



European Communities

**EUROPEAN PARLIAMENT**

# **SESSION DOCUMENTS**

English Edition

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12 November 1990

A3-0301/90

## **SECOND INTERIM REPORT**

of the Committee on Institutional Affairs

on the constitutional basis of European Union

Rapporteur: Mr Emilio COLOMBO

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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

**\*\*I** = Cooperation procedure (first reading)

**\*\*II** = Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment

**\*\*\*** = 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 constitutional basis of European Union.

At the sitting of 2 April 1990 the President of the European Parliament announced that the committee had been authorized to draw up a report on this subject.

At its meeting of 29 January 1990 the Committee on Institutional Affairs had appointed Mr Emilio COLOMBO rapporteur.

At its meetings of 15/16 October and 5/6 November 1990 the committee considered the draft report. On 5 November 1990 it adopted the motion for a resolution as a whole unanimously.

The following took part in the vote: Oreja, chairman; Prag, vice-chairman; Colombo, rapporteur; Aglietta, Beiroco, Bindi, Cassanmagnago Cerretti, De Giovanni, Ferrer, Hänsch, Herman, Pannella, Rothley, Roumeliotis (for Avgerinos), Speroni and Valverde.

The second interim report was tabled on 12 November 1990.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A

DRAFT MOTION FOR RESOLUTION

on the constitutional basis of 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 thereof<sup>1</sup>
  - . 14 March 1990 on the Intergovernmental Conference in the context of Parliament's strategy for European Union<sup>2</sup>,
  - . 11 July 1990 on the European Parliament's position on a draft constitution for European Union<sup>3</sup>,
  - . 11 July 1990 on the Intergovernmental Conference in the context of Parliament's strategy for European Union<sup>4</sup>,
  - . 12 July 1990 on the principle of subsidiarity<sup>5</sup>,
  - . 12 July 1990 on preparations for the meeting with national parliaments on the future of the Community ('assizes')<sup>6</sup>
- having regard to the Solemn Stuttgart Declaration of 19 June 1983 on European Union,
- having regard to the Single European Act and, in particular, the first recital of the preamble,
- having regard to its resolution of 18 November 1988 on Community regional policy and the role of the regions<sup>7</sup>,
- having regard to the conclusions of the European Council meetings of 28 April, 25 June and 27/28 October 1990,
- having regard to Rule 121 of its Rules of Procedure,
- having regard to the second interim report by the Committee on Institutional Affairs (Doc. A3-0301/90),

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<sup>1</sup> OJ No. C 323, 27.12.1989  
<sup>2</sup> OJ No.  
<sup>3</sup> Minutes of 11 July 1990  
<sup>4</sup> idem  
<sup>5</sup> Minutes of 12 July 1990  
<sup>6</sup> idem  
<sup>7</sup> OJ No. C 326, 19.12.1988, pp. 289-295

- A. whereas 'ever closer union' between the peoples of Europe was the objective of the European Community's founding fathers, as expressed notably in the 'Schuman Declaration' which referred explicitly to the objective of a European Federation as the aim of the Community, and that objective was enshrined in the Community Treaties and repeatedly confirmed by the governments of the Member States of the Community, particularly at the Paris summit in 1972, in the Solemn Declaration of Stuttgart in 1983 and in the Single European Act,
- B. whereas the concept of European unity, the results achieved so far, the continued pursuit of the objectives enshrined in the Single Act, particularly with regard to economic and monetary union, enhancing the effectiveness and the democratic credentials of the institutions, the new developments reflecting Europe's responsibilities arising from its political role, its economic potential and its international links meet the aspirations of the European peoples,
- C. emphasizing that the European Parliament directly elected by universal suffrage, decided to provide a practical response to the need for a radical reform of the Community by drawing up the draft Treaty in 1984 which, even today, constitutes the only comprehensive, clear and coherent proposal for reshaping relations between the Member States of the European Community as a whole,
- D. whereas the response from the national governments was to negotiate and adopt the Single European Act, which was an inadequate and insufficient step forward,
- E. whereas the democratic revolutions that have occurred in the countries of Central and Eastern Europe and the changes in the Soviet Union have so changed the European and international situation that a new European dispensation aimed at establishing peace, progress and respect for all its peoples is now necessary, and whereas such a system involves an enhanced political role for the Community, which must represent an essential point of reference for the peoples who have recently achieved democracy and which, once the European Union has become a reality, must be open to democratic European states which wish to accede to it,
- F. emphasizing that German unification will be an even greater stabilizing factor and progressive influence for all the peoples of Europe provided it occurs in the context of a European Union dominated by effective and democratic institutions,
- G. whereas the Gulf crisis underlined the inability of the Member States of the European Community to respond swiftly and the need for them to be capable of doing so by taking a united stand formulated by common Institutions,
- H. whereas the international economic system might be entering a new period of decline, just at the time when the need for political, economic and social reconstruction in the countries of Central and Eastern Europe is most pressing, together with the duty to meet the expectations of the developing countries,

