

## **The simplification of legislative procedures in the Union**

### **Personal statement by Prof. Danuta Hübner Representative of Poland's Government to the Convention**

The simplification of procedures is usually good. But echoing the Convention President's remarks in his LeMonde article in July, it is not simplification which is going to win back the confidence of our citizens but the result of action taken by the Union.

Our legislative procedures are absurdly complicated. We can easily verify this by looking at the two annexes in the Secretariat's discussion paper prepared for the Convention's plenary session on September 12-13. These deal simply with the question of allocating decision-making procedures to the different legal bases of draft legislation. In addition one has to fully understand the internal workings of each procedure, a question tackled by an earlier paper from the Secretariat.

However it is most unusual for a normal EU citizen to question the legislative procedures of the Union. Indeed even at the national level one rarely hears procedural discussions about the working of the legislative system. The citizen assumes that the procedures are rational, democratic and fair. He or she is of course interested in high profile cases when the procedures get in the way of decision-making. This was the case for instance when the Bundesrat accepted the recent immigration bill in Germany on a split vote from one of the Länder. But I expect even here that citizens are more interested in the outcome for policy rather than in the reasons for the decision of the Constitutional Court.

We should not deceive ourselves that by simplifying procedures we are going to close the credibility gap between the Union and its citizens. We should not expect great applause when we declare victory in simplifying the Treaties; there will be none.

Simplification can however **indirectly** help to close this credibility gap. Simplification is very important for the efficiency and effectiveness of Union decision-making. If we get it right, it should lead to fewer procedural cases before the Court and to quicker and clearer decision-making. And this will lead to better results for the citizen. Simplification can therefore be very significant in delivering policies which citizens demand and in a reasonable time period.

Nobody decided to make legislative procedures complicated. The present situation evolved as a reflection of the rapid and sometimes quite chaotic development of Union policy over the last 15 years. Each element reflects the desires of the member states in the Council or of the Parliament to promote or limit Community action in often quite insignificant areas of policy. Simplification therefore implies that the actors at the Community level are prepared to make concessions today that they were not prepared to make when policy areas were added to the competence of the Union. We should not imagine therefore that simplification will be an easy exercise.

The simplification of procedures will really only make progress when subsidiarity is taken seriously and when the Union begins to concentrate on the really important policies, where it clearly adds value. If there remains a feeling that gradually all

decisions will eventually be taken at the EU level, then it seems clear to me that it will be difficult to get agreement on simplifying procedures to the extent that we would all like.

The logical sequence of proposals to tackle this question is in my opinion:

- To propose a credible way to ensure that subsidiarity and proportionality will be respected. This should involve national parliaments. It might be achieved through a new institution but new procedures might be just as effective and preferable to the creation of a new body.
- To draw up a list of proposals of areas which are so vital to national interest that they should remain subject to unanimity in the Council with or without consultation of the Parliament. Here it would be advisable to be liberal in the number of areas listed in order to obtain the agreement of member states to extend qualified majority voting and codecision.
- To propose that the fundamental way of treating all other topics should be by qualified majority and with codecision. However legislation concerning the Monetary Union should perhaps continue to be dealt with as at present for some years to come to avoid additional uncertainty on financial markets.

Budgetary procedures appear to have worked rather well in recent years and have not given rise to major conflicts between the different arms of the budgetary authority. There is a temptation therefore not to try to mend something which is not broken. The one area of frustration on the part of the Parliament is the distinction between obligatory and non-obligatory budget lines. It does seem rather strange that the Parliament should not be able to influence agricultural spending, even if, in the short-term, that spending results from policy promises made by the Union to farmers and therefore is really compulsory expenditure. There is no evidence that Parliament is liable to act irresponsibly in areas of compulsory expenditure. The proposal made in the Secretariat's discussion paper to replace the budgetary procedure by the codecision procedure as far as the expenditure side of the budget is concerned should therefore be looked at carefully. Clearly own resources decisions will remain an area of unanimity in the Council.