

Report of the EP Committee on Institutional Affairs on the Constitution of the European Union (9 February 1994)

Caption: On 9 February 1994, the Belgian MEP Fernand Herman, on behalf of the Committee on Institutional Affairs for which he is rapporteur, submits a draft Constitution of the European Union to the European Parliament.

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Second report of the Committee on Institutional Affairs on the Constitution of the European Union (9 February 1994)

Rapporteur: Mr Fernand HERMAN

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By letter of 23 January 1990 the Committee on Institutional Affairs requested authorization to draw up a report on the European Constitution.

At the sitting of 2 April 1990, the President of the European Parliament announced that the committee had been authorized to report on this subject and that the Committee on Foreign Affairs and Security and the Committee on Budgets had been requested to deliver opinions.

On 2 August 1989 Mr Luster and others had tabled a motion for a resolution pursuant to Rule 45 (formerly Rule 63) of the Rules of Procedure, on the drafting of a European Constitution (B3-0015/89), which had been forwarded on 11 September 1989 to the Committee on Institutional Affairs as the committee responsible and the Committee on Culture, Youth, Education and the Media for its opinion.

At its meeting of 14 July 1993 the committee appointed Mr Herman rapporteur to replace Mr Oreja Aguirre, who was resigning as Member of the European Parliament.

At the sitting of 11 July 1990 the European Parliament adopted the resolution contained in the first interim report by Mr Colombo (A3-165/90). On 12 December 1990 it adopted the resolution contained in the second interim report also by Mr Colombo (A3-301/90).

At its meetings of 20-22 September, 7/8 October, 14/15 October, 23/24 November, 2/3 December 1993 and 24 January 1994 the committee considered the draft report.

At the meeting of 2/3 December 1993 it adopted the draft Constitution. At the meeting of 24 January 1994 it adopted the motion for a resolution by 15 votes to 5, with 5 abstentions in a roll-call vote requested by the Green Group.

The report was referred back to the Committee on Institutional Affairs pursuant to Rule 129 of the Rules of Procedure on 9 February 1994.

The Committee on Institutional Affairs reconsidered the report at its meeting of 9 February 1994 and decided to submit a second report.

On the same date it adopted the motion for a resolution by 21 votes to 6, with 5 abstentions.

The following took part in the vote: Gil Robles, chairman; Bru Puron, vice-chairman; Herman, rapporteur; Aglietta, Barzanti (for Planas Puchades), Bonde (for Speroni), Bourlanges (for Beiroco), Brok (for Luster), Boissière, Brand (for Prag), de Bremond d'Ars (for Spencer), Cassanmagnago-Cerretti, Cheysson, Cravinho, David, De Giovanni, De Gucht, Duverger, Ephremidis, Ferrer (for Lagakos), Ford, Froment-Meurice, Gutiérrez Diaz, Hänsch, Mantovani (for Lamanna), Marinho, D. Martin, Metten, Musso, Pinton (for Pannella), Thyssen (for Valverde) and Von Wechmar.

The report was tabled on 9 February 1994.

The deadline for tabling amendments is 10 a.m. on Thursday, 10 February 1994.

A. Motion for a resolution

Resolution on the Constitution of the European Union

The European Parliament,

- having regard to its resolution of 11 July 1990 on the European Parliament's guidelines for a draft constitution for the European Union¹,
 - having regard to its resolution of 12 December 1990 on the constitutional basis of European Union²,
 - having regard to the Final Declaration of the Conference of Parliaments of the European Community of 30 November 1990,
 - having regard to the result of the referendum held in Italy on the occasion of the 1989 European elections on the powers of the European Parliament,
 - having regard to its resolution of 20 January 1993 on the structure and strategy for the European Union with regard to its enlargement and the creation of a Europe-wide order³,
 - having regard to the motion for a resolution by Mr Luster and others on the drafting of a European constitution (B3-0015/89),
 - having regard to Rule 148 of its Rules of Procedure,
 - having regard to its Declaration of fundamental rights and freedoms of 12 April 1989⁴
 - having regard to the first report by the Committee on Institutional Affairs and the opinions of the Committee on Foreign Affairs and Security and the Committee on Budgets (A3-0031/94),
 - having regard to the second report by the Committee on Institutional Affairs (A3-0064/94),
- A. having regard to the need which has been restated on several occasions during Parliament's current term of office to provide the European Union with a democratic Constitution to enable the process of European integration to continue in accordance with the needs of European citizens,
- B. whereas the Treaty on European Union does not fully meet the requirements of the European Union with regard to democracy and efficacy,
- C. whereas the Constitution must be accessible and readily comprehensible to the citizens of the Union and must constitute the democratic alternative for revision of the Treaty as opposed to intergovernmental negotiation,
- D. whereas the above-mentioned report of the Committee on Institutional Affairs makes an important contribution to the debate on democracy and transparency in the European Institutions which will be opened both within the European Parliament and within the national parliaments and public opinion,
1. Notes with satisfaction the work of the Committee on Institutional Affairs which has resulted in a draft Constitution for the European Union and calls on the European Parliament to be elected in June 1994 to continue that work with a view to deepening the debate on the European Constitution, taking into account the contributions from the national parliaments and members of the public in the Member States and the applicant countries;
 2. Proposes that a European convention bringing together the Members of the European Parliament and the parliaments of the Member States of the Union should be held prior to the Intergovernmental Conference

scheduled for 1996 in order to adopt, on the basis of a draft Constitution to be submitted to the European Parliament, guidelines for the Constitution of the European Union and allocate to the European Parliament the task of preparing a final draft;

3. Calls on the Heads of State and Government of the Member States to appoint a group of eminent persons who are independent but enjoy their confidence, along the lines of the Spaak/Dooge Committee and in the spirit of the proposal made by the Greek Presidency, with the task of considering this draft constitution, discussing it with Parliament and proposing it to the Intergovernmental Conference;
4. Proposes to the Commission and Council that the Intergovernmental Conference scheduled for 1996 be preceded by an interinstitutional conference on the same subject;
5. Calls on the parliaments of the Member States to inform it of their views concerning the system to be used for the preparation and adoption of the final text of the Constitution;
6. Calls on its President to forward the following draft Constitution to the Council, the Commission, the governments and parliaments of the Member States and the applicant countries with which the Union has commenced official accession negotiations, and to distribute it as widely as possible.

B. Explanatory statement

I. Introduction

1. Since its direct election in June 1979, the European Parliament has committed itself to the path of institutional reform with the aim of creating, in accordance with the direction outlined by the founding members of the ECSC and the EEC, an ever-closer union of the peoples of Europe, the logical conclusion of which would be an open and democratic federal-type political union.