- I. whereas the President of the French Republic, François Mitterrand, and the Chancellor of the German Federal Republic, Helmut Kohl, sent a message to the President of the European Council in April 1990 stressing their conviction that the time had come to transform the complex of relations between Member States into a European Union equipped with the necessary means of :
- enhancing the Union's democratic legitimacy,
  - making its institutions more effective,
  - ensuring concerted and consistent action by the Union in the economic, monetary and political fields,
  - formulating and implementing a common foreign and security policy,
- J. emphasizing that this view corresponds to the European Parliament's constant strategy of establishing European Union along federal lines on the basis of a constitution which will ensure democratic and effective institutions, safeguard the fundamental rights of citizens and enable the Union to fulfil the tasks incumbent upon it in the new international order,
- K. whereas the proposals contained in the Martin and Herman resolutions, if retained in their entirety, would ensure that the Treaties were modified in a manner consistent with that objective,
- L. reaffirming its determination that Union should be achieved during the life of this Parliament and pledging resolutely to pursue this objective in the conviction that the same goal will be pursued by the political, economic and social forces which have repeatedly expressed their commitment to the European ideal,
1. Calls on the governments of the Member States, in accordance with the Franco-German proposal, to incorporate into a binding decision the resolve declared by them on the occasion of the Solemn Stuttgart Declaration of 1983 and in the preamble to the Single European Act of 1986, to transform the whole complex of relations between the Member States of the Community into a European Union and to draw up a fixed timetable for its progressive implementation;
  2. Reiterates its right to draw up the draft text of the constitution for European Union, and calls on the governments of the Member States to adopt a decision acknowledging that right;
  3. Decides to draw up a draft European constitution on the basis of the draft Treaty adopted on 14 February 1984, in accordance with the constitutional guidelines indicated in the following paragraphs and taking account of the deliberations of the Intergovernmental Conferences and the meeting with the national parliaments on the future of the European Community;
  4. Establishes the following basis for the draft Constitution it is to draw up;

## Preamble

5. The Member States of the European Community, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom, hereby decide to form a European Union;
6. Any democratic European State that accepts the constitution of the Union and the laws flowing from it may accede to the European Union by concluding an agreement therewith;
7. The Union shall fulfil the aspiration of the democratic peoples of Europe to forge ever-closer links in awareness of their common destiny; it shall develop the solidarity that binds them, help preserve their historical identity, their freedom and their dignity, in the framework of freely accepted common laws and institutions designed to achieve progress and peace;
8. The Union shall reflect a common desire to affirm European identity and assume the responsibilities arising from its economic potential and political role; the Union shall be based on a democratic federal-type constitution capable of ensuring balance in Member States' relations with each other and with the Union;
9. The Union shall undertake to pursue the following objectives
  - to work towards a harmonious development of society by means of the economic and social progress of its peoples, the pursuit of full employment, the progressive elimination of existing imbalances between the regions, environmental protection and scientific and cultural progress;
  - the creation of an economic area without frontiers and without any discrimination between individuals and undertakings in the Member States, enhancing the ability of States, individuals and undertakings to act together to adjust their structures and activities to take account of economic changes;
  - the promotion, in international relations, of peace, cooperation, disarmament, mutual security, free movement of persons and ideas, and improved international trade and monetary relations;
  - the harmonious and equitable development of all the peoples of the world with a view to enabling those with particular problems to escape from underdevelopment and hunger and fully exercise their political, economic and social rights;
10. The competences of the Union shall be :
  - (a) those conferred by the Constitution;
  - (b) those conferred by the Treaties establishing the European Communities or in pursuance of them;
  - (c) those which may be conferred upon it after due process of constitutional reviews;

