

Resolutions adopted by the Study Committee for the European Constitution (Brussels, November 1952)

Caption: In November 1952, the Study Committee for the European Constitution, set up by the European movement and chaired by Paul-Henri Spaak, draws up an institutional proposal consisting of nine resolutions.

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First Resolution:

Preamble and General Proposals

A. — The Assembly resolved to include in the Statute a Preamble which will conform to the following principles:

An indissoluble European Community is instituted by the present Statute.

This Community, created on the initiative of the Member States of the European Coal and Steel Community and the European Defence Community, is concluded between their peoples.

It has the aim, through establishing a closer bond between the said peoples, of guaranteeing the common well-being, existence and external security of the Member States and of protecting the constitutional order, democratic institutions and fundamental freedoms.

B. — The Assembly resolves to include in the Statute general proposals which will conform to the following principles:

1. The Community has a legal personality. It enjoys the legal capacity necessary to enter into international relations as well as to operate on the territory of the Member States.

2. The institutions of the Community take on the irrevocable task of carrying out the duties laid down in the present Statute, in conforming with the provisions of the Statute and the laws of the Community, in accordance with the procedure set up by it.

3. Any powers enjoyed by the Member States which have not expressly been transferred to the Community remain the competence of these States.

This is the case particularly for the powers of the Member States in religious, cultural and educational areas.

4. The Member States may not adopt any measures of such a nature as to oppose or obstruct, in any way whatsoever, the action of the Community.

In disputes to which they are parties, they may not take justice into their own hands but must submit their differences to the Supreme Court of the Community.

5. All citizens of the Member States are citizens of the Community. They enjoy the political rights conferred by the Statute.

6. The Statute enters into force at the time when it has been ratified by all the signatory States. The Community originates from that day.

7. Each Member State is held to respect human rights as they are defined in the Convention on Defence of Human Rights and Fundamental Liberties, signed in Rome on November, 4th, 1950 as well as in the supplementary Protocol signed in Paris on March, 20th, 1952.

Should the Community be so requested by the constitutional authorities of a Member State, it will assist the latter with a view to maintaining the constitutional order, democratic institutions or man's fundamental liberties.

Should the Community Government establish that, in one Member State, the constitutional order, democratic institutions or man's fundamental liberties have been seriously violated, without the

constitutional authorities of this State being able or wishing to re-establish these, the Community may intervene in place of these authorities until such time as the situation is brought under control. In such a case, the measures taken by the Community Government would be submitted without delay for the approval of the Community Parliament.

8. Any European State may apply to join the Community. The Parliament will decide on this request by a two-thirds majority of the votes given in each of the two houses.

Entrance into the Community becomes effective at the depositing of the formal acceptance in the hands of the President of the European Council.

This entrance must be preceded by the conclusion of an agreement regulating the conditions of participation of the concerned State, and in particular its representation in the organs of the Community.

9. No frontier changes between Member States may be made without the approval of the constitutional authorities of the concerned States and of the Community Parliament.

Second Resolution: Community Government

The Assembly resolves to include in the Statute some articles concerning the Community Government, which will conform to the following principles:

1. The management of the affairs assigned to the Community by the Statute, as well as the organisation and administration needed to carry out such management are entrusted to a Government formed by the Heads of Government and by five to eleven ministers.

This Government takes its decisions collectively and is collectively responsible for them.

2. The Government performs its duties in conformity with the Statute and the laws of the Community.

It may only collect taxes or carry out expenses in compliance with the resolutions of the Community Parliament.

Should the enforcement of laws be entrusted to the administrative services of the Member States, the Government has the right to control such enforcement by any investigating means needed. In particular, it may call for reports, hold enquires on the spot and call in witnesses and examine deeds.

In order to ensure the harmonic functioning of the Community's administrations, the Community Government may set up councils and joint administrative and advisory committees.

3. The members of the Government are appointed for four years by the Community Parliament, from those European citizens possessing suitable qualifications.

Outgoing members are eligible again.

No more than a quarter of the members may be of the same nationality.

Should one or several members die, resign or be dismissed they are replaced for the remaining time left to run in the mandate.

4. The members of the Government carry out their duties in the general interest of the Community, completely independent of any national Government, to the exclusion of any professional activity, whether gainful or not. Before assuming responsibility, they take an oath of fidelity to the Statute and the laws of the Community.

All Government civil servants must take a similar oath before taking up their duties.

5. The Government is under an obligation to present each year to the Parliament a report on the general situation of the Community, an annual budget and a final balance sheet.