This evolving and dynamic aspect of European Union having been progressively relegated to the background under the pressure of more immediate concerns, the Parliament, aware of the new legitimation given to it by direct elections, has endeavoured to make itself the principal protagonist of this long-term transformation which is considered to be more in line with the requirements of efficiency, transparency and democracy, and consequently more favourable to the interests of the citizens which the European Parliament represents.

2. In order to attain this ambitious objective, the Parliament has relied on a double strategy: the strategy of 'small steps' in the context of the existing treaties and the more comprehensive strategy of the project of European Union with the accent being placed sometimes on the one and sometimes on the other, depending on opportuneness and the political situation.

Experience has shown that these two paths have been perfectly complementary. The European Union project, called the Spinelli draft, triggered off a process which, reinforced by the conclusions of the Albert-Ball report, culminated in the constitution of the Dooge committee and the signature of the Single Act. Apart from formalizing and improving the progress made by the 'small steps' method with regard to the legislative and budgetary procedure, the Single Act includes a not insignificant proportion of the proposals contained in the Spinelli report.

3. Everybody agrees that the signing of the Single Act, as flawed as this was in the eyes of Parliament, marked the start of a European renaissance which has been very successful both in economic terms and in political terms and has engendered a spate of new requests for membership.

4. The partial success of the 1992 programme has shown:

(a) The superiority of the Community procedure over the intergovernmental procedure since the only provisions which have not been adopted yet are those on the freedom of movement of persons which are not

a Community responsibility;

(b) the good sense of Parliament's claim regarding the need for majority voting within the Council and the usefulness of Parliament's role in the legislative process since almost 300 directives have been adopted: in four years, three times as many as during the 10 preceding years;

(c) the need to complete rapidly the removal of checks at internal frontiers by setting up a monetary union culminating in the creation of a single currency, without which the instability of exchange rates and competitive devaluation will end up by making national markets retreat behind their own barriers again.

5. The early success of the 1992 programme justified the drawing up of the three-stage plan for Monetary Union (Delors plan).

At the same time the collapse of the Soviet empire and the re-unification of Germany accelerated the movement towards political union. Through the impetus given by Mr Kohl and Mr Mitterrand, the plan for Monetary Union was combined with a plan for Political Union, culminating in the Treaty of Maastricht in its present form. This confused and illegible text which was the result of purely intergovernmental negotiation without any preparation by a Spaak or Dooge committee and in which the concerns of the European Parliament were only taken partly into account, cleared the hurdle of the referenda in Denmark and France but only with difficulty. This blow to the credibility of the plan, aggravated by the economic crisis which has increased the gap between the economic and monetary policies of the Member States, led to the break-up and suspension of the operation of the European monetary system.

The manifest crisis in which the European economy finds itself today and in particular the break-up of the EMS provide a spectacular demonstration of the impasse into which the intergovernmental method can lead us. The future of the Community can never be managed or taken over by a body in which each member is legitimately obliged to defend or promote his own national interests.

The time has thus come for Parliament, as during the blackest days of Euro-pessimism at the beginning of the '80s, to put Europe on the right track again by proposing to the citizens of Europe alternative solutions to the hopeless impotence of national governments.

II. Why a Constitution rather than a treaty?

1. A treaty is usually an agreement between sovereign states which remain sovereign; it binds only them and is applicable only to them.

It does not directly bind the citizens of these states nor does it directly grant them either rights or obligations.

Where the treaty sets up an organization, this is usually only able to act on the basis of the consent, either express or tacit, of the signatory states. No obligation can be imposed on them against their will outside the obligations defined in the treaty.

2. On the other hand, by signing the Treaty of Rome, the Member States deliberately gave birth to a Community under the rule of law, equipped with its own bodies and independent of those States, capable of generating legal rules to which those States are subject and which can be applied directly to their citizens. The elements of supra-nationality contained in the Treaty of Rome (majority voting in the Council, regulations directly applicable to the citizens, binding character of the judgments of the Court of Justice, monitoring by the latter of the legality of Council acts, etc.), have been considerably reinforced by the case law of the Court of Justice which has, not without reticence or resistance, ultimately accepted:

- the existence of a constitutional legal order;

- the hierarchical superiority of the Community legal order over national legal orders;

- the possibility for citizens to obtain directly the recognition and respect for rights which are granted by the Treaty or Community legislation;
- the direct application of rights contained in directives, even in the absence of their transcription into national law;
- the pre-emptive character of Community legislation;
- the checking of compatibility of national laws with the Community's legal order.

This case law today forms part of the 'acquis communautaire' and has been accepted by the new Member States.

The Single Act and the Treaty of Maastricht have underlined this development by increasing the powers of the Parliament (assent and co-decision powers) but above all by introducing the concept of European citizenship and by guaranteeing citizens a series of fundamental rights and just like in a genuine constitution.

3. In calling for the adoption of a constitution which would progressively replace the treaties, the Parliament is doing no more than adapting vocabulary to facts and texts to reality.

Such a Constitution would foster clarity and truth by putting an end to the fiction of the abiding intact sovereignty of the Member States, and to the ambiguity which allows national governments to take the credit for Community activities when they are popular or successful and to blame Brussels when they are a failure.

It would also favour foresight and realism since:

- as soon as large sections of the monetary policies of the Member States are given over to, and managed by, an independent central bank,
- as soon as part of the external policy, including defence policy, is exercised jointly, and
- as soon as the number of Member States exceeds 12,

it will no longer be possible to ensure the consistency and effectiveness of Community activities on the basis of a set of multilateral obligations deriving from a treaty.

Community activities should, in contrast, be able to rely on an independent structure, with bodies which are autonomous but under democratic control, such as could be produced by a constitution.

III. Why a constitution now?

Until recently, Europe has been able to progress without the active participation of its citizens although requiring their tacit consent, because the ideas of peace and prosperity for which it is a vehicle, and the feeling of protection which it gave in the face of threats from the Soviet Empire, confirmed them in this attitude of benevolent tolerance. The collapse of the Soviet system, Europe's impotence in the Yugoslavian crisis, the economic crisis and unemployment, instead of the prosperity promised by the Single Market, and the absence of generally accepted Community leadership, have completely altered this attitude of benevolent consent as has been shown by the debate on the ratification of the Maastricht Treaty.