11. The Union shall act only to fulfil the tasks transferred to it by treaty and to achieve the objectives defined thereby. If powers have not been exclusively or completely assigned to the Union, the Union shall, in carrying out its tasks, take action in so far as the achievement of these objectives requires its intervention because, by virtue of their magnitude or effects, they transcend the frontiers of the Member States or because they can be undertaken more efficiently by the Union than by the Member States acting separately;

#### Fundamental rights and freedoms

12. The Declaration on Fundamental Rights and Freedoms approved by Parliament on 12 April 1989<sup>8</sup> shall be an integral part of the Constitution;
13. The Union shall fully affirm the rights of individuals already enshrined in the Community Treaties and recognized by the European Court of Justice;
14. The Union may accede to international agreements concerning fundamental rights and freedoms;
15. The Union shall guarantee, promote and foster respect for the fundamental rights and freedoms referred to in paragraphs 12, 13 and 14, establish procedures to ensure they are fully exercised and remove any obstacles to their being exercised;
16. The Member States are obliged to fully uphold fundamental rights and freedoms: no State that fails to comply with this requirement may belong to the Union;
17. Should the European Court of Justice find, in the course of proceedings or an action brought by an institution of the Union or a Member State, that a Member State regularly violates fundamental rights and freedoms, it shall propose that Parliament and the Council, after consulting the Commission, should impose appropriate sanctions;
18. An individual may appeal to the European Court of Justice if he considers that his fundamental rights or freedoms have been violated by a Union institution or a Member State, provided all domestic remedies have been exhausted or have failed to ensure that such rights and liberties are fully upheld;

#### Citizenship

19. The citizens of the Member States shall be citizens of the Union; no discrimination between citizens, particularly on the grounds of nationality shall be permitted. The citizens of the union shall enjoy full freedom of movement within its confines; they shall be free, subject to the laws of the Union and, when applicable, those of the Member States,

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<sup>8</sup> OJ No. C 120 of 16.5.1989, page 51



to engage in whatever political, economic, social, artistic or religious activities they wish; foreigners legally registered as resident may, subject to conditions established by the laws, enjoy comparable rights; if they are entitled to pursue an economic or professional activity, they shall enjoy the same rights in relation to their employment as citizens, including the right to social security and welfare;

20. The citizens of the Union shall participate in the political life of the Union, subject to the conditions laid down by the Constitution, and in the political life of the Member States of which they are nationals or in which they reside in accordance with the laws of the Union and those of the Member States; they shall comply with the laws of the Union as with the national laws, the law shall lay down criteria and arrangements for participation by legally resident foreigners in certain areas of political life;

#### Rights and duties of States

21. The Member States shall comply with this Constitution and the laws of the Union and take action to ensure their full implementation; they shall have an obligation to show solidarity to each other and with regard to the Union and shall be entitled to expect support from the latter;
22. Union law shall take precedence over the laws of the Member States;
23. If the obligation set out in paragraph 13 is ignored, the European Court of Justice, acting on proceedings brought by the Commission, may decide on the appropriate sanctions; the same procedure shall apply in the event of failure to comply with rulings by the European Court of Justice;
24. Member States shall participate in the decisions of the Union and their implementation, in accordance with the Constitution;

