

## 2. Interinstitutional declaration on democracy, transparency and subsidiarity

2.2.1. At the Interinstitutional Conference in Luxembourg on 25 October the Council, Parliament and the Commission adopted the following declaration.

1. The European Parliament, the Council and the Commission, as institutions of the European Union, will, within the framework of the legislative procedure, respect in full the democratic principles on which the systems of government of the Member States are based; they reaffirm their attachment to the implementation of transparency by the institutions.

2. As soon as Parliament has adopted its resolution on the annual legislative programme proposed by the Commission, the Council will state its position on the programme in a declaration and undertake to implement as soon as possible the provisions to which it attaches priority, on the basis of formal Commission proposals and in compliance with the procedures laid down by the Treaties.

3. In order to increase the transparency of the Community, the institutions recall the measures which they have already taken in this direction:

The European Parliament, in amending its Rules of Procedure on 15 September 1993, has confirmed the public nature of meetings of its committees and of its plenary sittings.

The Council has agreed to take steps:

- to open some of its debates to the public;
- to publish records and explanations of its voting;
- to publish the common positions which it adopts under the procedures laid down in Articles 189b and 189c, and the statement of reasons accompanying them;
- to improve information for the press and the public on its work and decisions;
- to improve general information on its role and activities;
- to simplify and consolidate Community legislation in cooperation with the other institutions;
- to provide access to its archives.

The Commission has already taken or is in the process of taking the following measures:

- wider consultations before presenting proposals, in particular publication of Green or White Papers on the topics listed in the 1993 legislative programme;
- flagging in the legislative programme of upcoming proposals which would appear to be suitable for wide-ranging preliminary consultations;
- introduction of a notification procedure, consisting of the publication in the Official Journal of a brief summary of any measure planned by the Commission, with the setting of a deadline by which interested parties may submit their comments;
- publication of work programmes and legislative programmes in the Official Journal to publicize action planned by the Commission;
- finalization of the work programme by October with a view to enhancing openness;
- publication in the legislative programme of plans for the consolidation of Community legislation;
- provision of easier public access to documents held by the Commission with effect from 1 January 1994;
- improving knowledge of existing databases and their accessibility, including improving the existing relay network;
- publication each week in the Official Journal of lists of documents on general topics; wider public access to documents on specific topics;
- preparation of an interinstitutional yearbook giving details of each institution's organization chart;
- faster publication of Commission documents in all Community languages;
- adoption of a new information and communication policy occupying a larger place in Commission activities; enhanced coordination of information activities both inside and outside the Commission;

- adoption of additional measures to facilitate the general public's understanding of Commission business, in particular by making available the necessary resources and equipment to provide a suitable response to requests from the media;
- improvement in the treatment of telephone, mail and personal contacts between citizens and the Commission;
- promotion of the establishment of self-regulation by special interest groups by asking them to draft a code of conduct and a directory;
- creation by the Commission of a database on special interest groups as an instrument for use by the general public and by Community officials.

4. Interinstitutional Agreement on procedures for implementing the principle of subsidiarity (→ point 2.2.2).

5. Draft Decision of the European Parliament laying down the regulations and general conditions governing the performance of the ombudsman's duties.

6. Arrangements for the proceedings of the Conciliation Committee under Article 189b (→ point 2.2.3).

7. The three institutions will adopt all these texts in accordance with their internal procedures.

The agreements established at the Interinstitutional Conference on 25 October 1993 are aimed at implementing the Treaty on European Union and at strengthening the democratic, transparent nature of the European Union. They may be added to or amended by common agreement at the initiative of any of the three institutions.

### **Interinstitutional Agreement between the European Parliament, the Council and the Commission on procedures for implementing the principle of subsidiarity**

2.2.2. The European Parliament, the Council and the Commission,

Having regard to the Treaty on European Union signed in Maastricht on 7 February 1992, and in particular Article B thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 3b

thereof, as resulting from the Treaty on European Union,

Having regard to the conclusions of the European Council, meeting in Edinburgh, concerning subsidiarity, transparency and democracy,

Have agreed on the following measures:

#### **General provisions**

The purpose of the procedures for implementing the principle of subsidiarity shall be to govern the manner in which the powers assigned to the Community institutions by the Treaties, in order to enable them to achieve the objectives laid down by the Treaties, are exercised.

