

# The European Parliament and the origins of consumer policy

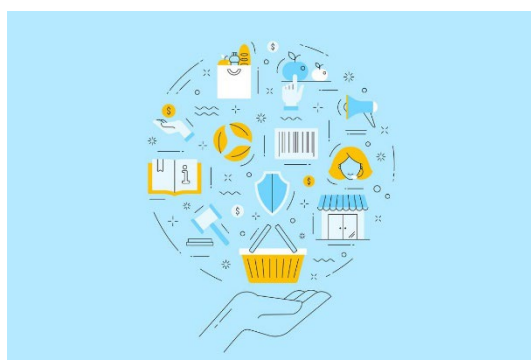
## SUMMARY

During the first decades of European integration, the European Community's rudimentary consumer policy was based on the premise that the common market would automatically serve consumers, offering them more choice at affordable prices. Starting in the 1960s, but particularly in the 'long 1970s', Community institutions pushed for more elaborate measures to safeguard the health, safety, and economic interests of consumers.

This briefing sheds light on the role of the European Parliament in the development of a European consumer policy. Specifically in the field of food safety, Members wielded agenda-setting power by consistently prioritising public health over economic interests, pushing for the application of the precautionary principle and calling for the inclusion of consumer organisations in policy-making. Female Members in particular took the lead in highlighting the socio-political relevance of consumer issues. However, Members struggled to navigate the highly technical field of product harmonisation, with few opportunities to develop a political profile. The briefing also discusses the role of public health crises, which offered Members rare opportunities to demonstrate that seemingly technical consumer affairs were, in fact, all about power relations between producers and consumers in the economy.

The briefing shows how the European Parliament put its mark on the EU's food safety policy, today characterised by a more integrated and precautionary approach – something that the Parliament advocated as early as the 1960s. Its activism has also changed the overall image of consumer protection, from one narrowly associated with domestic life in the 1970s to one of broader socio-political and geopolitical importance.

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## Introduction

This briefing covers the 'long 1970s',<sup>1</sup> a period in which the European Community went from being a global laggard in the regulation of health, safety, and environmental risk to having a stricter regime than the United States.<sup>2</sup> In its first decades, the common market had been all about economic integration and growth, offering more choice to consumers at affordable prices. In the 1970s, the adverse effects of the unprecedented consumption boom of the 1950s and 1960s became increasingly obvious. Consumers became dependent on authorities to guarantee the quality and safety of the goods they consumed and used on a daily basis, a reality reflected in the adoption of consumer legislation in the Member States and the development of a European Community consumer programme in 1973.

In the 'long 1970s', the European Parliament emerged as a key driver of a Community consumer policy. Focusing on the harmonisation of consumer goods, including foodstuffs and cosmetics, the briefing shows how the Parliament recognised the importance of the harmonisation of these goods to European citizens from the very beginning. It was an opportunity for Members of the European Parliament (MEPs) to show that they had the interests of their constituents at heart. The Parliament often struggled to fulfil its political role when confronted with such highly specialised and often seemingly trivial directives, but mediated public health crises proved an exception: MEPs could use these to politicise consumer issues and show their broader socio-political relevance.

## Politics of health and safety

Consumer policy was inextricably tied up with the process of harmonising product standards across the Member States. This was often a painstaking process, in which the Parliament had to find a role for itself. Members saw themselves as politicians rather than technicians, and so they had to find a way to make a very technical subject political. By advocating high standards for health, safety and quality, the Parliament could show that it represented the citizens of the Community and consumers on the common market rather than the interests of businesses. This approach was only partially successful, as a comparison between the foodstuffs and cosmetics sectors shows.

Foodstuffs were a cornerstone in the making of the common market, with the vast majority of the European Community's budget going to the common agricultural policy (CAP). Just like the CAP, the Commission organised food harmonisation according to sector, with different rules for each product group. In addition, the Commission regulated processed foods by developing a market authorisation system for food additives, still known today as the system of E-numbers. According to the Commission, this incremental process of harmonisation would establish a common market for foodstuffs, where competition across borders would provide consumers with new products, more alternatives, and lower prices. Amid a torrent of directives on food harmonisation, MEPs debated whether consumers only stood to benefit from this process. Throughout the 'long 1970s', they questioned the added value of food additives. As much as they could make food taste better, look more appealing or last longer, they could also have unintended or unknown effects on human health.

