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REPORT

on the Laeken European Council and the future of the Union
(2001/2180(INI))

Committee on Constitutional Affairs

Rapporteurs: Jo Leinen and Iñigo Méndez de Vigo

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PROCEDURAL PAGE

At the sitting of 4 October 2001 the President of Parliament announced that the Committee on Constitutional Affairs had been authorised to draw up an own-initiative report, pursuant to Rule 163 of the Rules of Procedure, on the future of the Union and the Committee on Economic and Monetary Affairs, the Committee on Legal Affairs and the Internal Market and all other committees interested in delivering an opinion had been asked for their opinions.

The Committee on Constitutional Affairs had appointed Jo Leinen and Iñigo Méndez de Vigo rapporteurs at its meeting of 11 July 2001.

The committee considered the draft report at its meetings of 13 September, 1 October, 11 October and 22 October 2001.

At the last meeting it adopted the motion for a resolution by 23 votes to 3, with 1 abstention.

The following were present for the vote: Giorgio Napolitano, chairman; Johannes Voggenhuber and Ursula Schleicher, vice-chairmen; Jo Leinen and Iñigo Méndez de Vigo, rapporteurs; Teresa Almeida Garrett, Margrietus J. van den Berg, Georges Berthu, Guido Bodrato (for François Bayrou), Jens-Peter Bonde, Elmar Brok (for Luigi Ciriaco De Mita), Carlos Carnero González, Giorgos Dimitrakopoulos, Manuel António dos Santos, Andrew Nicholas Duff, Olivier Duhamel, Monica Frassoni, José María Gil-Robles Gil-Delgado, Sylvia-Yvonne Kaufmann, Alain Lamassoure (for Christopher J.P. Beazley), Hanja Maij-Weggen, Cecilia Malmström, Hans-Peter Martin, Jacques F. Poos (for Richard Corbett), Lennart Sacrédeus, Konrad K. Schwaiger (for The Earl of Stockton) and Dimitris Tsatsos.

The opinions of the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs and the Internal Market are attached.

The report was tabled on 23 October 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

MOTION FOR A RESOLUTION

European Parliament resolution on the Laeken European Council and the future of the Union (2001/2180(INI))

The European Parliament,

- having regard to the treaty signed in Nice on 26 February 2001 and in particular Declaration No 23 on the future of the Union,
 - having regard to the communication from the Commission on certain arrangements for the debate on the future of the European Union (COM(2001) 178),
 - having regard to the report on the future of the Union presented to the Göteborg European Council by the Swedish Presidency,
 - having regard to its resolution of 31 May 2001 on the Treaty of Nice and the future of the European Union¹,
 - having regard to its resolution of 25 October 2000 on the constitutionalisation of the Treaties²,
 - having regard to the report from the European Council on the progress achieved by the European Union in 2000,
 - having regard to its motion for a resolution on the High Representative at the Commission (B5-0680/2000),
 - having regard to Rule 163 of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs and the Internal Market (A5-0368/2001),
- A. having regard to Declaration No 23 annexed to the Treaty of Nice, which provides for reform of the Treaties in 2004 preceded by a new process of preparation that is open and public,
- B. whereas the public debate that has taken place throughout 2001 has revealed a very broad consensus in support of a new method of reform of the Treaties based on the work of a Convention which would prepare the IGC,
- C. whereas dialogue with citizens has been inadequate hitherto and must therefore be intensified and extended throughout the process of reform of the Treaties,
- D. having regard to the hearing held in Brussels on 10 and 11 July 2001, in which the parliaments of the Member States and the applicant countries participated,

¹ see Texts Adopted for that date, item 4.

² OJ C 197, 12.7.2001, p. 186.

