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DRAFT REPORT

on possible evolutions and adjustments of the current institutional set up of the
European Union
(2014/2248(INI))

Committee on Constitutional Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on possible evolutions and adjustments of the current institutional set up of the European Union (2014/2248(INI))

The European Parliament,

- having regard in particular to Articles 1, 2, 3, 10, 14, 15, 16, 17, 48, and 50 of the Treaty on the European Union (TEU) and to Articles 119, 120-126, 127-133, 136-138, 139-144, 194 and 352 of the Treaty on the Functioning of the European Union (TFEU) and the Protocols,
- having regard to the report of 22 June 2015 of the President of the European Commission in close cooperation with the Presidents of the European Council, the European Parliament, the European Central Bank and the Eurogroup entitled 'Completing Europe's Economic and Monetary Union' (the 'Five Presidents' Report')¹,
- having regard to its consent of 19 November 2013 to the MFF Regulation², in accordance with Article 312 of the Treaty on the Functioning of the European Union, and to its approval, on the same day, of the conclusion of the IIA³,
- having regard to the MFF and IIA, as finally adopted on 2 December 2013 and published in the Official journal on 20 December 2013⁴,
- having regard to the High Level Group on Own Resources⁵,
- having regard to the European Council conclusions of 25-26 June 2015 with regard to the forthcoming UK referendum on membership of the European Union⁶,
- having regard to the Standard Eurobarometer 83/Spring 2015 "Public opinion in the European Union"⁷,
- having regard to Opinion 2/13 of the Court of Justice of the European Union on the draft agreement providing for the accession of the EU to the Convention of the Protections of Human Rights and Fundamental Freedoms (ECHR)⁸,
- having regard to the European Council decision establishing the composition of the European Parliament of 28 June 2013⁹,

¹ http://ec.europa.eu/priorities/economic-monetary-union/docs/5-presidents-report_en.pdf

² Texts adopted, **P7_TA(2013)0455**

³ Texts adopted, **P7_TA(2013)0456**

⁴ OJ L 347, 20.12.2013, p.884-891

⁵ http://ec.europa.eu/budget/mff/hlgor/index_en.cfm

⁶ EUCO conclusions 26-06-15

⁷ http://ec.europa.eu/public_opinion/archives/eb/eb83/eb83_first_en.pdf

⁸ ECJ Opinion 2/13 - 18 December 2014

⁹ OJ L 181, 29.6.2013, p. 57-58

- having regard to its resolution of 12 December 2013 on Constitutional problems of a multitier governance in the European Union¹⁰,
- having regard to its resolution of 24 June 2015 on Review of the economic governance framework; stocktaking and challenges¹¹,
- having regard to its resolution of 15 April 2014 on MFF negotiations 2014-2020: lessons to be learned and the way forward¹²,
- having regard to its resolutions of 22 November 2012 on Elections to the European Parliament in 2014, and of 4 July 2013 on Practical arrangements for the holding of the European elections in 2014¹³,
- having regard to its resolution of 20 November 2013 on the location of the seats of the European Union's Institutions¹⁴,
- having regard to its resolution of 28 October 2015 on the reform of the electoral law of the European Union,
- having regard to its resolution of XXXXX on Improving the functioning of the European Union building on the potential of the Lisbon Treaty,
- having regard to Rule [45 &] 52 of its Rules of Procedure,
- having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Budgets and the Committee on Budgetary Control (A[8-0033/2014]),

Whereas:

- A. Progress towards achieving the goals of the European Union are impaired by a failure of good governance, notably by the lack of a credible executive authority enjoying full democratic legitimization that is competent to take effective action across a wide political spectrum;
- B. the limitations of the Treaty of Lisbon, which entered into force on 1 December 2009, are already being felt specifically with regard to the government of the Eurozone;
- C. the improvements of the Treaty of Lisbon have not led to a strengthened geopolitical role for the EU;
- D. the recent refugee crisis and migration issues demonstrate the shortcomings of the decision making process in this field;