The European Parliament made its mark in this field as early as 1962. As rapporteur on a report on food colorants, German Social Democrat MEP Käte Strobel laid down a principle: the European Community could only authorise a food additive if there was a scientific consensus on its proven harmlessness and if its use was necessary for economic or technical reasons. The Commission adopted this principle, and the Parliament continued to reiterate it for years to come.<sup>3</sup> This was a first step towards the precautionary principle, which eventually found its way into the 1992 Maastricht Treaty. Nonetheless, the scientific consensus on proven harmlessness remained a subject for political debate. As the Commission continued to expand its lists of authorised additives throughout the 1970s, the Parliament repeatedly contested this expansionist logic. It argued that the objective had to be reducing the number of authorised food additives, as not all authorised additives were irrefutably proven to be harmless or technically necessary.

Figure 1 – Käte Strobel during a session in Strasbourg, May 1965



Source: European Parliament Multimedia Centre.

The Parliament continually sought to establish principles such as this one because it was dissatisfied with the Commission's sectoral and fragmented approach to food harmonisation. Individual directives on food harmonisation often seemed trivial and overly technical, which made it difficult for the responsible committee to convey the significance of putting public health first. Given the lack of first-hand toxicological knowledge in the Parliament, rapporteurs were vulnerable to accusations of an unscientific or even anti-scientific attitude if they dared to cast doubt on the authorisation of a new colorant or preservative. The committees on Public Health and Consumer Protection therefore repeatedly called upon the Commission to take a more 'horizontal' approach to European food law by laying down principles on food safety that would apply across different sectors and substances. The more harmonisation progressed, however, the more difficult it became for the Parliament to call for wholesale reform of the Commission's approach.

The Parliament's internal disputes over the directive on fruit jams, jellies and marmalades and chestnut purée – trivial though they may seem – illustrate some of these dynamics. The Agriculture

Committee acquired the authorship of the report on the proposal from 1966. The Committee for Health Protection then drafted an opinion and submitted no fewer than 30 amendments to the proposed resolution criticising the proposal's leniency towards additives. The following plenary referred the report back to the two committees due to the discrepancy between their positions. Subsequently, the Committee for Health Protection managed to strengthen the overall emphasis on consumer protection. Nine years later, the Council still had not adopted the original directive. Harmonisation was especially slow in the late 1960s and 1970s, because Member States were wary of the effects that these directives would have on domestic markets. The proposal on jams, jellies and marmalades was no exception.

In 1975, the Parliament's Bureau submitted the new proposal on the same topic to the Committee on Economic and Monetary Affairs. In an attempt to hurry harmonisation along, it treated the proposal in bulk, together with two other directives. The Committee on the Environment saw this as disregarding consumer safety and submitted 16 amendments, the majority of which called into question the health effects and technical necessity of several additives. Its uncompromising position had an effect, in so far as the plenary tasked the Environment Committee with drafting a new report on jams and marmalades. Nonetheless, given the fuss that advocates of public health made over a seemingly inoffensive proposal, the plenary met the new report with disinterest and derision. As the Commission sought to negotiate with the Environment Committee over the matter, the French Socialist rapporteur Marcel Brégégère expressed scepticism over 'whether there is any technological need at all for the use of these additives'. Brégégère insisted that, where they were used, they should be mentioned on the label.<sup>4</sup>

The Council adopted the directive on jams, jellies and marmalades in 1979, 13 years after the first Commission proposal. The Health and Environment committees had sought to stress the importance of questioning the economic and technical necessity of authorising the use of certain additives in these products, but they failed to get this point across. They proved isolated in their viewpoint that the harmonisation of foodstuffs presented an opportunity for the Community to introduce a high-standard regime for food safety rather than a mere removal of technical barriers to trade.

The fact that the Council had a growing backlog of directives awaiting approval increased the pressure on the Parliament to rubberstamp Commission proposals such as this one. In that light, the committees' insistence on asking fundamental questions about food safety seemed unnecessarily cumbersome. Given the Commission's approach to food harmonisation and the Parliament's internal organisation, agenda-setting on food safety in the 1970s was often more of an internal affair without much resonance outside of Strasbourg.