- E. whereas, in the light of recent world events, the challenges relating to external and internal security have resurfaced as an urgent issue on the Union's agenda,
- F. having regard to its opinion on the Treaty of Nice (which this resolution follows up and builds upon), the weak points of which are indicative of the current drift towards intergovernmental methods and the consequent weakening of the Community method,
- G. whereas European citizens desire, above all, that the policies and procedures adopted to determine the future course of the Union will make the Union more democratic, more effective, more transparent, more vigorous and more responsive to social issues,
- H. whereas one of the aims of the forthcoming reform must be to ensure that the general public fully embraces the process of European integration, for which purpose it needs to understand clearly who does what in the European Union, what the latter is required to do and how it should set about it,

Future challenges facing Europe

1. Reiterates its commitment to a European Union which fulfils its fundamental role as a union of peoples and states and provides a stable and durable response to the requirements of democracy, legitimacy, transparency and effectiveness, which are essential for there to be further progress in European integration, particularly with a view to enlargement, whilst in no event allowing the democratic nature of the Union to be sacrificed for the sake of effectiveness; the aim of the 2003 Intergovernmental Conference must be a constitution for the European Union;
2. Points out that the list of four topics in Declaration No 23 annexed to the Treaty of Nice is not exhaustive; considers, therefore, that the scope of the forthcoming reform and, consequently, the topics selected for discussion by the Convention must be based on a rigorous in-depth analysis of the strengths and weaknesses of the Union and the role it will have to play in the 21st century;
3. Considers that besides the four topics in Declaration No 23, which will be addressed in specific resolutions, political, economic and social progress, security and well-being for Europe's citizens and peoples and the affirmation of the Union's role in the world require:
 - (a) the establishment of a foreign, security and defence policy which incorporates the principles and the general guidelines of the CFSP and common defence and whose aims should include the fight against terrorism;
 - (b) the incorporation of the CFSP into the Community pillar, with all the provisions relating to the various aspects of foreign policy to be brought together within a single chapter;
 - (c) the recognition of the legal personality of the Union;
 - (d) the consolidation, within the EC Treaty, of fundamental rights, citizens' rights and all other provisions relating directly or indirectly to action taken by the European institutions for the benefit of individuals in their capacity as holders of a fundamental right;
 - (e) the elimination of the democratic deficit that characterises EMU at present and the establishment of a well-balanced economic and monetary system resulting from the consolidation of economic and social cohesion policy, the strengthening of

- employment policy and closer coordination of Member States' economic policies;
- (f) the establishment of a common police, judicial and criminal policy and, in particular:
- the merging, within the Community framework, of police and judicial cooperation in criminal matters, judicial cooperation in civil matters and measures relating to the movement of persons;
 - recognition of the full jurisdiction of the Court of Justice in respect of all measures relating to the establishment of the area of freedom, security and justice;
 - the integration of Europol into the Union's institutional framework;
 - the establishment of a European Public Prosecutor's Office;
4. Points out that the institutional reforms are not a closed chapter and considers that the agenda for the reform of the Treaties should include issues which were not tackled or not resolved under the Treaty of Nice and which are essential if the Union institutions are to operate more democratically and more effectively, such as:
- (a) an updating of the tasks which fall to the European Council, the General Affairs Council and the Council of Ministers meeting sectorally;
 - (b) the system for nominating the Presidencies of the European Council, the General Affairs Council and the Council meeting sectorally;
 - (c) simplification of legislative procedures (with the latter subject to transparency) on the basis that the general principle in legislative matters must be qualified majority voting in the Council and codecision involving the European Parliament, so as to make the Union more democratic;
 - (d) the removal of the distinction between compulsory and non-compulsory expenditure, with the budgetary procedure for non-compulsory expenditure thus being applied to the expenditure part of the budget as a whole, and the incorporation of the European Development Fund into the EU budget;
 - (e) the introduction of a hierarchy of Community acts;
 - (f) full involvement of the European Parliament in the common trade policy, in external economic relations and in the implementation and development of enhanced forms of cooperation;
 - (g) the election of the Commission president by the European Parliament;
 - (h) nomination of the members of the Court of Justice and the Court of First Instance by means of a qualified-majority vote and with the European Parliament's assent;
5. Will give detailed opinions on the scope of the reform in subsequent resolutions addressed to the Convention;

