

European Communities

EUROPEAN PARLIAMENT

Working Documents

1982-1983

21 June 1982

DOCUMENT 1-305/82/B

REPORT

drawn up on behalf of the Committee on
Institutional Affairs

on the European Parliament's position concerning
the reform of the Treaties and the achievement
of European Union

EXPLANATORY STATEMENT

Coordinating rapporteur: Mr SPINELLI

EXPLANATORY STATEMENT

1. Achieving European Union has always been the ultimate aim of the European Communities. The declaration of Robert Schuman of 9 May 1950 called for the establishment of the ECSC as the first step towards a European federation, indispensable for preserving peace. The preambles of the Treaties refer to the founding of 'an ever-closer union among the peoples of Europe.' The objective of achieving a European Union has constantly been reaffirmed since then, notably, in the declaration of the Conference of Heads of State and Government in Paris in 1972.

2. The existing Communities have achieved impressive, but limited progress. They have replaced the shifting alliances of the past with systematic and binding cooperation among its Member States and achieved peace between former enemies. They have established a common market with a common external tariff. They have set up common institutions and a joint administration. A certain amount of economic harmonization has taken place with a number of joint policies which include a common agricultural policy which, in spite of its faults, guarantees European food supplies. In addition, cooperation among the Member States has grown up in areas not foreseen by the Treaties, such as a certain degree of political and monetary cooperation. One must also mention the direct election of the European Parliament by universal suffrage - the only example in history of international elections to a supra-national body. The importance of the Community is demonstrated by its successive enlargement to new Member States.

3. However, the current structure and competences of the Communities are insufficient to achieve a real European Union able to deal with the problems and meet the challenges of our time. It was recognized right from the beginning that the Community was just a first step, and many proposals have

been made over the years to go further. The collection of texts made by the Committee on Institutional Affairs testifies to this. One can mention in particular the discussions, the Hallstein proposals, the Werner report, the Vedel report, the 1975 reports of Parliament, Commission, Court and Mr Tindemans, and successive declarations of intent of European Council meetings. These proposals always become ensnared in diplomatic tangles, and little real progress was made.

4. The current structure of the Community is undemocratic. Although there is a Parliament elected by the people, Community legislation can be adopted against its will. Power is concentrated in the hands of the Council which has not only kept in its hands the legislative powers given to it by the Treaties, but has also become an executive body by encroaching on the role of the Commission. Each minister being responsible to a separate national Government, collective control and democratic accountability of the Council as an organ is impossible. Since the so-called Luxembourg Compromise of 1965 it has evaded its duty under the Treaties by avoiding to take a vote on almost any subject until there is unanimous agreement among its members. Its character has become less and less that of a Community institution and more and more like an intergovernmental conference, in which decisions are often delegated to 'experts' and national officials sitting in coreper and its working groups. In this way even minor decisions can take years of negotiations, reducing Community action to the lowest common denominator. Europe has become an uncontrolled collusion of bureaucrats, technocrats and diplomats.

5. Attempts to overcome the paralysis of the Council by setting up a Super-Council of Heads of State and Government ('the European Council') has failed. As an intergovernmental body, the European Council suffers from many of the same defects as the Council, and is often used by the latter as a kind of appeals court. Although certain steps forward have been made possible by decisions of the European Council, it has not become - and by its nature cannot become - the motor for integration that had been hoped for.

6. The 'constitutional' bases of the Communities are ambiguous. Three basic Treaties, one Merger Treaty, two Accession Treaties and various interinstitutional agreements and joint declarations which try to fill the gaps, are a recipe for confusion and conflict, all the more so as many provisions are not respected. In addition, the development of European political cooperation, the establishment of the European Council and the development of the European Monetary System has taken place. To quote Gaston Thorn:

'...on the fringes of the Treaties, if not entirely outside them. These initiatives were not inspired by an overall view but rather by a pragmatic approach, opportunities being seized as they arose. Gradually, an exciting grey area emerged. But, because they drew on different sources, the rules governing it did not dovetail with the initial enterprise. Developments of this kind can be tolerated, indeed actively encouraged, for a while, because they allow progress to be made on specific issues and serve as a testing ground for new formulae. But if they proceed unchecked, if they are not brought under the umbrella of the Treaties, they become dangerous: the imprecision of pragmatic rules tends to triumph over the institutional mechanisms and orderly procedures provided for by the Treaties. To my mind the time has come to review these random developments and put Europe's house in order. We must know where we stand before we move on to a new phase of integration...'¹

7. The lack of progress of the Community combined with the international economic crises of the 1970's and 80's led to the failure of attempts to develop within the framework of Economic and Monetary Union the necessary common policies to 'promote throughout the Community the harmonious development of economic activities' (Article 2, EEC Treaty).