However, in other fields of harmonisation, this dynamic could be very different. Food harmonisation was particularly fragmented, whereas other fields were often harmonised in a single directive. Moreover, whenever there was a product safety crisis, the Parliament could weigh in to make a significant difference. This was the case for cosmetics, for example.

In the spring of 1972, a health scandal shook France. A batch of talcum powder for infants was accidentally contaminated with the powerful antibacterial agent hexachlorophene. The error left 36 children dead and eight crippled for life. Just at that moment, the Commission was finishing drafting a directive for cosmetic products. Under the public pressure that the so-called 'Talc de Morhange' scandal generated, the proposal that had started out as a mere instrument of market integration turned into a battleground for the protection of consumers on the common market.<sup>5</sup>

The Talc de Morhange affair became one of the first health scandals that millions of consumers, in France and elsewhere, could watch unfold on live television. MEPs started using this coverage to pressure the Commission even before it had submitted its proposal for the cosmetics directive, and reminded the Commission of its responsibility to prevent disasters like Talc de Morhange. Yet, the Commission adopted a format originally suggested by the cosmetics industry. The proposal's basis was a so-called 'negative list' system, which registered the substances that were *not* allowed in the production of cosmetics.

In light of Talc de Morhange, the Parliament's verdict on the Commission proposal was damning. The rapporteur, German Social Democrat Elisabeth Orth, criticised the Commission for prioritising the interests of industry over those of consumers. She insisted that the proposal be amended within the next five years and be based entirely upon a system of positive lists, which effectively banned all non-listed substances. Furthermore, following a wave of criticism from consumer organisations of the Commission's proposal, Orth also demanded that the Commission oblige producers to list ingredients on product labels in the language of the intended domestic market. The plenary joined Orth in her criticism of the Commission and adopted four amendments to the proposal, the most

Figure 2 – Marcel Brégégère during a session in Strasbourg, February 1978



Source: European Parliament Multimedia Centre.

important of which demanded positive lists and the listing of ingredients in the native language of the consumer. Consequently, the Commission decided to withdraw its proposal and amend it.<sup>6</sup>

However, the Parliament's initial success was short-lived. When the Commission submitted the revised version in 1973 it did not meet its two strongest demands, but the situation began to shift in the Parliament's favour when the Council started negotiations on the directive, with the Danish and German governments coming out in favour of a positive list system. With this kind of pressure coming from some Member States, the Commission abandoned its desire to limit its approach to negative lists alone. In April 1975, it presented yet another revised proposal, this time containing a clause in which it committed to proposing positive lists. In July 1976, the Council finally adopted Directive 76/768.<sup>7</sup>

From then on, the question for the Commission was how it was going to develop the envisaged system of positive lists amid heightened public scrutiny and criticism. What made all the difference here was that the Environment and Consumer Protection Service (ECPS) became file leader on revisions of the directive instead of its author, the Directorate-General for Agriculture. With the cosmetics directive coming into effect in 1978, the question was no longer what general shape it should take, but the specific substances it regulated. In the Parliament, some MEPs sought to capitalise on public scepticism and sentiments to cast suspicion on particular substances and the ways in which they were regulated. A dynamic thus developed where some MEPs, in their role of controlling the Commission, picked up on reported health hazards in a highly emotive style.

This dynamic was similar to the way in which the Environment Committee contested the authorisation of certain food additives. Here, too, disputes regularly broke out over the question of how to interpret scientific evidence and how to assess risk. Such debates often ended up being either overly technical or mutating into disputes over the legitimacy of politicians to be sceptical about scientific evidence. In most cases, however, the fundamental question underlying these debates was more fundamental still than the safety of one substance alone. This core debate was whether European market integration should prioritise innovation or precaution; in other words, whether the common market should continually expand in terms of available products and substances, or whether consumer safety should prevail above all else.

Overall, the Parliament left its mark on the harmonisation of consumables in the 'long 1970s'. Its influence was most pronounced on the cosmetics directive, where it led the way in overturning the underlying logic of the directive; its influence on the harmonisation of foodstuffs and additives was less clear. Nonetheless, the Parliament developed into a remarkably consistent advocate of precaution vis-à-vis the generous authorisation of additives. The Environment Committee raised fundamental questions about the logic behind harmonisation in the food sector but, given the incremental and fragmented nature of this field, it struggled to convey the political significance of these issues, even within the Parliament itself. Not until the 1990s, when the BSE (bovine spongiform encephalopathy) scandal severely undermined consumer confidence in the safety of beef, did the Parliament successfully unite behind the principle of precaution and pressure the Commission to overhaul the European Community's regulatory approach to food safety in a more integrated manner.<sup>8</sup> It was in moments of crisis, then, that the Parliament could really make its mark.

