

EUROPEAN PARLIAMENT

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Committee on Culture and Education

2007/2028(INI)

19.6.2007

OPINION

of the Committee on Culture and Education

for the Committee on Legal Affairs

on institutional and legal implications of the use of 'soft law' instruments
(2007/2028(INI))

Draftsman: Vasco Graça Moura

PA_NonLeg

SUGGESTIONS

The Committee on Culture and Education calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas the notion of soft law, based on common practice, is ambiguous and pernicious and should not be used in any documents of the Community institutions,
 - B. whereas the distinction between *dura lex/mollis lex*, being conceptually aberrant, should not be accepted or recognised,
 - C. whereas so-called soft law instruments, such as recommendations, green and white books or Council conclusions, do not have any legal value or binding force,
 - D. whereas such instruments, which can be used as interpretative or preparatory tools for binding legislative acts, should neither be treated as legislation nor be given any norm-setting effectiveness,
 - E. whereas such a situation would bring confusion and insecurity to a field in which clarity and legal certainty should prevail, in the interest of the Member States and of the citizens,
1. Recalls that so-called soft law cannot be a substitute for legal acts and instruments, which are available to ensure the continuity of the legislative process, especially in the field of culture and education;
 2. Emphasises that Parliament, as the only democratically-elected Community institution, is not currently consulted about the use of so-called soft-law instruments, such as Commission recommendations, based on Article 211 of the EC Treaty, and interpretative communications and other documents of a similar nature;
 3. Points out that, especially in the fields of education, training and youth, the open method of coordination is a common form of cooperation; deplores the fact that Parliament's involvement is weak;
 4. Calls on the Commission to guarantee the formal consultation of Parliament and transparent and broad stakeholder and consumer consultation about a possible Commission recommendation; emphasises that so-called soft law instruments should be used with caution;
 5. reiterates the importance of Parliament participating, as the main representative of the interests of EU citizens, in all decision-making processes, in order to help reduce their current mistrust in European integration and values;
 6. Stresses, therefore, that the expression of soft law, as well as its invocation, should be avoided at all times in any official documents of the European institutions.

PROCEDURE

Title	Institutional and legal implications of the use of 'soft law' instruments		
Procedure number	2007/2028(INI)		
Committee responsible	JURI		
Opinion by Date announced in plenary	CULT 15.2.2007		
Enhanced cooperation – date announced in plenary			
Draftsman Date appointed	Vasco Graça Moura 27.2.2007		
Previous drafts(wo)man			
Discussed in committee	27.2.2007	0.0.0000	0.0.0000
Date adopted	18.6.2007		
Result of final vote	+: 28 -: 1 0: 1		
Members present for the final vote	Maria Badia I Cutchet, Ivo Belet, Marie-Hélène Descamps, Jolanta Dičkutė, Věra Flasarová, Milan Gaľa, Ovidiu Victor Ganț, Vasco Graça Moura, Lissy Gröner, Luis Herrero-Tejedor, Manolis Mavrommatis, Doris Pack, Zdzisław Zbigniew Podkański, Christa Prets, Karin Resetarits, Pál Schmitt, Gheorghe Vergil Șerbu, Nikolaos Sifunakis, Hannu Takkula, Thomas Wise		
Substitute(s) present for the final vote	Giusto Catania, Den Dover, Ignasi Guardans Cambó, Gyula Hegyi, Erna Hennicot-Schoepges, Nina Škottová, Grażyna Staniszevska, Jaroslav Zvěřina, Tadeusz Zwiefka		
Substitute(s) under Rule 178(2) present for the final vote	David Hammerstein		
Comments (available in one language only)	...		