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# THE LEGAL FRAMEWORK OF THE COMMUNITY

An address by Michel Gaudet,
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## Why a specific legal framework of the Community

When considering the Community as a means of developing free trade between the six member countries and with the outer world, one might wonder why a specific legal framework should be required. Whether it be to set up an international organization or to promote harmonization and even unification of law, precedents have been set, specially in the European field. Why should the legal problems arising in the Community be handled in an unusual way?

The answer to this question is simple. The Member States of the Community have chosen to face more than a mere problem of trade. They are facing the problems of peace on the European continent and of survival in a tremendous world revolution.

The late history, in which Great Britain has played a so toilful and prominent role has emphasized the necessity of an enduring reconciliation between France and Germany and of tight links between the countries of Western continental Europe and the Western world as a whole. Contemporary events lay the stress on the urgency of a dynamic and coherent revolution of the old European countries in the field of science and of economy. Indeed, the promoters of the European Communities have been convinced, ever since they started the Coal and Steel Community ten years ago, that they had to pave the way for a new Europe, in which the nations would face, united, the challenges of their common future.

On the other hand, the Member States are determined to secure the full economic advantages of a common market, and, as has been pointed out, this requires the control of such a market by means of common rules and common institutions.

The six nations that have agreed to carry on the first steps towards these aims have therefore concluded more than a mere trade agreement between themselves. They have started in the field of economy to forge an ensemble and to foster joint action.

They have made use of the classical methods of international organizations. They have committed themselves to specific obligations and they have set up common institutions to follow the execution of these obligations, to adjust them by mutual consent if it would prove necessary, and to allow the use of escape clauses by a majority vote. As far as that goes, the European Communities do not differ basically from such international organizations as G.A.T.T. or the E.F.T.A.

But the Member States have gone a step further. On the one hand, they have agreed to follow common policies in such fields as agriculture, commercial relations with the outer world, and to a certain extent transportation, coal and steel, and peaceful uses of atomic energy. They have also decided to coordinate their overall economic and social policy. On the other hand, having laid down in the Treaties common rules and the objectives of the common policies, they have empowered the institutions of the Community to implement the rules and to

carry out the objectives. Thus, within specified limits, the Member States have transferred to these Institutions a power to make decisions, which may, when so stipulated by the Treaties, be directly binding in the Member States like the national law.

These innovations give to the European Community - including in this appellation the three Communities of the Common Market, Coal and Steel, and Euratom - its specific features. The legal system of the Community is based on a specific combination of common rules and of common institutions which introduces a change in the traditional methods of international partnership.

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Community and Federation

The transfer of powers to common institutions which are entitled to lay down common rules directly binding in all the Member States, unusual in the classical international organizations, have suggested the view that the European Community is a federal or quasi-federal State. Even though the Community does make use of some federal techniques, this view is much too systematic and could be really quite misleading.

a) First, it should be observed that the field of competence of the European Community is strictly limited to economy. The hard core of political power remains exclusively vested in the six nations, and is not transferred to the Community, contrary to what happens in a federal State. The Member States have not given away any of their rights of sovereignty as regards for instance foreign policy (except for commercial matters) defense, police, finance. Everyone remembers the dramatic failure of the projected European Defense Community (EDC) before the French Parliament in 1954. The Member States, remaining fully sovereign in the political field, have transferred limited powers only in the field of economy, in order to achieve specified objectives with well-defined means.

