shall have the task of guiding and giving impetus to the action of the European Union;
16. The decisions of the European Parliament shall be adopted by a simple majority, save where otherwise provided by the Constitution; and in particular in the case of amendments to the Constitution, including the accession of new Member States; the first exercise of concurrent competences; the appointment of the Commission or the vote of no-

confidence; assent on appointments to the legal and auditing organs and to the organs of the Central Bank, in which cases an absolute majority of its members shall be required;

17. The decisions of the Council shall be adopted by a majority of its members; they shall always be taken by qualified majority, in accordance with the provisions of the Constitution, when the Council exercises its responsibilities with regard to foreign policy and security, the adoption of laws, the budget and authorization of the ratification of international treaties;
18. The Commission shall be the driving force behind the development of the Union; it shall also have the power of initiative in respect of legislation and the budget, as already established in the Community Treaties; the Parliament and the Council may ask the Commission to introduce a draft law; should the Commission refuse, they may introduce a draft law in line with their original request.
19. The Commission shall enforce laws and also international policy decisions falling within its jurisdiction, and shall implement the budget and the international treaties of the Union, under the political control of Parliament and the Council; the Commission shall issue regulations within the framework of a general law of the Union;
20. The Commission shall, as far as possible, delegate its duties to the national, regional and local authorities, but shall remain responsible for these duties and may, where necessary, take them on itself;
21. The Commission shall have a general power of control with regard to compliance with the Constitution, in accordance with procedures similar to those laid down in the Community Treaties;
22. The Central Bank of the Union shall enjoy the necessary constitutional autonomy, with due respect for the role of the political institutions in matters of economic policy;

C. Competences of the Union

23. The Union shall have all the competences provided for in the Constitution or exercised as a consequence of the Constitution;
24. The Union shall conduct a common foreign and security policy; it shall define the aims of this policy and implement them at the level of the Union, where necessary, in order to respond effectively to the requirements of the international situation and ensure the unity and coherence of the Union's international action;
25. The Council and the Parliament, with the participation of the Commission, shall lay down the general guidelines for the Union's security and foreign policy; within these guidelines, the Council of Ministers, with the participation of the Commission, shall work out the practical application of the Union's security and foreign policy; the European Parliament shall monitor their practical application by the institutions of the Union;
26. The security and foreign policy guidelines shall be binding on the Union and the Member States;

27. The Union shall have competences in matters of internal security, which it shall exercise in accordance with the principle of subsidiarity;
28. A constitutional review procedure shall be required for the allocation of new competences to the Union, other than concurrent or potential competences;
29. In the course of the budgetary procedure, the Union shall determine its own income; this income shall be made up of a proportion of national tax revenues, within the limits fixed by the Council and Parliament every three years, on a proposal from the Commission and by qualified majority;
30. In the sectors for which it is competent, the Union shall ensure coherence between its own policies and those of the Member States, particularly in the economic, social and monetary sectors and with regard to cooperation with the developing countries and general policy;

D. Entry into force and amendment of the Constitution

31. Amendments to the Constitution, including new accessions to the Union, shall be subject to a procedure involving the assent of the European Parliament and the Council and ratification by the parliaments of the Member States; the Constitution shall stipulate the cases of constitutional amendment which may be decided on the basis of a simplified procedure;
 32. The European Parliament shall define the procedures under which the draft Constitution, drawn up on the basis of the mandate assigned to it, shall be converted into a European Constitution, by decisions of the European institutions and the national bodies responsible;
 33. Should certain Member States not be prepared to accept this Constitution, provision shall be made for procedures to ensure that it may nevertheless be implemented, without loosening the close ties between all the Member States;
- II. Instructs its President to forward this resolution to the Council, the Commission and the parliaments and governments of the Member States.

COMMITTEE ON YOUTH, CULTURE, EDUCATION,
THE MEDIA AND SPORT
DRAFT OPINION IN THE FORM OF A LETTER

Letter from the chairman of the Committee on Youth, Culture, Education, the Media and Sport to Mr OREJA, Chairman of the Committee on Institutional Affairs

Subject: Intergovernmental Conference, a constitution for the European Union and the principle of subsidiarity: account to be taken of the cultural dimension

Dear Mr Oreja,

At its meeting of 28, 29 and 30 May 1990 the Committee on Youth, Education, the Media and Sport tackled the question of the Community's cultural dimension as a contribution to the reports drawn up by Mr MARTIN, Mr COLOMBO and Mr GISCARD D'ESTAING on the three subjects referred to above. It adopted the following unanimously⁶.

Culture as such is not mentioned in the Treaty establishing the European Economic Community. The only reference to the subject deals with the protection of the national artistic, historical or archaeological heritage for which the Member States are empowered to draw up a specific system of safeguards by way of derogation from the principle of the freedom of movement of goods within the Community (Article 36 of the EEC Treaty).

Nevertheless, how would it be conceivable for the European Community, had its various cultural traditions not shared common values, to have developed to the point where its Member States are envisaging the qualitative leap forward which political union represents, partly under the influence of outside events connected with the restructuring of Europe following the events of 1989 in Central and Eastern Europe and the Soviet Union?

