



COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT

pursuant to the second subparagraph of Article 189 b (2) of the EC-Treaty

**concerning a common position of the Council, presented under Article 189b (2),
second paragraph, of the EC Treaty, with a view to adopting the proposal for a
European Parliament and Council Decision creating a network for the
epidemiological surveillance and control of communicable diseases in the European
Community.**

1. BACKGROUND

- Date of transmission of the proposal to the European Parliament and Council: 11 April 1996.
- Date of the opinion of the European Parliament at first reading: 19 November 1996.
- Date of transmission of the amended proposal: 3 February 1997.
- Date of adoption of the common position: 22 July 1997.
- Date of the opinion of the Economic and Social Committee: 25 September 1996.
- Date of the opinion of the Committee of the Regions: 13 June 1996.

2. SUBJECT OF THE PROPOSAL

The draft Decision is based on Articles 3(o) and 129 of the Treaty establishing the European Community, which lay down the Community's responsibilities in the field of public health. Following Council Resolution No 92/C 326/1 of 13 November 1992 on the monitoring and surveillance of communicable diseases in Europe, the Commission, assisted by a group of experts, produced a list of existing cooperation links in this field between Member States or institutions. After a detailed analysis of the situation together with European experts, the Commission was able to draw important conclusions, which were set out in its Communication COM(96) 78 of 7 March 1996 and can be summarised as follows: in view of the increasingly urgent and unanimously acknowledged need to establish and organise collaboration at European level with a view to preventing communicable diseases, it is necessary to formalise the cooperation between the authorities and experts within the various national institutions which are responsible for the surveillance and monitoring of communicable diseases, in order to identify the public health problems arising in this connection and identify priorities for action at European level. The only way of meeting this challenge is to establish a European network for the epidemiological surveillance and control of communicable diseases, in which all Member States without exception must participate. This is the essence of the Commission's

proposal referred to above, which follows the path marked out by the Council's conclusions on the subject (94/C 15/04 of 13 December 1993).

The system envisaged for this purpose is global, progressive, pragmatic and imposes obligations on the Member States. It thus makes epidemiological intervention possible and allows the following specific quantifiable objectives to be achieved:

- the establishing of a system of close cooperation, consultation and effective coordination between Member States in the field of surveillance and control, both routine and emergency, with a view to the prevention and control in Europe of a number of serious communicable diseases which necessitate the introduction of measures for the protection of populations;
- the drawing up of a list of diseases and/or groups of diseases to be covered by an early warning and surveillance system at Community level;
- joint definition of cases, in particular clinical definition and, wherever possible, microbiological characterisation of the agent responsible;
- determination of the nature and type of data and information to be collected under epidemiological surveillance;
- determination of methods of epidemiological and microbiological surveillance;
- identification of protective measures to be taken, particularly in emergencies;
- information, recommendations and guides to good practice for the public.

3. COMMENTS ON THE COMMON POSITION

The Economic and Social Committee adopted its opinion on the proposal for a Decision on 25 September 1996 (Doc. CES 1068/96). It very much welcomes the Commission's intention to set up, on the basis of Article 129 of the Treaty establishing the European Community, a network for the surveillance and control of communicable diseases, the effect of which will be to impose specific obligations in this area on the Member States. However, the Economic and Social Committee also expressed a number of comments and wishes aimed at improving the planned system, which may be summarised as follows:

- the need to provide, where appropriate, for Community part-financing for implementation of the network;
- the need to check whether the range of diseases listed in the Annex is sufficient in itself and whether the classification of diseases depending on the categories of measures to be taken is wholly appropriate;
- the need to ensure proper comparability of activities in the Member States and to compile a Community-level synopsis of the information collected and to be processed;
- the need to allow all the institutions concerned in the Member States direct and permanent access to all the information accumulated in this way.

The Committee of the Regions adopted its opinion on 13 June 1996 (Doc. CdR 157/96). Whilst fully in favour of the Commission's proposal to create a general network imposing specific obligations on the Member States in terms of surveillance and control of communicable diseases, the Committee of the Regions would have liked representatives of local and regional authorities to participate in the regulatory committee (comitology) to be set up to help the Commission implement the network. It would also have liked the Member States' regional centres to be part of the network and would welcome the formalisation of cooperation between the network and competent international organisations and third countries. Finally, it would like specific Community funding to be made available in order to ensure the proper functioning of the network.

In the light of the opinion delivered by the European Parliament at first reading on 13 November 1996, an amended proposal for a Decision has been submitted by the Commission in accordance with Article 189a (2) of the EC Treaty. The amended text incorporates those of the Parliament's amendments which the Commission considered acceptable, either with changes to the wording in order to ensure clarity or exactly as transmitted by Parliament. The objective of these amendments is merely to improve comprehension and the mode of operation of the future surveillance and control network.

