

CONV 416/02

CONTRIB 148

COVER NOTE

from	Secretariat
to	The Convention
Subject :	Contribution by Mr Jens-Peter Bonde, member of the Convention on: "Simplification and Transparency goes hand in hand"

The Secretary-General of the Convention has received the contribution annexed hereto from Mr. Bonde, member of the Convention.

Brussels 7 November 2002

Simplification and Transparency goes hand in hand**Answers to Chairman Mr. Amato questions
Regarding simplification of procedures
From Mr. Jens-Peter Bonde**

Please find Mr. Jens-Peter Bonde, MEP, comprehensive contribution on Simplification of procedures and transparency. The Contribution is an answers to Chairman Mr Amatos questions to the working group on simplification put forward in document CONV 363/02, as well as an elaborate on Mr Bondes views of how the EU should be simplified and made more transparent.

1. Yes, the wording of the legal base in the Treaty should be revised. It is important to use an understandable language in the Treaty so citizens can understand what the EU is all about. I prefer two categories: All binding instruments should be called "EU-law" and all non-binding measures should be called "EU recommendations". It is important for citizens to be absolutely clear of what is legally binding and what is not. All binding acts (regulations and some directives) should be renamed "EU-law"; a sub name for law can be framework law, suggesting more freedom in the national implementation than EU-laws. All other initiatives taken at EU level, which are non-binding instruments (political-decisions, guidelines etc.), should be called "EU recommendations". Laws shall be abbreviated L and numbered, recommendations shall be abbreviated R and numbered.
2. Yes, the number of legal instruments should be diminished. For all policy areas it should be decided whether the EU can make EU-law and /or recommendations. For the procedures on external relation and Justice and home affairs the same procedures as for all other decisions in all other EU policy areas at EU level should be used. Moreover, the EU should only be allowed to make recommendations in the areas of FCP and HJA (se also answer to question 5).
3. Yes, there should be a thorough remanagement of all acts. The whole acquis should be looked through and made clear whether a part is legally binding or not (se answer to question 1).
4. Yes, there should be a clear demarcation in the Council on executive and legislative power.
5. Legislative acts should be defined by whether they are legally binding or not. It should not be determined by the procedure, as the procedure should be the same. In the Treaty a framework should be clearly stated for which areas the EU can make EU-law and where the EU only should be allowed to make recommendations. In each individual case the legislator should, within the Treaty framework, decide on what instrument to use (EU-law or recommendations). Therefore also the Commissions annual legislative program should clearly state the legal bases for each initiative. The Commissions annual legislative program should be passed to all the national parliaments who should adopt the Commissions annual program of laws.
All executive decisions shall always have a legal base in EU-law. Moreover, there should be two ways in which the executive acts are not forever lasting. Firstly, all EU-law shall have a sunset clause, secondly, the Treaty shall include a call back clause where a legislative body (the European

Parliament and the Council legislative body) by simple majority can decide to review any existing law. Executive matters can not be decided on the basis of the Treaty but only if stated in Law and as delegation of legislation.

6. No, it is not necessary to introduce a specific act allowing Council to adopt acts directly on the basis of the Treaty.

Further remarks:

Moreover, it is very important to incorporate transparency in the legislative procedures. Therefore I encourage the working group to include transparency objectives in line with simplification objectives. Below you will find my suggestions for initiatives on transparency that are a necessary and complementary side of simplification - they are two sides of the same coin.

Proposal for simplification of EU cooperation.

1. The over 30 various decision making forms should be simplified, so that there are only two forms of decisions: Laws and recommendations. A law would correspond to the current regulations and would be judiciable by the Court.
2. The various forms of majority should be simplified, so only 3 voting forms exist: Unanimous, qualified majority and simple majority. Qualified majority could be set at for example 75 % and decisions in the Council should always be represented by a majority of the citizens.
3. Rules on transparency should be simplified according to the European Parliament's proposals, so that every discussion and every document is made public unless a qualified majority decides upon an exception. These exceptions can either be general or concretely reasoned exceptions, where the Ombudsman and the Court can try this exception.
4. The Treaty should be organised as a single document with two levels just as the Charter. Especially the first level should be very comprehensible for the citizens. The second level should be precise and practicable for the institutions applying the law. Examples of level one: "The Union accedes to the European human rights." Level two: "The Union accedes to the European Human Rights Convention with accompanying case law."
5. The European Parliament should be involved in all legislative matters of the EU. The European Parliament's various decision making forms, hearings, cooperation procedures, common positions and conciliation procedure should be simplified to one procedure. This procedure should be decided upon either with simple majority or by qualified majority according to what instrument is being adopted. If the European Parliament does not pass a law the consequence should be that the national parliaments are given competence to pass the law in question.
6. The Commission should be composed of one elected representative from each country's national parliament. A possible rotation system should only be used with allocation of portfolios.
7. The number of votes in the Council of Ministers should be changed to one vote per country. If differences are to be maintained then countries with under 10 million citizens could have one vote, countries with up to 50 million citizens could have two votes, and countries with

over 50 million citizens could have three votes.

Proposal for Transparency and more simple legislation.

1. Reasons for any law proposal or law change should be explicitly stated and accompanied by a specific assessment on their implication on the principles of legality, subsidiarity and proportionality. All law should have a reference to its legal base.
2. All proposals should be accompanied by an exhaustive summary of the institutions and persons heard.
3. All hearing answers should be publicly available on the internet under the law proposal's heading.
4. Every law proposal should be accompanied by the related laws and tabled as a consolidated proposal.
5. Every proposal for law change should be accompanied by the complete law in question.
6. All laws and law proposals should be numbered in succession and codes of the affected topics should be specified with the main topic first.
7. The proposed legal base in the Treaty should be mentioned with explicit specification of whether the proposal is to become binding legislation and/or if the proposal implies any right to enter international agreements on the subject and whether the Court of Justice is qualified to rule in disputes.
8. For every new law we should have a homepage with links to the international agreements and the national and regional parliaments readings of the same proposal.
9. All the existing decision making forms should be changed to one of the following "EU-law" or "EU recommendations".
A regulation becomes EU law and applies immediately and is binding in all Member States 20 days after publication unless other deadline is agreed. A directive (if non-binding) becomes a recommendation and no longer has direct effect. The recommendation will only come into effect with adoption in national parliament. The European Court of Justice has no judicial review.

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