This basic fact, which bears far-reaching consequences, precludes the existence of a federation. In almost all matters truly decisive for the fate of a nation, decisions are made by each Member State and not by the common institutions. It is just the opposite of what happens in federal States, such as the U.S.A. or Switzerland.

b) Secondly, even in the field of economy to which the Community is limited, there is no rigid, systematic transfer of powers to the common institutions. The Treaties do not assign economy as a whole, nor even parts of it, to the competence of the common institutions. They proceed with a remarkable flexibility. In each matter upon which agreement to common objectives or common rules has been reached, the Member States have decided in detail to what extent, if any, and under which conditions the common institutions would be competent to make decisions. Contrary to what would happen in a federal system, the institutions of the Community have no general competence to take whatever measures would prove necessary to reach the assigned objectives in the field of economy. They can only act within the specific limits set by the Treaties for the matter concerned.

c) Thirdly, the constitutional frame of the Community is far from that of a federal government. Limited powers have been transferred to the four institutions of the Community. A Council, in which each Member State is represented by a member of its Government, and an executive body - called the High Authority in the Coal and Steel Community and the Commission in the Common Market and in Euratom - share the power to lay down common rules, to make up executive decisions and to ensure application of the obligations set up by the Treaties. A single Parliamentary Assembly, composed of members of the national Parliaments discusses publicly all matters falling within the field of competence of the three Communities, is consulted on the common policies and on the projected common rules and exercises parliamentary control upon the three

executive bodies which it can dismiss by a two-thirds majority vote. In order to ensure observance of law in the interpretation and application of the three Treaties, a single Court of Justice, composed of seven judges and two advocates-general, is empowered mainly to give final sentences on any alleged violation of the law of the Community, to review, and to annul if they are illegal, the acts of the Council and of the executive bodies, and to decide on the non-contractual liability of the Communities for any damages caused by them.

A peculiar stress is generally laid on the originality of these four institutions, quite unusual in international organizations. But, in spite of superficial similarities with the Executive, the Senate, the House and the Supreme Court of a Federation, the four common Institutions should not hide the fact that in the Community the decisive influence remains with the Member States.

Indeed, on the one hand, all members of the Common Institutions are appointed by the Member States. The members of the executive bodies and of the Court of Justice are nominated by unanimous consent of the six Governments for a period of four or six years. The members of the Parliamentary Assembly are elected by each national Parliament among their own members, and there is no sign as yet that the proposal made by the Parliamentary Assembly itself in accordance with the Treaties for the direct election of its members by the people of the Member States shall be accepted by the six Governments.

On the other hand, the Treaties require, for laying down common rules or for making decisions that affect notably the economic policies of the Member States, the participation of the Council, composed of the national governments who are responsible only to their national Parliaments. Thus, the exercise of the transferred policy-making, rule-making and Treaty reviewing powers is subject to close discussion by, and in most cases consent of, the Member States. A striking example of the final powers of the national governments was given last year in the coal crisis when the system of production quotas proposed by the High Authority failed to meet the agreement of the Council required by the Treaty for its implementation.

Though the Treaties have not shared the respective competences of the executive bodies and of the Council by reference to a general rule but by specific provisions for each matter concerned, it can be said that the executive bodies can act without participation of the Council only in matters of a truly executive character. When acting alone, they are mainly entitled to control the execution of the law of the Community, to take action against its violation by Member States or by individuals and enterprises, to make decisions in individual cases, or to allow Member States to apply temporary and limited escape clauses. Within the limits set by the Treaties or by the Council they can also issue regulations implementing the common rules. Following the directives of the Council and subject to its control, they may negotiate with third countries on the behalf of the Community.

These examples confirm that all decisions affecting common policies or laying down common rules are a matter for the competence of the Council. But they also point out how federal techniques have been used to ensure, by means of an independent body acting for the Community as a whole, an objective execution of the Treaties.

Certainly, the Community is not just an ordinary international organization, merely subject to the usual rules of international law. However, on account of the limits assigned to the transfer of powers and of the predominance of the Member States, the Community, as yet and whatever its potentialities may be, cannot be assimilated to the rigid system of a real federation.

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An active and efficient cooperation

Upon closer examination, the specific combination of common rules and of common institutions adopted within the Community, even though it implies a limited transfer of the power of the Member States, appears to aim primarily at organizing and strengthening the cooperation of these States towards the accomplishment of the agreed objectives.

