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SECOND REPORT

on the Commission communications on simplifying and improving Community regulation
(COM(2001) 726 – C5-0108/2002 – 2052/2002(COS))

Committee on Legal Affairs and the Internal Market

Rapporteur: Manuel Medina Ortega

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PROCEDURAL PAGE

By letter of 7 December 2001, the Commission forwarded to Parliament a communication on simplifying and improving the regulatory environment (COM(2001) 726 – 2052/2002(COS)).

At the sitting of 11 March 2002 the President of Parliament announced that he had referred the communication to the Committee on Legal Affairs and the Internal Market as the committee responsible and the Committee on the Environment, Public Health and Consumer Policy, the Committee on Constitutional Affairs, the Committee on Petitions and all committees concerned for their opinions (C5-0108/2002).

The Committee on Legal Affairs and the Internal Market had appointed Manuel Medina Ortega rapporteur at its meeting of 19 February 2002.

The committee considered the Commission communication and the draft report at its meetings of 16 April, 9 September, 8 October, 4 November, 28 November and 3 December 2002.

At the last meeting it adopted the motion for a resolution unopposed, with 1 abstention.

The following were present for the vote: Giuseppe Gargani, chairman; Willi Rothley, Ioannis Koukiadis and Bill Miller, vice-chairmen; Manuel Medina Ortega, rapporteur; Paolo Bartolozzi, Ward Beysen, Charlotte Cederschiöld (for The Lord Inglewood), Michel J.M. Dary, Bert Doorn, Janelly Fourtou, Marie-Françoise Garaud, Evelyne Gebhardt, Fiorella Ghilardotti, Malcolm Harbour, Heidi Anneli Hautala, Hans Karlsson (for Carlos Candal), Carlos Lage (for Maria Berger, pursuant to Rule 153(2)), Kurt Lechner, Klaus-Heiner Lehne, Neil MacCormick, Toine Manders, Hans-Peter Mayer (for Rainer Wieland), Arlene McCarthy, Marcelino Oreja Arburúa (for José María Gil-Robles Gil-Delgado), Giovanni Pittella, Dagmar Roth-Behrendt (for François Zimeray), Anne-Marie Schaffner, Marianne L.P. Thyssen, Diana Wallis, Joachim Wuermeling and Stefano Zappalà.

The opinions of the Committee on Economic and Monetary Affairs, the Committee on Industry, External Trade, Research and Energy, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Consumer Policy, the Committee on Constitutional Affairs and the Committee on Petitions were attached.

The report was tabled on 6 December 2002 (A5-0442/2002).

At the sitting of 7 April 2003 the matter was referred back to committee, pursuant to Rule 144(1).

The committee had confirmed the appointment of Manuel Medina Ortega as rapporteur at its meeting of 18 March 2003.

The committee considered the draft second report at its meetings of 22 April, 22 May and 17 June 2003.

At the last meeting it adopted the motion for resolution unanimously.

The following were present for the vote: Giuseppe Gargani, chairman; Willi Rothley, Ioannis Koukiadis and Bill Miller, vice-chairmen; Paolo Bartolozzi, Luis Berenguer Fuster (for Carlos Candal), Maria Berger, Michael Cashman (for François Zimeray pursuant to Rule

153(2)), Bert Doorn, Raina A. Mercedes Echerer, Francesco Fiori (for Janelly Fourtou pursuant to Rule 153(2)), Pernille Frahm (for Alain Krivine pursuant to Rule 153(2)), Marie-Françoise Garaud, Evelyne Gebhardt, Fiorella Ghilardotti, José María Gil-Robles Gil-Delgado, Malcolm Harbour, The Lord Inglewood, Piia-Noora Kauppi, Kurt Lechner, Klaus-Heiner Lehne, Neil MacCormick, Toine Manders, Arlene McCarthy, Manuel Medina Ortega, Hartmut Nassauer, Angelika Niebler (for Rainer Wieland), Marcelino Oreja Arburúa (for Joachim Wuermeling), Anne-Marie Schaffner, Marianne L.P. Thyssen, Diana Wallis and Stefano Zappalà.

