LEGISLATIVE REVIEW BY THE EC COMMISSION: REVISION WITHOUT ZEAL1

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1 Introduction

There is a review of legislation currently underway in the Community, under the auspices of the Commission. This chapter examines why there is such a review and how it is being conducted. The Commission is primarily responsible for reviewing existing legislation under both the Sutherland Report and the principle of subsidiarity. The former has led to a process of consolidation to make EC legislation more transparent with the objective of improving the effectiveness of the Internal Market programme. The latter is a slow and potentially fraught process of repeal and replacement through the retroactive application of a politically vague and legally unsustainable principle. The techniques of codification, clarification, simplification and repeal used by the Commission are shaped by institutional factors notably the change in culture brought about by the inclusion of the subsidiarity principle in the Treaty on European Union. The chapter focuses on the impact of the review on existing institutional structures and its affect on the acquis communautaire.2 It examines the appropriateness, from a legal perspective, of the tools used in the review. It argues that the greater transparency which will result from review may force the question of democratic accountability further up the political agenda. At the same time, the acquis communautaire will undeniably be affected by the review of legislation under the subsidiarity principle.

2 Why legislative review?

Power has never been definitively allocated between the Member States and the Community. Instead, power has been shared in light of mutually beneficial objectives (Steiner, 1994: 57). Within this system of incomplete competences, the Commission has acted opportunistically to expand its powers and those of the Community, by exerting gradual bureaucratic pressure on the Council often through the use of soft law initiatives which act as precursors of legally binding policy initiatives (Cram, 1993: 143). The vacuum created by the absence of a policy driven government at the centre of the Community has also been availed of by the Commission to develop the competences of the Community (Richardson, 1995: 142). At the same time, the Community remains dependent on Member States to ensure its regulation is rendered effective thus cooperation with the Member States is important in relation to enforcement. As long as enforcement of Community law remained lax, Member States were willing to sign up for EC legislative initiatives (Snyder, 1993: 52). However, with the introduction of qualified majority voting under the Single Act and improved enforcement of EC law partly through the development of the jurisprudence of the Court in relation to direct effect and remedies, the states became more sensitive to the measures coming before the Council and more conscious of the potential impact of regulation at the Community level.

Mutual recognition acted as a smoke-screen for the large amount of deregulation needed at national level for completion of the common market and its replacement by EC measures (McGee & Weatherill, 1990: 582). This deregulation at the national level, combined with what appeared to be ever expanding competences of the Community, prompted the introduction of the principle of subsidiary into the Treaty on European Union (Peterson, 1994: 55). A product of political compromise, the principle is

given legal expression in Article 3B of the Treaty where the issue of creeping Community competence is directly addressed through the principle of attribution which asserts that the Community can only exercise those powers attributed to it by the Member States. The second paragraph contains the subsidiarity principle itself and requires EC action to be taken only where the objectives cannot be adequately achieved at national level and can be better achieved by EC action. However, these two tests only apply when the EC is acting outside its exclusive competence. The third paragraph repeats the proportionality principle as developed by the European Court (Ward, 1996).

The principle of subsidiarity is concerned with the level at which power is to be exercised within the Community. This necessarily precludes the subnational level from discussion and also would appear to limit the application of the principle to the procedural and somewhat technical question of how it is to be applied in the existing decision-making processes of the EC. This would not point to a possible legislative review yet, such a review was the outcome of the political events surrounding the ratification of the Maastricht treaty.

It was the vagueness of the principle that gave rise to the flurry of clarification following the first Danish referendum which rejected the Maastricht Treaty. Subsidiarity would not have received so much attention but for that referendum and the ability of the British Euro-sceptics to prevent a speedy ratification of the Treaty in the UK (Peterson, 1994: 119). In the light of public concern about democratic accountability within the EC, the principle of subsidiarity was held up as the device through which accountability would be improved. Clarification of how the principle would achieve this was attempted in an atmosphere of political compromise and panic at the Edinburgh summit where rather than addressing the shortcomings of the legislative process itself, the focus was turned to the outcomes of that process resulting in the Commission's Edinburgh list where it indicated existing proposals that it would remove from the legislative agenda.3 This list was supplemented by the Brussels Report where the Commission indicated how existing legislation would be reviewed in the light of the subsidiarity principle. This part of the subsidiarity review is seen by the Commission as simply the next stage in a deregulation process the first step of which was the harmonisation programme which reduced the volume of national legislation.4