Progress towards European Union is no longer self-evident. Disenchantment, scepticism, even hostility have taken over from confidence and hope. The debate on Maastricht has also revealed a deep ignorance of the European institutional realities. The complexity of Community machinery, the confusion of powers and responsibilities, the opaqueness of Community legislation, the illegibility of the text of the Treaty itself, none of this has helped to gain popular support for the enterprise of Europe. Federalists fear a return to

intergovernmental systems and the renationalization of policies under the pretext of subsidiarity while nationalists are upset by the threat to their national identity and liberty posed by bureaucratic centralism incarnated by the Brussels Commission. The national parliaments, already frustrated by their shrinking influence at national level, fear a new reduction of their powers in the European Parliament's favour. In this confusion nobody can see an answer to their own concerns and everybody, allied in this negative attitude, exaggerates the dangers. A constitution for Europe, as long as it was simple and legible, should reassure everybody by creating a stable political and legal framework in which powers, competence and responsibilities were clearly defined and where adaptation to the requirements of the moment could be carried out without calling into question the whole edifice.

In this context of crisis, the presentation of a draft constitution makes it possible to re-launch the debate on the reasons behind the construction of Europe and the need for such a constitution.

A. Political reasons

The political reasons for a European Constitution have been the subject of numerous debates in the Committee on Institutional Affairs.

They can be summed up as follows:

1. The European Parliament must be able to reply to the fears expressed during the debate on the Maastricht Treaty by formulating an alternative strategy based on elements such as clarity, simplicity, legibility and the definition of political and legal principles which everybody can understand and which are able to guarantee the fundamental political rights of the two basic components of the Union, the states and the citizens.

This strategy should constitute Parliament's proposal to the political parties and electors in preparation for the 1994 European elections and should represent Parliament's main contribution in preparation for the announced revision of the Maastricht Treaty. It is no longer possible to ask citizens to approve a legal hotch-potch which is difficult to understand even for the initiated.

2. In this period of crisis for Europe, when the economic situation, the development of the Single Market, the monetary situation and the social situation are calling into question the sense of certain Community rules, it is absolutely necessary to give the Community a reference framework which will make it possible to modify provisions which are no longer adapted to reality without calling into question the acquired political basis of the European Union.

3. In the wider context of greater Europe, it is necessary to find an axis of stability which can guarantee, by its size and material power, and also its moral strength, a certain order in which it would be possible to re-orientate and support the new democracies of the East. Of course, economic aid is indispensable, but a reliable and credible political perspective is even more indispensable. The only axis which could have these characteristics is the European Community provided that it gives itself the means - in the form of a Constitution - to provide consistency and thereby guarantee stability and continuity of action.

4. A complex construction such as the European Community has difficulty in operating with twelve members on the basis of a system of disparate treaties, designed for a membership of six. The enlargement of the Community requires rules capable of managing a system of law, an economic system and a political system, based on a larger number of Member States. Constitutional rules are required to manage this system. In the absence of these rules the system would be excessively rigid: the Treaties contain, by definition, some norms which are sufficiently general to be defined as constitutional and others which cannot have the same permanence as constitutional norms. There is a need for the simplification and clarification of these norms and for methods of updating them.

5. The end of the cold war and the antagonism between the Eastern and Western blocs has created conditions propitious to the emergence of a new international order, to which, in its own interest, Europe is

anxious to contribute. It can only do this effectively by ceasing to be a disparate political coalition of Member States with different views and interests and by transforming itself into a federation of states capable of speaking with a single voice and acting in unison.

B. Legal reasons

1. The Court of Justice has recognized in several recent judgments that the Community has a constitutional legal order which, however, is dispersed throughout 17 treaties and in other acts of the same force. The Court concluded, in its opinions on the European Economic Area, that certain aspects of this Constitution could not be called into question, even by a revision of the treaties. There is therefore a Constitution, but it is dispersed throughout texts which also contain legal norms which are in no way 'constitutional'.

There is a need to simplify these norms and distinguish between those which have a genuine constitutional character and the others.

2. At the start, the Treaty of Maastricht was attempting to do this. The authors of the Treaty attempted to integrate all the constitutional norms in a three-pillar structure. However, the new Treaty does not do away with the large quantity of norms contained in preceding treaties and above all does not create any hierarchy; instead of simplifying, it adds to the complexity. However, the Treaty does single out some major constitutional principles (citizenship, co-decision, subsidiarity ...), without drawing all the necessary consequences or eliminating the contradictions which persist within the system. Without wishing to take the application of these principles too far, there is a need to point out the essential elements and to draw the logical conclusions, without which the politicians will give up and leave everything to the judges who will be obliged to sort out for themselves, from a complicated and contradictory system, the general principles and their consequences. A draft Constitution for Europe is therefore the logical consequence of the Maastricht Treaty.

3. Several European states are seeking to join the Community and the negotiations for some of them have already started. It is important that the negotiators, both from the candidate countries and from the Community, know exactly what they are committing themselves to. A Constitution such as that proposed by Parliament would make it possible to avoid ambiguities in the negotiations and would constitute a protection both for the Community itself and for the candidate countries. It would make it easier to carry out the adaptations necessary for enlargement without endangering the principles of the system. The converse thesis, which consists of modifying the character of the Community in order to adapt it to a larger number of countries, would result in the dilution of the Community into a new EFTA in which each state would no doubt have a great liberty of action but in which collective action would rapidly become impossible or at least ineffective as has been shown by the intergovernmental action in Bosnia.

4. The ECSC, EURATOM and EEC Treaties which constitute the principle basis of 'acquis communautaire' have never been unified. Only the High Authority, the EURATOM Commission and the Commission have been merged. The ECSC and EURATOM Treaties do, however, contain interesting institutional advances which it would be harmful to allow to lapse, although certain states would like to see this happen. In order to integrate them elegantly the best solution seems to be a Constitution.

C. Ethical reasons

1. The European construction was undertaken for very important political and economic reasons. There was a need to guarantee peace and boost economic and social progress, these two objectives being complementary in view of the fact that poverty only too often leads to war. However, the Community is founded above all today, and will be even more so tomorrow, on the system of values shared by its citizens which are the fruit of a common cultural heritage. These values are peace, liberty, equality, tolerance, solidarity, justice, human rights and democracy, and they are established in most of the national constitutions of the countries of the Community.

Born in Europe, these values have progressively come to be seen as universal, albeit not universally applied, and have to some extent been the subject of certain international conventions.

If these ideas were not promoted and respected there would no longer be any Europe. It is therefore necessary that their importance should be anchored in a European constitution.

2. According to these values and principles, all power emanates from the people and their representatives. All power is exercised in the name of the people and under the supervision of the people. Any person or institution that exercises power must be accountable to the representatives of the people.