#### The Institutions of the Union

25. The Union's legitimacy shall be based on institutions deriving directly or indirectly from the suffrage of the people;
26. The institutions of the Union are :
  - the European Parliament,
  - the European Council,
  - the Council,
  - the Commission,
  - the Court of Justice;
27. The following shall be organs of the Union:
  - the Economic and Social Committee,
  - the Committee of Regions and Local Authorities,
  - the Central Bank of the Union,
  - the Court of Auditors;
  - the European Investment Bank;

28. The European Council, consisting of the Heads of State or Government of the Member States and the President of the Commission, shall have the task of guiding and giving impetus to the action of the Union;
29. The European Parliament shall represent the citizens of the Union, by whom it shall be elected by direct universal suffrage in a free and secret vote, in accordance with a uniform electoral procedure whereby seats shall be distributed in accordance with the principles set out in the Community Treaties;
30. Parliament shall adopt its rules of procedure;
31. Parliament's decisions shall be taken by a simple majority; they shall be taken by a majority of its Members in the following cases :
- amendments to the Constitution;
  - approval of the accession of new States;
  - election of the President of the Commission or vote of no-confidence;
  - decisions to exercise for the first time a competence conferred on the Union;
  - assent to the appointment of Members of the Court of Justice, the Court of Auditors or the organs of the Central Bank;
  - adoption of or amendments to the Rules of Procedure;
  - cases explicitly provided for in the Rules of Procedure,
  - other cases provided for in the Constitution;
32. The Council shall consist of representatives of the Member States;
33. The Council shall draw up its own rules of procedure;
34. As a rule, the Council shall take decisions by a majority of its Members; it shall vote by a qualified majority, as stipulated in Article 148(2), second indent, of the EEC Treaty, in the following cases:
- foreign and security policy;
  - legislative and budgetary procedure, in the cases provided for in the relevant procedures;
  - authorization to ratify international treaties;
  - appointment of Members of the Court of Justice, the Court of Auditors and the management board of the Central Bank;
  - drawing up its rules of procedure;
  - cases provided for in those rules of procedure;
  - other cases provided for in the Constitution or by law.
- The Council shall decide unanimously in the case of amendments to the Treaty and the accession of new Member States;
35. The Council, when taking decisions on legislative or budgetary matters, and the European Parliament in plenary sitting, shall meet in public; they may decide, for serious security reasons and by common assent, that certain discussions may be held in camera;
36. The President of the Commission shall be elected by the European Parliament on a proposal from the European Council; the Members of the Commission shall be appointed by the President of the Commission; the Commission must obtain Parliament's vote of confidence;

37. The Commission shall be the Union's organ of government; it shall enjoy the powers deriving from the legislative procedure set out in paragraph 43;
38. The Commission shall enact the laws and international policy decisions falling within its competence, implement the budget and the Union's international treaties, subject to political control by Parliament and the Council;
39. The Commission shall have general responsibility for monitoring compliance with the Constitution, in accordance with procedures similar to those laid down in the Community Treaties;
40. The Court of Justice shall be the supreme court of the Union; it shall rule on:
- the constitutional legitimacy of acts by the Union and respect for its powers;
  - disputes between the institutions, between the Member States and the institutions, and between the Member States;
  - the implementation of the principle of subsidiarity in all the cases of concurrent competence and in that of paragraph 64;
  - the penalties to be imposed on Member States that fail to apply Community legislation or comply promptly with its rulings;
  - the interpretation of Community law pursuant to procedures laid down in Article 177 of the EEC Treaty;
  - appeals by officials and other servants of the Union and cases involving the non-contractual responsibility of the Union;
  - appeals lodged against decisions by judicial organs of first instance of the Union;
  - matters devolved to it under agreements between the Member States,
41. The judges and Advocates General of the Court of Justice shall be appointed by the Council subject to Parliament's assent; the length of their term of office shall be laid down in the Community Treaties; they shall be selected on the basis of the criteria set out in those Treaties;
42. The Court of Justice shall draw up its own procedural rules subject to the assent of Parliament and Council; the law of the Union shall lay down procedural principles and conditions for the creation of judicial bodies of first instance; the Court shall establish its own internal rules of procedure;