Such procedures shall not call into question the *acquis communautaire*, the provisions of the Treaties concerning the powers conferred on the institutions or the institutional balance.

#### **Procedures**

In exercising its right of initiative, the Commission shall take into account the principle of subsidiarity and show that it has been observed. The European Parliament and the Council shall do likewise, in exercising the powers conferred on them by Articles 138b and 152 respectively of the Treaty establishing the European Community.

The explanatory memorandum for any Commission proposal shall include a justification of the proposal under the principle of subsidiarity.

Any amendment which may be made to the Commission's text, whether by the European Parliament or the Council, must, if it entails more extensive or intensive intervention by the Community, be accompanied by a justification under the principle of subsidiarity and Article 3b.

The three institutions shall, under their internal procedures, regularly check that action envisaged complies with the provisions concerning subsidiarity as regards both the choice of legal instruments and the content of a proposal. Such checks must form an integral part of the substantive examination.

#### **Review of compliance with the principle of subsidiarity**

Compliance with the principle of subsidiarity shall be reviewed under the normal Community process, in accordance with the rules laid down by the Treaties.

The Commission shall draw up an annual report for the European Parliament and the Council on compliance with the principle of subsidiarity. The European Parliament shall hold a public debate on that report, with the participation of the Council and the Commission.

#### **Final provisions**

In the event of general difficulties concerning the application of this Agreement, the President of the European Parliament, the President of the Council or the President of the Commission may request that an interinstitutional conference be convened in order to overcome such difficulties or to supplement or amend this Agreement.

This Interinstitutional Agreement shall apply as from the entry into force of the Treaty on European Union.

#### **Arrangements for the proceedings of the Conciliation Committee under Article 189b**

2.2.3. Current practice under the cooperation procedure generally, particularly in the most sensitive cases, involves talks between the Council Presidency, the Commission and the Chairmen or/and the rapporteurs of the relevant committees of the European Parliament. The institutions confirm that this practice should continue and could be developed under the procedure provided for in Article 189b of the Treaty establishing the European Community.

The Committee shall be convened by the President of the Council with the agreement of the President of the European Parliament and with due regard to the provisions of the Treaty.

The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

The Committee shall be chaired jointly by the President of the European Parliament and the President of the Council.

Committee meetings shall be chaired alternately by each co-Chairman.

The dates and the agendas for the Committee's meetings shall be set jointly by the co-Chairmen.

The Committee shall have available to it the Commission proposal, the Council's common position and the amendments approved by the European Parliament.

The co-Chairmen may draw up joint texts for submission to the Committee; they may submit reports to the Committee or propose to it that rapporteurs be appointed.

If the Committee agrees to a joint text which has not yet undergone legal/linguistic finalization, the draft text shall be submitted to the co-Chairmen for formal approval after such finalization.

The co-Chairmen shall approve the minutes of Committee meetings.

The outcome of votes and, where appropriate, explanations of vote, taken within each delegation on the Conciliation Committee, shall be forwarded to the Committee.

The co-Chairmen shall see to it that the joint texts approved by the Committee are forwarded forthwith to the European Parliament and to the Council.

The General Secretariat of the Council and the Secretariat of the European Parliament shall act jointly as the Committee's Secretariat, in association with the Secretariat-General of the Commission.

Joint texts shall be finalized by the legal/linguistic experts of the Council and of the European Parliament.

The Committee shall meet alternately at the premises of the European Parliament and the Council.

While abiding by the Treaty provisions regarding time-limits, the Council shall, as far as possible, take into account the requirements of the European Parliament's schedule.

The above points may also apply to the Conciliation Committee when it operates on the basis of Article 189b(2), with due regard to the provisions of that Article of the Treaty.'