Applied to the European idea, these principles have given birth to the theory of double legitimacy, that of the citizens represented by the European Parliament and that of the states represented by the Council. A treaty signed only by states, seen as the only source of power in Europe, would not be entirely consonant with these principles of democracy. This is why a Constitution would be more important, from the point of view of democracy, than a treaty.

3. In those countries which have an unwritten constitutional law or protestant tradition, the European idea, with the reduction of the margin of manoeuvre of the national governments it implies, is too often seen as a centralizing and bureaucratic hub compromising individual freedom.

It is therefore important to construct, by means of a federal-type constitution, a system of legal and political guarantees which safeguards the liberties of the individual and the autonomy of the Member States in the spheres of activity which are germane to them.

IV. The nature of the project

The organization of powers at European level can be seen theoretically as revolving around four abstract models:

1. the intergovernmental or confederal model;
2. the purely federal model;
3. the federal model based on regions;
4. the cooperative and decentralized federal model

1. The first model is based on the maintenance of sovereignty of the Member States which decide to execute this sovereignty jointly in certain well-defined sectors. In this system the national governments would always retain the last word since they hold the democratic legitimacy which can only be conferred by a democratically-elected national parliament. In terms of European institutions, this makes the European Council the supreme body of the Community and its principal decision-making centre, albeit only on the basis of unanimity; the Parliament is only a forum for public debate and the Commission becomes an office of experts preparing decisions of the Council with the Council becoming the COREPER of the European Council.

Apart from this last point, this is the scheme underlying the operation of the Council of Europe, political cooperation within the EEC, and the TREVI group.

2. The purely federal model is a familiar one since it has been adopted by the United States, Germany, Switzerland, etc.

In terms of European institutions, it would imply that the Commission would become the federal government whose President would be appointed by the European Parliament; he would form his government which would be invested by the European Parliament; the Council would be reduced to a Senate of States, the Parliament would be directly elected by the citizens on a proportional representation basis, which would be to the advantage of the larger states. On the other hand, the Member States would be

represented in the Senate on an equal footing.

This model is not very realistic at the moment,

- since none of the Member States would like to see its role reduced to that of a German 'Land' or American State;
- since the centralization of power which it implies would be in direct conflict with the wishes of the majority of the citizens.

3. The regional federalist model

This model sees democratic legitimacy as being guaranteed best at the level nearest to the citizen. The Region would therefore be a basic element to be introduced into the institutions and the application of the principle of subsidiarity would keep a maximum of power at this level. The Council of Regions would thus become the principal decision-making centre in lieu and in place of the Council, whose importance would be progressively reduced. The Council of Regions would have a power of co-decision with the European Parliament, and the Council itself would become a higher chamber playing a deliberative role like the senates of certain countries.

This model should not be followed at the present stage of European development but there are provisions in the Maastricht Treaty which show that certain of its elements could usefully be retained.

4. The decentralized co-operative federal model is based on a double democratic legitimacy, that of the citizens and that of the states. In this model, the states and the Community are involved together at all stages of decision (cooperation) but the execution of these decisions is left mainly to the Member States (decentralization). This joint participation and co-decision extends to all legal acts: laws, budgets, nominations, treaties with third countries, the constitution. The equality of status between the Council and the Parliament could be maintained for all categories of act or be the result of a splitting into two more or less equal groups of acts, one group on which the Council has the last word and one on which Parliament has the last word. This is the most suitable model for the present situation as regards the development of European integration.

The draft Constitution which we are proposing is based on the fourth model because it corresponds best to the contradictory requirements of the respect of national identities, the effectiveness of collective action, transparency, democracy and closeness to the citizen.

V. What is the situation regarding the draft Constitution and its relationship to the present Treaties?

The present treaties, as we have seen, contain provisions which could be constitutional and other, very numerous, provisions which have nothing to do with constitutional principles and which could in the normal course of things be adopted by way of organic law.

The Constitution would contain three categories of provisions:

- those which were largely compatible with the existing treaties and could be immediately applied;
- those which would be applied after a period of five years;
- those which would be applied after a period of ten years.

However, these transitional periods for application would automatically be reduced by five years in the event of enlargement involving more than two new Member States.

- The other provisions of the treaties which are not of a constitutional nature and which do not contradict the

present draft Constitution would remain in force until such time as they were replaced by an organic law adopted according to the new constitutional procedure.

To sum up, the Constitution would not entirely replace the treaties. It is situated at a different legal level, the superior level of a stable and permanent order which could not be changed except by way of exception and by the agreement of all the representatives of the two democratically legitimated parties, on condition that this is provided for in the text of the Constitution in the paragraph on amendment.

VI. Strategy for the effective entry into force of the Constitution

The Parliament should lay down a strategy for the effective insertion of 'its' Constitution into the legal system of the European Union.

A. It should be stressed above all that, although the drafting of such a constitution and the political proposal that it contains are in themselves elements of progress and points of reference for the electoral debate, Parliament's essential concern must however be to persuade the Member States to adopt such a constitution. Without a certain point of reference, progress on the construction of Europe will become arbitrary, uncertain and very difficult to monitor by the citizens and their parliaments at national and European level.

B. Provision should therefore be made for a certain number of possibilities for the entry into force of the Constitution, without making any one of them an absolute requirement.

1. The protagonists of this process should be well-defined.

First of all, there are the citizens. Their points of view should be respected: it is therefore necessary for representatives at European level to approve this Constitution and that at national level the parliaments or, according to the different constitutional traditions, the citizens themselves, should adopt it.

Apart from this, since the Constitution also binds the Member States as such, it is necessary for the national institutions - parliaments, governments, regions (where the national constitutional system provides for this) - to be able to express themselves and participate in the preparation of the Constitution.

The Community institution should be directly involved in the procedure.

2. The following options have been envisaged:

(a) The European Parliament would prepare a text of the Constitution and then submit it to an Interinstitutional Conference comprising the Parliament, the Commission and the Member States meeting within the Council. The text can then be proposed for ratification by the Member States. This option would allow direct negotiation with the Member States, but would not involve the national parliaments. At the same time it would be necessary to stipulate that such a document could not be modified or derogated from by treaties between the Member States.

(b) The European Parliament should prepare a text for the Constitution and submit it to the Member States which, after an Intergovernmental Conference, should propose it for ratification by their constitutional authorities; the risk here is that it could become a rerun of the Maastricht Treaty.

(c) The European Parliament would prepare a text of the Constitution and debate it with the national parliaments, either in the context of the Assizes, or with each parliament separately, and then it would ask the national parliaments to ratify it; this option would not be easy in practice but could be combined with the first.

