

EUROPEAN PARLIAMENT

Working Documents

1982-1983

13 January 1983

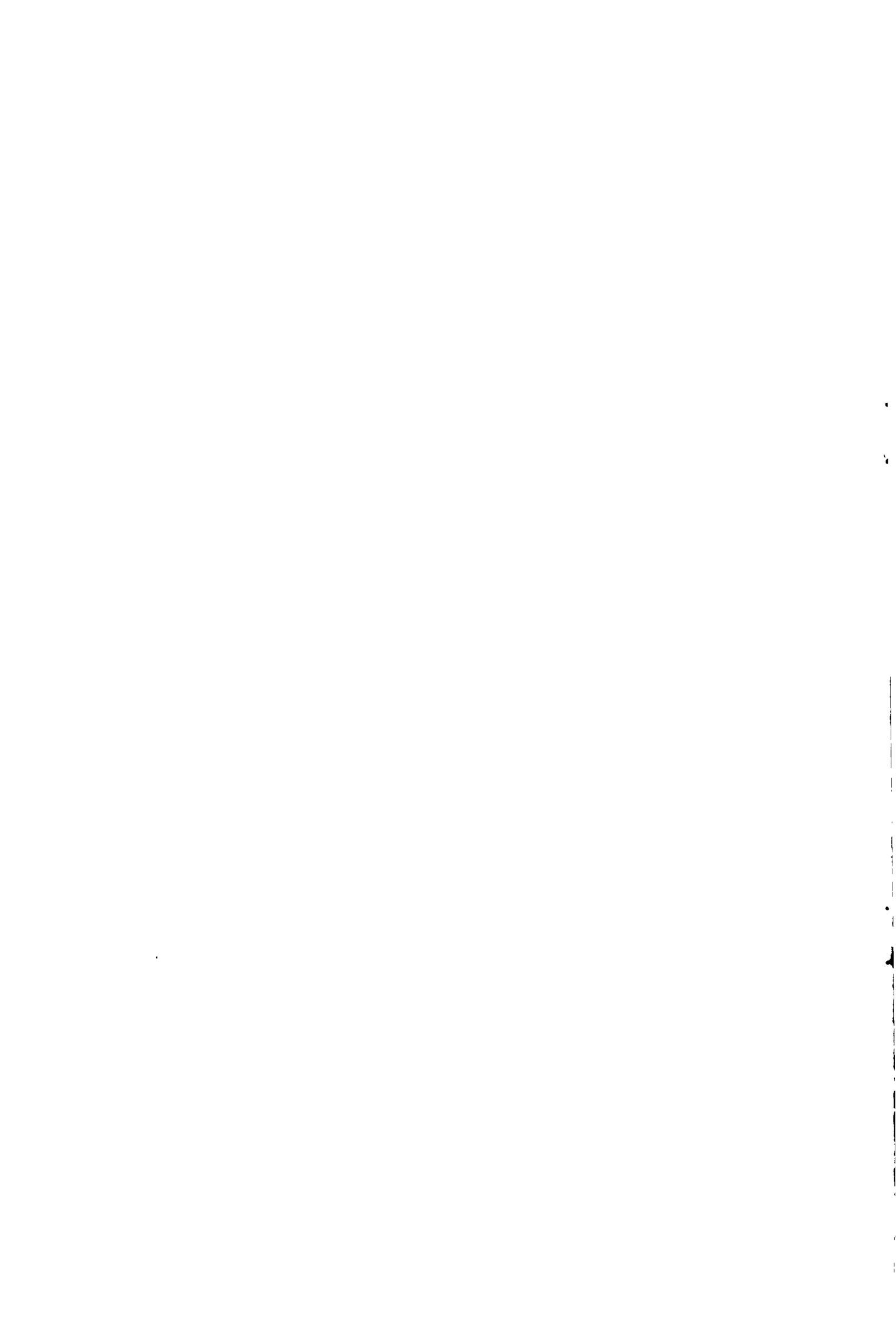
DOCUMENT 1-1143/82

MOTION FOR A RESOLUTION

