

## Resolution on the European Parliament's guidelines for a draft constitution for the European Union (11 July 1990)

**Caption:** By this Resolution of 11 July 1990, the European Parliament decides to draw up a draft constitution for the European Union on the basis of the main points of the Spinelli draft treaty of 14 February 1984 and in accordance with guidelines laid down by Parliament to take account of the experience of the Single European Act.

**Source:** Official Journal of the European Communities (OJEC). 17.09.1990, n° C 231. [s.l.].

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Doc. A3-165/90

*The European Parliament,*

- having regard to its draft treaty of 14 February 1984,
  - having regard to its resolutions of
    - 18 November 1988 on Community regional policy and the role of the regions <sup>(1)</sup>,
    - 23 November 1989 on the intergovernmental conference, and in particular paragraph 11 thereof<sup>(2)</sup>,
    - 14 February 1990 on the Commission's legislative programme <sup>(3)</sup>,
    - 14 March 1990 on the intergovernmental conference in the context of Parliament's strategy for European Union <sup>(4)</sup>,
    - 16 May 1990 on Economic and Monetary Union <sup>(5)</sup>,
  - having regard to the motion for a resolution by Mr Luster and others on the drafting of a European Constitution (Doc. B3-15/89),
  - having regard to the Single Act, in particular the first paragraph of the preamble,
  - having regard to its resolution of 16 February 1989 on the strategy of the European Parliament for achieving European Union <sup>(6)</sup>,
  - 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 Summit,
  - 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. A3-165/90),
- 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 is more essential than ever for the development of common actions which are stronger and more rooted in popular consent than those carried out hitherto,
- B. whereas the establishment of the European Union is an 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, the development and implementation of practical solidarity between them 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 proving 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, effectively express and represent the identities, values and interests of their peoples, guarantee peace and security and make a proper contribution to the development of less-favoured areas and environmental protection,

E. whereas recent events in Central and Eastern Europe, the process of German unification currently under way and the need to re-design a new European structure in which the Union must be an element of stability, peace, cooperation and the development of democracy, have increased the international responsibilities of the Community of the Twelve and thus require a significant strengthening of its institutional structure,

F. having regard to 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, to be worthy of the name, the Political Union must include 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 and 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, and to respect the principle of solidarity and the inviolability of the external borders of the Community,

H. whereas the definition of the future powers of the Union will have to 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 better undertaken by the institutions of the Union than by the individual Member States,

I. having regard to the need for any amendments to the Treaties adopted at the intergovernmental conference on political union to be consistent with the objectives of a federal type of European Union and, in this spirit, confirming its conviction that it is necessary and a matter of urgency for the Member States' governments to undertake to decide, in the framework of the intergovernmental Conference, to transform the Community into an effective European Union on the basis of the draft constitution drawn up by the European Parliament,

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 the European Parliament, the representative of the will of the people, on the basis of a mandate which it claims for itself once again, is best placed to 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,

K. whereas such a draft constitution should be based on the draft treaty approved by Parliament on 14 February 1984, updated to take account of the experience of the Single European Act,

I. Decides to draw up a draft constitution for the European Union on the basis of the following guidelines and main points of the draft treaty of 1984:

### **The Union**

1. The European Union meets the aspirations of the democratic peoples of Europe to tighten the links established hitherto to create a Europe united by the awareness of a common destiny and by the will to affirm the European identity, and capable of assuming the responsibilities which derive from its economic potential and its political role, especially in the face of the profound changes which are transforming the European continent and require a new foundation based on the principles of freedom, democracy and cooperation; the Union has its basis in a constitutional system inspired by the principles of democracy and

guaranteeing the necessary balance between the Member States and the Union; this system needs to be constructed around the following essential elements:

- the definition of and full respect for fundamental rights and freedoms;
- the definition of the rights and obligations of the Member States vis-a-vis the Union within a federal framework;
- the democratic character of the Union which stems from its citizens and is based on a democratic institutional structure with appropriate and effective decision-making procedures;
- respect for the principle of the primacy of the law;
- 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;
- the precedence of the law of the Union over national law;

2. The purpose of the Union shall be to:

- bring about harmonious social development on the basis of full employment initiatives, the gradual abolition of existing regional imbalances, environmental protection and the scientific and cultural progress of its peoples;
- guarantee the economic progress of its peoples in the framework of a frontier-free economic area with no differences in the treatment of citizens or undertakings in the Member States by increasing the ability of the Member States, citizens and undertakings jointly to adapt their structures and activities to economic changes;
- promote international peace, cooperation, detente, disarmament, mutual security, the free movement of persons and ideas and better international trade and monetary relations;
- contribute to the harmonious and just development of all peoples in the world in order to enable them to emerge from a state of underdevelopment and hunger and fully exercise their political, economic and social rights;

### **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 as contained in the declaration adopted by the European Parliament on 12 April 1989 <sup>(7)</sup> as well as those contained in international agreements to which the Union has acceded; the obligations of citizens and lawfully resident non-Community citizens towards the Union shall be those deriving from the legal system of the Union;

4. The Member States shall have, vis-a-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 be based on institutions directly or indirectly elected by the people and in particular on a legislative and budgetary power consisting of the European Parliament and the Council;

6. Parliament shall represent all the citizens of the Union, by whom it shall be elected, in accordance with a uniform electoral procedure, in general, equal, secret and free elections;

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 apply Community legislation or comply promptly with its decisions;

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, by assigning consultative powers to the Committee of local and regional authorities, 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 election of the President of the Commission and 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 governing body 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, in accordance with the principles laid down in the Draft Treaty establishing the European Union of 14 February 1984;

24. The Union shall conduct common foreign, security and defence policies in all areas where the Member States share essential interests; it shall define the aims of these policies 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, with the participation of the Commission, shall lay down the general guidelines for the Union's security and foreign policies and Parliament shall approve them; the institutions of the Union and the Member States shall implement them within their respective areas of competence;

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 income; this income shall be made up of taxes existing at national level or of appropriate taxes determined by the Union, within the limits fixed in the multiannual financial programme and in accordance with the principle of not increasing the overall fiscal burden on the citizens of the Union;

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 environmental 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 propose 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 responsible bodies of the Member States;

33. Should certain Member States not be prepared to accept this Constitution, provision shall be made for procedures to ensure that it may nevertheless enter into force in the Member States that have accepted it, while at all events safeguarding the close ties between all the Member States;

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II. Instructs its Committee on Institutional Affairs to prepare a draft constitution in accordance with these guidelines and taking into account the results of the intergovernmental conferences;

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

(<sup>1</sup>) OJ No C 326, 19.12.1988, .p.289.

(<sup>2</sup>) OJ No C 323, 27.12.1989, p. 111.

(<sup>3</sup>) OJ C 68, 19.3.90, pp. 70 and 74.

(<sup>4</sup>) OJ C 96, 17.4.90, p. 114.

(<sup>5</sup>) Part II, Item 2 of Minutes of 16.5.1999.

(<sup>6</sup>) OJ No C 69, 20.3.1989, p. 145.

(<sup>7</sup>) OJ No C 120, 16.5.1989, p. 51.