Composition of the Convention

6. Insists on the need to establish a Convention whose composition reflects European political pluralism and in which, consequently, the European and national parliaments are well represented, as was the case for the Convention that drafted the Charter of Fundamental Rights; is of the opinion that a Convention of this kind can represent an innovation indispensable for the success of the democratic reform of the EU;
7. Takes the view that the principle governing the composition of the Convention should be the same as that used to determine the composition of the Convention that drafted the aforementioned Charter, with the representation of the European Parliament in proportionate to that of the other component groups remaining the same;

8. Considers it essential that the applicant countries should be involved in preparing the reform of the Treaties and, consequently, that they should participate in the work of the Convention as permanent observers, with two representatives of the parliaments of each State and one representative of each government;
9. Considers that the Committee of the Regions and the Economic and Social Committee should participate in the Convention through two permanent observers from each body, so that the regional and local authorities and representatives of the various categories of economic and social activity are also involved;
10. Considers that, in order to be effective, the work of the Convention should be supervised by a Presidium acting in a collegiate fashion, composed of the Chair, the Commission representative, two members chosen by the representatives of the national parliaments, two representatives of the European Parliament and a representative of the Presidency-in-Office of the Council and of the following Presidency;
11. Believes that the Chair of the Convention has a key role and therefore considers that this position should be held by a distinguished European political figure with parliamentary experience; the Chair should be elected by the Convention;
12. Considers that the Presidium must be responsible for maintaining relations with the European Council on a regular basis;
13. Considers that, after the work of the Convention has been wound up, the Presidium should participate fully and actively at all stages and levels of the IGC which is to ratify the reform of the Treaties prepared by the Convention;

Working methods of the Convention

14. Considers that the Convention should be free to decide how to organise its work, the Chair, assisted by the Presidium, being responsible for implementing procedural decisions adopted by the four component groups by common accord;
15. Considers that it would be useful for the Convention to be assisted by an interinstitutional Secretariat;
16. Believes it is essential for the proceedings of the Convention to be fully transparent with regard to the conduct of debates and deliberations and with respect to documents, where all possible steps must be taken to guarantee public access;
17. Considers it essential that the European Parliament, the national parliaments and all the European institutions should support the work of the Convention through an active dialogue with citizens so that public concerns can be taken into account;
18. Fully supports the proposal for a civil-society forum as proposed by the Belgian Presidency at the informal Council meeting at Genval, which would enable the Convention to keep in close touch with public opinion so as to ensure that the outcome of its work takes account of the concerns, ideas and priorities for the future expressed by civil society; proposes that the Convention should also organise public hearings in the Member States for this purpose;

Mandate and timetable for the Convention

19. Considers it vital, with a view to effective reform of the Union, that the Convention should have a decision-making procedure under which it can draft a single coherent proposal by consensus and present it to the Intergovernmental Conference as the sole basis for negotiation and decision;
20. Hopes that the Convention will start work immediately after the Laeken European Council and complete its work in time to allow the Intergovernmental Conference to wind up its proceedings by the end of 2003 under the Italian Presidency so as to enable the new treaty to be adopted in December of that year, thereby ensuring that, in 2004, the European elections can act as a democratic fillip to European integration and that, together with the Commission, Parliament will be able to play its part in that process under the best possible conditions;
21. Instructs its President to forward this resolution to the Council and Commission and to the Heads of State and Government and the parliaments of the Member States and the applicant countries.