tabled by Mr CAPANNA, Mr BLANEY, Mr VANDEMEULEBROUCKE
and Mr CASTELLINA

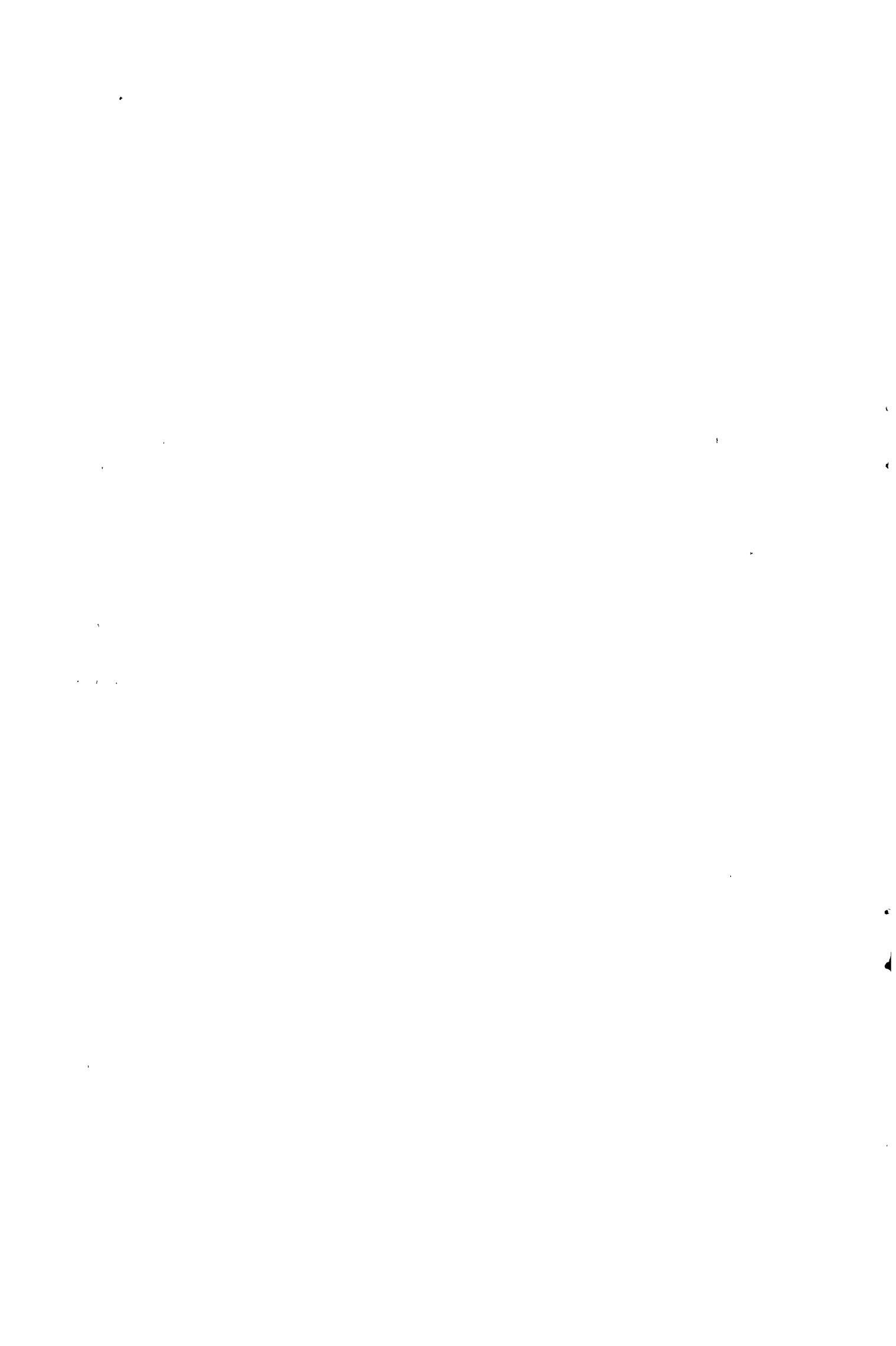
pursuant to Rule 47 of the Rules of Procedure