An earlier and largely unrelated development was the Sutherland report.5 This committee of experts was set up to examine how the full benefits of the Internal Market could be secured in practice after 1992 (Wainwright, 1994: 102). It emphasised the importance of transparency and in that regard recommended that legislation should be consolidated. The Commission welcomed the recommendations and has set about implementing them while also developing a further, distinct initiative.6 In September 1994 it set up a group of independent experts to examine the impact of Community and national legislation on employment and competitiveness. The Committee published their report in June.7 It recommends simplification of both Community and national (including local) law. It also clearly recognises that simplification may lead to deregulation both at Community and Member State level. One of its major findings is that transposition of directives causes difficulties and therefore it recommends the use of regulations - this recommendation seems to fly in the face of the Commission's previous trend in the light of the subsidiarity principle towards framework directives and away from regulations.

3 Legislative Review

Rather than tackle the critical issue of how and at what levels power is exercised in the Community the Member States side-stepped the question of improving accountability by seeking to resolve the democratic deficit through greater transparency and legislative review rather than through institutional reform (Lodge, 1994: 344). The review is taking place under three different initiatives, the most important of which is that taking place under the principle of subsidiarity. The Commission is required to produce an annual report on the application off the principle and in the first of these reports it analyses how the review is being conducted.8

The review has led to the withdrawal of a large number of existing proposals. This process dates from the Edinburgh list.9 A total of nine proposals were withdrawn by the Commission by the end of 1993 after it had considered the recommendation of the Parliament that most of the proposals be retained.10 In addition, 150 technically obsolete or outdated proposals were withdrawn in that year.11 Because all new proposals now have to be justified in the light of Article 3B, it follows that proposals that do not comply with the principle will not be put forward. Instead, the review may lead to their modification, as has happened in 1994 where e.g. those relating to zoo animals where a proposed directive is to be replaced with a non-binding recommendation.12

The burden of ensuring proposals comply with the principle falls on the Commission.13 The practical consequence of this burden is the production of an explanatory memorandum with each proposal examined in light of subsidiarity. Each memo answers a list of questions including, in situations of shared competence, what is the most effective solution and the added value of EC action. Each proposal also includes a recital addressing subsidiarity.14 This process ensures the principle is being adhered to and ensures the removal or modification of proposals which breach it. As a result there has been a reduction in the number of proposals emanating from the Commission from almost 190 in 1990 to just over 40 in the first 10 months in 1994.15

The final part of this process is the review of existing legislation. The Commission proceeds cautiously. Only legislation arising out of shared competence is reviewed under both the second and third paragraphs of Article 3B i.e. it will be reviewed to see if it meets the need-for-action test and the proportionality test. Review is limited to legislation more than 2 years old and is limited to binding measures which affect firms and individuals - areas where major changes are being considered will not be reviewed. The Commission indicated that in its report on the adaptation of existing legislation to the subsidiarity principle that the success of the review is conditional on greater delegation of implementing powers to it; giving more weight to mutual confidence especially in relation to matters involving health; and removing the mutual lack of confidence between national administrations which is particularly apparent with the development of mutual recognition, this last point echoing the opinion of the Sutherland Report.16

Review of existing legislation falls under three headings: rules and regulations to be recast, simplified and repealed. Recasting applies to mature legislation where the fundamental principles can be identified along with the core rules and secondary measures can be replaced with a single implementing procedure. For example, in its 1994 legislative programme, the Commission proposed amending current directives concerning rights of residence with a view to recasting them.17 Simplification allows for the removal of excessive detail from legislation through proposing more general measures e.g. proposals have been put forward to simplify directives on foodstuffs, mineral water and a framework directive is also proposed in the 1994 report. Finally, some measures have been repealed although it seems repeal without replacement is very unlikely. Instead, repeal will only occur where measures are being recast or simplified e.g., the Commission is proposing to replace the 13 regulations on export refunds in the CAP with a single regulation. Thus legislative review is a process of regulatory reform rather than deregulation.