I. The first objective of the institutional system of the Community is to enable the Member States to acquire a view of their common interest as a whole, and to urge them to take action in cooperation. In most international organizations, and that goes also for the Council of Europe, negotiations between national governments end in a compromise on the basis of a give and take bargain, or in a lack of compromise ensuring cooperation through inaction. This result should raise no criticism as regards international organizations that have no other aim than providing a forum for negotiations. But it would impede the progression towards a "solution d'ensemble" which is the specific objective of the Community. To avoid this danger, the institutional system of the Community provides for three remedies.

a) On the one hand, all the decisions are prepared by the executive body of the Community concerned. This body has primarily the mission to elaborate proposals answering the objectives and requirements of the Treaties and ensuring the common interest of the Community. The executive body is not meant to proceed to a preparatory negotiation between representatives of the Member States, as any committee of the Council could do. It is required to reach, and to state in all following discussions with the Council or the Assembly, an independent but responsible view on each matter concerned, from the standpoint of the Community as a whole. Its proposals are submitted to the Council. The executive body participates with the representatives of the Member States in all the discussions held in the Council. Thus, from the start as well as during the debates in which each government defends, as they should, their national interest, a voice speaks for the interest of the Community as a whole.

b) On the other hand, the Council, after a thorough discussion of the proposals submitted by the executive body, is urged to take a step towards action. To that effect, decisions in the Community can be made, as a rule, with a majority vote of the Council. There are of course exceptions. The Treaties provide that in some cases which have appeared to some Member States of paramount importance or in which action should be taken to reach the objectives of the Community without having been foreseen in the Treaties, the unanimous consent of the Council is necessary. But the principle is that most decisions can be carried on when there is a majority in the Council to support the proposals of the executive body.

This principle is worked out in a different way in the Coal and Steel Community on the one hand, and in the Common Market and Euratom on the other hand. In the Coal and Steel Community, detailed rules and main lines of the common policy have been defined in the Treaty itself, leaving to the Institutions to decide only on their implementation and their application in individual cases. The decisions are made by the High Authority, with the previous consultation, and majority consent in matters of some importance, of the Council. In Euratom, and still more so in the Common Market, the Treaties have often set merely the objectives and principles, leaving to the Institutions to decide on common policies and common rules. The decisions are then made by the Council itself on the proposal of the Commission. The Council may adopt the proposal of the Commission by a majority vote; but it may also adopt by unanimous consent a decision with which the Commission disagrees. One more precaution has been taken: majority rule only applies during the first years to matters of minor importance, unanimity being still required during those years for all the main decisions laying down the fundamental common rules or defining the basis of common policies.

In adopting these different rules of vote, the six Member States have shown the flexibility of their methods and the permanence of their one aim: to foster active cooperation between themselves. The Member States,

not being able to stop action by a mere veto, are urged to agree on a concerted solution. As hoped for, the majority rule applied in the Council to the proposals of the executive body works as an incentive for unanimous and active cooperation.

Contrary to the rule applied in some international organizations following which a Member State can prevent application, as far as it is concerned, of decisions to which it has not agreed, the majority rule safeguards unity in the Community. Common decisions may be taken, and common action may be carried out throughout the Community despite the opposition of a Member State in the vote. Experience has shown that such cases can happen in the three Communities. This emphasizes the fact that the Council is not only a conference of the Member States, but truly an Institution of the Community. It also suggests that, as should be the case in any Community, a full understanding and respect for the needs and problems of each partner is a condition of the development of the Community as a whole. The majority rule can only be safely imposed on the opposition when this attitude is not likely to question the very existence of the Community itself.

c) Last but not least, the Parliamentary Assembly provides support, incentive and constant control for the action of the Council and of the executive bodies. Whether through public debates in which these Institutions responsible for action participate, or through published questions and answers, or again through the work of its Committees, the Parliamentary Assembly pushes forward an active accomplishment of the objectives of the Community. Its pressure, necessarily indirect on the Council since the national governments are, as aforesaid, only responsible to their national Parliaments, is very effective on the executive bodies. These have the difficult task to keep the confidence of the governments, who have appointed them and without the collaboration of which nothing can be done, and of the Assembly that can both support and dismiss them. But without that support and menace, which is the essence of parliamentary control, the influence of the executive bodies, as voices of the interest of the Community and promoters of joint action, would be severely cut down.

