

European Communities

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EUROPEAN PARLIAMENT

# Working Documents

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5 December 1983

DOCUMENT 1-851/83/ANNEX/corr.

ANNEX

to the report by Mr D. EISMA

drawn up on behalf of the Committee on Social Affairs  
and Employment

on voluntary work

OPINION OF THE LEGAL AFFAIRS COMMITTEE

Draftsman : Mr TYRRELL

PE 84.852/fin./Ann./corr.

OPINION

of the Legal Affairs Committee

On 20 January 1983, the Committee appointed Mr TYRRELL draftsman.

The Committee examined the draft opinion at its meetings of 18 and 19 October and 22 and 23 November 1983, and adopted it at the latter meeting by 7 votes to 4 with 1 abstention.

The following took part in the vote:

Mr Luster, vice-chairman and acting chairman; Mr Turner, vice-chairman; Mr Tyrrell, draftsman; Mr D'Angelosante, Mr Del Duca, Mr Geurtsen, Mr Goppel, Mr Prout, Mr Sieglerschmidt, Mrs Vayssade, Mr Vetter and Mr Vie.

1. This opinion concerns the motion for a resolution (Doc. 1-942/81) tabled on 20 January 1982 by Mrs GAIOTTI DE BIASE and others which calls on the Commission, in paragraph 4(a), to undertake, on the basis of wider consultation of the international and national voluntary organizations, a study of voluntary work in the Member States, examining the nature and extent of its growth, its legal status and the links between voluntary organizations and the public authorities; and in paragraph 4(b), to consider the feasibility, on the basis of Article 118 of the EEC Treaty, of drafting a directive aimed at establishing the broad criteria for a legal distinction between the nature and condition of voluntary work and paid employment.

2. Article 118 of the Treaty imposes on the Commission the task of "promoting close cooperation between Member States in the social field", particularly in matters relating to, inter alia, employment, and labour law and working conditions. To this end, the Commission is empowered to make studies, deliver opinions and arrange consultations. Voluntary work does not come within the scope of the first or second heads mentioned above but there might be an argument for it coming within the third. There is, however, no power to make or propose legislation, and, therefore, the Commission is not competent to draft a directive under this Article, as it is called to do in paragraph 4(b) of the motion for a resolution.

3. Historically, voluntary organisations have sprung up spontaneously to meet needs not taken care of by the State. They have been great innovators, and have often been followed by the social services both as regards their methods and the needs they have exposed. This continues to be true, since needs constantly change with the times and these organizations may become still more important due to the cutbacks in public spending and the consequent contraction of welfare services.

There has been, and is, for the most part little state interference in these organizations; they have developed of their own initiative and obtain most of their support from private sources.

The Committee believes that these organizations should be subject to the minimum of state interference and bureaucracy and be allowed to conduct their affairs according to their own wishes. Community activity in the field of voluntary work should, therefore, be limited to problem areas facing these organizations.

4. The committee considers that in the motion for a resolution (Doc. 1-942/81) the subject under discussion is described by a variety of terms which do not make clear whether paid or unpaid work is intended; whether it is work based on contractual obligations or some other legal duty or willingly arising out of an association; whether it refers to work, the end product of which is a saleable commodity, or is a service intended for the common good.

5. The committee would like to express its regret that the Committee on Social Affairs and Employment did not wait for the opinion of this committee before adopting its report on 20 September 1983, especially in view of the indications earlier given<sup>1</sup> on the probable date of its adoption.

6. Conclusions

a) The Commission has no power under Article 118 of the Treaty of Rome to propose or make legislation concerning voluntary work. The Treaty does not deal specifically with voluntary work and the provisions concerning employment are interpreted by the Commission as referring only to paid employment. The Commission would, therefore, only be legally competent to take the action called for in paragraph 4(a) of motion for a resolution (Doc. 1-942/81), insofar as it concerned the effect on employment of voluntary work, and not that called for in paragraph 4(b).

b) By reason of the considerations set out in paragraphs 2, 3 and 4, the motion for a resolution (Doc. 1-942/81) should not be supported.

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<sup>1</sup> See Bulletin of the European Parliament, No. 29 (PE 85.728), 6 July 1983, page 18 and No. 37 (PE 86.505), 14 September 1983, page 19.