

Constitutional problems of a multitier governance in the European Union

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The Committee on Constitutional Affairs adopted the own-initiative report by Rafa TRZASKOWSKI (EPP, PL) et de Roberto GUALTIERI (S&D, IT) on constitutional problems of a multitier governance in the European Union.

Members began by clarifying that the debate on multi-tier governance does not overlap with the issue of multi-level governance, which relates to the balance of powers and the involvement of national, regional and local authorities. The report discusses the **question of differentiation**, which is both a constitutive feature of the process of European integration, and a means to allow its progress and guarantee substantial respect for the principle of equality between Member States.

Differentiated integration: the committee was of the opinion that differentiated integration could be a useful tool to promote deeper integration to the extent that it safeguards the integrity of the EU. It could also prove **essential to achieving a genuine European Monetary Union (EMU)**, enhancing the Union's competences, in particular in the field of economic policy, and strengthening its budgetary capacity and the role and democratic accountability of the Commission and the prerogatives of Parliament.

Use the existing instruments: the report underlined that the instruments for differentiated integration in the Treaties - limitation of the territorial scope of application, safeguard clauses, derogations, opt-outs, opt-ins, enhanced cooperation, and provisions specific to Member States whose currency is the euro - allow taking a first step in the establishment of a genuine EMU.

Reiterating that the option of a new intergovernmental agreement should be excluded, Members called on **all institutions to proceed swiftly by maximising the possibilities afforded by the existing Treaties and their elements of flexibility** and at the same time to prepare for the necessary Treaty changes in order to guarantee legal certainty and democratic legitimacy.

In this context, Parliament must make full use of its **prerogative to submit to the Council proposals for the amendment of the Treaties**, which subsequently need to be examined by a Convention, in order to complete the framing of a genuine EMU.

Procedures: in general terms, the committee considered that differentiation should preferably be done, wherever possible, within a **legal act addressed to all Member States by means of derogations and safeguard clauses**, instead of a priori excluding some Member States from the territorial scope of application of a legal act. It underlined nevertheless that a high number of derogations and safeguard clauses undermine the unity of the EU as well as the consistency and effectiveness of its legal framework.

Member States are asked to **extend the principle of enhanced cooperation to employment and social policies**.

Democracy and institutions: Members recalled that, to be effectively legitimate and democratic, the governance of a genuine EMU must be placed within the institutional framework of the Union. They stressed that the participation of the European Parliament - the only EU institution in which citizens are directly represented at Union level - is essential for ensuring the democratic legitimacy and functioning of the EMU and is a precondition for any further step towards a banking union, a fiscal union and an economic union.

They also underlined the pivotal role of the Commission in EMU governance, as also confirmed by the Fiscal Compact and the European Stability Mechanism treaties, in guaranteeing the legal order of the EU treaties and in serving the common interest of the Union as a whole.

Amendment to the Treaties: the report states that any future treaty change should affirm differentiated integration **as a tool for achieving further integration while safeguarding the unity of the Union.** Differentiated integration should remain open and to all Member States and aims at complete integration into the Treaties.

Amongst the proposals for amendment of the Treaties, the report suggested the introduction of a new tier of associate membership, including a partial integration into specific Union policy areas, as a means to strengthen the European Neighbourhood Policy. Members also suggested making the Eurogroup an informal configuration of the Economic and Financial Affairs Council, and called for the Commissioner for Economic and Financial Affairs to be a Treasury Minister and a permanent Vice-President of the Commission