MINORITY OPINION

Pursuant to Rule 161 of the Rules of Procedure
Jens-Peter Bonde, Georges Berthu and José Ribeiro y Castro

1. The Nice Treaty should be renegotiated.
2. The next treaty shall not be a constitution for a European Federation but shall respect parliamentary democracy and the sovereignty of Member States.
3. A catalogue of competence shall limit EU competence and state the powers which reside with national parliaments unless the Treaty specifically gives rights to the EU.
4. National parliaments shall decide whether they wish to move decisions to a higher level.
5. The Commission monopoly of initiative shall be limited by common meetings between 20 representatives from each national parliament.
6. A Commissioner shall meet with a national parliament on a weekly basis.
7. Negotiations on legislation must take place in public. Where there are majority decisions there shall be the possibility for balanced opt-outs.
8. The existing acquis shall be slimmed down to cover broader issues. Member States should be granted greater freedom in implementation.
9. The Charter shall respect the European Court of Human Rights and national high courts.
10. The EU shall adopt a modern administrative code with improved openness as proposed by the European Ombudsman.
11. Representatives in the EU shall be accountable to, paid by and taxed in their member states.
12. Applicant countries shall be offered flexible membership conditions.
13. Future treaties shall be subject to referenda¹.

¹ SOS Democracy Intergroup, 13 demands [www.euobserver.com (search '13 demands')]

17 September 2001

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on Constitutional Affairs

on the Laeken European Council and the future of the Union
(INI(2001)2180)

Draftsman: Christopher Huhne

PROCEDURE

The Committee on Economic and Monetary Affairs appointed Christopher Huhne draftsman at its meeting of 28 May 2001.

It considered the draft opinion at its meetings of 19 June, 10 July 2001, 27 August 2001 and 13 September 2001.

At the latter meeting it adopted the following conclusions by 29 votes to 1, with 1 abstention.

The following took part in the vote: Christa Randzio-Plath, chairwoman, Philippe A.R. Herzog, vice-chairman, Christopher Huhne, draftsman, Alejandro Agag Longo, Generoso Andria, Richard A. Balfe, Luis Berenguer Fuster, Pervenche Berès, Hans Blokland, Hans Udo Bullmann, Harald Ettl (for Simon Francis Murphy), Jonathan Evans, Carles-Alfred Gasòliba i Böhm, Robert Goebbels, Lisbeth Grönfeldt Bergman, Pierre Jonckheer, Othmar Karas, Alain Lipietz, Astrid Lulling, Jules Maaten (for Karin Riis-Jørgensen), Thomas Mann (for Brice Hortefeux), Miquel Mayol i Raynal, Fernando Pérez Royo, John Purvis (for Piia-Noora Kauppi), Alexander Radwan, Bernhard Rapkay, Olle Schmidt, Charles Tannock, Marianne L.P. Thyssen, Ieke van den Burg (for Helena Torres Marques), Theresa Villiers and Karl von Wogau.

SHORT JUSTIFICATION

The Laeken European Council will adopt a declaration which will open the path to a new IGC. This should be an opportunity to introduce changes to the Treaty with a view to make the economic and monetary policy of the European Union more coherent and logic with the full involvement of the European Parliament. Your rapporteur suggests considering the following issues:

Financial services

It is clear that a speedy implementation of the financial services action plan, following proposals made by the Lamfalussy group, has proven difficult. The Lamfalussy group rightly pointed out that delegated legislation is crucial in the area of financial services if policy-makers are to respond to rapidly changing market developments and innovations. Neither existing treaties, nor existing interinstitutional agreements or comitology decisions, adequately cover the situation in which the European Parliament, as one of the co-legislators, is asked to delegate powers. For the Parliament it is difficult to give up the rights it has under the codecision procedure without any resort to a call back procedure in case the Securities and Regulators' committees should exceed powers conceded to them or if they should fail to respect agreed procedures for transparency and openness.

There is an urgent need for the next IGC to clarify the differences between primary and secondary legislation in which the political principles are set out in primary legislation and application measures are contained in secondary legislation accompanied by a binding call-back mechanism for the European Parliament. Both the Parliament and the Council must be able to contest adoption of a decision, respecting strict parallelism, on the basis either that a secondary measure has exceeded the intention of the legislators or that the committee using the powers has failed to respect properly agreed procedures. The Parliament should demand that this call-back be included on the agenda of the IGC to be convened in 2004.

