

European Parliament Resolution on the results of the intergovernmental conferences (7 April 1992)

Caption: European Parliament resolution of 7 April 1992 incorporating Parliament's opinion on the Maastricht Treaty. The European Parliament recognises the positive elements included in the Treaty but emphasises its major shortcomings, which it summarises in this resolution.

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A3-0123/92

The European Parliament,

- having regard to the Treaty on European Union signed in Maastricht on 7 February 1992,
- having regard to the European Parliament's proposals submitted to the IGCs ⁽¹⁾,
- having regard to the Final Declaration adopted by the Conference of the Parliaments of the European Community in Rome in November 1990 and submitted to the IGCs,
- having regard to the proposal from President Mitterrand and Chancellor Kohl to establish European Union,
- having regard to the report of its Committee on Institutional Affairs and the opinions of the Committees on Economic and Monetary Affairs and Industrial Policy as well as all its other standing committees (A3-0123/92),

A. whereas the European Parliament defined the essential elements of European Union as being:

- ‘— economic and monetary union with a single currency and an autonomous central bank;
- a common foreign policy, including joint consideration of the issues of peace, security and arms control;
- a completed single market with common policies in all the areas in which the economic integration and mutual interdependence of the Member States require common action notably to ensure economic and social cohesion and a balanced environment;
- elements of common citizenship and a common framework for protecting basic rights;
- an institutional system which is sufficiently efficient to manage these responsibilities effectively and which is democratically structured, notably by giving the European Parliament a right of initiative, of co-decision with the Council on Community legislation, the right to ratify all constitutional decisions requiring the ratification of the Member States also and the right to elect the President of the Commission’; ⁽²⁾

B. whereas the Treaty of Maastricht contains provisions which are inconsistent with regard to the above requirements and whereas although some progress has been achieved on EMU, common policies and citizenship, the institutional system contains shortcomings to the extent that it is doubtful whether the European Union will be able to achieve its proclaimed objectives, especially if its membership is enlarged, and whereas it has not eliminated the parliamentary democratic deficit;

C. whereas the IGCs themselves recognised the insufficiency of their achievements in that they provided in the Treaty for a new IGC in 1996;

D. whereas, at the intergovernmental conference, a temporary mandate was given for further improvement to be made by the end of 1992 and a decision was taken to create a cohesion fund;

In general

1. Urges the national parliaments to ratify the Treaty of Maastricht, and at the same time commit their respective governments to redress at the earliest opportunity its major shortcomings summed up in this resolution in accordance with the final declaration of the Conference of Parliaments of the European Community;

2. Draws attention to the following major shortcomings in the new treaty which:

(a) is based on a 'pillar' structure that:

— leaves the common foreign and security policy outside the European Community Treaty (with, therefore, a lesser role for the Commission and for Parliament and no possibility for legal redress at the Court of Justice) and will confuse the rest of the world with the 'Union' (represented by the Presidency of Council) acting in some areas and the 'Community' (represented by the Commission) acting in others,

— leaves cooperation in the spheres of justice and home affairs outside the European Community Treaty thus escaping effective parliamentary and judicial control in an area in which citizens' rights are directly affected with no democratic procedures for decision-taking in this matter ⁽³⁾;

— provides for defence matters to be delegated to WEU without providing for appropriate parliamentary control of the activities of this organization;

(b) fails to provide any economic policy authority with adequate democratic legitimacy to counterbalance the autonomous monetary policy authority of the European Central Bank and lays down specific procedures for economic policy decisions which derogate in Council's favour from traditional Community procedures;

(c) does not provide a real co-decision procedure, which would have meant that the EP and the Council would have had the same decision-making powers over any legislative act, since the Council is allowed to act unilaterally in the absence of an agreement with the EP, and also applies this procedure only to a limited area;

(d) fails to provide for parliamentary assent for future treaty changes, for the modification of own resources or for additional measures concerning citizenship;

(e) retains procedures requiring unanimity in Council for a very wide range of decision-taking and legislative procedures, including remarkably, two areas in which the procedure of Article 189b applies, and areas of vital interest to the Community such as many aspects of social and environmental policy and taxation;

(f) implies, with regard to the ACP-EEC Convention, that decision-making will continue to be largely intergovernmental, with the result that in the field of development cooperation Parliament will exercise different powers according to whether it is dealing with ACP-EEC matters, Asia, Latin America or the Mediterranean;

(g) contains altogether such a variety of legislative procedures, mostly with variants, that overall transparency and clarity is lacking, and conflict over legal bases is inevitable;