II. The institutional system of the Community has been designed to favor an impulse towards action. The <u>legal system of the Community</u> seeks to provide for efficiency.

a) Within a common market based on the free movement of men and enterprises, free flow of goods, capital and services, <u>common rules</u> are necessary. Freedom must be safeguarded, fair play must be ensured, legal means of action must be provided for in a comparable if not in the same way throughout the Common Market. As any lawyer learns through his own experience, common rules do not forge a Community, but a Community cannot be forged without common rules.

Of course, as in any international organization, the common institutions may, by means of opinions and recommendations, put a non negligible moral pressure on the Member States to induce them to harmonize or unify their national law. But, on certain matters at least, the Common Market requires really common rules known to all people and enterprises concerned, and each Member State cannot remain free to decide whether, when and how its national law should be modified.

The usual methods of international law are not quite proper to lay down a law of the Community ensuring throughout the Common Market the application of common rules on the matters where such rules prove to be necessary. To be completely uniform, these rules should be stated in Treaties or Conventions submitted to ratification in the Member States, which means in most cases a parliamentary debate. It would be unrealistic to require this long and politically difficult procedure to lay down, modify or adapt the common rules, specially in the moving and complex field of economy. On the other hand, common rules should be uniform and could scarcely be so if each Member State passes its own legislation. Anyhow, even a uniform text can produce important differences if interpreted separately by the different national courts.

To overcome these inconveniences, the Member States have agreed to lay down on specified matters a law of the Community, directly binding and applied as national law within each Member State, and subject to sovereign interpretation by the single Court of Justice of the Community. As aforesaid, the basic law of the Community, more or less detailed, is laid down in the Treaties themselves. But it has to be completed, possibly adapted, anyhow implemented and applied to individual cases. Within the limits of competence and under the conditions of procedure determined by the Treaty for each matter, the Council and the executive bodies are entitled to do so. They are empowered to make regulations which bind everyone in the Community, such as a regulation implementing the basic anti-cartel law laid down in the Treaties; they can also make individual decisions binding only the addressees, such as a decision recognizing the conformity or the non-conformity with the anti-cartel law of one specific cartel. These acts are directly binding, without any intervention, of the Member States. Their violation is assimilated to a violation of the Treaties themselves.

A strictly uniform law is not always required and possible. The Institutions are also empowered therefore to issue directives, assigning a binding objective to the Member States who are free to reach it by appropriate national means. To comply with the directives, some Member States will have to reform their legislation, others to modify merely governmental regulations, others again to issue completely new measures. Contrary to regulations and individual decisions, the directives are only binding on the Member States concerned. They have an indirect and imperfect effect in the Community as far as they must be "translated", with the risk of slight differences, in each national law. But this flexibility may meet better practical problems. The Member States anyhow have no power to reject or modify the directives which are binding on them as the Treaties themselves.

The Treaties specify in some cases that the measures contemplated by the common institutions should be formulated as regulations, or as decisions, or as directives. But in most cases where the institutions are empowered to lay down the law of the Community, the Council and the executive bodies have a free choice, which they exercise rather pragmatically taking into account political and technical circumstances.

b) Whether laid down in the Treaties or issued by the common institutions, the common rules could be rightly regarded as the law of the Community only as far as some procedure is organized to ensure their <u>execution</u>.

1) The Member States have agreed in the Treaties on their duty to take all general or particular measures appropriate to carry out the obligations arising out of the Treaty or resulting from the acts issued by the common institutions.