(d) The European Parliament and the Council would constitute a group of wise men on the model of the Spaak Committee or the Dooge Committee, while insisting that the members should be independent persons of distinction who enjoy the complete confidence of the Head of State or Government of their country. This

Committee of Wise Men would examine the Parliament's draft and propose a final text to the European Parliament and to the Member States which, in an Institutional rather than Intergovernmental Conference, would adopt the final text to be submitted for ratification to national parliaments.

3. Whatever option is chosen, the Constitution would be adopted and come into force once the majority of the Member States, representing four-fifths of the population of Europe, had ratified it. The Member States which had not been able to deposit their instruments of ratification in the time laid down would have to choose between leaving the Union and maintaining their membership of the Union in this new form.

If they decide to leave the Union, separate agreements would be concluded in order to give them the status of privileged associate analogous to that provided for in the EEA Treaty.

Annex

Draft Constitution of the European Union

Preamble

On behalf of the peoples of Europe,

- whereas an ever closer Union between the peoples of Europe and the emergence of a European political identity are of a piece with the continuity of the process of integration initiated in the first Community treaties and with the prospect of development towards a federal-style Union,
- stressing that membership of the European Union is based on values shared by its peoples, in particular freedom, equality, solidarity, human dignity, democracy, respect for human rights and the rule of law,
- wishing to strengthen solidarity among these peoples whilst respecting their diversity, history, culture, language and institutional and political structures,
- aware of the need to ensure that decisions concerning them are taken at a level as close as possible to the citizens themselves and to delegate powers to higher levels only for proven reasons of the common good,
- whereas the European Union has as its aims economic development, social progress, the strengthening of cohesion, the active participation of regional and local authorities, together with respect for the environment and the cultural heritage,
- desiring to guarantee citizens and all who reside in the European Union better living conditions and an active role in economic and social development,
- declaring that the European Union must make an effective contribution to the security of its peoples, the inviolability of its external frontiers, the maintenance of international peace, the sustainable and equitable economic development of all the nations of the world and appropriate protection of the world's environment,
- confirming that the European Union is open to the European states which wish to take part in it which share the same values, pursue the same objectives and accept the same *acquis communautaire*,
- accepting the idea that some Member States may be able to progress faster and farther towards integration than the others, on the dual condition that this step shall always remain open to each of the Member States who wish to participate and that the objectives which they pursue remain compatible with the existing European Union,

the Member States and the European Parliament have adopted this Constitution of the European Union in order to

- define its objectives,

- increase the efficacy, transparency and democratic vocation of its institutions,
- to simplify and clarify its decision-making procedures,
- to guarantee in law human rights and fundamental freedoms.

Title I: Principles

Article 1 : The European Union

1. The European Union {hereinafter called 'the Union') consists of the Member States and their citizens, from whom all its powers shall emanate.
2. The Union shall respect the historical, cultural and linguistic heritage of the Member States and their constitutional make-up. It shall exercise its powers and competences in accordance with the principles of subsidiarity and proportionality.
3. The Union has legal personality.
4. The Union shall be provided with the means necessary to assume its responsibilities and achieve its objectives and move towards closer and more cohesive integration on the basis of the *acquis communautaire*.
5. The Member States shall cooperate amongst themselves and with the Institutions of the Union in order to achieve the objectives of the latter. The Institutions of the Union shall carry out the tasks conferred on them by the Constitution.
6. The law of the Union takes precedence over the law of the Member States.

Article 2 : Objectives of the Union

Within the framework of its competences, the main objectives of the Union shall be as follows:

- to promote peace, respect for democracy, economic and social progress, full employment and respect for the environment in Europe;
- to develop a legal and economic area without internal frontiers governed by the principle of a social market economy;
- to assist Member States and their citizens in adapting to internal and external changes in the economic, political and social fields;
- to foster the cultural and spiritual fulfilment of its peoples, whilst respecting their differences,
- to reaffirm its identity at international level through joint action to promote peace, security and the emergence of a free and peaceful world order based on justice, the rule of law, respect for the environment and economic and social progress.

Article 3 : Citizenship of the Union

Every person holding the nationality of a Member State shall thereby be a citizen of the Union.

Article 4 : Citizens' electoral rights

Every citizen of the Union residing in a Member State of which he is not a national may vote and may stand as candidate at municipal and European elections in his place of residence under the same conditions as nationals of that Member State. The precise scope of these rights may be fixed by an organic law.

The electoral rights of citizens may be extended by a constitutional law.

Article 5 : Citizens' political activities

Every citizen shall have the right to engage in political activity throughout the territory of the Union.

Every citizen shall have the right to hold public office in the Union.

Every citizen of the Union shall be entitled, when outside its territory, to diplomatic and consular protection by the Union or, failing that, by the Member State represented in the foreign country where he is.

Article 6 : Freedom of movement for citizens

Every citizen of the Union shall have the freedom to move, reside and stay freely on the territory of the Member States, where he may pursue the occupation of his choice on the same conditions as nationals, subject to the restrictions applying to employment in the public administration which involves the exercise of public authority.

The Union shall help to ensure equality of opportunity, in particular by endeavouring to remove obstacles to the effective exercise of the rights conferred on citizens.

Every citizen shall be entitled to leave the Union and to return to it.

The citizens of the Union, citizens of third countries and stateless persons residing in the Union shall have the right, in the event of improper administration, to appeal to an Ombudsman appointed by the European Parliament or to submit a petition to the European Parliament.

Article 7 : Human rights

In areas where Union law applies, the Union and the Member States shall ensure respect for the rights set out in Title VIII. The Union shall respect fundamental rights as guaranteed by the Convention on the Protection of Human Rights and Fundamental Freedoms, by the other applicable international instruments and as they derive from the constitutional principles shared by the Member States.

Title II : Competences of the Union

Article 8 : Attribution of competences

1. The Union has the competences laid down by this Constitution and by the Community Treaties and takes over the *acquis communautaire*.
2. The Union and the Member States shall work together on a basis of solidarity to achieve common tasks and objectives. They shall abstain from any measures liable to jeopardize achievement of the objectives of the Constitution.
3. The provisions of the Treaties concerning their objectives and fields of application which are not modified by this Constitution form part of the law of the Union. They may only be amended by the procedure for constitutional revision.
4. The other provisions of the Treaties shall also form part of the law of the Union in so far as they are not incompatible with the Constitution. They may only be amended by the procedure for organic laws.
5. Acts of the European Communities and measures taken in the context of cooperation between the Member States continue to be effective as long as they are not incompatible with this Constitution and as

long as they have not been replaced by acts or measures adopted by the institutions of the Union in accordance with their respective competences.

6. The Union shall respect the commitments of the European Communities and in particular the agreements and conventions concluded with one or more third countries or any international organization.

