

NOTE

from :	Secretariat
to :	Working Group IX on Simplification
Subject :	Note summarising the meeting on 2 October 2002

I. The codecision procedure – the experience of the institutions

On this question the Group heard Mr Dimitrakopoulos, Vice-President of the European Parliament in charge of the conciliation procedure, and Mr Jacqu , Director of the Codecision Unit at the General Secretariat of the Council.

Mr Dimitrakopoulos began by emphasising that the codecision procedure as applied at present worked well: of the 400 codecision procedures which had taken place from the entry into force of the Treaty of Maastricht up to July 2002, only 1% had failed. However, this did not mean that there should be no changes – improvements could always be made.

Mr Dimitrakopoulos pointed out that there was no link between the length of a procedure and its complexity, since a procedure could be long but simple or short but complex.

As regards those aspects of the codecision procedure that could be improved, Mr Dimitrakopoulos mentioned:

- (a) Transparency: Mr Dimitrakopoulos thought it necessary to increase the transparency of codecision proceedings.
- (b) Participation of ministers other than those holding the Council Presidency at Conciliation Committee meetings: Mr Dimitrakopoulos also thought it desirable for the Council to be present at meetings of the parliamentary committees, taking the view that this would facilitate understanding of the two institutions' positions.
- (c) A reduction in the number of declarations referred to in the texts adopted under the codecision procedure: according to the Vice-President, such declarations were incompatible with the Interinstitutional Agreement on the Quality of Drafting of Community Legislation.

Mr Dimitrakopoulos considered that the deadlines which existed at present in the codecision procedure were necessary, as the conciliation procedure did not extend the deadlines. The only stage in the procedure which the Vice-President felt could perhaps be shortened was the first reading, where he considered that indicative deadlines could be set.

Mr Dimitrakopoulos was also in favour of replacing the unanimity rule with qualified-majority voting in the four legal bases which provide for codecision in conjunction with unanimity.

As for the consequences of enlargement on the codecision procedure, Mr Dimitrakopoulos felt that the key issue was that of identifying clearly the negotiators who should represent each institution.

Mr Jacqué began by saying that the codecision procedure was not complex, but it was poorly understood. It was difficult to simplify the stages in the procedure, since time had to be allowed for the presentation of opposing views. In this sense, the deadlines which existed at present were necessary. At the final reading, they were a spur to finding agreement. Mr Jacqué was opposed to the introduction of deadlines at first reading.

As regards the meetings which took place between the Parliament, the Council and the Commission in the context of the codecision procedure, Mr Jacqué thought that, although it was desirable for such meetings to be described in the Treaty, they should not be forced into a straitjacket by being given a formal structure.

Mr Jacqué also referred to the Commission's importance in the procedure as a neutral third party external to the two co-legislators.

As regards transparency, Mr Jacqué drew attention to the fact that, according to the current provisions, all preparatory documents for an act under the codecision procedure, as well as the Council's final deliberation, were automatically made public.

As for the effect of enlargement on the procedure, Mr Jacqué thought it would necessitate a rationalisation of the procedures within each institution, but not any change in the procedure itself.

These contributions, together with those of the members of the Group during the subsequent discussion, highlighted the following avenues to be explored:

- (1) Whether and to what extent simplification of the codecision procedure is necessary: should indicative deadlines be set at first reading? Should the number of members participating in the Conciliation Committee be reduced? Should the qualified majority rule be extended to all cases? Others?
- (2) Need to examine in depth the Commission's role as a neutral third party in the codecision procedure;
- (3) Find out whether improvements are possible in order to increase the transparency of proceedings during the codecision procedure.

2. Budgetary procedure: how can it be simplified?

At the end of his contribution on the previous subject, Mr Jacqué also mentioned the extreme complexity of the budgetary procedure and the non-utilisation of the articles of the Treaty which practice had rendered obsolete. In reality, it was the agreements on the financial perspective which made everything work. The question had arisen of possibly incorporating the financial perspective

into the Treaties: if that was done, the budget would become the annual expression of the multi-annual perspective. With regard to the simplification of the budgetary procedure, he considered that a procedure based on codecision but with more restrictive deadlines was feasible: it was imperative to have a budget each year and so it would be essential to reach agreement.

The Working Group then heard presentations from Mr Terence Wynn, Chairman of the European Parliament's Committee on Budgets, and Mr Luis Romero Requena, Director-General for the Budget at the Commission.

