



European Communities

**EUROPEAN PARLIAMENT****SESSION DOCUMENTS**

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A3-0085/91/Part A

**REPORT**

of the Committee on Institutional Affairs  
on the nature of Community acts

Rapporteur: Mr Jean-Louis BOURLANGES

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Part A: Motion for a resolution

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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
**I	= Cooperation procedure (first reading)	***	= Parliamentary assent which requires the votes of a majority of the current Members of Parliament

At the sitting of 18 February 1991 the President of the European Parliament announced that he had referred the motion for a resolution tabled by Mr De Gucht, pursuant to Rule 63 of the Rules of Procedure, on the distinction between laws and regulations (B3-2126/90) to the Committee on Institutional Affairs as the committee responsible and to the Committee on Legal Affairs and Citizens' Rights for its opinion.

At its meeting of 17 and 18 December 1990 the Committee on Institutional Affairs had decided, pending the referral, to appoint Mr Bourlanges rapporteur.

At its meetings of 28 and 29 January, 4 and 5 February, 28 February and 1 March and 3 and 4 April 1991 it considered the draft report.

At the last meeting it adopted the motion for a resolution unopposed.

The following took part in the vote: Oreja, chairman; Prag, vice-chairman; Herman, for the rapporteur; Aglietta, Balfe, Beiroco, Bocklet (for Colombo), Bonde, Cassanmagnago Cerretti, Cooney, Duverger, Ford (for Donnelly), Guidolin (for Bindi), Martin, Musso, Penders (for Ferrer), Peters, Puerta, Rothley, Topmann (for Cheysson), Valverde and von Wogau (for Luster).

The opinion of the Committee on Legal Affairs and Citizens' Rights is attached.

The report was tabled on 4 April 1991.

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

A

MOTION FOR A RESOLUTION

on the nature of Community acts

The European Parliament,

- having regard to the motion for a resolution by Mr De Gucht on the distinction between laws and regulations (B3-2126/90),
  - having regard to the note of 20 September 1990 from the Italian delegation on the typology of Community acts,
  - having regard to the letter of 6 December 1990 from the Chancellor of the Federal Republic of Germany and the President of the French Republic to the President-in-Office of the European Council,
  - having regard to the conclusions of the Rome European Council of 14 and 15 December 1990,
  - having regard to its resolution of 14 December 1990 on the constitutional basis of European Union, the resolutions on the Intergovernmental Conferences in the context of the EP's strategy for European Union and the declaration of the conference of the parliaments of the Community,
  - having regard to the Commission proposals on the hierarchy of norms - co-decision of 27 February 1991 - and those on assent of 14 February 1991,
  - having regard to the report of the Committee on Institutional Affairs (A3-0085/91),
- A. whereas the typology of Community acts as provided for in Article 189 of the EEC Treaty, Articles 14 and 15 of the ECSC Treaty and Article 161 of the Euratom Treaty is not suited to the current situation of the EC and leads to confusion as to the respective roles of the legislature and executive in the Community,
- B. whereas Parliament and the Council are required to take decisions indiscriminately on texts of a legislative nature and texts which should be of executive nature, rendering their respective decision-making procedures less effective,
- C. whereas, also, in the context of the amendments to be made to the Treaties to strengthen the EC's democratic legitimacy by giving Parliament joint decision-making powers over legislation, it is vital to define clearly the nature of Community acts,
- D. mindful of the need to provide a clear typology of Community acts, differentiating between, inter alia, constitutional acts, budgetary acts, legislative acts and implementing measures;
- E. whereas the specificity of European integration makes it impossible to define permanently and rigidly matters for legislative action or delegated implementation,

