

Working Group IX

Working document 25

Working Group IX on Simplification

Subject: « Simplifying Legislative Procedures and Instruments »
- Paper by Mr Dick Roche

Members of Working Group IX “Simplification” will find hereafter a paper by Mr Dick Roche, member of the Convention.

European Convention: Working Group IX – Simplification of the Instruments and Procedures

Comments by Mr Dick Roche

The work of the Group goes to the very heart of the European Convention's purpose of making the European Union more accessible and more understandable. I very much welcome the work undertaken to date by the Group and support its efforts to simplify the procedures and reduce the number of instruments.

At the last meeting of the Group, Mr Amato requested members to submit contributions on the issues discussed in advance of a paper that he is to prepare for discussion at the next meeting on 21 November. I am grateful for the opportunity to set out my views on the issues that arose at the last meeting as well as a number of wider questions.

Implementing EU decisions in Member States

While this is not an issue which falls directly within the mandate of the group, I believe it is essential that, in line with the principle of subsidiarity, EU legislation to the maximum possible degree leaves the individual Member States with the flexibility needed to adapt its implementation to local needs and circumstances. At the same time, it is important that this does not result in practice in a widely divergent level of administrative stringency between Member States, with the citizens of one facing more exacting compliance standards than those of others. How this might be better addressed is an issue which should be further considered in the Convention. However, I would personally endorse the proposal of the Complementary Competences Working Group that support be given to information-sharing and co-operation between Member States in this area.

Reduction of Number of Instruments

It is clear that, as the Group has discussed, there is scope for a reduction in the number of instruments, especially in the current first pillar area. However, the particular issues which arise in the current second and third pillars are currently being tackled in the External Actions and Freedom, Security and Justice Working Groups. It should be for those Working Groups to bring forward any recommendations for change in those areas.

Co-decision/QMV

I would prefer that the term "co-decision" be retained. While I remain open to persuasion, I do not believe that there is a better phrase that explains more clearly to the public the respective roles of the Council and European Parliament.

QMV is, properly, already the main decision-making method, but it does not follow that its use should be universal. It should be recalled that negotiations on recent Treaties have examined very closely its possible extension. Progress has been made, and the number of areas that remain subject to unanimity is now quite limited. Those that remain are, by definition, extremely sensitive for one

or more Member States, in that agreement could not be reached on a move to QMV even after intense negotiation. There are issues, including taxation, on which Ireland remains firmly opposed to moving to QMV. This view is shared by others, as was made clear in the Report of the Working Group on Economic Governance. Therefore, I would not support opening up a debate on extending the use of QMV in specific areas in this Working Group.

Double-majority

At the last meeting of the Group, a number of speakers raised the issue of moving to a system of ‘double-majority’ decision-making in the Council. Whatever the merits of this, decision-making in the Council has also been the subject of exhaustive discussion in the negotiations on both the Amsterdam and Nice Treaties, and has been intimately linked to other institutional issues, including the size and composition of the Commission. Possible changes to Council decision-making procedures are more properly a subject for the wider discussion on institutional issues when that gets under way in the full Convention, and for eventual IGC decision.

Financial/Budgetary Issues

In general, the current arrangements in the area of the EU Budget and the Own Resources System work quite well in practice. Nonetheless, on the five topics below I offer my view as to whether current arrangements could be simplified, improved or made more transparent. With regard to an issue that does not arise under of the topics on which we were asked to comment, I consider that it would be worthwhile giving thought to a more streamlined procedure for the adoption of the annual EU Budget that would reduce the number of readings by Council and Parliament from two each to one each.

- **Compulsory and non-compulsory expenditure.**

The rationale for compulsory expenditure is essentially that it arises from legally-binding undertakings rather than just policy decisions or undertakings.

