



Resolution 1339 (2003)¹

The Council of Europe and the Convention on the Future of Europe

Parliamentary Assembly

1. For the first time in its history, the European Union is on the verge of acquiring its own constitution. In this context, the Parliamentary Assembly congratulates the members of the Convention on the Future of Europe, who, after sixteen months' work, have reached agreement on a draft treaty establishing a constitution for Europe.
2. This draft, which was officially presented by Valéry Giscard d'Estaing to the European Council meeting in Thessaloniki on 20 June 2003, was favourably received by the heads of state and government of the European Union. It is now to be discussed at the next Intergovernmental Conference (IGC) due to start in October this year, which will be responsible for approving the final version of the constitution. The Assembly hopes that the heads of state and government who will take the final decision on the constitution will agree to remain as close as possible to the text drawn up by the Convention.
3. The work of the Convention was followed very closely by the Council of Europe. Two memorandums by the Secretary General of the Council of Europe were distributed as Convention documents (CONV 157/02 and CONV 427/02). The Assembly, for its part, has adopted two Resolutions ([1290 \(2002\)](#) and [1314 \(2003\)](#)) and two Recommendations ([1568 \(2002\)](#) and [1578 \(2002\)](#)) on the Convention.
4. These contributions and the efforts of many members of the Convention worked in favour of the inclusion in the draft constitution, in Article I-7, of a legal basis allowing the European Union to accede to the European Convention on Human Rights (ECHR). The Assembly welcomes this, and considers that the wording finally adopted, "The Union shall seek accession to the ECHR" reflects a stronger commitment on the part of the European Union to accession, but that the IGC should nevertheless be asked to support that wording in the final version of the text.
5. The Assembly remains concerned that the incorporation of the European Union's Charter of Fundamental Rights into the proposed constitution in a legally binding form will lead to dual standards on the interpretation of the ECHR. It agrees to refer this concern to the European Committee for Democracy through Law (Venice Commission) for analysis and an early response.
6. The Assembly also welcomes the extension of the scope of co-operation with the Council of Europe to all fields of activity falling within the competence of the European Union under Article III-224 of the draft constitution, on "Relations with international organisations and third countries and Union delegations", and the retention of the reference to the Council of Europe in the sections devoted to culture and education respectively (Articles III-176 and III-177).
7. The Assembly considers that the constitution's approach to the question of the regions of Europe is still incomplete, particularly with respect to recognising the existence and the role of regions with legislative powers in European integration.

1. *Assembly debate* on 26 June 2003 (22nd Sitting) (see [Doc.9846](#), report of the Political Affairs Committee, rapporteur: Mr Pangalos; and [Doc. 9849](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Spindelegger; and [Doc. 9850](#), opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Err). *Text adopted by the Assembly* on 26 June 2003 (22nd Sitting).



8. The Assembly regrets, however, that the draft constitution does not refer explicitly to the Council of Europe in its Article I-56, on "The Union and its immediate environment", despite the amendments to this effect proposed by a number of Convention members.

9. The Assembly recalls that the Council of Europe is a pan-European Organisation, in which the representatives of forty-five European states can co-operate on an equal footing at parliamentary, governmental, local and regional levels, and that it plays a key role in building a Europe without dividing lines, in particular through its standard-setting work (with over 190 conventions) and its various monitoring mechanisms, of which the candidate countries for accession to the European Union are the prime beneficiaries.

10. The Assembly is concerned that the *acquis communautaire* risks being undermined in some crucial human rights areas, despite the envisaged inclusion of the Charter of Fundamental Rights of the European Union in Part II of the draft constitution proposed by the Convention. In particular, equality between women and men should stay a priority objective of the European Union.

11. The Assembly therefore asks the states which will be participating in the next Intergovernmental Conference:

11.1. to support the wording adopted by the Convention on the Future of Europe in Article I-7 of the constitution: "The European Union shall seek accession to the ECHR";

11.2. to make the European Union's accession to the ECHR subject to the same qualified majority as the conclusion of other international agreements;

11.3. to involve themselves, within the Council of Europe, in the preparation of the legal instruments necessary for accession by the European Union to the ECHR;

11.4. to support the European Union's accession to the European Cultural Convention;

11.5. to support the proposal for a paragraph 3 in Article I-56, worded as follows: "3. In developing such special relationships, the Union shall make full use of the Council of Europe and the other international organisations of which such states are members";

11.6. to include in the constitution:

- a. a reference to the Council of Europe's conventional *acquis*, which has contributed to the establishment of an area of liberty, security and justice in Europe, a shared objective with the European Union;
- b. a reference to the Council of Europe's work in preventing conflicts and consolidating peace, in the common foreign policy and security context;
- c. a reference to the Council of Europe's work on the monitoring of obligations and commitments accepted by the member states on accession, which they must fulfil in order to comply with the Organisation's standards in the areas of democracy, human rights and the rule of law.

12. The Assembly requests its President to transmit this resolution to the governments of the member states which will be taking part in the IGC, and to the presidents of the European Council, the European Commission and the European Parliament, so that due account may be taken of the Assembly's proposals.

13. The Assembly also urges its President to transmit this resolution to the speakers of member states' parliaments, inviting them to support the proposals of the Assembly aimed at giving greater coherence to European construction continent-wide.