This institutional vacuum has not prevented the Member States from laying the foundations for a cultural policy, to be understood in its broadest sense. The following should be borne in mind in particular:

- (a) the various resolutions adopted by the Council and the Ministers for Education on the implementation of the programme on education, the promotion of modern languages, the European dimension in schools, equality of opportunities for girls and boys at school, new education technologies, the disabled and vocational training for women,
- (b) Community programmes such as COMETT, ERASMUS, PETRA, TEMPUS, EUROTECNET, Youth for Europe, LINGUA and those relating to minority languages and

⁶ The following were present: Barzanti (Chairman); Canavarro (deputizing for Dührkop Dührkop), Coimbra Martins, Dillen (deputizing for Le Pen), Gröner, Kellett-Bowman (deputizing for Sir Jack Stewart-Clark), Larive, Maibaum (deputizing for Krieps), Münch, Oostlander, Rawlings, Taradash.

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cultures and the exchange of young workers and secondary school teachers, etc.,

- (c) the various directives concerning the mutual recognition of diplomas and professional qualifications,
- (d) the adoption by the Council of the Directive on television without frontiers and the MEDIA programme,
- (e) measures for the protection of the European architectural heritage and the naming each year of a European city as the cultural capital, chosen because of its symbolic value,
- (f) the large number of resolutions adopted by the ministers responsible for cultural affairs, for example on the promotion of books and reading.

It is true that most of the legislative texts adopted by the Council have an essentially economic purpose, since it is a question of ensuring the free movement of persons, goods and services within the common market and guaranteeing equal conditions for competition. Nor should we forget the role of the Court of Justice and its judgments in the establishment of a cultural policy (e.g. the standardization of book prices).

Nevertheless, all these measures taken under the pressure of economic needs do not make up a European cultural policy which can endow the single market with a soul and make the citizens of the European Community feel that they belong to a new entity which transcends national, regional, local or minority cultures but without replacing them.

The Committee on Youth therefore calls on the Committee on Institutional Affairs to ensure that the cultural dimension of Europe is taken into account, both during the run-up to the Intergovernmental Conference on European Union and in the future constitution for the European Union, but on the understanding that political union must explicitly guarantee respect for national, regional, local and minority cultures, whether or not they are linked to a specific territory.

Once this has been stated, the European Union must have powers in the educational and cultural sphere and fully respect the principle of subsidiarity, since this will also increase efficiency. The future constitution of the European Union must contain an article extending the Union's powers to education and culture, thus allowing the implementation of dynamic measures designed to stimulate, strengthen and support Europe's cultural identity, over and above purely economic considerations and through its specific components such as national, regional, local or minority cultures. Moreover, the elimination of disparities in education and training is the essential condition for an undistorted market.

It is important to link the powers which the Community is to acquire in the cultural sector with the extension and/or reinforcement of existing measures in this sector. This would apply to vocational training, which must ensure greater mobility for people and make it easier for them to compare their experiences, and it will also apply to education, since educational systems must become more comparable with one another. It is obvious, even if we consider only this example, that the principle of subsidiarity must not lead to a reinforcement of the separateness of educational systems - if education

is to be provided first and foremost by the Member States or by their subdivisions, it is equally true that this exclusive responsibility must not impede dialogue between the authorities responsible for education, in the interest of creating 'a People's Europe'. The principle of subsidiarity must therefore be given a dynamic and positive interpretation. A common policy must also be developed in the communication and information sectors, since political union is supposed to make provision for the powers needed to guarantee pluralism of information, in particular in view of the phenomena of concentration in the media sector, by devising a specific competition policy which is not based exclusively on economic considerations. The right to communication and information upheld in the European Convention on Human Rights must be safeguarded whilst European production and creative freedom are being protected against competition from third countries.

The Committee on Youth therefore calls on the Committee on Institutional Affairs to include in its reports the considerations outlined above, on the understanding that the dynamism deriving from the principle of subsidiarity, with the system of powers and counter-powers inherent in it, should forestall any temptation towards centralization and safeguard freedoms. These freedoms would be even better protected if a structure existed for dialogue between the Union's authorities and the bodies responsible for education and culture in the Member States whether these were at government level or below or incorporated employers' and workers' representatives. European culture is rich in variety. Its components form part of mankind's shared heritage. It is this variety which it is important to preserve and enhance. Consequently, the constitution of the future European Union must give this consideration priority.

In conclusion, the Committee on Youth, Culture, Education, the Media and Sport will be particularly attentive in monitoring the work on institutional affairs carried out by the European Parliament and the Community's other institutions with responsibilities in this sphere. It reserves the right, at the appropriate time, to take any practical measures to ensure that its views, as set out in this letter, are heard and make a positive contribution to this wide-ranging institutional debate which has a fundamental bearing on the future development of the European Community.

Yours sincerely,

(sgd) Roberto BARZANTI