The second report was tabled on 17 June 2003.

MOTION FOR A RESOLUTION

European Parliament resolution on the Commission communications on simplifying and improving Community regulation (COM(2001) 726 – C5-0108/2002 – 2052/2002(COS))

The European Parliament,

– having regard to the Commission communication on simplifying and improving the regulatory environment (COM(2001) 726 – C5-0108/2002),

– having regard to the Commission communication entitled 'European Governance: Better lawmaking' COM(2002) 275),

– having regard to the Commission communication on impact assessment (COM(2002) 276),

– having regard to the Commission communication entitled 'Consultation document: Towards a reinforced culture of consultation and dialogue – Proposal for general principles and minimum standards for consultation of interested parties by the Commission' (COM(2002) 277),

– having regard to the Commission communication entitled 'Action plan "Simplifying and improving the regulatory environment"' (COM(2002) 278),

– having regard to the communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions entitled 'Environmental Agreements at Community Level Within the Framework of the Action Plan on the Simplification and Improvement of the Regulatory Environment' of 17 July 2002 (COM(2002) 412),

– having regard to the Commission communication entitled 'Updating and simplifying the Community acquis' (COM(2003) 71),

– having regard to the interim report from the Commission to the Stockholm European Council entitled 'Improving and simplifying the regulatory environment' of 7 March 2001 (COM(2001) 130),

– having regard to the White Paper on European governance (COM(2001) 428),

– having regard to its resolution of 4 July 1996[1] on the report of the Group of Independent Experts on simplification of Community legislation and administrative provisions,

– having regard to its resolution of 13 May 1997[2] on the Commission reports to the European Council entitled 'better law-making' on the application of the subsidiarity and proportionality principles, on simplification and on consolidation for the years 1994 to 1996, and its

[1] OJ C 211, 22.7.1996, p. 23.
[2] OJ C 167, 2.6.1997, p. 37.

resolutions of 18 December 1998[1] and 20 October 2000[2] on the Commission reports to the European Council on 'better law-making' for the years 1997 to 1999,

– having regard to the Interinstitutional Agreement by Parliament, the Council and the Commission of 22 December 1998[3] on common guidelines for the quality of drafting of Community legislation,

– having regard to its resolution of 29 November 2001 on the Commission White Paper on European governance[4],

– having regard to the final report of the High-Level Advisory Group, chaired by Mr Mandelkern, on the quality of regulatory arrangements of 13 November 2001,

– having regard to its resolution of 5 February 2002 on the implementation of financial services legislation[5],

– having regard to the report of the European Parliament's Directorate-General for Research on 'Regulatory Impact Analysis': developments and current practices in the Member States of the EU, in the EU and in selected third countries, drawn up at the request of the Committee on Legal Affairs and the Internal Market (IV/WIP/04/0012/0019),

– having regard to the work of and provisional texts issued by the High-Level Technical Group which was set up by the Seville European Council and which is to present a new interinstitutional agreement on the quality of law-making by the end of 2002,

– having regard to the Commission's statement that the action plan 'Simplifying and improving the regulatory environment' should form the basis for the interinstitutional agreement between the institutions,

– having regard to the announcement by the Commission in its communication entitled 'Consultation document' (COM(2002) 277) that it is developing two other instruments to complement the principles and minimum standards for consultation, namely:

  - a set of guidelines on seeking and using expertise, and

  - a framework for a more systematic dialogue with European and national associations of regional and local government in the EU,

– having regard to the announcement by the Commission of its intention to present new detailed proposals on a number of questions concerning the decentralisation of law-making in the autumn of 2002 (COM(2002) 275), including:

  - criteria for the creation of new regulatory agencies and the framework within which they should operate,
  - arrangements for applying Article 202 of the EC Treaty, and

[1] OJ C 98, 9.4.1999, p. 500.
[2] OJ C 197, 26.10.2000, p. 433.
[3] OJ C 73, 17.3.1999, p. 1.
[4] OJ C 153 E, 27.6.2002, p. 314.
[5] A5-0011/2002.