Article 9 : Attainment of objectives

Should action by the Union be necessary to attain one of its objectives without the Constitution or the Treaties providing the executive powers required for this purpose, such powers shall be conferred by an organic law.

Article 10 : Principles of subsidiarity and proportionality

The exercise of the powers of the Union and their extension in accordance with Article 9 shall be subject to the principles of subsidiarity and proportionality.

The principle of subsidiarity means that the Union shall only take action if, and in so far as, the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Union.

In accordance with the principle of proportionality, any action taken by the Union shall not go beyond what is necessary to achieve the objectives of this Constitution.

Article 11 : Cooperation between Member States

The Union shall aim to strengthen the existing forms of cooperation between Member States with a view to applying Union procedures and mechanisms to them.

With that aim in view, the Union shall act by adopting common positions and taking joint measures consistent with the general guidelines laid down by the European Council and the European Parliament.

Article 12 : Furtherance of action by Member States

The Union may recommend, encourage or stimulate action by Member States in areas which are inherent in or linked to the objectives pursued by the Union, without any compulsion being attached to such action.

The Union may also encourage, in these same areas, coordinated action by the Member States to which it may contribute appropriate support.

Title III: The institutional framework

Article 13 : Institutions

1. The institutions of the Union shall be:

- the European Parliament,
- the European Council,
- the Council,
- the Commission,
- the Court of Justice.

2. The following shall carry out specific tasks provided for by the Constitution:

- the Committee of the Regions,

- the European Central Bank,
- the Court of Auditors,
- the Economic and Social Committee.

3. Without prejudice to the provisions of the Treaties, other organs and agencies with legal personality and responsible for specific tasks may be created by organic law. The latter shall define their statutes and, in particular, the detailed arrangements for their supervision.

Article 14 - European Parliament - composition

The European Parliament consists of the representatives of the citizens of the Union, elected by direct universal suffrage and by secret ballot for a five-year period in accordance with a uniform electoral procedure.

The number of seats, the principles governing their distribution and the electoral procedure shall be established by a constitutional law.

The European Parliament:

- takes part with the European Council in the definition of the general political guidelines of the Union;
- jointly with the Council, approves the laws, votes on the budget and gives its assent to the international treaties of the Union;
- elects the President of the Commission and holds a vote of confidence in the Commission;
- exercises political supervision over the activities of the Union and may set up committees of inquiry;
- exercises the powers of nomination and appointment conferred on it by the Constitution and the Community Treaties;
- exercises the other powers provided for by the Constitution and by the Community Treaties.

Article 16 : European Council

The European Council consists of the heads of state or government of the Member States together with the President of the Commission.

The European Council shall impart to the Union the impetus necessary for its development and shall define, with the participation of the European Parliament, the general political guidelines of the Union.

Article 17 : Council - composition

The Council shall consist of a minister from each Member State competent to deal with the affairs of the Union. The minister shall chair a delegation appointed in accordance with national constitutional rules. Each delegation shall have a single vote.

Article 18 : Council - powers

The Council:

- jointly with the European Parliament, approves the laws, votes on the budget and gives its assent to the international treaties of the Union;
- coordinates the policies of the Member States where the Constitution so provides;

- exercises the appointing powers conferred on it by the Constitution and by the Community Treaties;
- exercises the other powers provided for by the Constitution and by the Treaties.

Article 19 : Presidency of the Council

The President of the Council shall be elected by a non-weighted majority of five-sixths of the Member States for a period of one year. The term of office shall be renewable and may not exceed 3 years.

Article 20 : Voting in the Council

For their adoption, acts of the Council shall require shall always be by a double majority, that of the States and that of the population.

A simple majority shall comprise the majority of the States representing the majority of the population.

A qualified majority shall comprise two thirds of the States representing two thirds of the population.

A double qualified majority shall be deemed not to have been obtained where a decision is opposed by at least one quarter of the Member States representing at least one eighth of the population of the Union or by one eighth of the Member States representing at least one quarter of the population of the Union.

Article 21 : Commission - powers

1. The composition of the Commission shall be determined by an organic law.
2. Members of the Commission shall, in the general interest of the Union, be completely independent in the performance of their duties. In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties. Each Member State undertakes to respect this principle and not to seek to influence the members of the Commission in the performance of their tasks.

Article 22 : Commission – appointment – motion of censure

The Commission shall be appointed, in accordance with the procedure referred to in paragraph 2, for a period of five years.

At the start of each electoral period, the President of the Commission shall be elected, on a proposal from the European Council, by the European Parliament, acting by a majority of its members.

The members of the Commission shall be selected by the President in accord with the Council acting by a qualified majority. The Commission thus constituted shall take office following a vote of confidence by the European Parliament.

The European Parliament may, acting by a majority of its members, pass a motion of censure after having given notice of at least three working days; adoption of this motion shall result in the collective resignation of the members of the Commission, who shall carry out daily business until they are replaced.

Article 23 : The President of the Commission

The President of the Commission shall allot its competences among the members of the Commission.

He coordinates the work of the Commission and has a casting vote in the event of a tied vote.

The President may terminate the mandate of a member of the Commission at the request of the European Parliament or the Council.

Article 24 : Commission - powers

The Commission:

- monitors compliance with the Constitution and the acts of the Union;
- participates in the legislative power and has the power to initiate legislation;
- executes the budget and laws of the Union and adopts implementing regulations, in conformity with the provisions of the Constitution;
- negotiates and concludes the international treaties of the Union;
- exercises the other powers provided for by the Constitution and by the Treaties.

Article 25 : Court of Justice

The duties of the Court of Justice are set out in Articles 36-39.

The Court of Justice shall consist of Judges and Advocates-General.

The latter, chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial office in their respective countries, or who are jurisconsults of recognized competence, shall be appointed by the European Parliament, acting by a majority of its members, and by the Council, acting unanimously, for a non-renewable period of nine years. The arrangements for their appointment shall be laid down by an organic law.

Article 26 : President of the Court of Justice

The Judges shall elect the president of the Court of Justice from among their number for a term of three years. He may be re-elected.

Article 27 : Organisation and statute of the Court

1. An organic law, proposed by the Court of Justice, shall establish its rules of procedure, the number of its members, their statute, the constitution of chambers of the Court, and the cases in which the Court shall be required to sit in plenary session.
2. The Court of Justice shall enjoy financial and administrative autonomy within the framework of the budget of the Union.

Article 28 : Other courts

One or more other courts may, on a proposal from the Court of Justice, be set up by an organic law, to be responsible for hearing certain classes of action, subject to a right of appeal to the Court of Justice limited, where appropriate, to points of law only.