(h) provides for only a limited increase in the scope of Community action in the field of social policy, even among the 11 Member States committed to making progress in this field, particularly where issues to do with social security and the nationals of third countries are concerned, these matters still being subject to a unanimous vote by the Council and the right of association which is excluded from the protocol; but welcomes the fact that the social dimension has been strengthened by the agreement of the 11 Member States on social policy on the basis of Community law;

- (i) does not stipulate that members of the Committee of the Regions must be democratically elected representatives of regional or local bodies;
- (j) introduces a provision allowing Council unilaterally to repeal international agreements to which both Parliament and Council had previously given their assent, and to adopt sanctions without Parliament's approval;
- (k) contains in the Protocols, annexed to the Treaty, provisions that set out in detail the principle of equal treatment laid down in Article 119 of the EEC Treaty;
- (l) fails sufficiently to develop the concept of citizenship and protection for fundamental rights and freedoms, and, in particular, fails to institute a charter of fundamental rights and freedoms on the basis of Parliament's resolution of 12 April 1989 (4) adopting the Declaration of fundamental rights and freedoms;
- (m) fails to address the issue of the classification and hierarchy of Community acts, thus maintaining the lack of distinction between legislative and executive acts, or the related issue of the procedures for delegating implementing measures to the Commission (commitology procedures), which remain unsatisfactory;
- (n) in budgetary matters, formally incorporates the principle that not all expenditure should be included in the budget; maintains the imbalance in relation between the two arms of the Budgetary Authority, notably by granting the Parliament, with regard to own resources, no more than a right of consultation and by maintaining the obsolete distinction between compulsory and non-compulsory expenditure; fails to incorporate any of the procedural advances which have been made in recent years;
- (o) keeps the EDF outside the EC budget, contrary to the wishes of Parliament and the Commission;
- (p) fails to merge the EAEC and ECSC treaties with the EEC Treaty or even to adjust their legislative procedures in order to bring them into line with the EEC Treaty;
- (q) fails to adjust the number of members of the European Parliament to take account of German unity;
- (r) fails to lay down specific provisions concerning energy, civil protection and tourism, although these are now added to the list of Community activities specified in Article 3 of the EEC Treaty;
- (s) fails to modify the procedures for appointing members of the Court of Justice and the Court of Auditors in order to involve confirmation by the European Parliament and enhance their independence;
- (t) fails to recognize Parliament as having equivalent rights to initiate and participate in proceedings before the Court of Justice as the other political institutions and the Member States of the Community;
- (u) ought to have stated that the Council, when enacting legislation, will meet publicly;

regrets that only the Council has the power to reject or approve the agreements between management and labour and stresses that the position of the European Parliament may not be weakened in relation to the other institutions; emphasizes, therefore, that any amendment by the Council to the agreements between management and labour must be put through the Community legislative procedure;

deplores the use of a protocol to a treaty reforming the institutions of the European Community to deny European citizens the right to receive an opinion on the interpretation of a point of law from the European Court of Justice in the case of the 'Barber Judgment', since such use of retrospective legislation potentially places the executive above the law;

3. Recognizes, nevertheless, the positive elements included in the new Treaty, all of which were requested before the IGCs by the EP, notably:

- (a) the commitment to establish economic and monetary union with a single currency and central bank;
 - (b) the wider scope of Community competences with the addition of new titles and unities to the EEC Treaty concerning, notably, consumer protection, public health, culture, education, industry, development and trans-European networks;
 - (c) the inclusion in the Treaty of the principle of subsidiarity in defence of national and, especially, regional powers;
 - (d) the commitment to a common foreign and security policy – though Parliament regrets that this is not covered by the institutional Community system and therefore by Parliament's supervision and political initiative – including, a common defence policy;
 - (e) the enhanced commitment to the principles of economic and social cohesion, ecologically sustainable growth, and a high level of employment;
 - (f) the enlargement, albeit small, of the domain of qualified majority voting;
 - (g) the new procedure for the appointment of the Commission which involves the European Parliament and which links the term of office of the Commission to that of Parliament;
 - (h) the extension of the legislative powers of the European Parliament in certain areas;
 - (i) the extension or confirmation of certain powers of control of the European Parliament and certain obligations of the Commission regarding the implementation of the budget, the establishment of committees of inquiry, the right of petitions, the recognition of sound financial management as a formal criterion for budgetary control;
 - (j) the recognition of a right of initiative for the European Parliament, albeit limited;
 - (k) the citizenship provisions, in particular those providing for voting rights in the Member State of residence for European and local elections;
 - (l) the obligation on the Member States to prosecute infringements of the Community's financial interests and to coordinate their activities, and the consequent need to promulgate an EC-wide judicial basis to harmonize national judicial systems in this area;
 - (m) the granting to the Court of Justice of the right to impose penalties on Member States failing to comply with its judgements;
 - (n) the creation of a consultative Committee of the Regions, on which according to the Maastricht Treaty, the regional and local bodies of all the Member States are to be jointly represented;
 - (o) provisions encouraging cooperation between national parliaments and the European Parliament without creating new superfluous institutions;
 - (p) the strengthened role of management and labour at Community level in the context of the social dialogue;
4. Also welcomes other elements introduced into the Treaty, including the appointment by the European Parliament of a European Ombudsman and consular protection for Community citizens in third countries;
5. Regrets the attitude of the current British government that led to special provisions for the UK regarding monetary union and social policy; welcomes, however, the fact that the other Member States were not