## Influence strategies and instruments

In influencing the Community's agenda on consumer protection, the Parliament did not only focus on the technicalities of policy fields. It also sought, for strategic reasons, to strengthen its political position. It did so, first of all, by institutionalising consumer protection as a policy priority, and by seeking inspiration from and cooperation with other international organisations and organised societal actors. The Socialist group consistently took the lead in this, articulating the idea that if the Community was to be more than a mere market project it had to protect citizens in their role as consumers against powerful producers and other potentially detrimental market forces. In emancipating consumers, the Socialist group turned towards legal protection as well as modern mass media, to better inform and educate consumers on their rights in the common market.

The idea of strengthening consumer rights at the European level did not originate in the European Community but in the Council of Europe. As early as 1970, its Consultative Assembly took the initiative to strengthen the legal protection of consumers, inspired by US President John F. Kennedy's 1962 Consumer Bill of Rights. In 1973, the Consultative Assembly drafted a Consumer Protection Charter, which codified the consumer's right to: protection and assistance, redress against damage, information, education, and representation and consultation.<sup>9</sup> These rights found their way into the Community two years later, when the Commission presented its programme for a consumer protection and information policy.

Figure 3 – Poster published by the European Commission and Parliament for the 1979 European Parliament elections



Source: European Parliament Multimedia Centre.

The Parliament largely followed the Commission's initiative in the field of consumer protection – not just in terms of policy initiatives, but also in organisational terms. In the absence of a dedicated committee for consumer protection, reports on consumer policy were drafted by the committees dedicated to social protection and public health. After the Commission had set up the ECPS in 1973, the Parliament followed suit by creating a Committee for Public Health and the Environment later that year. It took another three years, though, before the moniker 'consumer protection' was added to the committee's name. The fact that consumer protection was not an organisational priority made it difficult for MEPs to advance a coherent agenda or approach on consumer protection. In the 1970s and beyond, consumer affairs remained largely subsidiary to the more prestigious and burgeoning field of environmental protection – much as it had been subsidiary to social affairs in the preceding decade.

Within the Parliament, the field of consumer policy thus remained ill-defined, leading to internal struggles over who would take the lead on reports. The Environment Committee often lost out to other committees, such as the Legal Affairs Committee on the product liability directive. This meant that the Environment Committee did not tend to attract the MEPs with the strongest political profile, and that those MEPs in the committee who did have strong

political ambitions were often active in the field of environmental protection.

Among the political groups, the Socialists were collectively committed to consumer protection from an early stage. Consumer protection, in addition to competition policy and social policy, was an area for the Socialist group to expose and oppose the most detrimental effects of free markets. As a result, the Socialist and Communists and Allies groups were the only ones that consistently sought ways to strengthen consumer protection in the European Community. Their initiatives went back to the 1960s, when the Socialist group repeatedly called for strengthening the position of consumers in the Community.

In 1968, the Socialist group issued a draft resolution, which led to an own-initiative report by the Economic and Monetary Affairs Committee.<sup>10</sup> The report urged the Commission to provide consumers with better information on product labels, so that they could exercise their freedom to choose, and to involve consumer organisations more often and consistently in its decision-making. Another integral point in strengthening the position of consumers in the Community, the Socialists

argued, was to intervene in the market through competition policy, by combating monopolistic practices and price agreements.<sup>11</sup> The Socialist group was the first to draw explicit inspiration from Kennedy's 1962 Consumer Bill of Rights.

The Socialists' analysis that the consumer was rather vulnerable on a European market where powerful producers dominated echoed in the Commission's first consumer protection programme of 1975. After the introduction of this policy agenda, the Parliament no longer made consistent efforts to set an integrated agenda for Community consumer protection policy. Its initiatives were largely responsive, criticising individual Commission proposals for a lack of ambition and reminding the Commission of its promises in its consumer protection programmes. Here again, it demonstrated the Parliament's internal debate over what exactly constituted consumer protection policy, with interpretations differing between political groups, committees, and nationalities.