Economic Policy (Article 99)

According to article 98 of the Treaty all Member States, have an obligation to "conduct their economic policies with a view to contribute to the achievements of the objectives of the Community..." Article 99 deals with coordination of economic policies through the Broad Economic Policy Guidelines (Article 99.2) and EMU multilateral surveillance (Article 99.5). The Parliament is not at all involved in the drawing up and adoption of the BEPG. Under the current provisions of the Treaty, the Council adopts the BEPG by qualified majority and only then informs the European Parliament of its decision. Your rapporteur considers that the procedure should be changed to allow for the formal consultation of the Parliament *prior* to the adoption of the Council recommendation. On the multilateral surveillance of economic policies, the Council may decide by QMV to make recommendations on individual member states public expenditure again informing the Parliament afterwards. The adoption of detailed rules relating to this surveillance follows the cooperation procedure, and this should be changed to a codecision procedure.

Improved involvement of the European Parliament in competition policy

The Parliament's role in competition policy must be strengthened. Under the current Treaty provisions relating to reform of competition policy (Article 83) and reform of state aid rules (Article 89), the Council acts by a qualified majority after merely consulting the Parliament. This is unsatisfactory from a democratic viewpoint, since it implies that legislation may be adopted against the votes of a country in the Council but without the additional safeguards implied by the need for European Parliamentary approval. This should be rectified by applying the full codecision procedure as in other areas where qualified majority voting applies in the Council.

ECB accountability

In order to improve the democratic accountability of the European Central Bank, formal confirmation hearings should be held before the EP prior to the appointment of members of the ECB Governing Council, in particular for its president. The European Parliament should have the power to approve or reject all nominations in the same way as nominations for the EU Commission.

Enlargement

In the context of enlargement, the IGC should change the treaties to allow for a different voting composition of the Governing Council of the European Central Bank. Although all national central bank governors should continue to have the right to attend the Governing Council, the number of full votes should be limited to twelve (six for the executive board and six for the national central bank governors). For the purpose of selecting the voting members, the member states should be arranged in constituencies of similar size as in the case of the International Monetary Fund.

CONCLUSIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Desires that the European Council in Laeken widen the agenda with regard to the forthcoming reform of the Union as set out in Declaration 23 annexed to the Treaty of Nice to include the issue of the deepening of economic and monetary union.
2. Notes that the Treaties, interinstitutional agreements and comitology decisions inadequately cover the situation in which the European Parliament, as a co-legislator, is asked to delegate powers in a very broad range of sensitive areas to the Commission assisted by the Securities Committee following the Lamfalussy recommendations; considers that for the Parliament to delegate such powers permanently, it must have the democratic safeguards of a "call back procedure" allowing the Parliament to stop measures that exceed the remit in the primary legislation (*ultra vires*) and that are adopted without respecting agreed procedures for consultation and transparency.
3. Calls for the next intergovernmental conference to clarify the differences between primary and secondary legislation whereby the political principles and essential elements are set out in primary legislation and implementation measures are contained in secondary legislation and to sanction in a revised Treaty a binding call-back mechanism allowing effective democratic oversight by both the Parliament and the Council of Ministers as co-legislators.
4. Calls for the codecision procedure to be extended to all areas of economic, competition and fiscal law, and reiterates its call to reduce the democratic deficit in competition policy by extending the codecision procedure, where decisions in the Council are taken by qualified majority, to legislative acts, notably reform of competition policy (Article 83) and reform of state aid rules (Article 89); stresses the need to extend the codecision procedure to competition legislation which at present comes under the sole responsibility of the Commission.
5. Proposes that in order to improve the democratic accountability of the European Central Bank, formal hearings should be held before the European Parliament prior to the appointment of members of the ECB Executive Board, in particular for its president; believes that the Parliament should be granted the power to approve or reject all nominations in the same way as nominations for the European Commission.
6. Considers that the objective of financial stability within the euro area should be included among the objectives pursued through the policy of the ECB.
7. Considers that in the context of enlargement, Treaty changes should be made to allow for a different voting composition of the Governing Council of the European Central Bank; believes that whilst all national central bank governors should have the right to attend the Governing Council, the full votes should be limited to twelve (six for the executive board and six for the national central bank governors) and that for the purpose of selecting the voting members, the Member States should be arranged in constituencies as is done in the International Monetary Fund.

