The relationship between international public law, Community law and national constitutional law

1997/2041(INI) - 02/10/1997 - Text adopted by Parliament, single reading

The report by Mr Siegbert ALBER (PPE, D) on the relationships between international law, Community law and national constitutional law adopted by Parliament underlined the fact that European law constituted an autonomous legal system and recalled the case-law of the Court of Justice with regard to the primacy of Community law over national law. Consequently, no domestic provision of any kind must take precedence over Community law, and any national law that conflicted with Community law is inapplicable. Parliament also drew attention to the great significance of the preliminary ruling procedure pursuant to Article 177 of the Treaty as a means of ensuring the uniform application of Community law in all Member States. Parliament welcomed the indirect enshrinement of the primacy of Community law through paragraph 2 of the Protocol on the application of the principles of subsidiarity and proportionality annexed to the draft Treaty of Amsterdam. It also recalled that national courts did not have the power to declare the acts of the Community institutions invalid and reaffirmed that jurisdiction concerning the binding nature of Community law rested only with the Court of Justice. Parliament called for a clear statement of the relationship between public international law and European law. It wanted the Community to be equated with nation states, which meant that international law was applicable not directly but only after it had been declared applicable by an internal legal act of the EC or after its substance had been transposed into EC legislation. It called for the relationship with public international law to be regulated for the second and third pillars and for the European Union to be given legal personality. Finally, Parliament recalled that one of the essential elements of the constitutional law of the Member States of the Union was the separation of powers and hoped that, therefore, any transfer of powers from the Member States to the Union would be accompanied by the assignment of powers to the European Parliament as the direct expression of the will of the peoples making up the European Union.