Their duties, composition and rules of procedure shall be laid down in accordance with the principles set out in Articles 25, 26 and 27.

Article 29 : Committee of the Regions

The Committee of the Regions shall be composed of elected representatives belonging to the regional or local authorities recognized by the Member States.

It shall be consulted in advance on all legislative initiatives concerning certain matters, of which a list shall be established by an organic law.

Article 30 : European Central Bank

The European Central Bank shall issue the currency of the Union, ensure its stability and exercise the powers provided for by the Constitution.

It shall enjoy the independence necessary for the exercise of its tasks. The Court of Justice shall ensure that this independence is respected.

Title IV: Functions of the Union

Chapter 1 - Principles

Article 31 : Acts of the Union

1. The institutions of the Union shall adopt, in accordance with the Constitution:

- constitutional laws, which amend or are incorporated into the Constitution; the European Parliament acting by a majority of two thirds of its component Members and the Council by a double qualified majority⁵;

- organic laws, which regulate in particular the composition, tasks or activities of the institutions and organs of the Union; the European Parliament acting by a majority of its component Members and the Council by a qualified majority⁶;

- ordinary laws; the European Parliament acting by an absolute majority of votes cast, and the Council by a simple majority⁷.

2. In accordance with the laws and the Constitution, the institutions of the Union shall adopt:

-implementing regulations;
- individual decisions.

3. The laws and regulations shall be binding in their entirety throughout the territory of the Union.

The decisions shall be binding on their addressees,

4. The laws may take the form of framework laws when they are confined to a definition of the general principles of the matter, impose an obligation on the Member States and the other authorities to produce a specific result and make the national and Union authorities responsible for their implementation. Any such law may contain provisions applicable in the event of failure by Member States to act on the implementation of framework laws.

Chapter 2 - Legislative function

Article 32 : Legislative initiative

The laws of the Union shall be adopted by the European Parliament and by the Council.

The legislative initiative in respect of ordinary and organic laws shall lie with the Commission, except where the Constitution confers it on the Court of Justice.

Should the Commission fail to act, the European Parliament and the Council may by common accord submit a proposal for a law.

The legislative initiative in respect of constitutional laws shall lie with the European Parliament, the Commission, the Council or a Member State.

Article 33 : Delegation of legislative power

By an organic law specifying the contents, aim, extent and duration of the authorization, the Commission may be made responsible for enacting acts which may derogate from or modify existing ordinary laws.

Chapter 3 - Execution of legislation

Article 34 : Execution of legislation

The Member States shall execute the laws of the Union.

Without prejudice to the preceding paragraph, the Commission shall have the regulatory power with a view to the implementation of the laws of the Union and may, in the cases stipulated in the Treaties or the organic law, take individual measures with a view to the application of the Union law. The Council may be made responsible by the law for the regulatory power in specific areas.

Article 35 : Supervision of national implementation measures

The Commission shall supervise the effective implementation of the laws of the Union by the Member States. Detailed arrangements for this shall be established in an organic law.

Chapter 4 - Jurisdictional function

Article 36 : Jurisdictional function

The Court of Justice and the other Community and national courts, acting in the framework of their respective terms of reference, shall ensure respect for the law in the interpretation and application of this Constitution and all the acts of the Union. Consistency of interpretation of Union law shall be ensured, in particular, by the exercise of the competence to give preliminary rulings.

Article 37 : Powers of the Court of Justice

The powers of the Court of Justice as defined in this Constitution and in the Community Treaties may only be modified by a constitutional law.

Article 38 : Violation of human rights

The Court of Justice shall be competent to rule on any action brought by an individual seeking to establish that the Union has violated a human right guaranteed by the Constitution.

A constitutional law shall determine the conditions under which such actions may be brought and the penalties which the Court of Justice may impose.

Article 39 : Respecting the distribution of competences

The Council, the Commission, the European Parliament or a Member State may, after the final adoption of an act and before its entry into force, bring an action for the annulment of an act which exceeds the limits of Union competence. Detailed arrangements concerning such action shall be established in a constitutional law.

Chapter 5 - Finances

Article 40 : Resources and budget

1. The law shall determine the nature and maximum amount, of the Union's financial resources. This law shall require for its adoption a majority of the Members of the European Parliament and of two-thirds of those voting, and a double qualified majority in the Council⁸.
2. All the revenue and expenditure of the Union shall be entered in the budget. The budget shall be approved each year by the legislative procedure.
3. Any proposal for new expenditure shall be accompanied by a proposal for the corresponding revenue.
4. The Union shall be subject to the same budgetary discipline as that imposed on the Member States by virtue of the law of the Union.

Chapter 6 – Coordination of Member States' policies

Article 41 : Principle

In those areas subject to coordination or cooperation between the Member States, the Council shall exercise the powers conferred on it.

The Commission and the Parliament shall participate in the Council's action.

Title V - External relations

Article 42 : Common foreign and security policy

1. The European Council shall define the general principles and guidelines of the common foreign and security policy, including common defence policy and common defence.
2. The Council shall decide the positions and common actions of the Union, on a proposal from the Commission or in response to a request from a Member State. Except in the most urgent cases, it shall consult the European Parliament on the basis of appropriate arrangements. It shall in all cases keep the European Parliament informed and report to it on its actions.

The Council shall take its decisions acting unanimously except in cases where, on a proposal from the Commission, it decides by a double qualified majority. After a period of five years, the Council shall decide by a qualified majority and solely on a proposal from the Commission.

Article 43 : Representation of the Union

The president of the Council and the president of the Commission shall represent the Union internationally, as appropriate in accordance with the subjects concerned. The Commission shall be responsible for the diplomatic representation of the Union, which it shall exercise in the forms agreed with the Council. In those countries where it is not represented, the Union may reach an agreement with the Council for the designation

of one of the Member States, chosen as being the most suitable, to exercise the function of representation on behalf of the Union.

Article 44 : Treaties

1. The Union shall be empowered to conclude treaties.
2. The treaties negotiated by the Commission shall be submitted for approval to the European Parliament, which shall act by a majority of its members, and the Council, which shall act by a qualified majority. The Commission shall then express the Union's assent.
3. The conditions under which approval can be given by a simplified internal procedure shall be established in an organic law.
4. The treaties thus concluded shall be binding on the institutions of the Union and on the Member States.
5. The European Parliament, the Commission, the Council or a Member State may request the opinion of the Court of Justice on the compatibility of a treaty with this Constitution. Any treaty in respect of which the Court of Justice delivers an adverse opinion may only be approved, where appropriate, by a constitutional law.
6. If an international treaty is to be concluded which involves amendment of the Constitution, the amendments shall first be adopted by a constitutional law.
7. The denouncement of treaties shall be carried out in accordance with the procedures laid down for their conclusion.

