

# EUROPEAN PARLIAMENT

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13 November 2003

## **REPORT**

on European governance  
(COM(2002) 704 - COM(2002) 705 - COM(2002) 713 - C5-0200/2003 -  
2003/2085(INI))

Committee on Constitutional Affairs

Rapporteur: Margrietus J. van den Berg

PR\_INI

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## PROCEDURAL PAGE

By letter of 11 December 2002 the European Commission forwarded to Parliament its report on European Governance (COM(2002) 705), its Communication on towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission (COM(2002) 704) and its Communication on the collection and use of expertise by the Commission: Principles and Guidelines "Improving the knowledge base for better policies" (COM(2002) 0713), which had been referred to the Committee on Constitutional Affairs for information.

At the sitting of 15 May 2003 the President of Parliament announced that the Committee on Constitutional Affairs had been authorised to draw up an own-initiative report on the subject under Rules 47(2) and 163 and all the Committees interested had been asked for their opinions (C5-0200/2003).

The committee appointed Margrietus J. van den Berg rapporteur at its meeting of 23 april 2003.

It considered the draft report at its meetings of 19 June 2003, 30 September 2003 and 6 November 2003.

At last meeting it adopted the draft resolution by 22 votes to 1, without abstentions.

The following were present for the vote: Giorgio Napolitano chairman, Ursula Schleicher vice-chairwoman, Margrietus J. van den Berg (rapporteur), Teresa Almeida Garrett, Maria Berger (for Enrique Barón Crespo pursuant to Rule 153(2)), Georges Berthu, Guido Bodrato (for Daniel J. Hannan), Jean-Louis Bourlanges, Cees Bremmer, Giorgio Calò, Carlos Carnero González, Richard Corbett, Jean-Maurice Dehousse, Gianfranco Dell'Alba, Marielle de Sarnez (for José María Gil-Robles Gil-Delgado pursuant to Rule 153(2)), Giorgos Dimitrakopoulos, Andrew Nicholas Duff, Lone Dybkjær, Francesco Fiori (for Antonio Tajani pursuant to Rule 153(2)), Sylvia-Yvonne Kaufmann, Sir Neil MacCormick, Hans-Peter Martin, Iñigo Méndez de Vigo, Elena Ornella Paciotti (for Olivier Duhamel pursuant to Rule 153(2)), Mariotto Segni.

The opinions of the Committee on Legal Affairs and the Internal Market and the Committee on Employment and Social Affairs are attached.

The report was tabled on 13 November 2003 .

## DRAFT EUROPEAN PARLIAMENT RESOLUTION

### on European governance

(COM(2002) 704 - COM(2002) 705 - COM(2002) 713 - C5-0200/2003 - 2003/2085(INI))

*The European Parliament,*

- having regard to the report from the Commission on European Governance (COM(2002) - 705 - C5-0200/2003),
- having regard to the communication from the Commission, 'Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission' (COM(2002) 704),
- having regard to the communication from the Commission, 'on the collection and use of expertise by the commission: principles and guidelines - Improving the knowledge base for better policies' (COM(2002) 713),
- having regard to the Commission's White Paper of 25 July 2001 on European Governance (COM(2001) 428 - C5-0454/2001),
- having regard to the opinion delivered by the Committee of the Regions on 2 July 2003 concerning the follow-up to the Commission's White Paper on European Governance,
- having regard to its resolution of 29 November 2001 on the Commission's White Paper on European Governance<sup>1</sup>,
- having regard to its resolution of 14 January 2003 on the role of regional and local authorities in European integration<sup>2</sup>,
- having regard to its resolution of 24 September 2003 on the draft Treaty establishing a Constitution for Europe and the European Parliament's opinion on the convening of the Intergovernmental Conference (IGC)<sup>3</sup>,
- having regard to its resolution of 9 October 2003 on the conclusion of an Interinstitutional Agreement on Better Law-Making between the European Parliament, the Council and the Commission<sup>4</sup>,
- having regard to Rules 47(2) and 163 of its Rules of Procedure,
- having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Legal Affairs and the Internal Market and the Committee on the Employment and Social Affairs (A5-0402/2003)

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<sup>1</sup> OJ C 153 E of 27.06.2002, pag. 314