In the 1994 report the Commission has also indicated that it is seeking alternative solutions to Community legislation or action through the decentralised implementation by Member State authorities. This is a statement of long established practice and also echoes the view that the subsidiarity is concerned with decisions being taken closer to the people. The report mentions cooperation with national authorities in relation to the enforcement of Article 85 and 86 EC, especially where the Commission is dealing with matters that predominantly affects one Member State. If this example is typical, then the Commission is looking to national authorities to build on existing responsibilities rather than taking on wholly new responsibilities.

The most obvious impact of the review in the light of the subsidiarity principle is that, as well as the withdrawal of existing proposals, the number of new proposals emanating from the Commission has greatly reduced. However, in the post-Internal Market phase, a reduction of new proposals would have

been likely in any case. The reduction should lead to greater coordination between DGs who will have to compete with each other to get their proposals onto the new streamlined, and public, legislative agenda. Such developments are to be welcomed, the Commission having been criticised in the past as a composite bureaucracy with poor internal policy coordination (Richardson, 1995: 143).

There is very little repeal of legislation, amendment of existing legislation being preferred. Some measures are being replaced with either non-binding measures or less detailed measures and there is greater reliance on mutual recognition. This creates the need for better coordination and mutual confidence between authorities at the national level. If the Community is to apply "a lighter touch" then national authorities will have to be more responsive to their Community responsibilities. This issue was highlighted by the Sutherland report which pointed to the lack of trust and understanding between national administrations responsible for ensuring mutual recognition of each others standards. Steps are being taken to overcome this problem.18 The quid pro quo of more framework directives and less centralised legislation at the EC level therefore is an increased commitment from Member States to enforce the law. Thus the Commission refers to the principle of mutual confidence in the Brussels report and there is a declaration by Member States in the Treaty to apply EC law with the same rigour and effectiveness as national law.19 The review is on-going and in the medium term will lead to greater transparency of existing legislation thanks to the process of clarification and modification while the overall volume of existing legislation will be reduced slightly.

A related but separate aspect of the legislative review is that of consolidation under the Sutherland Report. Legislative consolidation is the combination of an initial legal text and all amendments into a single authoritative text with the repeal of all the pre-existing texts.20 It is published in the L series of the Official Journal and at the moment follows standard decision-making procedures.21 No amendment of the law is involved. Since 1990 a number of proposals for consolidation have been suggested by the Commission but have been delayed at Council level. The Council uses the consolidation proposal as an opportunity to reopen debate on the substance of the measures or suggests postponement because there are other amendments of the legislation forthcoming. The Commission would like to see consolidation delegated to it as it is purely a procedural task and does not involve any policy considerations.22 It is of the view that if the Council will not delegate then suitable works practices need to be devised. This is a view echoed by the Parliament which has called for an interinstitutional agreement on the method of codification.23 Until there is such an agreement or delegation then the delays in codification are likely to continue.24 Even with such reforms, the Commission has also highlighted the lack of resources in relation to preparing texts in all the EC languages. A possible solution in the short term is greater use of declaratory codification where material is consolidated informally to make it accessible on the INFO92 database.25

The committee of experts set up to suggest simplification of both national and Community laws to ensure a positive impact on employment and competitiveness can be seen as a way around the problems surrounding consolidation under Sutherland. If substantive review is unavoidable, then the Commission may be able to ensure it occurs for the best possible reasons i.e. competitiveness and employment, and substantive changes will have to justified in the light of these two principles as well as subsidiarity.

4 Overall Effects: the Acquis Communautaire and the Institutional Balance

Both the consolidation of the body of EC regulation under Sutherland and the streamlining of the legislative programme are to be welcomed. The former, because it will improve transparency and the latter, because it may improve coordination between the DGs of the Commission. However, the review of existing legislation raises two fundamental issues: the impact of the review on the acquis communautaire and the review as a wholly inadequate and inappropriate response to the lack of democratic accountability in the EC legislative process.