- F. whereas, in the absence of any strict Treaty definition of matters for delegated implementation, democratic principles imply that implementing measures are subordinate to the legislative acts they are designed to implement,
- G. whereas a clear allocation of powers should result in the conferral of implementing powers on the Commission of the European Communities,
- H. whereas, however, current provisions for conferring implementing powers on the Commission allow the Council to establish:
- advisory committees able to give their opinion to the Commission,
  - management committees which may, by a qualified majority, refer an implementing measure back to one branch (Council) of the legislative authority,
  - regulatory committees whose support (by a qualified majority) is required by the Commission, failing which the matter is referred back to one branch (Council) of the legislative authority,
- and whereas regulatory committees are unacceptable to the Commission and the European Parliament, both of which have proposed their abolition to the Intergovernmental Conferences,
- I. whereas Parliament has proposed that, if a measure is delegated to the Commission, the European Parliament, acting by a majority of its Members (or a management committee acting by a qualified majority), may refer a Commission implementing measure back to the legislative authority as a whole (Parliament and Council), but without a suspensive effect,
- J. whereas such a procedure would make it easier for the legislative authority (Council and Parliament) to delegate more frequently to the Commission, thus achieving, over time, a better balance between true legislative acts requiring deliberation in Council and Parliament (co-decision) and detailed implementing measures which could be delegated, with this safeguard, to the Commission,
- K. whereas the new typology of Community acts and powers should be in keeping with the framework set in the resolutions adopted on the basis of the D. Martin, V. Giscard d'Estaing and E. Colombo reports,
- L. whereas the traditional distinction between directives, which define objectives but leave the Member States the choice of means, and regulations, which are directly applicable in all Member States, is well suited to the task of building the Community and meets the requirements of the subsidiarity principle, and whereas the new typology should therefore distinguish not only between legislative acts and implementing measures but also, amongst them, between those which are similar to the present directives (framework laws and framework implementing measures) and those similar to the present regulations (laws and implementing measures),
- M. whereas this new typology of Community acts should not have the effect of limiting the field of application of the co-decision procedure, which should apply to any act of a legislative nature,
- N. noting the link in the Commission proposals between the field of application of the assent procedure and that of the law in its new typology,

1. Proposes to insert into the EEC Treaty and the corresponding articles of the ECSC and Euratom Treaties a typology of Community acts differentiating between legislative acts (framework laws and laws) and implementing measures:

ARTICLE 189<sup>1</sup>

- (1) In order to carry out its tasks, the legislative organ of the Community shall, in accordance with the provisions of this Treaty, adopt framework laws and laws which must lay down the basic principles, general pattern and essential elements of the measures to be taken for their implementation.
- (2) A framework law shall be binding in its entirety, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods. Those of its provisions from which an unconditional and specific obligation derives shall have direct effect.
- (3) A framework law or a law shall lay down the objectives and scope of the implementing regulatory measures it intends to delegate.
- (4) By way of exception, the Commission of the European Communities may be authorized by the framework law to take framework implementing measures in order to permit implementation of the framework law by the Member States.
- (5) The Commission shall take the general and individual measures necessary for the implementation of laws in accordance with Article 155, fourth indent, of the Treaty.
- (6) These measures shall take the form of regulatory acts and decisions.
- (7) Laws and the implementing measures adopted for their application shall be binding in their entirety and directly applicable in all Member States.
- (8) In the cases provided for by this Treaty, the Community institutions shall take decisions, make recommendations or deliver opinions.
- (9) A decision shall be binding in its entirety on those to whom it is addressed.
- (10) Recommendations and opinions shall have no binding force.

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<sup>1</sup> Supplementing the resolution of 22 November 1990 on the Intergovernmental Conference in the context of the European Parliament's strategy for European Union - Rapporteur: Mr D. Martin.

The numbering inserted into Article 189 is provisional and merely serves to locate the amendments.

## ARTICLE 190<sup>1</sup>

Framework laws, laws, implementing measures and decisions shall state the reasons on which they are based and shall refer to any proposals or opinions which were required to be obtained pursuant to this Treaty.

## ARTICLE 191<sup>1</sup>

Framework laws, laws and implementing measures ... (rest unchanged).  
Decisions shall be notified ... (rest unchanged).

The international agreements concluded by the Council acting by a qualified majority on a Commission proposal which require the adoption or amendment of a Community legislative act shall be subject to the assent of the European Parliament.

International agreements of major significance may be subject to the assent procedure where Parliament so requests by a majority of its Members.

2. Calls for Articles 28, 98, 127, 130k and 130l of the EEC Treaty to be modified to provide for measures to be adopted by the Commission, not the Council;
3. Calls on the Intergovernmental Conference on Political Union to incorporate these proposals into its revision of the Treaties and to amend the provisions of the ECSC, EEC and Euratom Treaties each time that this is necessary for the implementation of the new typology;
4. Considers that these changes, combined with the changes already proposed by Parliament to the Intergovernmental Conferences, would enable it, as part of the joint legislative authority, to confer more extensive implementing powers on the Commission;
5. Instructs its President to forward this resolution to the Intergovernmental Conference on Political Union, the Council, the governments and parliaments of the Member States and the Commission of the European Communities.