<sup>2</sup> P5\_TA(2003)0009

<sup>3</sup> P5\_TA(2003)0407

<sup>4</sup> P5\_TA(2003)0426

- A. whereas in its above-mentioned resolution of 29 November 2001 it welcomed the Commission's readiness to examine critically and without exception the way in which powers were exercised at European level - 'European governance',
- B. whereas the Commission has within two years acted on a great many of the objectives stated in the White Paper by publishing a number of communications which contain detailed practical proposals based on the action points listed in the White Paper,
- C. whereas various action points listed in the White Paper, such as 'a review of the Union's international representation', still need to be taken further by drafting practical proposals,
- D. whereas improving governance is a task for all the European institutions and not only the Commission, and whereas interinstitutional cooperation in this field is therefore very important,
- E. whereas it expects the Interinstitutional Agreement on Better Lawmaking to enter into force without delay, particularly the arrangements on consultation preceding presentation of legislative proposals and the provision of information to the European Parliament and the Council that forms part of this,
- F. whereas the process of improving governance is a reform within the limits of the European treaties and must therefore be distinguished from the wider process of drafting a European constitution, for which the European Convention has made important proposals on amendment of the treaties and institutional reform,
- G. whereas the drafting of a European constitution by the Convention on a new institutional structure, particularly for foreign policy, and a reduction and simplification of the number of types of legal act, will make an important contribution to improving European governance, and as such should be adopted by the Intergovernmental Conference,
- H. whereas the number of advisory bodies which assist the Commission is very large and it is not easy to keep track of them all, which means that the European Parliament is insufficiently able to monitor the legislative process, and whereas the Commission still does not publish a full list of the committees and working groups involved in formal and permanent consultation,
  - 1. Is satisfied with the proposals which the Commission has made with regard to the various topics from the White Paper, and expresses its appreciation of the method of public consultation which the Commission has used in this connection; draws attention to the fact, however, that such consultation must not slow the process down;
  - 2. Calls for more interinstitutional cooperation between the European Parliament, the Council and the Commission in order to implement the action points from the White Paper on European Governance;

## **Improving legislation**

3. Supports the Commission's proposal to reduce the volume of legislation by repealing legal acts and by means of a programme of consolidation and codification; notes, however, that the reduction in the volume of legislation must not be achieved at the expense of the Community acquis, which forms an essential element in the present European Union;
4. Reiterates its view that improving the quality of legislation, transparency and the opening up of the institutions to so-called 'organised civil society', to professional, trade union and business sectors and to citizens as a whole cannot be a substitute for citizens' access to public power by means of open and increasingly democratic electoral processes.
5. Urges that the improvement of the bond between citizens and the European Union's institutions should be achieved primarily by increasing Parliament's legislative powers, through uniform electoral legislation to provide increasingly direct communication between Members of the European Parliament and their voters and by means of genuine transparency in the work, sessions and proceedings of the Council, at least as far as its legislative function is concerned.
6. Considers that the introduction of an ex-ante impact assessment ('citizens' criterion') as a non-legal instrument for assessing the social, ecological and economic impact of legislative proposals on people's everyday life can be a good way of placing members of the public at centre-stage in the European policy-making process;
7. Stresses the important role which may be played in the integration of the European Union by citizens acting together in the form of social organisations.

## **Greater involvement**

8. Notes that, although the EUR-Lex portal has become more user-friendly and contains more documents, there is still not a single uniform on-line contact point for all institutions where members of the public can monitor the formulation of policy proposals throughout the whole decision-making process; calls on all the institutions, therefore, to combine the various internet sites to create a single portal;
9. Welcomes the Commission's proposals for minimum standards for the consultation of third parties by the Commission; considers that, in a parliamentary democracy, it is important that such consultation should take place in a transparent and efficient manner in order not to slow down the legislative process and in order to guarantee openness;
10. Considers, similarly, that the Commission, throughout the whole process of taking advice before a piece of draft legislation is put forward, should enjoy adequate political and professional freedom.
11. Considers it essential that the implementation of the Commission's framework for consultation be dealt with in the annual report on 'better regulation'.