- experimental tripartite contracts between the Commission, certain Member States and regional or local authorities,

– having regard to the opinion of the Economic and Social Committee (ESC0364/2002[1] and ESC1029/2002[2]),

– having regard to the opinion of the Committee of the Regions (CdR 0263/2002),

– having regard to Rule 47(1) of its Rules of Procedure,

– having regard to the report of the Committee on Legal Affairs and the Internal Market and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Industry, External Trade, Research and Energy, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Consumer Policy, the Committee on Constitutional Affairs and the Committee on Petitions (A5-0443/2002),

– having regard to the second report of the Committee on Legal Affairs and the Internal Market (A5-0235/2003),

A. whereas it is vital to improve the regulatory environment along the lines proposed by the Commission in its White Paper on governance and its reports on improving the regulatory environment, as also advocated in the Mandelkern report on the quality of regulatory arrangements, so that European Union citizens, businesses and authorities can benefit from the integration process without the obstacle of complex regulation and with clearly drafted and easily understandable laws,

B. regretting that Parliament was neither informed nor asked to participate in the work of the Mandelkern group,

C. whereas the quality and comprehensibility of Community legislation have a direct impact on the welfare and prosperity of Community citizens and businesses, and whereas a clear and precise legal framework should therefore be established to facilitate the decision-making process and make it more transparent,

D. whereas regulation only makes sense if it can be implemented and if there is sufficient supervision of its implementation,

E. whereas self-regulation by business can be a good alternative to legislation, provided there is a clear legislative framework,

F. whereas there would be no need for complicated and time-consuming simplification exercises if the drafting of high-quality legislation could be ensured from the outset, with the administrative and financial consequences being clearly set out,

G. whereas the failure to distinguish between legislative and regulatory competence and legislative and implementing powers, as in done in each of the Member States, is one of the

[1] OJ C 125, 27.7.2002, p. 105.
[2] OJ C 61, 14.3.2003, p. 142.

main reasons for the complexity of the regulatory environment in the European Union and the difficulties experienced by citizens in understanding Community legislation,

H. whereas the Commission's efforts to achieve greater clarity in the language and drafting of legal texts have so far failed to produce satisfactory results,

I. whereas the Commission's efforts with regard to flexibility have led to a range of characteristic acts – resolutions, declarations, interinstitutional agreements, communications, Green Papers, White Papers, action plans, open coordination, guidelines – the nature and effects of which remain unclear, so that the Court of Justice does not regard them as legally binding,

J. whereas the European Parliament, which has legislative and regulatory powers under the Treaties, has a direct and legitimate interest in taking part in the process of improving and simplifying the regulatory environment,

K. whereas the lack of transparency of the legislative process is an impediment to democratic scrutiny; whereas parliamentary proceedings – including those of the European Parliament – are open to the public; whereas this places Parliament in a position of direct accountability to the other institutions in democratic terms, but of inferiority in interinstitutional terms; whereas, furthermore, the secrecy maintained at the time the debate is held makes it impossible to establish the legislator's intentions after the event and thus to be able to interpret the act correctly,

L. whereas all European institutions bear their own responsibility for the high quality of regulation,

M. whereas, in a large number of Member States, authorities already exist whose task is to analyse the impact of regulatory measures,

N. whereas simplification of the regulatory environment also makes it necessary to check carefully in each case whether European standardisation is necessary at all,

O. whereas improving and simplifying the regulatory environment may not call into question the principle of democratic legitimacy, which is the basis underlying the legislative powers enjoyed by the European Parliament, the Council and the national parliaments,