#### Legislative procedure

43. The legislative function may be exercised either by means of framework laws, which may explicitly provide for their practical implementation to be achieved by the laws of the Member States or of smaller entities, in accordance with the constitution of each Member State, or by means of specific laws which are binding in all respects on the citizens and Member States; however, should a Member State fail to enact the necessary legislation in accordance with the provisions laid down in the framework laws, the Union may enact legislation to remedy that omission;

44. The union shall exercise its legislative function as follows:
- laws of a constitutional nature, in accordance with the provisions of paragraphs 64 and 65,
  - laws of a legislative nature, in accordance with paragraphs 43 and 44 and in compliance with the constitutional provisions,
  - implementing and management regulations, in accordance with paragraph 45 and in compliance with constitutional and legislative provisions;
45. The power to initiate legislation shall be held by the Commission; if the latter declines to submit a proposal requested by Parliament or is unjustifiably slow to do so, Parliament may, by a majority of its Members, in accordance with its Rules of Procedure, submit a legislative proposal; the laws of the Union shall be adopted by Parliament and Council by the majorities prescribed in the Constitution; if, after a first reading, the two institutions fail to agree, a joint conciliation committee shall submit an alternative proposal; this shall be adopted without amendment by Parliament and the Council by the prescribed majorities; however, if the Council, though mustering a simple majority, does not obtain the prescribed majority, Parliament may, on a proposal from the Commission and by a majority of its own members, confirm the conciliation committee's proposal, in which case the law shall be deemed to have been adopted. Parliament, or a majority of its Members and the Council, acting on a qualified majority, may delegate to the Commission the power to take legislative measures of a provisional nature; the other two institutions shall establish the principles and limits of and procedures for such legislation and lay down the deadline by which it must be ratified by the legislative procedure;

#### Implementation

46. The Commission shall as far as possible, devolve its own duties to national, regional and local authorities, but shall remain responsible for them and may, if necessary, arrogate to itself the performance of such duties;
47. The Commission shall enact, in the framework of a general law of the Union, regulations implementing the laws, after previously informing Parliament and the Council;

#### Budget

48. The budget shall be approved according to the legislative procedure; the law approving the budget shall establish the Union's revenue; in addition to the resources at present allocated to the Community, the law may provide for a proportion of national taxes to be diverted to the Union or lay down appropriate taxes at Union level, within the limits of a multi-annual financial programming law;

### International agreements

49. The ratification of international agreements shall be subject to legislative approval if such agreements involve changes in Union law or have budgetary implications, or if Parliament or the Council request that procedure before negotiations are opened; if an agreement involves constitutional amendment, authorization to ratify shall be given under the procedures specified for amendment of the Constitution.

### Organs of the Union

50. Members of the management board of the Central Bank of the Union shall be appointed by the Council of Ministers on a proposal from the executive and subject to Parliament's assent; they shall be selected on the basis of their ability and experience and remain in office for the period prescribed by the law unless they resign or are dismissed by the Court of Justice because the conditions necessary for their holding office cease to apply or for a serious offence; the prescribed term of office may not be less than 6 years;
51. The Central Bank shall enjoy the necessary autonomy to implement an internal and external monetary policy aimed at achieving monetary stability; it shall operate in accordance with the laws and the role of the political institutions with regard to economic policy; in particular, it shall act within the framework of the economic and social policy objectives laid down by the Council and Parliament;
52. Members of the Court of Auditors shall be appointed by the Council with the assent of Parliament; they shall remain in office for the period prescribed in the Community Treaties;
53. The Court of Auditors shall draw up its own rules of procedure subject to the laws by which it is governed;
54. The Economic and Social Committee shall be constituted according to the methods laid down in the Community Treaties; it shall draw up its own rules of procedure; it may be convened by the President at the request of the Commission or the Council, or in the other cases specified in its rules of procedure; it shall have the power to submit own-initiative reports in sectors falling within its competence; save in cases specified in the rules of procedure, its shall be in public;
55. The Committee of Regions and Local Authorities, which shall have consultative status, shall consist of members of elected regional or local authorities; its composition and operation shall be determined by law;
56. The Union shall enjoy all the competences conferred on it by the Constitution or in pursuance thereof; it shall also enjoy all the competences conferred on it by the Community Treaties or in pursuance thereof; it shall exercise those competences jointly with the Member States, or exclusively, on the basis of the rules which have hitherto governed the process of Community integration or on the basis of the laws of the Union;