12. Considers, however, that an Interinstitutional Agreement laying down uniform minimum rules for consultation for all institutions would be even more effective; urges that ways of concluding such an agreement be investigated as soon as possible;
13. Warns, however, that such consultation must not become a substitute for parliamentary democracy which is based on the role of the European Parliament and the Council of Ministers as co-legislator and proper control by national and regional parliaments when the European legislator cannot or is not permitted to perform that role;
14. Considers that the Commission, in the collection and use of expert opinions, must ensure compliance with the duty of responsibility, pluralism and the integrity of experts.
15. Stresses that the European Union already has dialogues with the Economic and Social Committee and the Committee of the Regions. The first of these bodies is made up of the legitimate representatives of civil society, the two sides of industry, the second of representatives of regional and local authorities; stresses also that there is a need for greater institutionalisation of the social dialogue and consultation of the two sides of industry; takes the view, therefore, that the consultation process should always make use of the expertise of these bodies;
16. Welcomes the cooperation protocols which the Commission has concluded with the Committee of the Regions and the Economic and Social Committee; urges that these protocols be put to use correctly and as often as possible; calls moreover for more frequent use of Articles 262 and 265 of the EC Treaty, which provide for consultation of these committees;
17. Takes the view, however, that this consultation must not affect the right of the representatives of civil society and the regional and local authorities to approach the European Parliament, the Council of Ministers and the European Commission directly;

### **Use of experts**

18. Considers that the minimum standards which the Commission proposes and the three basic principles applied in this connection - openness, effectiveness and quality - are a good step towards greater harmonisation and clarity of the use of experts;
19. Recognises the added value of experts as a source of information during the legislative process; expresses, however, a decided preference for parliamentary democracy over a democracy of experts; urges the Commission, therefore, to publish the evidence and the way in which it is used in the legislative process so as to inform the European Parliament about how fundamental policy choices are made;
20. Is critical of the fact that there are still no clear lists showing what committees and working groups the Commission has consulted, although the Commission announced the publication of these lists by June 2001 in its 2000 White Paper on Reform of the Commission<sup>1</sup>, and reiterates therefore its previous call for the Commission to attach to

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<sup>1</sup> White Paper: Reforming the Commission – Part II – Action Plan, IV – 3 (COM(2000) 200).



each legislative proposal or communication a list of all committees, experts, associations, organisations, institutions and other parties consulted for the purpose of drafting those documents;

21. Urges the Commission to maintain constant dialogue also with representatives of local and regional authorities during the preparatory stage in order to increase the practicability and acceptance of legislation at an early stage; notes in this connection that these representatives, who have direct experience of the ultimate implementation and handling of European Union policies and rules, are either themselves elected representatives or have to be monitored by elected representatives of the people; also hopes that a more systematic consultation procedure between the Commission and representatives of the relevant European organisations can be established at an early stage, when the Commission submits initiatives; considers that this consultation requirement should be standardised and publicised;

### **Global governance**

22. Considers that the EU can play an important part in promoting global governance as a way of attaining objectives relating to sustainable development, security, peace and equality worldwide;
23. Considers that the EU should attach higher priority to the consistency of its policy and therefore, in all policy decisions, should take account of the possible impact of decisions on third countries, on the basis of the fundamental principles laid down in the Treaty;
24. Considers that the recent failure of the WTO Conference in Cancun demonstrates the need to reform the rules, procedures and decision-making mechanisms of the WTO in order to create a more efficient, transparent and democratic organisation in which a parliamentary dimension must comprise an important element; calls on the Commission to make proposals to this end;
25. Considers that the EU's own international representation should be so revised that in the near future the European Union can be represented by a seat of its own in international organisations;
26. Hopes that, as proposed in the draft constitution, a reinforced EU will in future also be able, through a common European diplomatic service headed by its foreign ministers, to represent the principles of better global governance on the international stage;
27. Instructs its President to forward this resolution to the Council, the Commission, the Economic and Social Committee, the Committee of the Regions and the governments and parliaments of the Member States, accession states and applicant countries.