At the vote of 19 November 1996, the European Parliament adopted 17 amendments. The Commission considered 12 of these to be acceptable, either in their entirety (Nos 9, 13, 14, 16 and 17) or in part (Nos 1, 2, 4, 5, 6, 12 and 15).

The amendments which were not acceptable to the Commission were as follows:

- No 3 (inconsistent with the wording of the EC Treaty)
- Nos 7, 10 and 11 (additions with no legal significance)
- No 8 (unacceptable financial and political consequences).

Among the amendments rejected by the Commission, No 8 is the most important, as accepting it would completely change the nature of the Commission's proposal for a Decision and would have major financial and political consequences for the Member States, which they would be unwilling to accept. The other amendments rejected concern additions with no legal significance, in that they either duplicate other provisions (Nos 10 and 11) or are implicit (No 7).

At the meeting of 5 June 1997, the Council reached a unanimous agreement on a text with a view to adopting a common position; the Commission was opposed to this text. On 22 July 1997, the Council adopted its common position.

The text of the common position has maintained almost all of the main elements of the Commission's amended proposal. It has, however, a number of technical and legal shortcomings, and falls short of the main objective of the Commission's proposal, which is the setting up of a network geared towards an effective and coordinated response to epidemic situations or outbreaks of communicable diseases in a Community without internal frontiers.

It is for these reasons that the Commission has entered a general reservation on the text of the common position.

The Commission's specific reservations concern:

- Recital 26, which speaks of the Community having to shoulder the financial burden of the operational costs of the network corresponding to its "Community part"; this is aimed at creating an inappropriate condition, and at the same time the fact of using funds from existing programmes could seriously undermine their implementation.
- Article 2, paragraph 3: In order to fulfil its objectives, the system must include not only the exchange of information, but also the activities of prevention and control mentioned in Article 2, paragraph 2. The words "prevention" and "control" must therefore be inserted after "exchange of information".
- Article 3, point (d), and Article 4, first paragraph and Article 8: For the setting up of the network and of the requisite information exchange, it is necessary for the Member States to designate not only the structures or authorities referred to in Article 1, second paragraph, but also those in Article 1, third paragraph.
- Article 5, paragraph 2 and first sentence of paragraph 3, where the requirements are unclear and contradictory, and where provision must be made in paragraph 3 for the transmission of information on the application of protective measures that have been enacted by the Member States in the past (rather than being enacted or decreed following a particular outbreak event or emergency, which is covered, confusingly, in both paragraphs 2 and 3).
- Article 5, paragraph 3, 2nd sentence: This is an unacceptable formulation of the measures which could be proposed at Community level with respect to communicable disease epidemics or outbreaks, and expresses in inappropriate inter-governmental cooperation terms the possibility to take such measures. In addition, it is in open contradiction with paragraph 5, since it implies using a Community procedure, namely that of Article 6 (comitology) to which paragraph 5 refers. It is also in contradiction with the second sentence of paragraph 4 of Article 5.
- Article 5, paragraph 4, second sentence: This text is unacceptable as it aims at precluding the possibility of adopting Community measures to protect against communicable diseases, which exists in the framework of Article 129 of the Treaty as long as they do not lead to harmonisation.
- Article 13, 1st paragraph, the obligation on the Commission to present a report every two years (a five-year period has been agreed with the EP, which the Commission included in its amended proposal): a report every two years is wholly unrealistic and creates an unnecessary bureaucratic burden with no apparent usefulness.
- Article 13, 2nd paragraph: the requirement for the Commission to submit proposals to adapt, if necessary, the Decision undermines its right of initiative.
- Annex: the consideration of the annex as indicative is inaccurate; it is indicative as regards the selection of diseases for detailed surveillance and reporting, but it is obligatory for the reporting of outbreaks/emergencies, as provided for in Article 4.

4. CONCLUSIONS

The Council unanimously adopted a common position on 22 July 1997 with a view to adopting the Decision creating a network for the epidemiological surveillance and control of communicable diseases in the European Community.

The Commission has been unable to accept this common position and has expressed the following general reservation:

“The Commission notes that the common position adopted by the Council does not contain the elements which will permit a comprehensive and effective response to communicable disease outbreaks and reduces the scope and added value of the Community network of surveillance of diseases. It therefore reserves its position in view of the second reading by the European Parliament of the proposed Decision.”

Furthermore, the Council has not adopted all the amendments proposed by the European Parliament which the Commission had introduced in its amended proposal. Given the importance attached by the Parliament to these amendments, the Commission can only express its reservation at their non-inclusion in the Council's common position.

The Commission points out that, if the European Parliament approves this common position within the next three months, as laid down in Article 189 b (2a) of the Treaty, the Council “shall definitely adopt the act in question in accordance with that common position”.