Mr Wynn stressed that the classification of expenditure as compulsory and non-compulsory had been at the origin of the many budgetary crises. He argued in favour of abolishing the classification, even though the 1999 Interinstitutional Agreement had reduced the risks of conflict. If the distinction were to be abolished, the problem would arise as to who – Parliament or Council – would have the last word on expenditure as a whole. According to Mr Wynn, codecision as it stood could not be applied to the budget because the risk of failure at the time of conciliation had to be ruled out. A procedure was required which could guarantee that a decision would be taken at the end. He mentioned several possible ways of adapting codecision to the budget whilst pointing out that the existing procedure gave the Parliament a major influence in decision-making and that the Parliament had not yet adopted a position on the issue. In his reply to questions from members of the Group, he expressed support for a simple procedure with only one reading by each institution (Council and Parliament).

He stressed that the extreme complexity and opaqueness of the budgetary procedures also, and above all, affected the revenue section. The European Parliament was excluded here. Referring to the principle of "no taxation without representation", he stressed that the Union was an anomalous case of "representation without taxation". In his experience, consistency between the budget and legislation had clearly improved, except in the case of Category 4 expenditure (external action). In response to questions from members of the Group, he argued in favour of budgetary unity and therefore the incorporation of the European Development Fund.

Mr Romero recommended incorporating the financial perspective (currently the subject of a decision by the European Council and an Interinstitutional Agreement) into the Treaties. He pointed out that the Treaty rules have not applied since February 1988¹ and that some of them have never been applied (for example, the timetable laid down in the Treaty immediately proved unsuitable). He also emphasised that the perspective had brought budgetary calm after the crises of the '80s, characterised by overruns in compulsory (agricultural) expenditure and the financial requests made by the new Member States (Spain and Portugal). It had also enabled certain policies to be programmed and developed. He proposed applying the codecision procedure to the adoption of the perspective because it is multiannual and the margin for reaching agreement is broader than for the annual budget.

However, he was not in favour of using this procedure for adopting the annual budget which, as Mr Wynn had pointed out, requires the certainty of a final decision. The current procedure was based on seeking consensus by means of informal mechanisms as well (the "trialogues"). There were in fact not many points of conflict. Mr Romero advocated a simpler procedure than codecision which would include one reading by the Council and two readings by the Parliament, which would have the last word. Such an annual procedure would be justified only if the financial perspective was incorporated into the Treaty.

He supported abolishing the distinction between compulsory and non-compulsory expenditure as currently conceived, on the understanding that the concept of legally binding expenditure must logically be maintained. Mr Romero was in favour of revenue (the collection system for which has become increasingly incomprehensible even to experts) also being the subject of a decision by the budgetary authority, including the Parliament.

The statements made by guest speakers and members of the Working Group have highlighted a series of avenues to be explored.

¹ Date of the Brussels European Council which adopted the first financial perspective: the Delors I package.

If a decision is taken to simplify the budgetary procedure, several approaches can be envisaged:

- The procedure can be simplified merely by updating the Treaty and including the features developed in practice (negotiating instruments and procedures). What specific adaptations can be envisaged?
- If the classification of expenditure is abolished, what procedure should be established for the budget as a whole, the compulsory expenditure procedure (with the Council having the last word) or the non-compulsory expenditure procedure (with the Parliament having the last word)? Should a new procedure be envisaged? Based on amplified codecision? What special rules would there be?
- A parallel is often drawn between the incorporation of the financial perspective into the Treaties and the modification of the annual budgetary procedure: some feel that it would be possible to let the Parliament have the last word on the annual budget if its action were circumscribed by a legally binding financial perspective. Would the incorporation of the financial perspective into the Treaties have a part to play in simplifying the annual budgetary procedure?
- Several proposals (not exhaustive) have been put forward concerning the annual budgetary procedure, on the basis of codecision which is simplified and adapted to guarantee that a decision is taken at the end of the procedure:
 - on the basis of a Commission proposal, a first reading by the Parliament followed by the Council's opinion and a second reading by the Parliament which would have the last word;
 - on the basis of a Commission proposal, the Council's opinion followed by a decision by the Parliament which would have the last word;
 - negative codecision: if no agreement is reached between the Parliament and the Council, the Commission proposal would have to be deemed adopted;
 - simplified codecision with binding deadlines in order to guarantee adoption of the budget at the end of the year.
- It has been proposed that the Council should have the last word in the annual budgetary procedure on setting the annual amount of revenue and the Parliament should have the last word on expenditure. Should such a procedure be envisaged for revenue?

- With regard to the link between legislation and the budget, should the principles contained in the 1999 Interinstitutional Agreement be enshrined in the Treaty?

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