## EXPLANATORY STATEMENT

### INTRODUCTION

At its meeting of 19/20 March 2003, the Committee on Constitutional Affairs decided to draft a report on the following communications:

- *report from the Commission on European governance (COM(2002) 705)*
- *communication from the Commission, 'Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission' (COM(2002) 704 final)*
- *communication from the Commission, 'on the collection and use of expertise by the Commission: principles and guidelines - Improving the knowledge base for better policies' (COM(2002) 713 final)*

### 1. BACKGROUND

On 25 July 2001, the Commission published the White Paper on European governance<sup>1</sup>. The aim was to improve governance in Europe *within the limits of the existing Treaties*. Greater efficiency and greater democratic legitimacy have always been crucial in the European Union, and will become even more urgent concerns with the accession of 10 new Member States next year.

Promoting new and better forms of European governance was among the strategic objectives for 2000-2005<sup>2</sup> stated by Mr Prodi, President of the Commission, back in the year 2000. Since then, the European Parliament has followed these developments with interest. The Kaufman report<sup>3</sup> of November 2001 already stated the European Parliament's views on the White Paper.

The White Paper lists various action points. A good many of them subsequently resulted in action by the Commission in the form of communications, the first of which was published in July 2002 and the last in July 2003. Only the communications listed above in the introduction have been referred to this rapporteur. Other communications have already been considered by the European Parliament in separate resolutions or will be considered shortly<sup>4</sup>.

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<sup>1</sup> European governance: a white paper. 25 July 2001, COM(2001) 428 final.

<sup>2</sup> Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, Strategic objectives 2000-2005 - Shaping the new Europe, COM(2000) 154 final.

<sup>3</sup> European Parliament Resolution on the Commission's White Paper on European Governance and the report on the Commission's White Paper on European Governance, rapporteur Sylvia-Yvonne Kaufmann, Committee on Constitutional Affairs, 15 November 2001, A5-0399/2001.

<sup>4</sup> Inter alia the new decision on Commitology and the communications on an operating framework for the European regulatory agencies (COM(2002) 718 final), on a framework for target-based tripartite contracts and agreements between the Community, the States and regional and local authorities (COM(2002) 709 final) and the Commission's working document on the policy dialogue with regional and local government bodies, published in March 2003 (Commission Working Paper: 'Ongoing and systematic policy dialogue with local-government associations' ([http://europa.eu.int/comm/regional\\_policy/consultation/permanentdialogue\\_en.pdf](http://europa.eu.int/comm/regional_policy/consultation/permanentdialogue_en.pdf))). In this connection the rapporteur also notes the efforts with regard to openness and transparency. It will soon be possible to read the observations of the European Parliament in the Cashman report on public access to the documents of the European Parliament, the Council and the Commission (implementation of Regulation (EC)

In the meanwhile, the European integration process has not stood still. The Nice European Council paved the way for a broader and deeper debate on the future of the European Union. Enlargement to include ten new Member States and the way in which the decision-making process in Europe has ground to a halt illustrate the absolute necessity of reforming the European Union as a whole.

The Convention on the Future of Europe was set up to make proposals for making the European Union more capable of action, more efficient and more democratic. It must be stressed that the reforms which are being debated at the Convention are of the greatest importance and must be the true basis for good governance in Europe. This report does not contain any new recommendations on revising the Constitution, but does emphasise the importance of a successful IGC. By means of various resolutions, the European Parliament has created a framework for its contribution to the Convention. The Lamassoure report<sup>1</sup> on the division of competences between the European Union and the Member States is the key document here. That report clearly indicated in what transnational fields European policy is needed. Such policy should be adopted at Community level in order to guarantee democracy and effective action in an enlarged and deepened European Union.

## **2. SIMPLIFICATION OF LEGISLATION**

In June 2002, in connection with the White Paper, the Commission published an Action Plan entitled 'Simplifying and improving the regulatory environment'<sup>2</sup>. Its aim was to improve the formulation and implementation of policy by modifying the existing procedures, expanding policy instruments and simplifying current legislation.

The Commission has since published a fresh communication on simplifying and streamlining the existing *acquis*<sup>3</sup>. Here too, the aim is to make legislation more accessible and comprehensible to the general public. Outdated legislation is to be repealed and the volume of legislation will be reduced by an estimated 35 000 pages by means of a programme of consolidation and codification. In addition, the Commission proposes simplifying the substance and form of the existing legislation by rewriting it. It is intended to make legislation more flexible, efficient and proportionate.