¹⁰ Texts adopted, P7_TA(2013)0598

¹¹ Texts adopted, P8_TA(2015)0238

¹² Texts adopted, P7_TA(2014)0378

¹³ Texts adopted, P7-TA(2012)0462 & P7_TA(2013)0323

¹⁴ Texts adopted, P7-TA (2013)0498

- E. these problems are giving rise to unprecedented levels of 'euroscepticism' that risk a return to nationalism and the disintegration of the Union;
- F. the Treaties confer upon the European Parliament six specific prerogatives in respect of the Union's constitutional development, namely: the right to propose amendments to the Treaties (Article 48(2) TEU), the right to be consulted by the European Council on amending the Treaties (Article 48(3)(1) TEU), the right to insist on calling a Convention against the wishes of the European Council (Article 48(3)(2) TEU), the right to be consulted on a decision by the European Council to amend all or part of the provisions of Part III TFEU (Article 48(6)(2) TEU), the right to initiate reapportionment of the seats in the Parliament before the next election (Article 14(2) TEU), and the right to propose a uniform electoral procedure (Article 223(1) TFEU);
- G. the European Union has managed fairly well a system of integration whereby Member States make progress towards achieving the same goals at different times in accordance with their different capacities and circumstances; and whereas the Lisbon treaty further elaborated formal methods of enhanced cooperation;
- H. the recent financial and economic crisis has accentuated a trend towards variable geometry in which Member States decline to agree on the same goals and prefer *à la carte* solutions to common problems, some of them unilateral;
- I. the European Union through this variable geometry de facto consists of several Unions; with on one side some Member States unwilling to cooperate and on the other side non-EU countries that do want to participate; and whereas this endangers the objective of an ever closer Union;
- J. such variable geometry compromises the uniform application of EU law, leads to excessive complexity in terms of governance, jeopardises the cohesion of the Union and undermines solidarity among its citizens;
- K. the United Kingdom has a permanent derogation from joining the euro (Protocol No 15), Denmark has a constitutional exemption (Protocol No 16), Sweden has ceased to follow the euro convergence criteria, and the possibility that Greece leaves the euro has been openly discussed in the European Council;
- L. the Schengen acquis has been formally integrated into the Treaties, but with opt-outs for the UK and Ireland, with four other Member States not yet taking part but with the obligation to do so, and opt-ins for three non-EU countries; and whereas the fragmentation of the Schengen area prevents the realisation of the total eradication of some remaining internal borders it contributes to hindering the establishment of a true internal market and the true establishment of an area of freedom, security and justice;
- M. the limitations of the Treaty of Lisbon and political divisions in the Council have led the Union to have recourse by way of crisis management to the adoption of intergovernmental instruments outside the EU framework, such as the European Stability Mechanism (ESM) and the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG or 'Fiscal Compact');

- N. Article 16 of the TSCG provides that within five years of the date of entry into force, thus before 1 January 2018, the necessary steps need to have been taken to incorporate the substance of the Fiscal Compact into the legal framework of the European Union;
- O. it is clear that the consolidation of the Eurozone, including the completion of the banking union, cannot be achieved without a further deepening of fiscal integration and the installation of more reliable and democratic forms of governance – and that this process cannot be undertaken merely on the basis of the Treaty of Lisbon;
- P. a ‘genuine’ Economic and Monetary Union requires a system of government that is equipped to formulate and implement common monetary, fiscal and macro-economic policies and endowed with a budget which is commensurate to the scale of the tasks in hand;
- Q. the agreement on the current multiannual financial framework (MFF) was only reached after long and strenuous negotiations and was accompanied by the decision to establish a High Level Group to review the Union’s revenue system of ‘own resources’, due to report in 2016;
- R. although the European Union is a constitutional system based on the rule of law, the European Court of Justice (ECJ) does not have jurisdiction over all aspects of EU law, notably excluding common foreign and security policy (Article 24(1) TEU) and monetary and economic policy (Article 126(10) TFEU);
- S. the current limitations on the competences conferred on the Union may impair the ability to make progress towards some of the stated objectives of the European Commission, endorsed by the Council and Parliament, such as the energy union or common immigration and asylum policies;
- T. none of the *passerelle* clauses provided by the Lisbon Treaty to facilitate the reform of the governance of the Union have been deployed, and are unlikely to be so in present circumstances; and whereas the European Council immediately took advantage of the let-out clause that allowed it not to reduce the number of members of the European Commission;
- U. the outcome of the 2014 elections to the European Parliament for the first time determined directly the nomination of the candidate for President of the Commission, and the European Council has agreed to review the *Spitzenkandidat* process in time for 2019;¹⁵
- V. there is still confusion – not least on behalf of third parties – about the inter-relationship of the Presidents of the European Commission and European Council;
- W. Europe’s security situation has deteriorated markedly since the drafting of the Treaty of Lisbon, and whereas no single Member State can address either their internal or external insecurity alone;

¹⁵ EUCO conclusions 27 June 2014

X. the relative decline of Europe's defence effort suggests that a new push is needed towards the greater concertation of the defence policies of EU Member States in alignment with a new European security strategy;

