

SUBSIDIARITY

**EXAMPLES OF THE REVIEW OF PENDING PROPOSALS
AND EXISTING LEGISLATION**

The Birmingham European Council agreed that, to flesh out the subsidiarity principle, it would examine at Edinburgh the initial outcome of a Commission review of existing Community legislation, with examples.

The Commission has proceeded along three lines:

- in October it gave the other institutions the fruits of its reflections on subsidiarity in the form of a political, technical and legal analysis;
 - it proposed broad lines for an interinstitutional agreement, which was substantially accepted by Parliament and well received by the Member States. The subsidiarity principle has an impact on all the three Institutions involved in their respective ways in the decision-making and legislative process;
 - the Commission, for its part, embarked on a review of pending proposals, an initial analysis of existing legislation, and deeper reflection on a number of initiatives that it was planning. In accordance with the conclusions of the Lisbon European Council the Commission will supplement this with a report to the December 1993 European Council on the results of its review of certain Community rules with a view to adapting them to the subsidiarity principle.
1. The Commission's first priority was to review all proposals pending before the Council and Parliament in the light of the subsidiarity principle.

It reviewed each proposal in terms both of the need-for-action criterion and of the intensity criterion - proportionality of resources deployed to objectives pursued.

- (a) The Commission has come to the conclusion that certain of its proposals were not fully warranted in terms either of value added by Community action or of comparative efficiency in relation to other possibilities of action in national or international contexts.

In this spirit it recently withdrew three proposals for Directives:

- compulsory indication of nutritional values on the packaging of foodstuffs;
- radio frequencies for land-based telecommunications with aircraft; and
- radio frequencies for remote-processing facilities in road transport.

After the proper contacts, notably with Parliament, it is further considering withdrawing the following proposals:

- measures proposed at the time of the Gulf crisis in the event of oil supply and stock difficulties in the Community;
- conditions in which animals are kept in zoos (there will be a proposal for a Recommendation on this subject at a later date);
- radio frequencies for the co-ordinated introduction of digital short-range radio communications (DSRR);
- indirect taxation on transactions in securities;
- indirect taxation on capital accumulations;
- amendments to the Sixth VAT Directive;
- higher tax-free allowances for fuel in the tanks of utility vehicles;
- VAT on ships' supplies;
- temporary importation of motor vehicles;
- classification of documents of Community institutions;
- network of information centres on agricultural markets and quality standards.

- (b) The Commission has also concluded, notably following debates in Parliament and the Council, that certain pending proposals tend to go into excessive detail in relation to the objective pursued.

It is accordingly planning to revise a number of them so that they establish general principles to be given more detailed form by the Member States:

- public takeover bids;
- common definition of the concept of Community shipowner;
- comparative advertising;
- labelling of shoes;
- liability of suppliers of services;
- protection of natural persons in relation to data processed via digital telecommunications networks.

2. The Commission has also identified several families of existing rules and regulations which it intends to scrutinize as part of its programme for 1993.

As far as technical standards are concerned, a series of directives embodying excessively detailed specifications could be streamlined and replaced, under the new approach to harmonization, by minimum requirements to be met by products circulating freely within the Community. The directives in question relate in the main to foodstuffs (preserves, natural mineral waters, honey, coffee extracts, fruit juices). The Commission will also propose that the scope of certain directives be clarified. Although adopted under the new approach to harmonization, these texts (the low tension and machinery directives for instance) present problems of overlapping.

In the area of qualifications, the Commission will review the already quite old directives on certain regulated occupations to facilitate implementation and reinforce mutual recognition.

On the environment, the Commission intends to simplify, consolidate and update existing texts, particularly those on air and water, to take new knowledge and technical progress into account.

On agriculture, with particular reference to the clearance of accounts, in particular, the Commission intends to give national authorities more responsibility for applying Community legislation by allowing them, under certain conditions, to negotiate settlements with individuals.

As to animal welfare, accession by all the Member States to the European Convention on the Protection of Animals kept for Farming Purposes means that there is no point in retaining the Council directives introducing very strict standards, at Parliament's request, for the protection of pigs, calves and laying hens. However, minimum Community rules on animal welfare will be needed to guarantee fair competition and freedom of movement.

Turning to social policy, the Commission considers that the group of directives based on Article 118a of the Treaty is too recent to warrant re-examination. Instead its priority will be to supplement them by implementing all the provisions of the Charter of the Fundamental Social Rights of Workers. However, early steps will have to be taken to simplify and codify the body of older regulations on the free movement of workers.

3. Finally, the Commission can say that, following consultations with interested parties, it intends to abandon certain initiatives that had been planned.

It will not, for instance, be going ahead with proposals on the harmonization of vehicle number plates or the regulation of gambling.

Similarly, the Commission sees no need to continue preparatory work on the harmonization of certain technical standards (for instance, on dietary foods, second-hand machinery, structures and equipment for funfairs and theme parks, mechanical fixing and bolts in particular).

In more general terms the Commission is intending to use its monopoly of the right of initiative by declining to accept requests made by the Council at informal meetings that it make proposals for Directives. In the same spirit it will be tougher about rejecting amendments proposed by the Council and Parliament that run counter to the proportionality rule or would unnecessarily complicate Directives or Recommendations that are in fact justified under the need-for-action criterion.