The distinction between compulsory and non-compulsory expenditure also reflects in part a differentiation between fully developed Community policies, such as much of the common agricultural policy, and areas where Community funding is more in support of national funding. Farming is now very much dependent on direct income support from the common agricultural policy and agricultural producers need to be able to plan ahead and not face the risk of the business context and their income changing dramatically from year to year. For this reason, **I do not view the proposal to eliminate the distinction between compulsory and non-compulsory expenditure as a move toward simplification and I am opposed in particular to expenditure under the CAP being re-classified as non-compulsory.**

Removing the distinction between compulsory and non-compulsory expenditure would represent a major shift in the Council/Parliament balance. This proposal must be seen in terms of its overall institutional impact. Simplification must have regard for the implications for policies and institutional balances.

- **Who will have final sign off on any year’s annual EU budget.**

It is not quite clear what is exactly meant by “sign off”. There are two possibilities: final approval of the annual Budget, or discharge. This section addresses both issues.

With regard to final approval of the upcoming year's EU Budget, there is a case for bringing the procedures of the annual budget into line with the general co-decision procedures, rather than leaving the final stage for approval and adoption to Parliament alone. This would provide for a more balanced approach to the formulation of the EU Budget as between the Council and Parliament. It would simplify the Treaty procedures. This is without prejudice to the general point already made about the need to preserve the distinction between compulsory and non-compulsory expenditure.

Under the current system, final discharge of the EU Budget for the previous year is entrusted to the European Parliament. This has the advantage of Parliament, the only EU institution to which EU citizens may directly elect their representatives, exercising final supervision over expenditure from the EU Budget which principally involves the Commission and the Member States. The vast bulk of the EU Budget consists of the allocations for Structural Funds and the CAP, from which funds flow from the Commission to or through the Member States. In this context, Parliament seems best placed to exercise the discharge function.

- **The incorporation of financial perspectives into the Treaties.**

The financial perspectives, effectively representing the financial parameters of the Inter Institutional Agreement, adopted for a period of several years allow annual EU Budgets to be formulated within a more long-term EU policy framework and greatly simplify the work and negotiations that would otherwise have to be engaged in every year. At the moment, the financial perspectives are a pragmatic and political approach to giving the EU a known financial framework for several years within which operations can be planned and budgeted for. This system works well and all three institutions (Commission, Council and Parliament) benefit from this pragmatic approach and contribute to its successful operation.

It could be argued that this process should be formally incorporated in the EU Treaties. This might enhance the simplification process in that it would formally identify the processes for adopting the Inter Institutional Agreement, and thus the financial perspectives, and would incorporate these processes into the Treaties. This might be seen as more transparent than the current system. I would be prepared to look in a constructive manner at proposals in this area.

- **Own resources.**

There are two aspects to this issue: the use of unanimity; and the nature of the own resources themselves. Currently, unanimity is the system of voting used at Council. There are good reasons for retaining this system. The financing of the EU clearly requires Member States to make substantial contributions to the EU Budget. It is important that all Member States be satisfied that the own resources system is as equitable as possible. A move to QMV could possibly create a situation where one or more Member States considered that an own resources system adopted by QMV might unfairly impact on them.

With regard to the substance of the own resources system, it seems advantageous to leave the current arrangements unchanged. If the Treaties were amended to list or define all of the Community's own resources, this could create difficulties in the context of the political negotiations that take place every seven years or so. The Community's overall interests might not be served by trying to constrain the scope for negotiation and agreement. The current arrangements work well.

It also seems best to retain the current arrangements under Article 269 whereby the own resources system is adopted by the Council in line with the respective constitutional arrangements of the individual Member States on a proposal from the Commission and after consultation with Parliament.

- **Use of QMV in relation to the EU budget.**

QMV is currently used in the adoption by Council of the EU Budget on an annual basis. This system works well and there seems to be no real reason why there would be any reversion to the use of unanimity. As regards the system of contributions by Member States to the EU budget, the view above on own resources applies, i.e. the retention of unanimity.