willing to be blocked by the negative attitude of a single national government; expects that the opt-out clause regarding EMU will, in practice, never be used and considers that the derogation from parts of social policy is not sustainable and should be rectified as soon as possible;

As regards economic and monetary union

6. Welcomes the historic decision taken by the Maastricht European Council to introduce a single currency by 1999 at the latest and by 1997 at the earliest, a decision which implies the conduct of a monetary policy and the establishment of an independent European System of Central Banks, and urges the governments to coordinate their budgetary policy efforts to the utmost, with a view to minimizing the adverse effects, and inability inherent in a lengthy transitional period, since the implementation of the convergence programmes will have an undesirable economic and social impact, in particular in certain Member States;

7. Regrets that EMU appears to be exclusively geared to stability: while acknowledging the importance of stability, calls for deflationary effects to be prevented when Member States not yet meeting the strict convergence criteria gear their policy to those criteria; calls for the objectives of responsible growth and a high level of employment and social protection to be taken equally seriously, even though there is no provision as yet in the Treaty for specific binding measures in this regard;

8. Deplores the marked similarity between the management structure chosen for the European Monetary Institute and that of the Committee of Governors and the EMCF; this is not sufficient to ensure the independence of the EMI *vis-à-vis* the current central banks and *vis-à-vis* national governments;

9. Deplores the fact that, when economic policy-making takes effect, the scope for parliamentary influence will suffer at national and European level, since national parliaments will lose their ability to discipline national governments because the Council will act by a qualified majority, while the European Parliament will only be notified after the event; is shocked by the provision that recommendations to individual Member States will normally not be disclosed, even to the parliament of the Member State concerned;

10. Regrets that the blueprint for economic policy outlined in the Treaty makes redundant the democratic control exercised hitherto by the national parliaments; such a loss, whether direct or indirect, is evident in the following areas:

(a) the economic policy guidelines traditionally established by democratic control of their budgets;

(b) safeguard measures *vis-à-vis* third countries;

(c) financial assistance from one Member State to another;

(d) the right to ask their governments to make a recommendation in the areas referred to in Article 109d of the EC Treaty;

this loss has not been offset by transferring equivalent democratic control to the European Parliament;

11. Calls, with a view to reducing this democratic deficit, and prior to being in a position to include the abovementioned issues in the forthcoming amendments to the Treaty, for an interinstitutional agreement between the Council, the Commission and the European Parliament on the basis of which these institutions can cooperate with Parliament, particularly in the areas mentioned in the preceding paragraph and in the following areas:

(a) the penalties imposed by the Council on a Member State which fails to comply with a decision concerning the reduction of an excessive deficit;

(b) international agreements concerning monetary or foreign exchange regime matters;

(c) the appointment of the chairman, the vice-chairman and the other members of the Executive Board of the European Central Bank;

(d) the Council directives or decisions laying down the terms and conditions for mutual assistance for a Member State threatened with balance of payments difficulties;

(e) the abrogation of a derogation granted to a Member State concerning the introduction of the ECU as the single currency;

(f) the assessment of convergence programmes;

12. Demands that, in order to tighten up Article 109g on the status of the ECU and to facilitate the conversion of the ECU basket into the ECU single currency, a large number of Community initiatives are taken during the first stage of EMU;

13. Deplores the fact that the Maastricht European Council made no provision for the decisions concerning tax harmonization to be taken by a majority in the Council in co-decision with Parliament. Considers it strange that Article 115 was revised rather than simply deleted. Also regrets that the contribution of the new cohesion fund to financing trans-European networks has been limited under Article 130 d of the Treaty to transport infrastructures instead of being extended to cover telecommunications and energy infrastructures;

14. Welcomes the inclusion of Title XIII on industry but considers that the only way to compensate for the weakness of European industry would be to endow the Community with powers and financial resources equal to the lack of overcoming the handicaps in order to face up to the intensification of international competition. Also regrets that the decisions to be taken by the Council on the basis of these articles remain subject to the unanimity rule, and that Parliament's role is confined to delivering a non-binding opinion;