¹ Speech on the occasion of the 25th anniversary of the signing of the Treaties, 29 March 1982

In the absence of a European approach, national options have been taken, the cohesion and the solidarity of the Community has been shaken, and the latent temptation to 'go it alone' has reappeared. So-called 'alternatives' have been proposed in which various forms of intergovernmental cooperation would replace common policies - agreed and operated by the Institutions - by various sectoral areas of cooperation in which those governments that are interested could take part. Such an approach, apart from being fragile and shortlived, would soon divide the Community into unequal and unstable groups of states and would reduce Europe's economic and political weight in the world, notably vis-à-vis the super-powers. Europe would be only one step away from returning to the old policies of shifting alliances from which our continent has suffered so much in its history.

8. There is, thus, an urgent need to take a decisive and irreversible step forward in European integration. The current economic and political difficulties cannot be used as an excuse for stagnation, but on the contrary render progress necessary and urgent. The current economic and political difficulties can be compared with those that led Europe towards the path of unity in the 1940's and 50's (economic crises, East-West tension, changes in the political and economic equilibrium with the USA) to which new challenges must be added (environment, Third World, new economic competitors). These economic and political challenges cannot be resolved by the Member States separately and are thus a stimulus for unity. Furthermore, the conflicts between the Member States remind us that the big crises in European integration in the past have often been followed by major steps forward (for example, the failure of the European Defence Community was followed by the Messina Conference and the signing of the EEC and EAEC Treaties).

9. The forthcoming enlargement of the Community is equally a further reason to strengthen its cohesion and institutional framework. The difficulties of the existing structure when

applied to ten Member States can only be greater if applied to 12.

10. The European Parliament, in view of its legitimacy stemming from its direct election by the people and its representativity, since it includes both governmental and opposition parties from all Member States, is the institution that is most appropriate to take the initiative in proposing Treaty changes defining clearly the tasks, powers and institutions of a European Union. In doing so, it must mobilize all the political forces - be they organized or spontaneous - which refuse to accept the decline of the Community. The European Parliament therefore decided, on 9 July 1981:

- (A) to take full initiative in giving fresh impetus to the establishment of European Union;
- (B) to create a permanent committee on institutional problems, as from the second half of the term of office of the European Parliament, whose task it will be to draw up a modification to the existing Treaties;¹

No other institution of the Community has taken this task upon its shoulders. The Commission, during its work on the 'Mandate of 30 May' concentrated on the current crises (important as they are) without attempting any general reform. The Council is pursuing discussions on the basis of the initiative of the German and Italian Governments (Genscher-Colombo initiative) which suggests possible developments that practically do not modify, for the time being, the Treaties. Only the Parliament has the courage to take up the fundamental questions, reviewing the Treaties themselves. A new Treaty is necessary because the existing Treaties - even if their working is improved - do not foresee the tasks, competences and powers that are necessary.

¹See complete text attached.

11. Of course, attempts currently underway to achieve a better functioning of the Institutions within the ambit of the existing Treaties should be tenaciously pursued. There is nothing contradictory in the 'small steps' approach and the new initiative of Parliament which will not bear fruit for at least another two years.

12. However, the European Parliament will only be able to give a political significance to the 1984 European elections and to justify the hopes placed in it if, before the elections, it will have drafted a project of a new Treaty to submit to the Member States for the future political and economic development of Europe. This proposal must be based on a wide consensus of political forces. The 1984 elections will be an opportunity to mobilize public support in favour of them.

13. Parliament's objective must be to enable European integration to make a qualitative leap forward: that is to say a European Union that permits effective action, both internally and towards the outside, that can overcome internal contradictions.

