

DECISION OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry (95/167/EC, Euratom, ECSC)

THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 20b thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 138c thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 107b thereof,

Whereas the detailed provisions governing the exercise of the European Parliament's right of inquiry should be determined with due regard for the provisions laid down by the Treaties establishing the European Communities;

Whereas temporary committees of inquiry must have the means necessary to perform their duties; whereas, to that end, it is essential that the Member States and the institutions and bodies of the European Communities take all steps to facilitate the performance of those duties;

Whereas the secrecy and confidentiality of the proceedings of temporary committees of inquiry must be protected;

Whereas, at the request of one of the three institutions concerned, the detailed provisions governing the exercise of the right of inquiry may be revised as from the end of the current term of the European Parliament in the light of experience,

HAVE BY COMMON ACCORD ADOPTED THIS DECISION:

Article 1

The detailed provisions governing the exercise of the European Parliament's right of inquiry shall be as laid down by this Decision, in accordance with Article 20b of the ECSC Treaty, Article 138c of the EC Treaty and Article 107b of the EAEC Treaty.

Article 2

1. Subject to the conditions and limits laid down by the Treaties referred to in Article 1 and in the course of its duties, the European Parliament may, at the request of one-quarter of its Members, set up a temporary committee of inquiry to investigate alleged contraventions or maladministration in the implementation of Community law which would appear to be the act of an institution or a body of the European Communities, of a public administrative body of a Member State or of persons empowered by Community law to implement that law.

The European Parliament shall determine the composition and rules of procedure of temporary committees of inquiry.

The decision to set up a temporary committee of inquiry, specifying in particular its purpose and the time limit for submission of its report, shall be published in the Official Journal of the European Communities.

2. The temporary committee of inquiry shall carry out its duties in compliance with the powers conferred by the Treaties on the institutions and bodies of the European Communities.

The members of the temporary committee of inquiry and any other persons who, by reason of their duties, have become acquainted with facts, information, knowledge, documents or objects in respect of which secrecy must be observed pursuant to provisions adopted by a Member State or by a Community institution shall be required, even after their duties have ceased, to keep them secret from any unauthorized person and from the public.

Hearings and testimony shall take place in public. Proceedings shall take place in camera if requested by one-quarter of the members of the committee of inquiry, or by the Community or national authorities, or where the temporary committee of inquiry is considering secret information. Witnesses and experts shall have the right to make a statement or provide testimony in camera.

3. A temporary committee of inquiry may not investigate matters at issue before a national or Community court of law until such time as the legal proceedings have been completed.

Within a period of two months either of publication in accordance with paragraph 1 or of the Commission being informed of an allegation made before a temporary committee of inquiry of a contravention of Community law by a Member State, the Commission may notify the European Parliament that a matter to be examined by a temporary committee of inquiry is the subject of a Community prelitigation procedure; in such cases the temporary committee of inquiry shall take all necessary steps to enable the Commission fully to exercise the powers conferred on it by the Treaties.

4. The temporary committee of inquiry shall cease to exist on the submission of its report within the time limit laid down when it was set up, or at the latest upon expiry of a period not exceeding 12 months from the date when it was set up, and in any event at the close of the parliamentary term.

By means of a reasoned decision the European Parliament may twice extend the 12-month period by three months. Such a decision shall be published in the Official Journal of the European Communities.

5. A temporary committee of inquiry may not be set up or re-established with regard to matters into which an inquiry has already been held by a temporary committee of inquiry until at least 12 months have elapsed since the submission of the report on that inquiry or the end of its assignment and unless any new facts have emerged.

Article 3

1. The temporary committee of inquiry shall carry out the inquiries necessary to verify alleged contraventions or maladministration in the implementation of Community law under the conditions laid down below.

2. The temporary committee of inquiry may invite an institution or a body of the European Communities or the Government of a Member State to designate one of its members to take part in its proceedings.

3. On a reasoned request from the temporary committee of inquiry, the Member States concerned and the institutions or bodies of the European Communities shall designate the official or servant whom they authorize to appear before the temporary committee of inquiry, unless grounds of secrecy or public or national security dictate otherwise by virtue of national or Community legislation.

The officials or servants in question shall speak on behalf of and as instructed by their Governments or institutions. They shall continue to be bound by the obligations arising from the rules to which they are subject.

4. The authorities of the Member States and the institutions or bodies of the European Communities shall provide a temporary committee of inquiry, where it so requests or on their own initiative, with the documents necessary for the performance of its duties, save where prevented from doing so by reasons of secrecy or public or national security arising out of national or Community legislation or rules.

5. Paragraphs 3 and 4 shall be without prejudice to any other provisions of the Member States which prohibit officials from appearing or documents from being forwarded.

An obstacle arising from reasons of secrecy, public or national security or the provisions referred to in the first subparagraph shall be notified to the European Parliament by a representative authorized to commit the Government of the Member State concerned or the institution.

6. Institutions or bodies of the European Communities shall not supply the temporary committee of inquiry with documents originating in a Member State without first informing the State concerned.

They shall not communicate to the temporary committee of inquiry any documents to which paragraph 5 applies without first obtaining the consent of the Member State concerned.

7. Paragraphs 3, 4 and 5 shall apply to natural or legal persons empowered by Community law to implement that law.

8. In so far as is necessary for the performance of its duties, the temporary committee of inquiry may request any other person to give evidence before it. The temporary committee of inquiry shall inform any person named in the course of an inquiry to whom this might prove prejudicial; it shall hear such a person if that person so requests.

Article 4

1. The information obtained by the temporary committee of inquiry shall be used solely for the performance of its duties. It may not be made public if it contains material of a secret or confidential nature or names persons.

The European Parliament shall adopt the administrative measures and procedural rules required to protect the secrecy and confidentiality of the proceedings of temporary committees of inquiry.

2. The temporary committee of inquiry's report shall be submitted to the European Parliament, which may decide to make it public subject to the provisions of paragraph 1.

3. The European Parliament may forward to the institutions or bodies of the European Communities or to the Member States any recommendations which it adopts on the basis of the temporary committee of inquiry's report. They shall draw therefrom the conclusions which they deem appropriate.

Article 5

Any communication addressed to the national authorities of the Member States for the purposes of applying this Decision shall be made through their Permanent Representations to the European Union.

Article 6

At the request of the European Parliament, the Council or the Commission, the above rules may be revised as from the end of the current term of the European Parliament in the light of experience.

Article 7

This Decision shall enter into force on the day of its publication in the Official Journal of the European Communities.

Done at Brussels, 19 April 1995.

For the European Parliament

The President

Klaus HAENSCH

For the Council

The President

Alain JUPPÉ

For the Commission

The President

Jacques SANTER