P. whereas Parliament has concluded an interinstitutional agreement with the Council and the Commission on common guidelines for the quality of Community legislation,

Q. whereas at Parliament's sitting of 16 January 2002, the President of the Council offered to set up a working party on interinstitutional dialogue including the Council, Parliament and the Commission and whereas on 6 March 2002 the President of Parliament proposed to the Council President that a structure be set up for ‘an intense interinstitutional dialogue’ on better regulation,

R. whereas a High-Level Technical Group has been set up to draft an interinstitutional agreement on the quality of law-making which will be presented to the European Parliament for its opinion,

S. whereas Parliament has already provided evidence of its willingness to work together with the other two institutions in its resolution of 5 February 2002 on the implementation of financial services legislation,

1. Reiterates the need to improve the regulatory environment in the European Union and make it transparent; notes that the Member States must be fully engaged in simplifying and improving the national regulatory climate; reminds the Member States of their responsibility for the quality of their national regulatory framework, bearing in mind that they are responsible for applying 90% of European legislation and that the lion's share of the regulatory burden is to be found at national and regional level;

2. Considers the Commission's communication to be a welcome demonstration of good intentions but deplores the vagueness of the proposals;

3. Calls on the Commission to come forward with legislative proposals which respect the Community method and which do not put technical factors such as effectiveness or coherence above democratic legitimacy and obligations under the Treaties;

4. Regards the results of the Inter-institutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community legislation as inadequate and calls on the institutions, therefore, to take particular care to ensure greater clarity of definitions and legal concepts;

5. Opposes any attempt to use the objective of improving the regulatory environment in the European Union as a means of de facto altering the legislative procedures and the institutional balance within the European Union, as the principle of democratic legitimacy, which is the cornerstone of the Union's institutional system, must always be upheld;

6. Stresses that the setting-up of regulatory agencies should not affect the powers of codecision and political control enjoyed by Parliament and the Council;

7. Takes the view that, when the codecision procedure applies, the European Parliament and the Council will be in a position, on the basis of jointly defined criteria and procedures, to have impact assessments carried out before the adoption of a substantive amendment, either at first reading or at the conciliation stage; as soon as possible after the adoption of an interinstitutional agreement on improving the quality of legislation, the European Parliament, the Council and the Commission should compile a summary of their respective experiences and consider the possibility of defining a common methodology;

8. Stresses that the Union's legislative acts should take account of the possibilities of co-regulation and self-regulation; the European Parliament must, however, duly participate in devising and supervising any form of co-regulation; the Commission must be politically accountable to Parliament as regards the supervision of any form of self-regulation;

9. Considers that co-regulation and self-regulation, subject to clearly defined conditions, will have an increasingly important role in regulating certain economic sectors, particularly in areas such as e-commerce where global interests must be taken into account; considers that the basic legislative act should lay down the objectives and scope of co-regulation and self-regulation and provide for action by the Commission in the event of non-compliance with

the agreements by any of the parties concerned; believes that it is also necessary to ensure that the organisations involved in co-regulation and self-regulation are representative;

10. Considers that any co-regulation measure deemed useful as a supplementary measure must be based on a legislative act adopted jointly by the Council and Parliament on a proposal from the Commission and incorporating a right of 'call-back' to ensure that the rights of a democratic legislature are fully respected;

11. Stresses also that the use of non-legislative methods such as agreements with social partners and self-regulation arrangements by economic operators are complementary in nature; takes the view that Parliament and the Council have an important role to play in supervising such alternative methods in the interest of consumers and business;

12. Calls on the Commission to set out how and in what form it envisages the 'ongoing interinstitutional dialogue' with the other institutions and the Member States, as mooted in the action plan; the same applies to the separate structures for accelerated consideration of proposals for simplified legal acts;

13. Welcomes the setting-up of an interinstitutional working group to improve the regulatory environment; stresses that this working group should be political in nature and not purely technical;