on the imprisonment of Edward Kelly

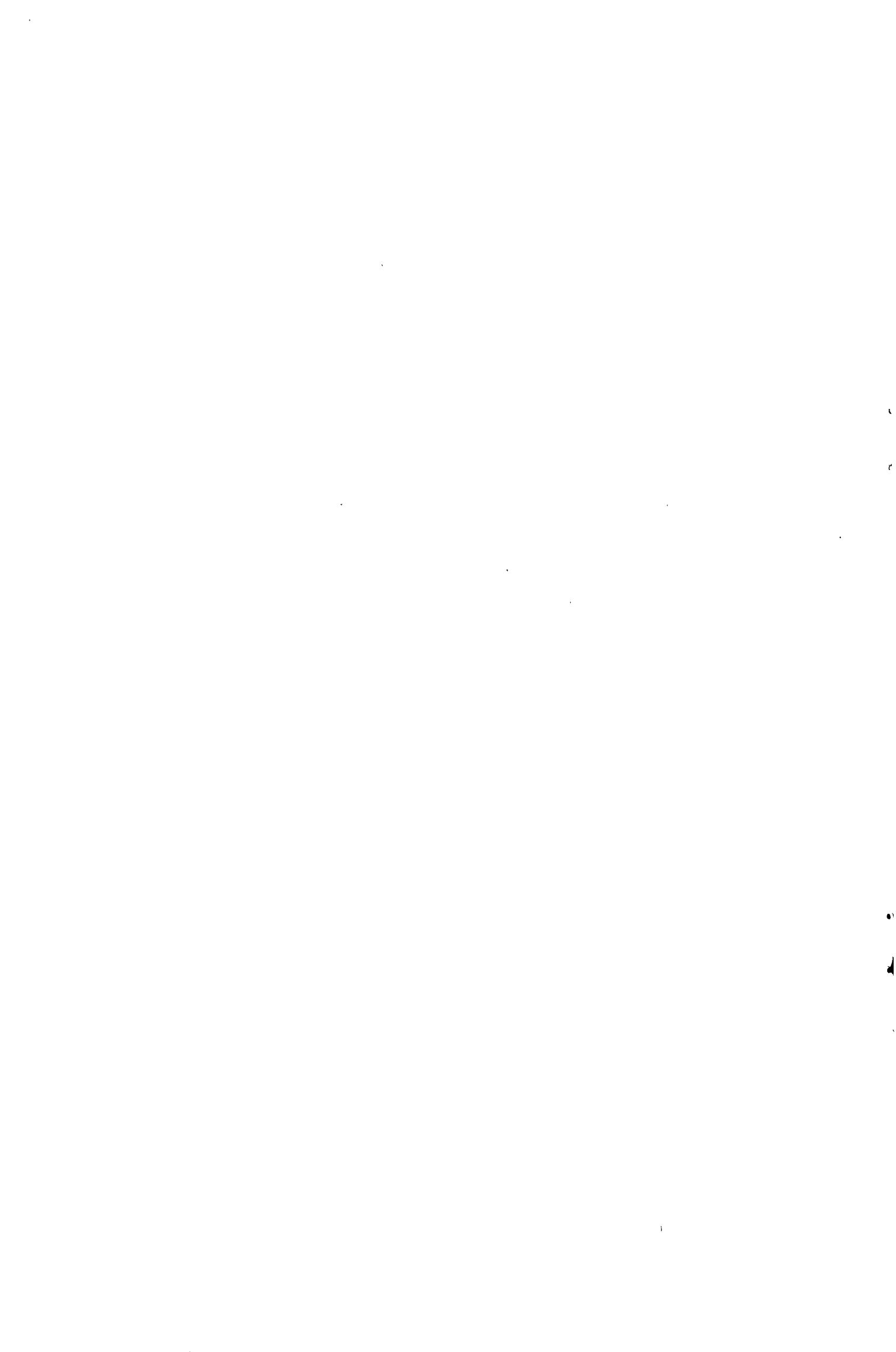


The European Parliament,

- A. having regard to the judgment delivered on 29 October 1982 by the Supreme Court of the Republic of Ireland upholding the sentence of twelve years' imprisonment passed on Edward Nicholas (Nicky) Kelly in December 1978 for his alleged part in the robbery of a mail train in Sallins (Ireland) on 21 March 1976,
- B. having regard to the serious doubts expressed by democratic organizations and organizations for the protection of civil liberties such as the Irish Council for Civil Liberties and Amnesty International as to the way in which many members of the Irish Republican Socialist Party, including Edward Kelly, were interrogated during the police investigations into the robbery during the first week of April 1976 and in particular to the following facts:
- several of those interrogated complained of serious ill-treatment and brutality during questioning by members of the Special Branch and their testimonies have been confirmed by doctors who were asked to verify the tortures to which those persons had been subjected;
 - the physical condition of one of those arrested proved to be so serious that the High Court intervened and ordered him to be released immediately and admitted to hospital without further interrogation;
 - in the case of some of those arrested, the periods of detention in custody exceeded the maximum permitted by law and serious doubts were raised in the Irish press also as to the legality of the subsequent re-arrest of persons released at the expiry of the prescribed period;
 - to avoid further torture, Edward Kelly and two other persons arrested, Osgur Breathnach and Bernard McNally, declared that they had taken part in the robbery;
 - the methods used by the police and what the Irish press described as the dubious nature of the procedure for arrest followed, as well as the general atmosphere of intimidation towards friends and relatives of those arrested and members of the IRSP on the days on which interrogations took place gave rise to the supposition that the police were 'framing' those arrested in order to find a culprit at any cost;