1. Considers that the time of crisis management by ad hoc and incremental decisions has passed, and that it is now time to address the shortcomings of the government of the European Union by undertaking a comprehensive reform of the Treaty of Lisbon;
2. Notes that according to the Eurobarometer opinion polls, contrary to popular belief, public opinion is still fully aware of the importance of and in support of the European project;¹⁶
3. Stresses that a comprehensive democratic reform of the treaties can and must only be achieved through a Convention composed of representatives of national parliaments, the national governments, the Commission and the European Parliament;

Variable Geometry Ending 'Europe à la carte'

4. Observes with great concern, while acknowledging the historical relevance of the idea of a multi-speed Europe, the proliferation of subsets of Member States undermining further integration by causing a lack of transparency and unity, as well as diminishing the trust of the people;
5. Notes that this fracturing process is reinforced by the European Council when it decides to apply intergovernmental methods and bypass the classic 'Community method' as provided for under successive Treaties which not only leads to less effective policy making but also contributes to a growing lack of transparency, democratic accountability and control;
6. Considers that the 'community method' is the best method for legislating by ensuring all interests are suitably taken into account; by 'community method' we understand that the Commission initiates, the Parliament and Council decide by majority voting, and the Court of Justice oversees and provides ultimate jurisdictional control;
7. Takes note of the intention of the British government to renegotiate its relationship with the European Union and to submit its renegotiation to an 'In/Out' referendum before the end of 2017; points out, however, the various exceptions and derogations the United Kingdom already has acquired – notably, from the euro, Schengen, justice and interior affairs, the banking union, Euro Plus Pact and the Fiscal Compact treaty - and wonders how many more opt-outs a Member State could obtain while still claiming to be a full member of the Union;
8. Considers it essential in these circumstances to re-affirm the mission of 'ever closer union among the peoples of Europe' (Article 1 TEU) in order to mitigate any tendency to disintegration and to clarify once more the moral, political and historical purpose as well as the constitutional character of the European Union;
9. Proposes that the next revision of the treaties should rationalise the current disorderly variable geometry, i.e. '*Europe à la carte*', by formalising a two-tier European Union with

¹⁶ Standard Eurobarometer 82 - Autumn 2014

a large core group of Member States continuing to integrate further on the basis of the Community method and a smaller periphery of Member States unwilling or unable to do so;

10. Proposes, therefore, an associate membership for States only partly participating in Union policies with limited-corresponding rights and to their obligations, while allowing the full Member States to integrate further by participating in all European policies; thus ending the disruptive practice of opt-outs and derogations.

Economic Governance

11. Is greatly concerned by the lack of economic reform and economic convergence in the Economic and Monetary Union (EMU) as well as the loss of competitiveness of its Member States;
12. Considers that neither the Stability and Growth Pact nor the 'no bail-out' clause (Article 125 TFEU) remain credible in their current form, as the Pact has been infringed by several Member States without political or legal consequences, and Greece has been bailed out at a large scale on three occasions;
13. Acknowledges the improvements brought by the European Semester, the Six Pack and Two Pack aim at addressing these issues; believes, however, that they have contributed to making the system overly complex, are not binding with regard to country specific recommendations (CSR), and do not cover spill-over effects between one Member State and another, or to the Eurozone or the EU as a whole;
14. Is acutely aware of the need to review the efficacy of the many recent crisis management measures taken by the EU, and to codify in primary law certain decision-making procedures – such as 'reverse QMV' – as well as the need to entrench the legal bases of the new regulatory framework for the financial sector; agrees with the analysis in the Five President's Report that the open method of cooperation as defined most recently in the Euro Plus Pact does not function and needs to be elevated into binding legal acts;
15. Proposes therefore to merge the deficit and debt procedures, the macroeconomic imbalance procedure and the CSR into one single convergence code of a legally binding nature, setting minimum and maximum standards, where only compliance with the convergence code would allow access to EU funds for investment projects or participation in EU instruments that combine economic reform with fiscal incentives;
16. Believes that in order to reduce the still excessively high debt burden of Member States a common debt instrument needs to be established, following-inspired by the proposal by the German Council of Economic Experts of 9 November 2011, whereby Eurozone members would undertake joint and several liability for a sinking fund with strong individual commitments on structural reforms to reduce the debt-to-GDP ratio to the required maximum 60%;
17. Points out that to prevent moral hazard Eurozone members can only participate when they are in compliance with the convergence code;