The scope of the principle in relation to the review of legislation is broader than a literal reading of Article 3B would imply. The second paragraph contains the subsidiarity principle itself and requires EC action to be taken only where the objectives cannot be adequately achieved at national level and can be better achieved by EC action. However, these two tests only apply when the EC is acting outside its exclusive competence. This implies that the review in light of the principle should only occur where there is shared competence. This is the only provision of the EC treaty which expressly refers to exclusive competence and no attempt has been made to define it by the Council or Commission and the term has been the subject of much academic debate (compare Toth, 1992 and Emiliou, 1992). The boundaries of competence remain vague so the scope of review under the principle is not clear. In its 1994 report on the application of the subsidiarity principle, the Commission raises the problem of differentiating between exclusive and other competences, especially in the area of the completion of the internal market where the implementation of the four freedoms are within the exclusive competence of the EC while accompanying measures designed to facilitate the operation of the internal market do not.26 It skirts the issue by failing to offer any substantive comment instead indicating that it has issued staff guide-lines on preparation of legal instruments. It also notes that it will have to be increasingly strict in the criteria it applies without giving any indication of what the criteria might be, while also, ironically, emphasising the need for transparency.

The Commission is also reviewing legislation in the light of subsidiarity even though the principle did not exist at the time the legislation was made. The extension of the principle to previously existing legislation arose out of the European Council meeting in Lisbon which requested the Commission to investigate how such a review could be conducted and led to the Brussels report where the Commission indicated that existing legislation could be reviewed in light of the principle, subject to some limitations notably that only legislation only more than 2 years old would be reviewed.

This review could be justified as a pragmatic move by the Commission in the light of a new political climate which is concerned about the level and amount of Community regulation. However, the principle is now being applied retroactively (Toth, 1994: 46) and that body of Community law which does not fall within the ill-defined exclusive competence of the Commission, is being surveyed in the light of subsidiarity. The principle is not meant to be concerned with where power is allocated but at what level of government it is exercised, however if it is applied retroactively only to Community measures, and binding legal measures are replaced with non-binding measures then ultimately the scope of Community law will be diminished over time.

The Treaty on European Union states that it builds on the existing acquis communautaire but if existing legislation can be revised in the light of subsidiarity, then the existing body of law is being changed as well as being built on. Change per se is not problematic, but it is important it be undertaken on the correct basis. The principle is expressly stated not to affect the acquis communautaire, nor to be concerned with the allocation of power.27 A revision of existing legislation which pre-dates the principle inevitably counters the stated absence of affect on the acquis communautaire and only obfuscates what are the legal meaning and consequences of the principle. This obfuscation undermines one of the other rationales of the principle and of all current the legislative reviews, which is to improve
transparency of the legislative process. If transparency is the true objective of the review, then that would be a better basis on which to conduct it. In short, subsidiarity is not an appropriate mechanism for the review. It places the body of EC law in a vulnerable position, subjecting it to a principle which was not meant to apply to anything other than existing decision-making processes. It creates a precedent for future modification of legislation under future revisions of the Treaty.

Legislative review under the principle of subsidiarity is further compounded by the impact it has had on the interrelationships of the main EC institutions. As with the declared preservation of the acquis communautaire, so the principle is not meant to have any effect on the institutions.

The review process under subsidiarity can be seen as rationalisation of the existing body of law. The incentive for this review came from the European Council. The Council skilfully ensured that the Commission became the focus for public concern about the accountability of the legislative process of

the EC (Lodge, 1994: 345). By focussing on transparency and by using the principle of subsidiarity, in itself a legally obscure device, the issue of rendering the policy-making process more open to the elected representatives of the people in the European Parliament was side-tracked. Instead it became the responsibility of the Commission to make the system more transparent using legislative review to simplify and consolidate. Such review will make the scope of EC legislation more apparent but will do nothing to reform the existing legislative procedures, except in so far as the reduced volume of proposals will allow more time for consultation beforehand and improve policy coordination within the Commission. Even after the review is complete, the Council will still remain the most powerful and most hidden of the institutions.

The review remains primarily within the purview of the Commission which has sought to proceed cautiously in relation to the review of existing legislation while pushing for greater delegation of powers to it in relation to the technical exercise of consolidation. The application of subsidiarity remains a shared responsibility for all the institutions, a point which the Commission continues to make where it feels its position being undermined by the Council. Thus it has consistently reiterated that the acquis communautaire remains unaffected, a point accepted by the Council.28 Yet, in the Brussels report, the Commission did feel it necessary to remind the Council that it must accept that the Commission may act at the international level and not introduce internal legislation which would duplicate international agreements.29 This implies a concern on the part of the Commission about challenges to its ability to act internationally, a concern borne out by its defeat in the France v. Commission30 decision where the Court held it could not negotiate an agreement on competition enforcement with the US.