14. Insists that any future interinstitutional agreement should take due account of the following basic principles of democratic legitimacy:

The legislative procedure

(a) Parliament's scrutiny, as legislative authority, of the choice and appropriate use of the legal instruments proposed by the Commission;

(b) more opportunity for Parliament to propose amendments to existing EU directives and regulations, so as to ensure continuous improvement of the regulatory environment;

(c) compliance by the Council with its obligations, when it is acting in its legislative capacity, to ensure transparency (Article 207(3) ECT) and to state its reasons for all its legislative deliberations (Article 253 ECT);

(d) when acting in a legislative capacity, the Council should hold its discussions and deliberations in public;

(e) directives should be speedily and correctly incorporated into the systems of the Member States; more focused and stringent checks on their implementation ought to be carried out by national governments;

Self-regulation

(f) political control by Parliament and the Council equivalent to a right of 'call-back';

(g) prior political agreement of Parliament and the Council in the event of the Commission refraining from submitting a proposal in order to allow the use of self-regulation; any

such application by the Commission should clearly set down the objectives to be reached by the agreement;

(h) total transparency in the negotiation of self-regulation agreements, including a list of participants in the negotiations, to be supplied by the Commission in a timely manner so that Parliament and the Council are able to monitor whether all interested parties are duly involved;

(i) scrutiny of draft agreements by Parliament, which, in the event of disagreement on the content, may call on the Commission to propose legislative acts instead;

(j) effective monitoring by the Commission of the implementation of agreements by the contracting parties, with an annual report to be submitted to Parliament and the Council; in cases of insufficient or inadequate implementation, Parliament and the Council can call on the Commission to propose a legislative act instead;

Co-regulation and comitology

(k) a call-back mechanism with a time-limit for all procedures other than the normal legislative procedure, in addition to the application of the principles set out concerning self-regulation;

(l) a review of the rules on the procedures for adopting implementing measures (there is currently some confusion between regulatory legislation and strictly implementing legislation), which the Commission adopts either as the body in whom competence is vested or as the Council's delegate, with a view to giving Parliament a role equivalent to that of the Council, at least for those areas where the codecision procedure is used; simplification of the comitology process is desirable;

(m) a reduction in the number of legislative acts through a consolidation and codification procedure to be completed by 2004, and in any case in good time for the enlargement of the EU, to prevent an exponential increase in laws and an unacceptable and avoidable workload in transposing them;

Consultations, impact assessments and simplification

(n) all EU proposals should also be subject to a more systematic process of impact assessment and of looking in more detail at the regulatory costs and benefits of proposed actions;

(o) Parliament's right to be fully associated with any (pre-)consultation by the Commission of those affected and full transparency of the consultation phase by means of the Commission's commitment to make available to Parliament and the Council information on consultations carried out, the organisations consulted and publicity of the contributions of interested parties to such consultations;

(p) publication of all impact assessments; these assessments should be organised on agreed common bases;

(q) Parliament's agreement to any programme for simplifying Community legislation;

15. Stresses that specific provisions on the transposition and application of Community law by the Member States have to take into account the fact that there exist devolved legislative powers in federal or regionalised Member States;

16. Considers that it is necessary for all the EU institutions involved in the EU legislative process to earmark more resources for the task of improving the drafting quality of legislation and ensuring the consistency and legal clarity of Community legislative provisions;

17. Urges the Commission to draw up its legislative proposals more carefully, particularly as regards clearer legal definitions and concepts;

18. Stresses also that all legislative proposals must comply with the principles of subsidiarity and proportionality;

19. Stresses that it should first be established at what level legislative action would best be taken with due respect for the criteria of subsidiarity and proportionality and which instrument should be used once consultations of those affected and impact assessments have confirmed the need for action to be taken;