57. The Union shall have competence in the field of foreign policy and common security and defence policy, including arms control, in all sectors in which the Member States share vital interests; the Community's foreign and security policies shall be founded on respect for international law and the principles of solidarity between Member States and the inviolability of their borders; the Constitution shall stipulate the areas in which common action must be taken;
58. In those areas which have not yet been addressed by the Union institutions or do not fall within the Union's province, the Member States shall be obliged to pursue a policy that is consistent with those decided at Union level, and shall also be obliged to inform the Council and the Commission in advance of their position and initiatives and to consult them;
59. The Council, assisted by the Commission, shall define the general lines of foreign and security policy and Parliament shall approve them; these shall be binding on the Union and the Member States; the institutions of the Union and the Member States shall implement them within the bounds of their respective powers;
60. The Union shall exercise, pursuant to the principle of subsidiarity, concurrent powers relating to internal security.
61. By means of a law approved in Parliament by a majority of its members, the Union shall create, as necessary, administrative or operational structures to implement its objectives in the fields of foreign policy, internal or external security and defence;
62. The Union shall promote the development of culture, education and scientific research; in particular it shall foster mutual understanding of different cultures and efforts to raise the level of education of its citizens; it shall exercise concurrent competence in accordance with the principle of subsidiarity; moreover it shall comply with the principle of full respect for national and local differences; with regard to education, the Union shall be restricted to securing the equivalence of qualifications giving access to particular occupations; it may, to that end, make recommendations relating to the content of studies; it shall promote cultural and scientific exchanges between the Member States and may create the necessary structures to that end; these structures, on the basis of a Union law, may confer diplomas recognized by the Member States; it shall also promote scientific and cultural links with third countries;
63. The Union shall ensure, in the sectors which fall within its domain, consistency between its own policies and those of the Member States, and between the various budgetary approaches and shall check that Member States' policies in the other sectors do not impede the Union's exercise of its own powers;
64. Whenever attaining the objectives of the Union requires it to exercise a competence not explicitly conferred upon it, the law may confer the necessary powers upon it pursuant to the principle of subsidiarity; however, in such cases, the approval of Parliament by a majority of its members and the assent of the Council by qualified majority shall always be necessary;

#### Amendments to the Constitution

65. Except in the cases specified in paragraph 61, amendments to the Constitution must be made in accordance with the legislative procedure; however :
- Parliament must approve such amendments by a majority of its members;
  - the Member States must ratify the amendments in question in accordance with their respective national provisions;
  - The Council, acting unanimously following the assent of the European Parliament, may decide that certain constitutional amendments should not be ratified; if, however, a national Parliament or one third of the members of the European Parliament oppose that decision, ratification shall be necessary;
66. The same procedure shall apply in the case of accession by a new state;

#### Entry into force of this Constitution

67. The constitution shall enter into force within one year of its approval by the European Parliament and the deposit of instruments of ratification by all the Member States;
68. If, within a year of the deposit of instruments of ratification by nine Member States together representing at least two thirds of the population of the Community, the other Member States have not ratified the Constitution, the Council, acting on a qualified majority, on a proposal from the Commission and with the assent of an absolute majority of Members of the European Parliament, shall establish the procedures for the entry into force of the Constitution in those States that have ratified it; the other States shall retain, for the period specified in the Constitution, the option of acceding thereto; the same procedure shall apply if a Member State of the Community explicitly refuses to ratify;
69. The close links that currently bind the Member States shall be preserved in every case; furthermore, in accordance with the Constitution's provisions regarding institutions and procedures, existing rights and reciprocal obligations between Member States of the Community and between the Union and Member States that have not ratified the constitution shall be upheld.

