Distribution of competences between the European Union and the Member States

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The committee adopted the own-initiative report by Alain LAMASSOURE (EPP-ED, F) on the division of powers between the European Union and the Member States. To achieve maximum clarity the committee reduced the categories of powers to be covered by the future Constitution, which it believed should recast the Treaties of the Union. It focused solely on the powers of the Union and powers shared with the Member States, on the presumption that the Member States will have jurisdiction where the European constitutional text does not stipulate otherwise. To help the public to understand the Union better, the report suggested merging the treaties into a single text concerning a single entity, the Union, which would be endowed with full legal personality. This text would consist of two parts: the first of a fundamental, constitutional nature and the second relating to arrangements for the exercise of certain powers. The report also called for the second and third pillars (common foreign and security policy, justice and home affairs) to be brought within the Community sphere. On the powers of the Union, the committee felt that the EU's exclusive powers 'must continue to be very few in number': customs policy, external economic relations, legal basis of the internal market, competition policy, structural and cohesion policies, association treaties and, for the eurozone, monetary policy. To these existing powers, the committee would add the common foreign and defence policy, the legal basis of the area of freedom and security, and the financing of the EU budget. In all these areas, the Member States should intervene only on the conditions and within the limits established by the Union. Turning to the question of shared powers, the report grouped these into three areas: (1) those which complement the 'single area' and where the Union lays down general rules: consumer protection, agriculture, fisheries, regional policy, transport, transeuropean networks, environment, research and technological development, energy, social and employment policy, immigration policy and other policies relating to the free movement of people, the promotion of equality between men and women, the association of overseas countries and territories, development cooperation and single market taxation. This list would also include the transnational dimension of the implementation of foreign policy, including defence and security, both internal and external. In all these areas, Community legislation is justified only where European interests are at stake. In such cases the Union should lay down the principles and objectives while the Member States would be responsible for detailed transposition into their domestic legal systems; (2) where the Union can only intervene to complement action taken by the Member States, who retain the power to enact ordinary law, e. g. education, training, youth, civil protection, culture, sport, health, industry, tourism and civil and commercial contracts; (3) the compulsory coordination of policies which basically remain within the national sphere of competence (e.g. budgetary and fiscal policies under EMU and employment policy). All Community institutions should be involved in these coordination processes. The committee also called for a review clause after 10 years and the preservation of a mechanism enabling powers to be returned to the Member States or transferred to the Union. Any transfers of powers should be transparent in budgetary terms, so as to avoid duplication between national and European civil services. As far as judicial guarantees are concerned, the committee said that the Court of Justice should become a Constitutional Court. An additional referral procedure should be introduced to settle disputes over the division of powers due to non-compliance with the principles of subsidiarity and proportionality. This would be an urgent procedure, to be used before the entry into force of a legislative measure and one which could result in the application of the measure being suspended. It could be initiated by the Commission or a significant minority of the Council or Parliament. Lastly, the committee said that, while the internal territorial organisation and division of powers within each Member State were entirely a matter for each country to decide, the Union should be open to proposals from the Member States to enable regional and local authorities to be better involved in preparations for, and the transposition of, European legislation. Moreover, representatives of regional parliaments with legislative capacity should take part regularly in the work of Parliament's committee responsible for regional affairs.