The members of the Government are entitled to be present at Parliamentary sessions, to take the floor and to present bills, draft resolutions and amendments.

6. The Parliament chooses the President and Vice-President of the Government from the members of the latter. They are elected for a renewable period of two years.

The President represents the Community, is the Supreme Commander of the Armed Forces of the Community and co-ordinates the Government's work.

7. The Government can only discuss matters if half of its members plus one are present.

It takes decisions by majority voting of its members.

The Government distributes tasks and departments among its members.

8. The Chamber of Deputies can propose to the Senate that one or several members of the Government be dismissed for infringements of the Statute or the laws of the Community.

The Senate's decision is taken by a two-thirds majority of its votes.

9. The duties of the European Community Commission and of the Commissariat of the European Defence Community and those of the executive organisations of all other specialised future authorities are assumed by the Community Government.

It is for the Community Parliament to regulate the respective relations of these organisations.

Third Resolution: Community Parliament

The Parliament resolves to include in the Statute some articles on the Community Parliament, which will conform to the following principles:

1. The Community Parliament consists of two Houses: the House of People and the House of States.

2. The House of People is formed of citizens of the Community who are at least 18 years old and are elected by secret and direct universal suffrage by the citizens of the Community who have attained at least the age of right to vote in their respective countries. The members of the House of People will be numbered 434.

The elections are held every five years. The election of the first House of People is to take place within three months from the coming into force of the Statute.

Each Member State determines the character of the vote for election to the Chamber of Deputies, optional or compulsory.

The office of member of the House of People is incompatible with the one of member of a national Parliament.

Should the two mandates be held, the person holding them must opt for one of the two.

The office of member of the House of People of the Community Senate is incompatible with the one of member of the House of States.

3. The electoral law relevant to the House of People is issued by the Community Parliament, for the first election, by the Assembly according to the following principles:

Deputies are elected by the uninominal system at a rate of one Deputy per 500,000 inhabitants or fraction thereof. However, each State will have a minimum of at least two deputies.

The Community constituency is divided into districts, each corresponding to a territory, if possible not frequented, and belonging to the same Member State.

These Districts are set out by the Assembly of the European Communities with the cooperation of the Governments of the Member States, on the basis of their latest official population census.

The Districts may be changed by the Community Parliament after each official population census.

4. The House of States is formed by citizens of the Community who have attained at least the age of 30, elected by the Parliament of each Member State, according to the procedure fixed by the legislation of the relevant State.

The election is held every 5 years, 7 days at the latest after announcement of the results for the House of People.

Each national Parliament elects a number of members of the House of States equal to the one foreseen for each State in the Assembly of the European Defence Community, Brussels Act of September 20, 1976 and in the Treaty of Athens of May 28, 1979.

The members of the House of States may be members of the national Parliaments.

5. The members of the Community Parliament do not vote by national delegation: they are to vote individually, in line with their own consciences, without receiving any instructions.

They enjoy traditional parliamentary immunities.

6. The Parliament discusses and votes the laws and taxes of the Community, adopts the budgets, certifies, in cases of aggression, a state of war, approves peace treaties and appoints the Government.

Unless otherwise provided for in the Statute, each of the two Houses makes decisions by simple majority of votes.

Each of the two Houses has the right to investigate the activities of any Community organ.

International treaties are negotiated by the Community Government. They are submitted for Parliamentary approval under the same conditions as laws. They are ratified by the President of the Government, in the name of the Community.

7. The right of initiative on laws belongs to the Government and to the members of the two Houses.

8. Within the limits of the Community competence, its legislation prevails over Member States' legislation, in cases of conflict.

9. The Community budget will be submitted every year to the House of People, then to the House of States. The Parliament may adopt it, amend it, or reject it.

The Parliament also examines the balance sheet of the former year.

10. The election of the members of the Government is the task of the Houses meeting together.

Any member of Parliament can present one or several candidates. The latter must have accepted their candidature.

The candidates who have received the most votes and at least a simple majority of votes cast are elected as members of the Government.

The foregoing rules are equally valid for the election of the President and Vice-President.

11. Each of the two Houses elects its secretariat and sets its rules.

12. The duties of the Council of Ministers and of the European Community Parliament will be assumed by the Government and the Parliament of the Community.

It shall be the duty of the Community Parliament to adopt the necessary provisions to ensure execution of this measure.

Fourth Resolution: Community Judicial Power

The Assembly resolves to include in the Community Statute some articles concerning the judicial power which will be in conformity with the following principles:

1. The juridical functions of the Community are performed by a Supreme Court and by other Courts established by law.
2. The Supreme Court ensures that in the interpretation and application of the Statute and laws of the Community the law is observed.