Title VII: Accession to the Union

Article 45 : Accession of new members

Any European State whose institutions and system of government are founded on democratic principles and the principle of the rule of law, which respects fundamental human rights, minority rights and international law and undertakes to adopt the *acquis communautaire* may apply to become a member of the Union.

The detailed arrangements for accession shall be the subject of a treaty between the Union and the applicant State. This treaty must be adopted by a constitutional law.

Title VII- Final provisions

Article 46

Member States which so desire may adopt among themselves provisions enabling them to advance further and more quickly towards European integration, provided that this process remains open at all times to any Member State wishing to join it and that the provisions adopted remain compatible with the objectives of the Union and the principles of its Constitution.

In particular, with regard to matters coming under Titles V and VI of the Treaty on European Union, they may adopt other provisions which are binding only on themselves.

Members of Parliament, the Council and the Commission from the other Member States shall abstain during discussions and votes on decisions adopted under these provisions.

Article 47: Entry into force

The Constitution shall be considered adopted and shall come into force when it has been ratified by a majority of Member States representing four-fifths of the total population. Any Member States which have not been able to deposit the instruments of ratification within the time limit established shall be obliged to choose between leaving the Union and remaining within the Union on the new basis.

Should one of these States decide to leave the Union, specific agreements shall be concluded, designed to grant it preferential status in its relations with the Union.

Title VIII: Human rights guaranteed by the Union

1. Right to life

Everyone shall have the right to life, respect for his physical integrity, liberty and security of person. No-one may be sentenced to death, or subjected to torture or to inhuman or degrading treatment or punishment.

2. Dignity

Human dignity shall be inviolable: it shall include the individual's fundamental right to adequate resources and services for himself and his family.

3. Equality before the law

(a) Everyone shall be equal before the law.

(b) Any discrimination on grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, membership of a national minority, property, birth or other status shall be prohibited.

(c) Equality must be secured between men and women.

4. Freedom of thought

Freedom of thought, conscience and religion are guaranteed.

The right of conscientious objectors to refuse military service is guaranteed; the exercise of this right shall not give rise to any discrimination.

5. Freedom of opinion and information

(a) Everyone shall have the right to freedom of expression. This right shall include freedom of opinion and the freedom to receive and impart information and ideas.

(b) Art, science and research shall be free of constraint.

6. Privacy

(a) Everyone shall have the right to respect and protection for his or her identity.

(b) Respect for privacy and family life, reputation, the home and private correspondence shall be guaranteed.

(c) Surveillance by public authorities of individuals and organizations may only take place if duly authorized by a competent judicial authority.

7. Protection of the family

Everyone shall have the right to start a family.

The family shall enjoy legal, economic and social protection. The rights of fathers, mothers and children are also protected.

8. Freedom of assembly

Everyone shall have the right to organize and take part in peaceful meetings and demonstrations.

9. Freedom of association

Everyone shall have the right to freedom of association.

10. Right of ownership

The right of ownership shall be guaranteed.

No-one may be deprived of his or her possessions except where deemed necessary in the public interest, in the cases and subject to the conditions provided for by law and subject to compensation previously determined.

11. Freedom to choose an occupation and working conditions

(a) The Union shall recognize the right to work; the Union and the Member States shall take the measures needed to make that right effective.

(b) Everyone shall have the right freely to choose an occupation and a place of work and to pursue freely that occupation.

(c) No-one may be arbitrarily deprived of his or her work or be forced to take up specific work.

12. Collective social rights

(a) Workers shall be guaranteed the right to organize collectively in defence of their rights, including that of establishing trade unions.

(b) The right of negotiation between employers and employees and the right to conclude collective agreements are guaranteed at Union level.

(c) The right to take collective action and the right to strike are guaranteed.

(d) Workers have the right to be informed regularly of the economic and financial situation of their undertaking and to be consulted on decisions likely to affect their interests.

13. Social protection

(a) Everyone shall have the right to benefit from measures for the good of their health.

(b) Anyone lacking sufficient resources has the right to social and medical assistance.

(c) Workers, self-employed persons and their dependants have the right to social security or an equivalent system.

(d) Those who, through no fault of their own, are unable to house themselves with dignity have the right to assistance in this respect from the appropriate public authorities.

14. Right to education

- (a) Everyone has a right to education and vocational training appropriate to their abilities.
- (b) There shall be freedom in education.
- (c) Parents have the right to make provision for such education in accordance with their religious and philosophical convictions, whilst respecting the right of the child to its own development.

15. Right of access to information

Everyone shall have the right of access to and the right to have corrections made to administrative documents and other data concerning them.

16. Political parties

Citizens have the right to form political parties. Such parties must be inspired by the democratic principles common to the Member States.

17. Access to the courts

- (a) Everyone has the right to bring an action in a court or tribunal specified by law.
- (b) Everyone is entitled to have his or her case heard fairly, publicly and within a reasonable time limit by an independent and impartial court or tribunal established beforehand by law.
- (c) Access to justice must be effective. Legal aid may be provided for those who lack sufficient resources otherwise to afford legal representation.

18. Non bis in idem

No-one shall be tried or convicted for offences of which he has already been acquitted or convicted.

19. Non-retroactivity

No liability shall be incurred for any act or omission to which no liability applied under the law applicable at the time when it was committed.

20. Right to petition

Everyone shall have the right to address written requests or complaints to the public authorities, who shall be required to reply.

21. Right to respect for the environment

Everyone shall have the right to the protection and preservation of his natural environment.

22. Limits

No derogation from the requirement to respect the rights and freedoms guaranteed by this Constitution shall be granted, save under the terms of a law consistent with their substance, within reasonable limits vital to the safeguard of a democratic society.

23. Degree of protection

No provision in this Constitution may be interpreted as restricting the protection afforded by the law of the Union, the law of the Member States and international law.

24. Abuse of rights

No provision in this Constitution may be interpreted as implying any right to engage in any activity or perform any act aimed at restricting or destroying the rights and freedoms set out therein.

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¹ OJ No. C 231, 17.9.1990, p. 91

² OJ No. C 19, 28.1.1991, p. 65

³ OJ No. C 42, 15.2.1993, p. 124

⁴ OJ No. C 120, 16.5.1989, p. 51

⁵ Acting unanimously, for a five-year transition period

⁶ Acting by a double qualified majority, for a five-year transition period

⁷ Acting by a qualified majority, for a five-year transition period

⁸ Acting unanimously, for a ten-year transition period