But, each Member State cannot be the final judge of its own obligations under the law of the Community. The Court of Justice of the Community has been made exclusively competent in this matter and any alleged infringement of the obligations of a Member State under the law of the Community can be referred to this Court by the executive bodies or by each Member State.

It should be observed that, at least in the Common Market and in Euratom, when a Member State intends to institute proceedings before the Court of the Community against another, the matter must first be referred to the Commission which must give a reasoned opinion within a period of three months. Thus, a dispute between Member States may be settled by the Commission without it being necessary to refer to the Court. And if it does go to the Court, the views of the Commission, speaking for the common interest of the Community, will be taken into account as well as the views of the Member States involved in the dispute. Up to now, no Member State has ever instituted such proceedings.

It should also be observed that when the Commission considers that a Member State has failed to fulfill one of its obligations, it must first address a reasoned opinion to this Member State and lay down a reasonable period to comply with the terms of this opinion. This procedure of a previous reasoned opinion, given after requiring the Member States to submit its comments, has proved already successful. It may be noticed that under the

European Coal and Steel Community Treaty, the same result is achieved by a somewhat different, and less friendly, procedure: the High Authority, after requiring the Member State to submit its comments, states in a decision that this Member State has failed to fulfill one of its obligations and lays down a period to comply. The Member States can then attack the decision of the High Authority before the Court of the Community. This procedure also has proved successful, at least for providing the Court with cases and the lawyers with extra work!

If the Court of Justice finds that a Member State has indeed failed to fulfill any of its obligations under the law of the Community, the State must take the measures required for implementation of the judgment of the Court. But the Community has no means of enforcement against a Member State. In some cases, retortion measures may be taken by the common institutions or with their authorization by the other Member States, to correct the consequences of the failure. A systematic provision of this kind, somewhat theoretical, exists in the European Coal and Steel Treaty, but has not been reproduced in the Rome Treaties. In reality, failing to comply with a decision of the Court stating its obligations under the Treaty is highly improbable on the part of a Member State. A failure would mean that the Member State is questioning the "affectio societatis" without which the Community cannot live, and would therefore raise a basic political problem. When drafting the Rome Treaties, the Member States have considered that such a situation should be handled between them on a political and not on a legal basis.

2) Execution of the law of the Community by individuals and enterprises within the Community does not raise the same problems.

If individuals or enterprises fail to comply with their obligations under the law of the Community, penalties may be imposed upon them. The same infringements should cause the same penalties throughout the Community. But penal law remains a matter of exclusive competence of the Member States and is applied in each State by the national courts. The European Coal and Steel Community Treaty has therefore empowered the High Authority to apply pecuniary sanctions or daily penalty payments within limits set up in the Treaty. The person or enterprise concerned must be previously required to submit its comments. The decisions imposing penalties may be referred to the general jurisdiction of the Court, thus entitled to annul the decision or modify the penalty. Special penalties have been provided for in Euratom Treaty. The European Economic Community Treaty does not itself institute penalties, but whenever justified these are stipulated in the regulations issued by the common institutions.

A special system of enforcement of pecuniary obligations is provided for. It applies to enforcement of the above-mentioned penalties, but also to enforcement of the decisions of the Court. The Community has no means of its own for enforcing such decisions. The Treaties have therefore stipulated that forced execution shall be automatically ensured by the Member States. The writ of execution shall be served by the Member States without other formality than the verification of the authenticity of the decision issued by the common institutions. No previous review of this decision can be made by any authority of the Member States. This special system has proved successful on several occasions in Coal and Steel matters.

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Evolution of forces and institutions in the framework of the Community

Far from establishing a rigid code of rights and obligations, the Member States have transferred to common institutions subject to their predominant influence powers and legal means necessary to carry out the achievement of the objectives and principles of the Community. While accomplishing their mission, the institutions, though bound by the more or less detailed provisions of the Treaties, have a large amount of freedom in selecting the common policies or determining the law of the Community.