Within the Socialist group, female MEPs were often the most vocal critics of the Commission's efforts on consumer protection and took the lead in putting consumer protection on the Parliament's agenda. The prominence of female MEPs reflected the perception, still dominant in the 1970s, of the consumer as a housewife. On the one hand, this allowed female MEPs to claim both expertise in this field and an ability to represent the women on whose behalf they spoke. At the same time, this gender association meant that they had to underline continuously that consumer protection was a genuine socio-economic concern rather than an issue that only concerned those who did the groceries. Thus, for these female MEPs consumer protection was also an emancipatory issue. When they spoke of emancipating consumers on the common market, they also spoke of emancipating women in European society.

As the Parliament became more ambitious in the field of consumer protection, it started involving consumer organisations more frequently in its activities. The European umbrella organisation for consumer organisations, BEUC, became a frequent guest, especially in the Environment Committee. In a general way, the Parliament recognised the potential of consumer organisations to act as intermediaries between Community institutions and the everyday concerns of European citizens. This was a two-way street: such organisations, thanks to their membership of millions of consumers, consumer magazines, price surveys and comparative testing, provided consumers with information on products and markets that the Parliament felt was not available anywhere else. At the same time, BEUC could act as an ally for the Parliament in setting the agenda on consumer policy and in criticising the Commission.

BEUC was mostly a consensus-oriented follower of Commission initiatives, having developed under the auspices of the Commission. Given its small Brussels-based staff and heterogeneous membership of organisations that were Community-oriented to varying degrees, it was difficult for BEUC to take strong political positions. In the 1980s, however, BEUC started to play a more activist role and it became increasingly disappointed with the extent to which MEPs were willing to hear its position on various directives.<sup>12</sup> Even the Socialist group, which was most committed to cooperating with consumer organisations, and appointed a contact person to that end, had its reservations. After all, its primary allegiance was with the national trade unions organised in the European Trade Union Confederation, created in 1973. The Socialists doubted whether consumer organisations would ever be 'mature' enough to successfully redress power imbalances in the common market, and therefore questioned whether they would be the best social partner for defending the interests of Community citizens.

Nonetheless, the Parliament frequently involved BEUC and other organised societal groups in its proceedings, on specific Commission proposals as well as policy programmes. At the instigation of the Socialist group, the Parliament even organised a major public hearing on the Commission's second consumer protection programme in 1980. It involved consumer organisations, trade unions, cooperatives, family organisations and producer associations. To add lustre to the occasion, the Environment Committee decided to make the hearing a public event, held in Ireland at Dublin Castle, to gain public attention for Community consumer policy.

In promoting the Dublin Hearings, MEPs wrote to national media outlets, while Irish media in particular covered the event. Interestingly, MEPs saw it as their duty to convey to their audience that they, as consumers, enjoyed rights, protection, and great benefits in the common market. The Environment Committee was much more critical in its review of the Commission's second consumer programme. The Irish Labour rapporteur, John O'Connell, spoke of a 'lack of political will' on the part of the Commission and the Council to further consumer protection, and judged that 'Community consumer policy is now in crisis.'<sup>13</sup> While the Environment Committee sought to politicise consumer policy in the Parliament and vis-à-vis the Commission, its members also felt that consumers were hardly aware of European consumer policy, and that their first responsibility was to *inform* them of its existence.

The Parliament's relationship with the media in the field of consumer policy was difficult. On the one hand, the 1970s offered unprecedented opportunities for reaching a larger audience, with most households getting access to television. TV was a catalyst in the making of Europe's consumer society – not just through advertising, but also through the emergence of programmes geared towards educating and informing consumers. The Parliament pinned its hopes on such programmes and consumer magazines to inform consumers of their rights, and to convey the European dimension of consumer protection. On the other hand, European laws and policies mostly featured in dedicated consumer media where it concerned, for example, the CAP in connection with rising food prices. Moreover, MEPs found it difficult to convey the importance of seemingly technical and mundane directives to the public. The Parliament's calls for the Commission to strengthen information for and education of consumers never went very far.