8. Calls for the procedure concerning the coordination of economic policies (Article 99) to be changed so that the Broad Economic Policy Guidelines are adopted on a proposal from the Commission and a common position has to be reached on the European Parliament's amendments, and so as to abolish the current cooperation procedure for the adoption of detailed rules relating to the multilateral surveillance of economic policies and apply the codecision procedure.

11 October 2001

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Constitutional Affairs

on the Laeken European Council and the future of the Union
(2001/2180(INI))

Draftsman: Willy C.E.H. De Clercq

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Willy C.E.H. De Clercq draftsman at its meeting of 21 March 2001.

It considered the draft opinion at its meetings of 10 September 2001 and 11 October 2001.

At the last meeting it adopted the following conclusions by 26 votes to 1.

The following were present for the vote: Ana Palacio Vallelersundi (chairman), Ward Beysen (vice-chairman), Willy C.E.H. De Clercq (draftsman), Paolo Bartolozzi, Luis Berenguer Fuster, Charlotte Cederschiöld, Bert Doorn, Raina A. Mercedes Echerer, Enrico Ferri, Marie-Françoise Garaud, Evelyne Gebhardt, Françoise Grossetête, Gerhard Hager, Heidi Anneli Hautala, Kurt Lechner, Klaus-Heiner Lehne, Neil MacCormick, Luís Marinho, Manuel Medina Ortega, Angelika Niebler, Ria G.H.C. Oomen-Ruijten, Joachim Wuermeling and Stefano Zappalà, Fernando Pérez Royo (for Enrico Boselli), Fiorella Ghilardotti (for Arlene McCarthy), Helle Thorning-Schmidt (for Willi Rothley) and Neena Gill (for Carlos Candal), pursuant to Rule 153(2)).

SHORT JUSTIFICATION

1. The European Parliament has already adopted an initial general assessment of the Treaty of Nice. The aim of the current exercise is, therefore, to assess the changes made in our own specific field and prepare for the future, given that a further IGC is due to be held in 2004.

Assessment of the changes made

2. The Committee on Legal Affairs recognises that the Treaty of Nice has considerable merits, particularly in terms of the improvements made to the system for the exercise of jurisdiction:
 - Parliament is accorded the right to bring an action before the Court of Justice with a view to having an act declared void without having to prove that its own interests are at stake (Article 230 of the EC Treaty, amended) and to request a preliminary ruling of the Court as to whether an international agreement would be consistent with the Treaty (Article 300(6) of the EC Treaty, amended);
 - in future, it will be possible for judicial panels to be set up to hear and determine at first instance certain classes of action or proceeding brought in specific areas; decisions given by judicial panels will be subject to a right of appeal before the Court of First Instance (Article 225a of the EC Treaty);
 - in future, as a general rule the Court of Justice will sit in chambers or in a Grand Chamber (Article 221 of the EC Treaty) rather than being obliged to sit in plenary session (a change that had been proposed by the Committee on Legal Affairs);
 - the Court of First Instance is confirmed as the ordinary court for proceedings brought with a view to having acts declared void, or on the grounds of failure to act or liability (Article 225(1)), while the precise breakdown of powers between the Court of Justice, the Court of First Instance and the judicial panels will be set out in the Statute for the Court of Justice; the Court of First Instance will also be able to hear and determine certain questions referred for a preliminary ruling;
 - although the Court of Justice will not acquire completely autonomous powers in relation to drawing up its rules of procedure, as proposed by the Committee on Legal Affairs, at least in future they shall merely require the approval of a qualified majority of the Council (Article 223 as amended, with Article 224 as amended introducing the same provisions in respect of the Court of First Instance);
3. However, the Committee on Legal Affairs regrets:
 - that judges and advocates-general will continue to be appointed by common accord of the governments of the Member States rather than being appointed

by the Council after obtaining the assent of the European Parliament, as had been proposed by the Committee on Legal Affairs;