#### Transitional provisions

70. The Community patrimony comprising the Community's existing laws and policies, the single market, political cooperation and economic and monetary union and all other bodies set up in the Community context - shall remain in force until such time as they are amended by the laws and policies of the Union;

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71. Instructs its President to forward this resolution to the Council and Commission and the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

1. This second preparatory document on the draft constitution enlarges on and develops the guidelines adopted by the European Parliament on 11 July 1990. It is not yet a full legal text, but rather serves to set out in some detail the form which it is hoped the Constitution of European Union will take. It should prompt a debate on the aims and substance of European Union. Although, at the time of the Dublin Summit, European Union appeared to be shrouded in mystery, it is now the acid test of the ambiguity or otherwise of the positions of the Member State governments and the Community institutions. As in 1984, the aim of this text is therefore to indicate to those governments, in constitutional terms, what European Union entails. We also intend - indeed this is absolutely essential - to clarify the European Parliament's position, namely, that, although we are prepared to discuss any improvements to the Community system, we are not prepared to give up the objective, as expressed by the founding fathers, of a federal-type Union. This applies to an even greater extent today; indeed, we believe that the Community governments and institutions must now take the courageous decision to turn themselves into a 'European Union', with all the constitutional implications this entails.

Our international partners take the Community seriously and view it essentially as a single entity. This applies not only to the developing countries but also, above all, to the countries of Central and Eastern Europe, which count on us to provide economic aid and political support, and themselves aspire to join the Community. Moreover, Europe is required to seek a common position on virtually any international crisis, since individual Member States, even those which harbour the illusion of great power, can do very little.

Within the Community, the single market has wrought considerable changes in economic relations: mergers of undertakings and cooperation agreements at European level have proliferated, and small and medium-sized undertakings are attempting to seize the unique opportunity offered by the 'large market'. It is therefore necessary to create an Economic and Monetary Union and also to develop social and regional intervention mechanisms, without prejudice to the principle of subsidiarity, to promote development and ensure that the weaker sectors do not suffer adverse effects as a result of unification.

2. The model submitted here is based on the principles set out in the resolution adopted by Parliament on 11 July 1990. Accordingly, we shall not dwell on all the constitutional institutions, but instead we shall concentrate on certain issues which concern us in particular.

(a) As it is of a federal nature, the Union must be based on two main subjects - citizens and States - and its structures must reflect this twofold emphasis. Certain responsibilities and rights shall be assigned to each of these subjects. In the case of citizens, these shall stem from the promotion and safeguard to fundamental rights. This is a prerequisite for the creation of any democratic structure; the constitution accordingly contains a chapter on the constitutional function of such rights and the notion of European citizenship.



However, the institutional structure must also clearly reflect the dual emphasis and it is therefore necessary to ensure that the elected Parliament and the Council (which represents the States) have analogous powers.

(b) As the Union is democratic and therefore at the service of its members, its action must be effective. It therefore needs relatively simple procedures (both legislative and implementing) and a single administrative centre (the Commission), provided that it enjoys the confidence of the States and of Parliament.

The Union must also exercise adequate powers, meaning that, in practice, it must be able to deal with all political, economic, social and cultural issues which, by virtue of their dimension, complexity or urgency, cannot be tackled with real hopes of success by the political authorities of the individual States. The Union shall enjoy all the powers currently assigned to the Community and shall also exercise powers in the fields of foreign policy, security and defence. Naturally, this does not mean that Member States will be stripped of all their powers; rather, it is necessary to devise a method of efficient common management of all the interests, values and objectives proper to the Member States as a whole.