When chosing their way, they have to face and to weigh the various and often conflicting interests that co-exist within the Member States. The differences between the economic and social structures of the member countries increases the number and reinforces the importance of the basic oppositions which have to be settled. Within the Community co-exist bigger and smaller countries, different degrees and means of governmental control on the national economies, traditionally low tariff and high tariff countries, economic and social structures, more or less influenced by agriculture or industry, and so on. A balance must be established between conflicting forces and interests.

In relation with this fact, it is often said that the negotiations initiated with the drafting of the Treaties continue. It should then be underlined that these negotiations initiated between the six Member States with the usual procedure and conditions of classical international negotiations continue in the different framework of the Community. The differences increases as a mutual adjustment of the conflicting forces and of the framework of the Community is taking place, mainly in the Common Market.

a) On the one hand, economic, social and political forces, traditionally organized on a national scale are organizing within the framework of the Community.

They have been encouraged to do so by the institutions and organs created by the Treaties. Indeed, the Parliamentary Assembly groups together members of the political parties of each Member State. Permanent consultative committees, composed of representatives of the professions, of the trade-unions and of the consumers appointed by the Council, are set up to advise the Council and the executive bodies on the economic and social aspects of their decisions. Previous consultation of these committees is either required by the Treaties, or freely asked for, whenever helpful, by the Council or the executive bodies.

These official meetings, as well as spontaneous initiatives, have promoted regular meetings, if not permanent offices, by means of which professional interests or political attitudes in the Common Market are studied with a view of defining concerted action. The evolution has a double result. First, when put to the national governments, the views of national organizations are already influenced by their previous studies in common with the similar organizations of the other member countries. Secondly, when these studies have enabled to reach common views, these are not only given to the national governments but also to the executive bodies and to the Parliamentary Assembly, which constitute a new way of influencing the final decisions. The eagerness of professional, trade-unionist and political groups to keep up with the Commission the same relations as with the national governments is highly significant of that evolution.

b) On the other hand, the constitutional custom gradually developing in the Community is adjusting the framework set by the Treaties to the evolution of the economic and political forces.

Stimulated by the quickening "Europeisation" of these forces, the Member States are bound to reinforce their means of cooperation in the Council. Monthly meetings of the Foreign Affaires Ministers, prepared by a Committee of Permanent Representatives of the Member States, though they remain the center of the activity of the Council of the European Economic Community, are no more sufficient to decide on the proposals of the Commission. Subcommittees of experts are continuously meeting on the different matters involved, bringing in direct contact the national administrations concerned. Moreover, whether at the official sessions of the Council or during preparatory meetings, the technical Ministers of the six countries meet regularly to study their own particular problems of finance, agriculture, transportation, labor and so on. Owing to this growing interpenetration in everyday work, in which the Commission always participates, sessions of the Council resemble more to a large "cercle de famille" than to an ordinary diplomatic meeting. It proves very helpful when mutual concessions must be made, for either political or legal reasons, to reach unanimous agreement, often with the active contribution of the Commission. It also provides an indispensable psychological support for the exercise by the Council of its responsibility as an Institution of the Community as a whole.