14. The work of Parliament and its Committee on Institutional Affairs should take place in three phases. In the first phase, through the report and draft resolution presented here, Parliament will define the guidelines for the reform of the Treaties on which the Committee is to work. On the basis of this, the committee will elaborate the specific features of the reform in resolutions defining the tasks, the powers and the institutional structure of the European Union, as well as any transitional measures required. During this second stage the committee will ensure that the broadest possible consultation takes place with leading representatives of opinion in all Member States, and states applying for membership. The committee will also take appropriate action to draw the attention of the media and public opinion to its work. The third stage will consist of the drafting of precise Treaty articles on the basis of the resolutions adopted by the European Parliament at the end of the second stage. These

will then be voted on in plenary session, hopefully in October/November 1983 and sent directly for ratification to the appropriate constitutional authorities in each Member State.

15. In the attached draft resolution, the committee has defined guidelines for the tasks, powers, institutions and finances of the Union, as well as for transitional and revision measures, which, if adopted, will serve as the basis for the committee's work in Phase Two. The committee felt that it would be unwise to define these guidelines in too much detail at this stage, but it has, nevertheless, given a clear indication of the direction in which it hopes to move.

16. The committee emphasizes the historical context in which the tasks of the Union will be formulated. It is important to be fully aware of the magnitude of the tasks now facing the democratic nations of Europe. Our peoples must be given a growing awareness of the common nature of these tasks and a growing sense that their own country, with its institutions, laws and customs should form part of a union of democratic nations committed to respect for democratic freedoms and human rights, and to promoting between them common action and justice in all spheres.

The distribution of tasks between Member States and the Union must be based on the 'principle of subsidiarity' (a term the translation of which is difficult in some languages): the Union will undertake only - but all - those tasks which can be carried out jointly more efficiently than by the Member States individually, or which are essential to the existence of the Union.

17. This implies that the Union should possess appropriate powers to ensure compatibility and convergence among the policies of the Member States and the development of common policies not only in those areas laid down by the existing Treaties (which themselves need, in most cases, further strengthening and development) but also in a number of new areas including those in which intergovernmental cooperation

among Member States has already tentatively begun. These areas are outlined in the draft resolution.

18. The Institutions of the Union shall be based on a development of the existing Institutions of the Community. These must be adjusted in such a way as to allow them to carry out effectively and democratically the tasks attributed to the Union. This implies that the competences and the distribution of powers among them will have to be altered, although each one will continue to be a vital element in the European edifice.

The Commission will be the executive body of the Union. Its role will thus be pivotal and to this end, considerable modifications must be made concerning its appointment, its internal structure and its responsibilities.

Legislative and budgetary powers, as well as the power to appoint the Commission and to ratify treaties, will be shared between Parliament and the Council. The current predominance of the Council will cease. Instead, they will act more as separate chambers of the budgetary and legislative authority, with the Council representing on the one hand the people and on the other the Member States. Parliament will exercise political supervision of the executive. The exact distribution of powers between them can be defined in such a way as to differentiate between sectors. However, the unity of the Institutions of the Union must be guaranteed.

The Court of Justice, which in some ways has been the most successful of the Community Institutions, will retain its central position in a system based on law and the separation of powers. Its existing powers should be strengthened and it should be given competence to give rulings on cases of violation of fundamental human rights. All citizens of the Community should have direct access to the Court within the limits of its powers.

19. The finances of the Union will be based on an extensive development of current 'own resources' of the Community. Every few years, tax resources and other revenues shall be apportioned between the Union and the Member States according to the needs

arising from the tasks and obligations of the Union. Within the limits of this apportionment, the Union and the Member States shall be autonomous in assessing their resources and drawing up their budgets.

20. The Community patrimony (acquis communautaire) shall be the point of departure of the Union, and shall remain in force unless and until any of it is altered by legal acts of the Union.

21. A procedure must be foreseen for revising the Treaty establishing the European Union. Various procedures can be foreseen according to the extent of the revision proposed and to the stage reached in the development of the Union.

CONCLUSION

22. In laying down these guidelines, Parliament is laying down the direction in which it wishes the Community to develop, and the shape of the European Union that it wishes to see established. Details and precise formulations will be worked out in the coming phases. Nevertheless, it is clear that the road towards European unity will not come to an end with the adoption of Parliament's project, but will be a continued historical process. No final treaty or constitution will be laid down forever. There will always be room for further progress and improvement.