At Edinburgh, the Commission indicated that in keeping with the general reduction in the number of legislative proposals, it would no longer accept informal suggestions from the Council that it should introduce proposals for directives. This reflects the Commission concern expressed in its earlier Communication, that it is perceived as meddling.31 By refusing suggestions for legislation from Council, it is refusing to be used as the source of unpopular regulatory measures. In the same spirit, it indicated that it would refuse Council amendments which run counter to proportionality or unnecessarily compound legislation. In its 1994 report, it underlined this view by criticising Member States who adopt positions in Council at variance with Article 3B.32

Even though the principle of subsidiarity was not meant to affect the institutional balance, there was recognition that some agreement between the institutions was necessary as to how the principle was to be applied in decision-making. The agreement on procedures for implementing subsidiarity was issued in tandem with a declaration on democracy, transparency and subsidiarity and reaffirms the institutions' respect for the democratic principles of the Member States and their commitment to transparency.33 The limitations of the principle are clearly stated i.e. it is only concerned with how power is exercised by the EC and not with the question of what powers are conferred. All three institutions accept responsibility for application of the principle. The agreement asserts that the acquis communautaire is unaffected as is the balance of power between the institutions. Where there is a dispute between the institutions as to the agreement, the presidents of the institutions will convene a conference to overcome any difficulties. This lends weight to the view that the agreements is not legally binding and hence not subject to judicial review (Monar, 1994).

The review process marginalises the Parliament. The Council and Parliament have to be told by the Commission why a proposal is being withdrawn although the opinion of the Parliament is not binding. Its relatively weak position can be seen in a comparison of the 1993 and 1994 legislative programmes. In the works programme for 1993/1994 the Commission indicated that there would be a strict but positive application of the principle of subsidiarity. Thus it would focus on action which was essential for the objectives laid down by the programme.34 These undertakings are given substance in the legislative programmes. As already mentioned, in the 1993 programme, the Commission simply reproduced the Edinburgh list.35 A similar number of measures were proposed for consolidation in 1994.36 Obviously, because subsidiarity was now in operation, there were no proposals to be withdrawn as all proposals would be subject to the principle and would not be put forward unless the

Commission believed that the principle had been complied with: this is certainly the implication to be drawn from the Brussels Report.

There are some noticeable differences between the 1993 and 1994 programmes. In the former, the Commission is careful to indicate the number of measures proposed and to be removed. It also gives a clear and categorical commitment to subsidiarity promising to closely examine each proposal to see if it can be best carried out at EC level. It also states that each proposal is examined in light of the costs and benefits for national public authorities and for interested parties. A full list is provided of measures pending as well as those proposed. Such caution seems to reflect the political climate in which the programme would have been published - it was also the first time the programme was published even though such programmes have been in existence since 1988. In 1994, reference to subsidiarity is limited to an indication that all proposals are examined in strict compliance with it - as defined in the interinstitutional agreement. No appendix of proposals pending is provided and those proposals carried forward and included in the programme are not highlighted thus a careful comparison of the two programmes is needed to discover which proposals are new and which are carried forward.37 The 1993 programme was greeted warmly by the Parliament.38 The 1994 programme was less well received indicating that there are weaknesses in the procedures agreed and perhaps reflecting the concern of Parliament that it was again being side-lined by the Council and Commission.39 Parliament criticised the Commission for failing to provide a time table for submission of proposals; for the delay in publication of the programme; and for failing to indicate the Treaty bases on which proposals would be based. More importantly, Parliament had not been informed about the postponement, dropping or transformation of a number of proposals, despite the commitment given by the Commission in its report.40

For its part, the Council had agreed in the interinstitutional agreement to respond to the proposed legislative programme before its final adoption. Thus it essentially agreed to respond directly to the views of Parliament to the programme. This has the potential of creating real dialogue between the Council and Parliament about the future direction of the EC and the content of its legislative programme (Monar, 1994: 710. However, the Council's response was disappointing.41 Short and general in nature it placed more importance on subsidiarity than either the Commission or Parliament. The final joint declaration does go some way to meet Parliament's criticisms with some deadlines included for some measures and the institutions agreed to draw up a joint calendar for common positions and second reading and to ensure reciprocal information on the progress of work on priorities of common interest.42 These proposals for action obviously represent a compromise between the Council and Parliament especially as there is a footnote in the declaration indicating that the Parliament expects the sharing of information to include the participation of its representatives at Council meetings. The Council is meant to but has little experience of liaising with the Parliament, and this is borne out by the response of the Council to the 1994 legislative programme (Curtin, 1993: 43). Relations with the Parliament could become more fruitful over time but only if there is a genuine will on the part of the Council to acknowledge the credibility of the Parliament as a key institution in the legislative process. This process shows how the good intentions in the inter-institutional agreement have not been adhered to and how there are continuing internal problems in the relationship between the institutions based on an inability or an unwillingness to see the Parliament as a credible democratic and accountable institution (Lodge
1994: 360).