Whereas the Council often follows, somewhat breathlessly sometimes, the economic forces at work in the Community, the Parliamentary Assembly has always been ahead of the political forces favoring European integration. Ever since the Coal and Steel Community, it started to prepare for the role of a fully empowered European Parliament. First, though representatives of the people of the member countries, the members of the Parliamentary Assembly have quickly set up three political groups comprising without any discrimination the nationals of the six countries who share the same political views. In each debate, the demochristian, socialist and liberal groups state the position of their group as a whole. Secondly, standing committees and ad-hoc subcommittees have been set up to study the various matters and prepare the plenary sessions. Thus organized, the Parliamentary Assembly struggles to introduce the largest amount of parliamentary control on the executive bodies: continuous questions of the individual members or of the committees, regular hearings by the committees and official statements before the plenary Assembly, previous consultations of the Assembly on the projected regulations or directives of some significance, oblige the executive bodies to justify their action or inaction and enables the Parliamentary Assembly to participate in the definition of the main lines of the policy of these bodies. Fully conscious of the decisive power of the national governments, the Parliamentary Assembly multiplies its tentatives to develop regular relations with the Council which, as aforesaid, is not responsible to that Assembly. In a spirit of mutual consideration, some steps have been made towards cooperation between the two Institutions. Within agreed limits, the Council answers questions put to it by the Assembly, is represented by one of its members in most sessions, and participates once a year to a special session devoted to a mutual exchange of views on agreed matters. Despite these achievements, the Parliamentary Assembly suffers to be deprived of any power of decision in the political, legislative or budgetary field, and is anxious that new steps would bring a remedy to this situation. Such as it is, the Parliamentary Assembly provides a broad forum for public discussion and a dynamic support for action.

The role of the executive bodies, which are a truly original creation of the Community, is gradually shaping. Like independent experts, each member of the executive bodies is appointed by unanimous consent of the Member States and can be bound by no directives from any Member States or organization. But, unlike experts, they are appointed to a full-time job, they must give up all other professional activities and they share in the direct responsibility of their executive body as a whole to the Parliamentary Assembly. In the executive bodies meet constantly and sit together at least once a week, for a term of several years, nationals of the different Member States, formerly members of governments or politicians, senior officials or diplomats, businessmen and trade-unionists, professors in economics, or ... of course lawyers. In these new melting pots, the members of the executive bodies, turned towards the same objectives designed in the Treaties, bound by the same fate when facing the Council, the Assembly or public opinion at large, struggle alongside for the achievement of the European Community. Though entitled to make their decisions by a majority vote, they always seek, and generally reach by progressive adjustments of their initial views, unanimous consent on basic matters in which they feel that the future of the Community is deeply involved. Their frequent personal contacts with members of the national governments and accredited representatives of foreign governments, with members and political groups of the Parliamentary Assembly, as well as with businessmen, trade-unionists and experts, provides them with the necessary political information. Their important staff, comprising also nationals of the different Member States and experts in the various fields covered by the Community, takes care of the technical and preparatory work, in constant consultation with the national and international experts.

Thus, independent but responsible, composite but united, both well-informed and well-equipped, the executive bodies provide a powerful help to find out and to put forward to the Members States the interest of the Community as well as to ensure an impartial application of the law of the Community agreed upon by the Member States. Though they seldom possess a truly decisive power, their central and objective position gives them a great audience as well in the other institutions of the Community as among the forces and interests at work in the Community, and exposes them to a large amount of stimulating criticism.

The Court of Justice, entitled to check the compatibility with the Treaties of the action taken by the Member States or by the Institutions of the Community, is a powerful safeguard against misuse of authority or deviations. In the balances of the Court is weighed the very balance of powers of the Community. You will have the privilege of hearing about this from the President of the Court himself. I would just like to testify to the authority of the Court, whether of its already numerous decisions or of its mere shadow which is always present in the deliberations of the executive bodies.

Conclusion

In this rather loose framework of the Community Continental Europeans have managed a surprisingly large room for flexibility and free choice. The European Community offers a new combination of rules, of institutions and of forces which may pave the way towards an as yet unusual kind of economic international democracy.

Its methods may have to be adapted to other fields than economy in which an organized and active cooperation between the Member States would be undertaken. But they have at least made clear that in any effective step towards European unity it should be required and it is possible to associate the Member States and responsible Institutions acting for the Community as a whole. In the balance of forces and interests, an organized representation of the European forces should be ensured as well as that of national interests.

The most powerful help and the best safeguard in that direction should derive from the tradition which is slowly, pragmatically developing within the Community, in a spirit of growing unity.

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