18. Stresses, however, that conditionality in the Redemption Fund can only be credible if complemented by an insolvency procedure for sovereigns which will not only provide predictability to the markets in case of an insolvent state, but will also safeguard market discipline for both Member States and private creditors;
19. Supports the integration of the relevant aspects of the Fiscal Compact into the EU legal framework as well as the incorporation of the ESM and the Single Resolution Fund into EU law, with corresponding democratic oversight by the Parliament;
20. Is of the opinion that in order to increase financial stability, mitigate cross-border asymmetric shocks and reduce the effects of recession the euro area needs a fiscal capacity based on genuine own resources and a proper treasury facility equipped with capacity to borrow; this treasury must be based in the Commission and be subject to democratic scrutiny and accountability through the Parliament and the Council;
21. Points out that because compliance with the rules is crucial to the functioning of the Economic and Monetary Union, stronger governmental institutions are required than are presently provided by the Commission and/or Eurogroup;
22. Calls, therefore, for executive authority to be concentrated in the European Commission in the person of a EU Finance Minister, by endowing the Commission with the capacity to formulate and give effect to a common EU economic policy combining macro-economic, fiscal and monetary instruments, backed up by a decent Eurozone budget; the Finance Minister should be responsible for the operation of the ESM and other mutualised funds, as well as be the single external representative of the euro area in international organisations, especially in the financial sector;
23. Considers it necessary to endow the Finance Minister with proportionate powers to intervene in the setting of national economic and fiscal policies in the case where the convergence code is not respected, as well as the power to suspend participation in the fiscal capacity or the common bond instrument in case of repeated non-compliance;
24. Considers that it is necessary to endow the European Central Bank with the status of lender of last resort enjoying the full powers of a federal reserve bank;
25. Calls for the suppression of Article 126(10) TFEU in order that the European Court of Justice gains full jurisdiction over the operation of EMU, as is appropriate in a democratic system of economic governance based on the rule of law and the principle of equality among Member States;
26. Agrees with the Five Presidents' Report that the Banking Union should be completed as soon as possible but regrets the leisurely timetable proposed in that report for the deepening of fiscal integration;

Democracy and Accountability

27. Proposes to make the European Commission the principle executive authority of the Union with the aims of strengthening the Community method, of increasing transparency and of improving the efficiency and effectiveness of action taken at the EU level;

28. Reiterates its call to reduce the size of the Commission to a maximum size of 15 whereby no more than two Commissioners may originate from the same Member State; suggests the same should apply to the Court of Auditors;
29. Welcomes the successful new procedure whereby European political parties promote their top candidates for President of the Commission, but regrets that in 2014 they were not able to stand as official candidates for the European Parliament in all Member States;
30. Proposes, therefore, following its resolution on the reform of the electoral law of the European Union, to empower the electorate by giving them two votes, one for the national or regional lists and an additional one for the European party lists; these European lists will be headed by the parties' nominee to become President of the Commission and composed of candidates drawn from at least one third of the States;
31. Recalls that Parliament, following the European Council Decision of 28 June 2013, will need to present before the end of 2016 a proposal to establish a system which will make it possible, before each election to the European Parliament, to re-allocate the seats between Member States in an objective, fair, durable and transparent way, respecting the principle of degressive proportionality, while taking account of any change in the number of Member States and demographic trends;
32. Reiterates its call for a single seat for the European Parliament; proposes that the Parliament and the Council shall each decide the location of their own seats after having obtained the consent of the other; further proposes that the seats of all other EU institutions, agencies and bodies shall be determined by the Parliament and Council on a proposal by the Commission, acting in accordance with a special legislative procedure;
33. Notes that despite the prohibition in Article 15(1) TEU the European Council has undertaken various legislative initiatives; considers that the lifting of this prohibition would allow the European Council to engage legitimately in the law making of the Council of Ministers and provide direction and coherence to that body;
34. Considers that the Council of Ministers, as the second chamber of the EU legislature, should in the interest of specialism, professionalism and continuity replace the practice of the rotating six-month presidency by a system of permanent chairs for the respective configurations, chosen from their midst; suggests that the idea of creating a special Law Council should be favourably reconsidered;
35. Suggests that Member States should be able to determine the composition of their national representation in the Council; whether consisting of representatives of their respective national parliament, government or a combination of both;
36. Stresses that following the creation of the EU Finance Minister, the Eurogroup should be considered as a specialised configuration of the Council with legislative and control functions but no official executive tasks at the European Union level;
37. Proposes that when the European Parliament votes on legislation specific to the Eurozone, only MEPs elected in Eurozone states should take part in the vote;