The driving force behind the Parliament's agenda-setting power in the field of consumer policy was the MEPs who resided at the intersection of the political left and the parliamentary committees dedicated to public health and consumer protection. They saw consumer protection as an emancipatory policy – of consumers vis-à-vis producers, but also of women in society and in the economy. They attempted to show that consumer policy was about more than value for money and lists of ingredients: it was about power relations in the economy and seeking ways to balance the relationship between consumer interests and the market. The fact that they struggled to get this message across attests to the image problem that consumer policy had then and still has today.

## Conclusions

The 'long 1970s' saw the Parliament play a significant agenda-setting role in the burgeoning area of consumer protection policy. That is not to say that it left a very coherent mark, as consumer policy was too diffuse and varied as a policy field. The European Commission hardly ever saw it as a core priority, and neither did the Parliament. This meant that agenda-setting on consumer affairs was more often than not an internal parliamentary affair. The Environment Committee, and its predecessors, had to stress the relevance of consumer protection at every turn, and did so with great dedication. The committee wielded agenda-setting influence in specific areas such as food safety and cosmetics; at the same time, it encountered barriers when addressing issues related to, for instance, trade relations, product liability and misleading advertising.

European Parliament politics on consumer affairs largely revolved around the tension between innovation, on the one hand, and precaution on the other. The advocates of innovation, generally found in the centre and right of the hemicycle, defended a business-friendly climate for the common market. Their economic logic stipulated that consumers would automatically reap the benefits of market integration. In contrast, the advocates of precaution advanced the principle of consumer protection and sought to politicise the extent to which these innovations really brought technical or economic benefits.

The overall lack of salience of consumer protection had a strong gender dimension. It was difficult for MEPs to build their political profile around the theme, because it was often perceived as the domain of women. While this detracted from its political relevance, it also offered a venue for the



minority of female MEPs to build a political profile and consistently stress the broader socio-political relevance of consumer issues.

The Parliament's activism following food and product safety crises has not just strengthened the European Union's role in consumer protection but has also changed the overall image of consumer protection. While MEPs tended to associate consumer protection strongly with domestic life in the 1970s, this has since changed. Fields of regulation such as consumer policy have become areas of so-called 'regulatory competition' between the world's largest economic blocs. The Parliament and other EU institutions have come to recognise that consumer policy, far from being limited to domestic life, extends beyond the internal market and is also a matter of geopolitics.

## ENDNOTES

- <sup>1</sup> The 'long 1970s', in socio-economic terms, lasted from the new social movements in the late 1960s and the 1973 oil crisis through to the reforms and transformation in the 1980s. Institutionally, it began with the 1969 summit in The Hague and extended beyond the 1979 direct elections to the European Parliament, which were far from a 'zero hour' for Parliament, let alone the European Community.
- <sup>2</sup> D. Vogel, *The Hare and the Tortoise Revisited: The New Politics of Consumer and Environmental Regulation in Europe*, *British Journal of Political Science*, 33(4), 2003, pp. 557-580.
- <sup>3</sup> European Parliament, Doc. 124/62; OJ 1962 2645/279, Article 2(2).
- <sup>4</sup> European Parliament, Doc. 376/76.
- <sup>5</sup> K. van Zon (forthcoming), *Skincare, Health Scares and Animal Welfare: (De)politicising European Cosmetics Regulation in the Wake of Scandal, 1968-1986*, in S. Vogenauer and J-H. Meyer (eds.), *Law and Policy in European Integration (1960s-1990s)*.
- <sup>6</sup> *Exposé des motifs*, ECHA, COM(73)1733.
- <sup>7</sup> Council Directive, OJ 1976 L262/169.
- <sup>8</sup> S. Krapohl, *Thalidomide, BSE and the single market: An historical-institutionalist approach to regulatory regimes in the European Union*, *European Journal of Political Research*, 2007; C. Ansell and D. Vogel, *What's the Beef? The Contested Governance of European Food Safety*, MIT Press, 2006.
- <sup>9</sup> B. Leucht, *Beyond 1973: UK Accession and the Origins of EC Consumer Policy*, *Global Policy* 13, 2022, pp. 20-29.
- <sup>10</sup> European Parliament resolution, OJ 1969 C17/4-8.
- <sup>11</sup> European Parliament, Doc. 189/69.
- <sup>12</sup> A. Schimmel (forthcoming), *A Europe of Consumers*, PhD thesis, Utrecht University.
- <sup>13</sup> European Parliament, Doc. 1-450/80, p. 10.

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