



European Communities

EUROPEAN PARLIAMENT

SESSION DOCUMENTS

English Edition

31 October 1990

A3-0267/90

R E P O R T

of the Committee on Institutional Affairs
on the principle of subsidiarity

Rapporteur: Mr Valéry GISCARD d'ESTAING

DOC_EN\RR\98228

PE 143.075/fin.
Or. Fr

A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

*	= Consultation procedure requiring a single reading	**II	= Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment
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By letter of 26 January 1990, the Committee on Institutional Affairs requested authorization to draw up a report on the principle of subsidiarity.

At its meeting of 29 and 30 January 1990, the Committee on Institutional Affairs appointed Mr Giscard d'Estaing rapporteur, pending a favourable decision by the enlarged Bureau.

At its sitting of 2 April 1990, the President of the European Parliament announced that the committee had been authorized to report on this subject.

At its meetings of 26 and 27 September 1990 and 30 and 31 October 1990 the committee considered the draft report.

At the latter meeting it adopted the motion for a resolution by 24 votes to 1.

The following took part in the vote: Oreja, chairman; Prag and Bru Puron, vice-chairman; Giscard d'Estaing, rapporteur; Balfe, Beiroco, Bindi, Bonde (for Speroni), Bourlanges (for Cooney), Capucho, Cassanmagnago Cerretti, Colombo, De Giovanni, De Gucht, Ferrer, Hänsch, Herman, Martin, Nianias (for Musso), Pannella, Pasmazoglou (for Luster) Peters (for Rothley), Puerta, Roumeliotis (for Avgerinos) and Valverde. Mr Brok and Mr Von Wogau were also present.

The explanatory statement will be presented orally in plenary sitting.

The report was tabled on 31 October 1990.

The deadline for tabling amendments will appear in the draft agenda for the part-session at which the report is to be considered.

A
MOTION FOR A RESOLUTION

on the principle of subsidiarity

The European Parliament,

- having regard to Rule 121 of its Rules of Procedure,
 - having regard to the ECSC, EEC and EAEC Treaties and the Single European Act,
 - having regard to the Draft Treaty establishing the European Union,
 - having regard to the report on the Intergovernmental Conferences in the context of the European Parliament's strategy for European Union (Doc. A3-0270/90),
 - having regard to the report on Economic and Monetary Union (Doc. A3-099/90)¹,
 - having regard to the interim report of the Committee on Institutional Affairs (Doc. A 3-163/90)²,
 - having regard to the final report of the Committee on Institutional Affairs (Doc. A3-0267/90),
- A. whereas, in the context of the Intergovernmental Conferences to be held from December 1990, it is important to establish the inclusion in the Treaties of an explicit definition of the principle of subsidiarity, with a view to European Union,
- B. whereas the European Parliament has taken it upon itself to make its contribution to the institutional debate with particular reference to this principle, and to present precise proposals before the start of the Intergovernmental Conferences,
1. Proposes that a definition of the principle of subsidiarity be inserted into the EEC Treaty and the corresponding articles of the ECSC and Euratom Treaties indicating in terms of Community principles and action what tasks the Community may undertake. This definition would take the form of the following Article:

Article 3a of the EEC Treaty (ECSC Treaty 3a, EAEC Treaty 2a)

'The Community shall act only to fulfil the tasks transferred to it by treaty and to achieve the objectives defined thereby. If powers have not been exclusively or completely assigned to the Community, the Community shall, in carrying out its tasks, take action in so far as the achievement of these objectives requires its intervention because, by virtue of their

¹ OJ No. C 149, 18.6.1990, p. 66

² Adopted on 12 July 1990

magnitude or effects, they transcend the frontiers of the Member States or because they can be undertaken more efficiently by the Community than by the Member States acting separately.'

2. Considers that it is necessary to guarantee respect in law of the principle of subsidiarity by endowing the Court of Justice with the appropriate powers and allowing the Community institutions and the Member States to refer matters to it when they arise. The following provisions should be added to the Treaties:

Article 172a of the EEC Treaty (ECSC Treaty 37a, EAEC Treaty 145a)

'1. The Council, the Commission, Parliament or any Member State may, after the definitive adoption of an act and before its entry into force, request the Court of Justice to verify whether this act does not exceed the limits of the powers of the Community.

At the request of an institution or of a Member State, the Court shall give its ruling by urgent procedure, which shall suspend the act's entry into force.

2. Should the Court's judgment be adverse, the procedure for amendment of the Treaty provided for in Article 236 of the Treaty shall apply to the said act.'

3. Requests the Intergovernmental Conference to examine these proposals and to incorporate them as such into the revision of the Treaty or to reach agreement with the European Parliament on possible alternatives, under the procedure laid down in paragraph 5 of its resolution of 14 March 1990;
4. Instructs its President to forward this resolution to the Presidency of the Intergovernmental Conference, the Governments and Parliaments of the Member States and the Commission.