It is at the same time a Constitutional Court and a Court of Appeal.

3. Consequently it is competent:

- (a) in cases of conflict between the Statute and the laws or public acts of the Community;
- (b) in cases of conflict between the Statute and the laws or public acts of the Member States;
- (c) in cases of disputes between the Member States or disputes to which the Community is a party;
- (d) in cases of violations of diplomatic prerogatives or immunities;
- (e) it is finally competent in areas of civil, penal, and public law coming within the competence of the Community which are entrusted to it by law.

The Community Parliament will regulate by law the right to take action before the Court.

In cases (a) and (b), this right will be open to any injured citizen, Member State and Community organ or to a determined fraction of each of these.

4. The Community Parliament has the right to set up, under the jurisdiction of the Supreme Court, other Courts entrusted with guaranteeing observance of Community laws. The distribution of competences between the Supreme Court and the other Courts will be laid down by law.

5. The Community judges are appointed for life. They may only be dismissed following a procedure establishing a serious failing of a disciplinary nature or physical incapacity. The rules on retirement because of age will be laid down by law.

The judges have a salary fixed by law and a judge's salary cannot be reduced during the duration of his office.

6. The Supreme Court is composed of (...) members. Its organisation procedure and relations with the Community Court and Member States will be laid down by law.

7. The Community Government appoints the members of the Supreme Court, of which one-third shall be chosen obligatorily from a list of candidates drawn up by the Faculties of Law and another third from a list of candidates drawn up by the supreme judicial organs of the Member States.

8. The functions of the Court of the European Coal and Steel Community and the European Defence Community will be performed by the Supreme Court and by the other Courts of the Community.

It shall be the task of the Community Parliament to regulate the way in which these functions will be performed.

Fifth Resolution: Community Competence in Relation to Coal and Steel

The Assembly resolves to include in the Community Statute some articles concerning the competence of the Community as regards coal and steel.

These articles will be in conformity with the following principles:

1. Articles 1 to 6 of the Treaty establishing the European Coal and Steel Community, as well as the other provisions of the Treaty concerning the general powers of the Community in relation to coal and steel, are inserted in the Statute with the changes in terminology involved therein.
2. The rest of the Treaty and the Convention on Transitional Provisions are considered as laws in force in the Community, with the exception of the provisions amended by the Statute.

At the end of the transitional period the Parliament will have the right to complete, amend or repeal the provisions of the Treaty.

Sixth Resolution: Community Competence in Relation to Defence

The Assembly resolves to include in the Community Statute some articles concerning defence, which will be in conformity with the following principles:

1. The Community is responsible for the security and defence of the populations and territory of the Member States against any aggression or threat of aggression.
2. The defence of non-European territories dependent on the Member States, or which are associated with them, does not enter into the competence of the Community at present.

However, with the agreement of the interested non-European territory, if the latter has the right to decide on

the matter, a Member State may always request that the defence of this territory be secured by the Community. It is the task of the Community Government to negotiate the conditions for accepting this request and for the Community Parliament to decide by a two-thirds majority.

3. In order to achieve the aims indicated in paragraph 1 above, the Community is entitled to take any measures concerning recruitment, instruction, equipment, arms, supplies and the use of the armed forces.

In the event of military mobilisation, war or any other form of international conflict, the Community may take any exceptional measures to organise the Economy of the Community in such a way as to allow it to face up to the situation.

In the event of serious international tension recognised by the Government, the Parliament, acting on a two-thirds majority, may authorise the Government to take the exceptional measures provided for in the preceding subparagraph.

4. The Member States may possess and employ:

(a) national security and policing armed forces, exclusively for the maintenance of internal order;

(b) national armed forces necessary for the defence of their non-European territories, in so far as the conditions mentioned in paragraph 2 (2) are not fulfilled;

(c) national armed forces responding to international missions which the States in question had assumed before entry into force of the Statute and which have not as yet been taken charge of by the Community directly;

(d) national army elements intended, in each State, to ensure the personal safety of the Head of State.

5. The production of war materials, importation and exportation of war materials coming from or going to third countries, measures directly concerning installations intended for the production of war materials as well as the manufacture of prototypes and technical research in relation to war materials are forbidden except where authorised by Community.

6. The Community may conscript citizens for military service in the Armed Forces in the conditions laid down by the law.

Citizens are subject to the jurisdiction of the military courts which will be set up in the European Armed Forces.