20. Calls on the Commission to introduce a training programme in the institutions to instruct those closely involved in the preparation of legislative and regulatory texts in the drafting of clear and simple regulations;

21. Encourages the Commission to carry out comprehensive and systematic codification and consolidation, which would enable the laws in force to be continuously kept up to date;

22. Highlights the lack of clarity associated with the large volume of soft law and the high degree of legal uncertainty that this entails for citizens and businesses;

23. Takes the view that the Commission should take better advantage of the mass of information gathered by its departments during the processing of petitions, which shows that Community law is often breached or not implemented, also on account of its complexity and lack of clarity, which make it inconsistent with national rules;

24. Points out that the Treaty distinguishes very carefully between directives, regulations and other legislative instruments; points out that the choice of the form the act should take, founded on proposals made by the Commission in the exercise of its right of initiative, should be subject to a policy decision by the co-legislators;

25. Believes that a regulation should be chosen in cases where the Community has exclusive competences or where rights and duties need to be laid down directly for citizens; believes that a directive should be chosen in other cases;

26. Believes that the legal basis for acts should be chosen by common consent of the Commission, the Council and Parliament during the planning stage; considers this to be necessary in order to avoid changes to the legal basis during the course of the procedure, which often result in disputes which tarnish the Community's image;

27. Takes the view that the Commission must inform Parliament and the Council about self-regulatory practices once it has verified that they are compatible with the provisions of the

Treaty and satisfactory with regard to the representative nature of the parties concerned, to sectoral and geographical coverage and to the added value of the commitments given in relation to the objectives of the Treaty;

28. Instructs its President to forward this resolution to the Council and Commission.

EXPLANATORY STATEMENT

From the White Paper on European Governance to the June 2002 package of communications

On 25 July 2001, the Commission published its White Paper on European Governance[1]. The Commission, which had pinpointed reform of European governance as one of its strategic objectives in 2000, outlines a list of proposed changes designed to overhaul the way the Community operates.

Among the changes proposed, the White Paper expresses a preference for the use of 'implementing rules under the control of national parliaments rather than the laws adopted by those parliaments'[2]. This method, which would be adopted by the Member States, would allow Parliament and the Council to give the Commission greater scope for adopting implementing rules and would prevent legislation from being swamped by excessive detail.

In its White Paper, the Commission points out that the level of detail in European legislation also means that adapting the rules to technical and market changes can be complex and time-consuming. Overall, the result is a lack of flexibility, damaging effectiveness.

The Commission is also in favour of tools which complement the adoption of legislative acts and other non-binding instruments such as recommendations, guidelines, or even self-regulation within a commonly agreed framework. Specifically, the Commission proposes that more frequent use be made of framework directives, which would limit 'primary' legislation to essential elements (basic rights and obligations and conditions to implement them). This would leave the executive to fill in the technical detail by implementing 'secondary' rules.

The Commission also proposes that implementing measures could be prepared within the framework of co-regulation, combining binding legislative and regulatory measures with actions taken by the actors most concerned with the policies in question – along the lines, for example, of the so-called 'new approach' directives dealing with product standards and reducing car emissions.

In addition, the Commission promises a stronger culture of evaluation and feedback, a more rapid legislative process, the withdrawal of proposals and comprehensive simplification of existing Community provisions.

Lastly, the Commission envisages better application of European Union rules through regulatory agencies and improved enforcement at national level.

The desire to improve the quality of Community legislation led to the conclusion of an interinstitutional agreement in 1998 between Parliament, the Council and the Commission laying down common guidelines for the quality of drafting of Community legislation.

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[1] COM(2001) 428.

[2] White Paper on European Governance, point 3.2, p. 18.

The 1992 Edinburgh European Council identified simplifying and improving the regulatory framework of the European Community as a priority, while the subject has also been dealt with in annual reports by the Commission entitled 'Better law-making'.