- C. having regard to the fact that Osgur Breathnach and Bernard McNally were subsequently sent for trial on the sole basis of a 'confession' signed whilst they were detained in custody,
- D. having regard to the fact that at the end of the trial, in December 1978, the three accused were sentenced to between nine and twelve years' imprisonment and that Edward Kelly was sentenced in his absence,
- E. having been informed that Osgur Breathnach and Bernard McNally appealed and were acquitted in May 1980 by the Court of Appeal and released from prison forthwith,
- F. having regard to the fact that in February 1981 the reasons for their acquittal on appeal were made known, inter alia that:
 - in the case of Osgur Breathnach, the Court held that it had not been proved beyond all reasonable doubt that the admission of guilt which he had signed was voluntary and that in particular whilst under arrest, he had been refused 'without any justification' the opportunity to speak to his legal adviser;
 - in the case of Bernard McNally, oral statements extorted from him whilst under arrest after long periods of interrogation lasting for up to 44 hours without a break should not have been admitted in evidence;
- G. having been informed that Edward Kelly's state of physical and mental health is giving serious concern and that he has been diagnosed as suffering from 'anxiety neurosis' since after the interrogations,
- H. having been informed that an organization (the IRA) other than that to which Edward Kelly belonged claimed responsibility for the robbery in the spring of 1980,
- I. having been informed that Edward Kelly has appealed and that his request has been ignored,



1. Requests the President of the Republic of Ireland to use his prerogatives in accordance with the provisions laid down in the Constitution of that State and to pardon Edward Kelly, so as to comply with the judgments of the courts which acquitted his two co-defendants;
2. Requests its President to forward this resolution to the Council of Ministers meeting in political cooperation and to the President of the Republic of Ireland.