If, prior to the formation of the Community, the Constitution or law of a Member State recognises its citizens the right of conscientious objection, this right cannot be taken away by the Community.

7. The law of the Community on recruitment will have to take account of the military needs of the Member States indicated in paragraph 4.

8. The President of the Government is the Supreme Commander of the Armed Forces of the Community. The Government appoints the officers, mobilises the Armed Forces, gives fighting orders and authorises the signing of the armistice.

9. The Treaty establishing the European Defence Community is considered as the law of the Community, with the exception of those provisions amended by the Statute.

**Seventh Resolution:
Community Competence in Relation to Foreign Policy**

The Assembly resolves to include in the Community Statute articles concerning the foreign policy of the Community which will conform to the following principles:

1. All relations with third countries or international organisations, concerning matters in which competence has been transferred to the Community, are the jurisdiction of the latter.

In particular, the Community has the power to enter into treaties, declare war, make peace and participate in agreements or enter international organisations having defensive aims.

The Community possesses an active and passive right of legation.

2. The Member States preserve their particular international relations, including the right of legation, for all matters in which they are competent.

They have the right to delegate the Community capacity to conclude, in their name, treaties concerning these matters.

The Member States will not be able to sign or ratify treaties which would be in contradiction to the general policy of the Community, if the latter makes its reasoned opposition known to the interested Member State.

3. As long as no later amendment to the Statute provides otherwise, the Community and the Member States will have to come to an agreement to fix their methods of respective representation in international organisations as well as coordination of their diplomatic services.

It will be stipulated in an Annex to the Statute that the Community will take the place of the Member States in their relations with N.A.T.O., after agreement with such.

4. Treaties or parts of treaties previously concluded between the Member States of the Community and third States, which concern matters coming within the competence of the Community, will remain in force in conformity with international law. Nevertheless they will not be able to be renewed after their expiry.

Member States are obliged to make known to their co-contracting parties their new situation as Members of the Community and request them, by common accord, to repeal or revise the said treaties.

On the other hand, if the Community enters into a Treaty with third State on the subject matter coming within the competence of the Community, the Member States accept that all these treaties, concerning these same matters, in force between the Member States and this State, be automatically repealed.

**Eighth Resolution:
Community Competence in Relation to Finances**

The Assembly resolves to include in the Community Statute some articles concerning the finances of the Community, which will be in conformity with the following principles:

1. To enable it to fulfil the tasks entrusted to it, the Community has the right to create and levy direct and indirect taxes, contract loans and buy, possess and sell movable and immovable goods in the territory of the Member States.

2. The right of the Member States to create and buy direct and indirect taxes is in no way limited by the above provision.

To harmonise the fiscal system of the Community and the Member States, consultations should be held by

the competent organs of the interested Parties, prior to the adoption of a new tax.

3. The fiscal legislation of the Community may not create any discrimination between Community taxpayers by reasons of their belonging to such and such a Member State.

4. The system of taxation and contributions set up by the European Coal and Steel Community and the European Defence Community Treaties will remain in force during the first fiscal year of the Community.

The budget will consist of the expenses needed to launch the institutions of the Community, during this period. For the following period, which must not exceed (3) years, the Community will have the right, under law, to levy contributions from the Member States. These contributions will gradually be replaced by the direct and indirect taxes created by the Community.

5. The Community has power to grant aids to the Member States to help realise these aims.

6. The implementation of the budget is observed by a financial controller.

The auditing of accounts is carried out by a Court of Auditors.

The financial controller and the Court of Auditors will be appointed by the Parliament.

Ninth Resolution: Revision of the Statute

The Assembly resolves to include in the Community Statute some articles concerning the procedure for amending the Statute, which will be in conformity with the following principles:

1. The Community Parliament may adopt the amendments which amend or complete the Statute:

(a) on its own initiative;

(b) on the request of the Community Government;

(c) on the wish expressed by a national Government or Parliament.

2. The amendments so adopted will enter into force in the following conditions:

(a) During a period of 10 years from the application of this Statute, the approval of all the Member States, given in their constitutional forms, is needed for any amendments, with the exception of that stipulated in subparagraph (c) below.

(b) From the eleventh year, amendments must obtain the approval of two-thirds of the Member States, given in the same forms.

(c) From the first legislative of the Community, amendments concerning attribution to the legislature of the powers necessary for the establishment of a common market, must obtain the approval of two-thirds of the Member States, also in the same forms.

The preceding provisions do not affect the case provided for in Resolution 6, paragraph 3.