38. Believes that in strengthening the governance of the Eurozone due respect should be paid to the interests of Member States with a derogation (Article 139 TFEU), especially those who have committed to ERM II (the 'pre-ins'); confirms its continued commitment to the integrity and operation of the single market;
39. Recognises the significant role played by national parliaments in the constitutional order of the European Union, and in particular their role in implementation and their duty to hold to account members of the Council and European Council for their individual and collective actions; suggests therefore to complement and enhance the powers of national parliaments by introducing a 'green card' procedure whereby national parliaments could submit legislative proposals to the Council for its consideration;
40. Proposes, moreover, that in line with the common practice in various Member States, both chambers of the EU legislature should be given the right of legislative initiative, without prejudice to the basic legislative function of the Commission;
41. Recalls its conviction that the financing of the EU budget should respect the letter and the spirit of the Treaty and return to a system of genuine, clear, simple and fair own resources; stresses that the reintroduction of own resources would end the share of GNI-based contributions and thus lessen the burden on national treasuries; awaits with interest the proposals from the High Level Group on own resources;
42. Proposes in this regard that the decision-making procedures for both own resources and the MFF should be shifted from unanimity to qualified majority voting, thereby inducing real co-decision between the Council and Parliament on all budgetary matters; furthermore, repeats its call to make the MFF coterminous with the mandates of the Parliament and Commission; and insists that the finances of all Union agencies should become an integral part of the EU budget;
43. Points out that according to the Treaties the Parliament gives discharge to the Commission in respect of the implementation of the budget; takes the view that because all EU institutions and bodies manage their budgets independently the Parliament should be tasked with the explicit competence to grant discharge to all institutions and bodies of Union and the latter should be obliged to fully cooperate with Parliament;
44. Recognises the economic, environmental and geopolitical need for the creation of a genuine European energy union; notes that this will require the removal of the constraint that EU policy must not affect a State's right to determine the conditions for exploiting its energy sources, its choice between different energy sources and the general structure of its energy supply (Article 194(2) TFEU);
45. Notes that the Treaties provide ample means to set up a humane and well-functioning refugee and asylum policy, as well as for the setting up of a European Border and Coast Guard; believes however that the Treaties are too restrictive regarding legal migration; proposes therefore to allow for a genuine European legal migration system by removing Article 79(5) TFEU;

Points out the need for democratic scrutiny by the European Parliament on the implementation of border control, asylum and migration policies; furthermore stresses that safeguarding national security cannot be used as a pretext to circumvent European policy in this field;

46. Strongly believes that the current treaty ratification procedure is too rigid to befit such a supranational polity as the Union; proposes to allow amendments to the Treaties to come into force after being ratified by a qualified majority of four-fifths of the States, after having obtained the consent of the European Parliament; correspondingly, once this threshold has been met, States which still decline to ratify the amended treaty should decide, according to their own constitutional requirements, whether to start the process of secession or to opt for associate membership;

Foreign policy

47. Regrets, as stated in its resolution of XXXXX on Improving the functioning of the European Union building on the potential of the Lisbon Treaty, that the EU has not made more progress in developing its capacity to agree and implement a common foreign and security policy and that its efforts in initiating a common security and defence policy have not been notably successful;
48. Reiterates that more progress could and should be made under the terms of the Lisbon treaty, including making use of the provisions to act in certain circumstances by QMV and to promote differentiated integration among clusters of certain Member States;
49. Believes it essential that the restrictions on the authority of the ECJ in the field of CFSP are removed; demands that the Parliament should gain greater powers of scrutiny and accountability over CFSP, including full co-decision over budgetary aspects;
50. Is of the opinion that the Vice-President/High Representative should be entitled the EU Foreign Minister and be supported in her efforts to become the main EU external representative in international fora, not least at the UN; considers it essential that due to the broad and heavy workload the Foreign Minister should be able to appoint up to two political deputies; proposes a review of the functionality of the present semi-detached status of the EU External Action Service;
51. Stresses that for the Union to strengthen the defence of the EU territory, complimentary to NATO which remains the cornerstone of European security architecture, and to enable the EU to act autonomously in operations abroad, if only to stabilise its neighbourhood, the treaties should provide for the possibility to establish a European Defence Union;

Constituent process

52. Notes that the Five Presidents' Report suggests that a White Paper should be presented in spring 2017 to lay down a roadmap to future governance changes with respect to the EMU;
53. Commits itself, therefore, to playing a leading part in these important constitutional developments, and determines to make its own proposals for treaty amendment in a timely fashion;
54. Is of the opinion that the 60th anniversary of the Treaty of Rome would be an appropriate moment to start the process of making the EU ready for the ~~new decade starting in 2020~~coming decades;

55. Instructs its President to forward this resolution to the Council and the Commission (, and ...).
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