In 2001, the Commission submitted an interim report to the Stockholm European Council on improving and simplifying the regulatory environment. Later the same year, following Parliament's opinion on the White Paper on European Governance, the Commission submitted a communication on improving and simplifying the regulatory environment.

Essentially, these communications do not provide any new contributions and merely reproduce the proposals put forward by the White Paper on European Governance, on which the European Parliament has already given its opinion[1].

In the meantime, the final report of the High-Level Advisory Group on the quality of regulatory arrangements, chaired by Mr Mandelkern, was welcomed by the Laeken European Council in December 2001[2]. Nevertheless, your rapporteur regrets that Parliament was neither informed of nor involved in the work of the Mandelkern Group.

Parliament recently adopted the von Wogau report on the implementation of financial services legislation[3], in which it accepts the proposals put forward in the Lamfalussy report and confines itself to requesting a three-month period of reflection and the convening of an informal trialogue in the event of differences between the Community institutions over an implementing measure.

At the sitting of 16 January 2002, the Council President proposed that a working party on interinstitutional dialogue be set up, involving the Council, Parliament and the Commission; subsequently, on 6 March, the President of Parliament suggested creating a structure for an intense interinstitutional dialogue on better regulation.

Finally, in June 2002, the Commission submitted a package of four communications, consisting of a communication entitled 'European Governance: Better lawmaking', an impact assessment tool, a document concerning the consultation of interested parties by the Commission and an action plan for better law-making. The action plan sets out objectives already mentioned in the 2001 communications and includes concrete action to be taken by the Commission, the European Parliament, the Council and the Member States.

Rapporteur's assessment

The White Paper clearly states that the Council and Parliament should limit primary legislation to essential elements and that, when transposing Community legislation, the Member States should take care to avoid an excessive level of detail and complex administrative requirements.

At the current stage in the development of Community law, the Union does not have clear and precise legislative powers. The first main characteristic of the Community legislative process is that the Commission enjoys the right of initiative. The second is that the European Parliament is

[1] European Parliament resolution on the Commission White Paper on European Governance of 29 November 2001.
[2] Presidency conclusions, point 4.
[3] Resolution of 5 February 2002, A5-0011/2002.

involved in differing degrees, depending on the type of procedure provided for by the Treaty, essentially through reports, resolutions and opinions. Nevertheless, under procedures other than codecision, the final decision on Community law lies with the Council.

Once Community provisions have been adopted, there is a further stage where implementing rules are adopted by the Commission or legislation is transposed by the Member States.

The Commission's current proposals seek to enhance its own participation in the legislative process, either directly or through regulatory agencies or committees to assist it in using the implementing powers assigned to it.

'Civil society' is cited as a criterion for legitimacy, although paradoxically this will inevitably undermine the European Parliament's democratic legitimacy.

The need for clear, precise, simple and effective Community legislation is of a vital importance, since it has a profound effect on the daily lives of Community institutions, Member States, businesses and, above all, Community citizens.

Any genuine simplification of the regulatory environment must begin by assigning clear legislative powers to a 'legislative power'. This should be shared by the current European Parliament and the Council of Ministers, as co-legislative chambers. Under this regulatory system, the Commission alone would be responsible for implementing legislative acts, without interference by the Council or representatives of the Member States' governments.

In this way, once a division of legislative and executive powers has been established, the legislative authority could give the executive responsibility for adopting implementing rules, subject to stringent controls.

On the other hand, the Commission's planned use of non-binding measures – whether agreements between the parties concerned or co-regulatory arrangements – applies to the stage where measures are adopted to implement legislative acts, and should therefore under no circumstances be confused with the actual procedure for adopting legislation.

Lastly, it is true that the impact of Community provisions depends to a large extent on the willingness and capacity of the Member States' authorities to ensure full, effective and appropriate transposition and application. However, your rapporteur would point out that this process is beyond the influence of the Community institutions, since it relates to a stage after the adoption of Community legislative acts for which responsibility lies with national administrations and courts.