Conclusions

15. Expresses its determination, as with the Single European Act ⁽⁵⁾ to:

- exploit to the very limit the possibilities offered by the Treaty of Maastricht;
- to pursue its endeavours to obtain a democratic and effective European Union of federal type;

16. In this light:

(a) invites the national parliaments, when ratifying the Treaty, to call on their respective governments:

- to prepare the next IGC in order to eliminate the shortcomings of the Treaty of Maastricht in particular as regards the remaining democratic deficit and the efficiency of the decision making process;
- to undertake not to make use in Council of the provisions of paragraph 6 of Article 189b which allows Council to act unilaterally in the event of conciliation failing to reach agreement, and not to adopt in Council any legislative act which Parliament has earlier rejected by absolute majority;
- to relaunch the strategy worked out at the Conference of the Parliaments of the Community, with particular regard to the need to transform the network of relations between the peoples and member countries into a European Union on a federal basis based on a draft constitution drawn up by the European Parliament in cooperation with the national parliaments;

(b) invites the Council and the Commission, as in the past, to enter into interinstitutional agreements with the Parliament to ensure that new treaties are applied in the most constructive and democratic way possible;

(c) invites the governments of the Member States to involve Parliament, before the European Council meeting in Lisbon, in the designation of the President and members of the next Commission of the European Communities, whose term of office will take effect on 1 January 1993 and which will exercise the powers conferred upon it by the Maastricht Treaty; declares here and now that it will consider the submission of the Commission's programme of work as an opportunity to pass a vote of confidence or no confidence in the Commission;

(d) invites the Commission, wherever legally possible, to choose for its proposals legal bases that require the co-decision procedure and expects the Commission to withdraw its proposals where, under that procedure, Council and Parliament fail to reach agreement in the conciliation committee or where, under the consultation and cooperation procedures, Parliament rejects a text;

(e) invites the Council to make use of the 'passerelle' provided for in Article K.9 of the Treaty of Maastricht and thereby transfer matters concerning justice and home affairs to the field of competence of the European Community;

(f) instructs the responsible parliamentary organs to prepare a reform of Parliament's working methods that will enable it to make full use of the new procedures and to take the necessary measures within their field of responsibility, bearing in mind the obligation imposed by Article F (3) of the Maastricht Treaty for the Union to 'provide itself with the means necessary to attain its objectives and carry through its policies';

(g) undertakes to begin already preparations for a new revision of the treaties which should aim to eliminate the shortcomings of the Treaty of Maastricht; believes that many of the issues must be addressed before the IGC scheduled in 1996, in particular because treaty amendments are necessary:

— to adjust the number of members of the European Parliament for German unity;

— to allow the accession of new Member States which requires a significant improvement in decision-making procedures, notably as regards Parliament's right of co-decision and the functioning of Council;

— to remedy the democratic deficit;

(h) stresses that it will not be able to agree to the accession of new Member States unless further reforms are adopted in addition to the Maastricht Treaty, in particular concerning the elimination of the democratic deficit and the consolidation of the principles and aims on which Political Union is based;

(i) instructs its committee responsible to complete its preparation of a draft constitution as set out in its resolution of 11 July 1990 on the European Parliament's guidelines for a draft constitution for the European Union ⁽⁶⁾ through procedures involving the national parliaments as provided for in the Final Declaration of the Conference of the parliaments of the European Community of November 1990 in Rome;

17. Instructs its President to forward this resolution and the report of the Committee on Institutional Affairs to the Commission, the Council, the Court of Justice, the Court of First Instance, the Court of Auditors, the Economic and Social Committee and the governments and parliaments of the Member States.

⁽¹⁾ Notably its resolutions of 11 July 1990 (OJ No C 231, 17.9.1990, p. 97), 22 November 1990 (OJ No C J24, 24.12.1990, p. 219), 16 May 1990 (OJ No C 149, 18.6.1990, p. 66) and 10 October 1990 (OJ No C 284, 12.11.1990, p.62).

⁽²⁾ Its abovementioned resolution of 11 July 1990, paragraph 3.

⁽³⁾ However, this pillar cannot remove from the Community the competences that it already has in this field, notably those accepted in the White Paper on completing the internal market (paragraphs 24-31 and 47-56) and note provided for in the EEC Treaty (Articles 100a and 235).

⁽⁴⁾ OJ No C 120, 16.5.1989, p. 51.

⁽⁵⁾ Resolution of 16 January 1986, OJ No C 36, 17.2.1986, p. 142.

(⁶) OJ No C 231, 17.9.1990, p.91.