Review under the subsidiarity principle and the Sutherland report appears technical and bureaucratic, while it is yet to be seen to what extent the Commission will adopt the Molitor Group report. It does not have any major substantive objectives other than an overall reduction in the number of policy initiatives emanating from the Commission and a clarification of existing legislation. In relation to clarification, how can it be achieved by the retroactive application of a politically complex and legally obscure principle? It is an impossible task and if the Commission succeeds in achieving some measure of revision which simplifies and consolidates, then that is to be welcomed.

The key issue identified in the political aftermath of Maastricht is the accountability mechanisms within the Community. Legislative review which consolidates, simplifies and reduces the overall

number of proposals does not amount to a deregulatory programme or a system of improved accountability. What it may do as a result of the greater transparency which will result, is further highlight the shortcomings in the system. This may force the accountability issue onto the political agenda in a way that will not allow it to be subsumed under vague political principles like subsidiarity.

5 Conclusions

The main impact of the subsidiarity principle has been to introduce a change in culture in the Community. There is a greater onus on the Community to justify its actions to the Member States on whom it relies for the implementation and enforcement of its rules. Legislation is being "tidied up" but the process is slow, complex and despite much mention of transparency, also relatively opaque. The absence of agreement between the institutions as to the scope and function of the review in particular seems to render the task more difficult. This can be best seen with the problems surrounding legislative consolidation and the sharp criticism of the Parliament of the Commission's proposed 1994 Legislative Programme.

The review has been shaped by its institutional context especially the Community culture in which it has occurred (Armstrong, 1996). That culture has changed, a phenomenon which has itself been institutionalised by the inclusion of the principle of subsidiarity in the Treaty on European Union. "Culture" can be seen as a shorthand for a variety of influences on regulation (Hancher and Moran, 1989:3). Expectations about the purpose of regulation, about who are legitimate participants and about relations between those participants, are formed by cultural references such as time, location, the nature of the particular economic sector being regulated and the legal culture within which regulation occurs. The exercise of public power over private economic power rests on legal authority which is made legitimate by appeal to the public will.43 Thus the range and form of regulation is deeply influenced by the particular conception of the scope and purpose of law which prevails. The proper role for law in turn rests on ideas about the appropriate allocation of sovereign authority among those who are deemed legitimate participants. If this view of the relationship between culture and regulation is accepted, then the central importance of democratic accountability and allocation of competences in the EC can be seen. Yet, the legislative review does not address the either of these issues and thus fails to address the most fundamental issue facing the Community at the moment. It fails to do so because of the unwillingness of the Member States in the guise of the Council to address the problem (Lodge, 1994: 345). Instead, it successfully shifted the debate about the lack of accountability to the Commission diverting attention from the relative positions of the powerful Council and the relatively impotent and unsaturated Parliament.

The tensions between the institutions point to more fundamental problems which in turn arise out of the subsidiarity principle itself. As long as the principle remains substantively vague, there is scope for disagreement as to its aims and objectives. In particular, decision-making processes will continue to suffer from a legitimacy problem as long as there are a myriad of procedures involved which obfuscate and seem to remove decision-making ever further from democratic accountability (Curtin, 1993: 38). A hierarchy of norms is needed to provide the substantive criteria under which deregulation can occur, if deregulation is really the intention behind the principle of subsidiarity - something that remains unclear, and given the nature of the principle is likely to remain so. Review with a view to simplification and consolidation is a welcome move but the laudable objective has been highjacked by the inappropriate retroactive application of the subsidiarity principle to an existing body of law. Change will come about but at the expense of the acquis communautaire and in the light of the continuing failure of the EC institutions to face up to the fundamental and irrepressible concern about democratic accountability.

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