The Union must also have concurrent powers with regard to internal security in order to combat the disturbing trends in organized crime to be found in all the Member States without exception, in respect of which it will be necessary to establish methods of prevention and prosecution suited to a 'frontier-free Europe'.

The Union shall also have certain powers in the field of culture, education and research. However, this is a highly delicate area, perhaps the most delicate in the European Community, which brings together peoples of varying history and culture. Indeed, it is precisely these cultural differences which enrich the Community the most. It is therefore important to ensure that action is taken where necessary, but that the principle of subsidiarity is applied very strictly in this sphere.

(c) Once again, this raises the question of the institutional structure. This shall consist of a two-chamber legislative authority (Parliament and Council) and a 'government' (the Commission). In addition to these institutions, there shall be a European Council, which shall give impetus to mainly political action and shall enjoy certain powers, in its capacity as the organ which proposes the Commission President, which, in many constitutions, are invested in the Head of State. Lastly, there shall be a Court of Justice which shall enjoy more specific powers as a supreme court.

The following points should be considered:

The Council represents the Member States, but the problem arises of deciding at what level it is to represent them. Do we continue with the same model, or should the Council represent (at least partially) the parliamentary bodies? Should it continue as it is, with representatives of central governments, but also with the participation of regional governments? The question is still unresolved, but we must make a clear decision on this matter, based not on an institutional Utopia but rather on concern for efficiency and the proper involvement of the Member States.

The question of the role of the independent regional authorities is also unresolved. The issue is a particularly difficult one in certain regions. There are only four States which have a regional structure (with institutions invested with real legislative and executive powers). However, the regional authorities or Länder or Autonomous Communities in those States enjoy real power, which is in nearly all cases guaranteed by the constitutions of those countries. Moreover, there is an upsurge of interest in other States in the idea of regional government. Lastly, it should be borne in mind that the Union must under no circumstances interfere with the constitutional arrangements of the Member States. We consider that the solutions put forward in the resolution as regards both decision-taking and executive power offer a balanced approach to these problems. It is necessary to ensure that, on the one hand, the structure of the Member States is not dismantled and, on the other hand, the regional decentralization which exists in the Member States is taken into account.

We should also give further consideration to the question of the role of the national parliaments. We must ensure at all costs that there is no confusion between the roles of the European and national institutions, as this would reduce the effectiveness of each, leading to a blurring of their respective responsibilities and ultimately encouraging the executive powers to manipulate the system and, as it were, choose the most accommodating partner. It is also essential that the legislative activities of the Union be guaranteed by its institutions, otherwise there is a real danger that responsibility for decision-making will be unwisely thrust back onto the national parliaments or that excessively cautious compromises will be reached. In practice, it will be necessary to involve the parliaments fully in the constitutional phases, ensure that they are fully informed of Community affairs, particularly the legislation which they will be required to incorporate into national law, and encourage them to exercise fully their supervision of the Community activities of their respective governments, at least until they are represented in the Council.

(d) Lastly, we should turn our attention to the issue of the 'constituent mandate'. In actual fact, Parliament, by its very nature, has full legitimacy in this matter. Moreover, no one is challenging or could challenge this. What is necessary is that the other focus of Community legitimacy, the Council, should recognize this or be obliged to do so by the national parliaments.

Nowadays, all constitutional power is exercised by the States and, to a large extent, by the national governments. This is proving increasingly restrictive for Community cooperation, as testified by the shortcomings of the Single Act or, worse still, the inconsistencies which emerged during the preparations for the forthcoming intergovernmental conferences. However, the problem has now become pressing. We believe that the Community has reached a stage where its action extends into so many aspects of people's lives, affecting the choices they must make, working life, the exercise of certain rights, etc., that a strong legal framework, capable of safeguarding the rights of individuals, is necessary, and that this framework must inevitably take the form of a constitution that recognizes obligations and rights and establishes an effective, democratic institutional structure.