- that any change to the Statute for the Court of Justice will continue to require unanimity in the Council;
 - that intermediate tribunals operating under Title IV of the Treaty will be denied the possibility of referring matters to the Court for a preliminary ruling.
4. The Statute for Members should constitute one of the European Parliament's exclusive prerogatives. The Treaty of Nice, while not fully recognising that principle, at least concedes that the approval of only a qualified majority of the Council is required (Article 90 of the EC Treaty).
5. Although the scope of the codecision procedure has been extended, no progress has been made in relation to fiscal and social matters, which is essential for the smooth working of the internal market.

Future prospects

6. We do not know what will become of the Treaty of Nice, but we know already that another IGC will be held in 2004 (see Declaration 23 on the future of the Union). That being so, in addition to taking stock of the results of the proceedings in Nice, the Committee on Legal Affairs should turn its attention to identifying the main themes of any further review.
7. The improvements made in Nice to the system for the exercise of jurisdiction should be retained, even if this means that they will have to enter into force separately. Furthermore, these changes should be consolidated and supplemented on the occasion of the 2004 IGC by the following reforms:
- the introduction of a European public prosecutor;
 - granting the Court of Justice and the Court of First Instance autonomous powers to draw up their own rules of procedure;
 - instituting a qualified majority for decisions concerning the Statute for the Court of Justice;
 - repealing the provisions of Title IV which constitute exceptions to the general law as regards applications for judicial review.
8. The Court of Justice ought to assert itself openly as the constitutional court which the increasingly heterogeneous Union created by any further enlargement will urgently require. This will imply:
- that the Charter of Fundamental Rights is incorporated in the Treaty and the Court of Justice is explicitly designated as its guarantor;

- that consideration is given to means of facilitating ordinary European citizens' access to the Court of Justice for the purpose of protecting those rights;
 - that the distribution of powers exercised at various levels (European, national and regional) is defined by the Treaty, and that the Court is made responsible for ensuring compliance.
9. It is essential, finally, to guarantee more effectively in future the proper enforcement of Community law. In our previous opinion we proposed that the Commission should have the power to note any omissions or failures to act directly by means of a decision which should be subject, of course, to the right of appeal: we should use our best endeavours to promote this idea and consider what further action might be taken.

CONCLUSIONS

In conclusion, the Committee on Legal Affairs and the Internal Market calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Considers that the Treaty of Nice introduces substantial improvements to the European Union's judicial system which should be consolidated through prompt ratification of the Treaty; considers that, if it appears unlikely that the Treaty of Nice will be ratified as a whole, it will be necessary to ensure that the substantial reforms introduced by that Treaty enter into force separately to allow the Community's judicial system to operate; hopes that this system will be effectively completed at the 2004 Intergovernmental Conference;
2. Hopes that the process of drafting of the Members' Statute will be completed before the 2004 Intergovernmental Conference and, in any event, without having to wait for ratification of the Treaty of Nice; maintains that the European Parliament should have autonomous decision-making powers in this area and that the unanimity requirement imposed by the Treaty of Nice with regard to taxation of Members (Article 190(5)) is unwarranted;
3. Considers that in future the Court of Justice should assume the role of a genuine constitutional court of the European Union, responsible for ensuring respect for fundamental rights;
4. Stresses that, to enable the enlarged European Union to function effectively, qualified majority voting in Council and the codecision procedure must become the general rule, not least in the fiscal and social areas, as they are essential for the smooth working of the internal market;
5. Considers that it is essential to guarantee more effectively the proper enforcement of Community law, proposes, accordingly, if no other legal or administrative remedy is available, that the Commission should be empowered to note any omission or failure to act directly by means of a decision which would be subject, of course, to appeal.