This Commission initiative is laudable, as it will do much to help simplify and render more accessible the European system as a whole. At the same time, one must always be concerned about the possibility that valuable elements of the Community *acquis*, which has been built up over a period of 50 years, may be lost.

The European Convention has now reached consensus on a proposal for far-reaching simplification of decision-making in the European Union. At the present the Council alone has 27 different types of decision available to it. In future only six would remain: two types of legislative decision (laws and framework laws) and four types of non-legislative decision (European regulations, European decisions, recommendations and opinions). These proposals

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No 1049/2001), with an opinion delivered by Mrs Hanja Maij-Weggen on behalf of the Committee on Constitutional Affairs.

<sup>1</sup> Report on the division of competences between the European Union and the Member States (2001/2024(INI)), Committee on Constitutional Affairs, rapporteur: Alain Lamassoure, A5-0133/2002.

<sup>2</sup> COM(2002) 278 final.

<sup>3</sup> COM(2003) 71 final.

accord with the position adopted by the European Parliament on simplifying legislation (Bourlanges report<sup>1</sup>).

In the Action Plan for improving legislative procedures of June 2002, the Commission had already tackled the issue of the selection of appropriate and proportionate instruments for Community actions in the context of accelerating the legislative procedure and making it more effective. In selecting instruments, however, democratic legitimacy must never be sacrificed to effectiveness. Framework laws may be the best solution in some cases, but the involvement of Parliament and the Council must always be sufficiently guaranteed. The democratic legitimacy of the European Union is based on the sharing of responsibility between the European Parliament, the Commission and the Member States as represented in the Council.

In addition, it must never be forgotten in Europe that legislation is always made for the people of Europe and that in formulating legislation the interests of the citizen must always come first. The Committee on Constitutional Affairs has previously proposed a 'citizens' criterion', by analogy with the 'SME criterion' introduced by Jacques Delors. This means an ex ante impact assessment to identify a proposed measure's social, ecological and economic impact on the everyday life of members of the public. Such an assessment may result in information to the public or compensatory measures<sup>2</sup>. This proposal is becoming increasingly relevant, and I would take this opportunity to stress its importance once again.

### **3. GREATER INVOLVEMENT**

In the White Paper, the Commission indicated that, as part of its efforts to improve the provision of information, it intended to make EUR-Lex a single on-line point for all the institutions, where people could follow policy proposals throughout the decision-making process. Although the user-friendliness and completeness of EUR-Lex have improved, there are still many other portals belonging to the various institutions (OEIL, CELEX, Prelex). This is confusing for the public. Moreover, not all the portals can be used free of charge. It would be better to create a single on-line point for all the institutions.

The communication, *'Towards a reinforced culture of consultation and dialogue'*<sup>3</sup>, sets out the general principles and minimum standards for consultation of third parties by the Commission. The aim is to ensure that such consultation takes place in a coherent, efficient, transparent and flexible manner. Existing consultation instruments are the Interactive Policy-Making Initiative (IPM), which gathers public responses via the Internet and analyses them, and CONECCS, a database for advisory bodies. Making these portals user-friendly is a first step towards bringing Europe closer to the public.

There is certainly a need for greater openness and democratic consultation of the

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<sup>1</sup> Report on the typology of acts and the hierarchy of legislation in the European Union - Committee on Constitutional Affairs, rapporteur: Jean-Louis Bourlanges, A5-0425/2002.

<sup>2</sup> Opinion of the Committee on Constitutional Affairs for the Committee on Legal Affairs and the Internal Market on the report from the Commission to the European Council: Better Lawmaking - A Shared Responsibility (1998) ((COM(1998) 715 - C5-0266/2000 - 1999/2197(COS)) and on the Commission report to the European Council: Better Lawmaking 1999 - ((COM(1999) 562 - C5-0279/1999 - 1999/2197(COS)). Draftsman: Max van den Berg, A5-0269/2000.

<sup>3</sup> Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission (COM(2002) 704 final).

organisations of civil society. All the institutions accordingly maintain intensive contact with nongovernmental organisations by means of hearings etc. An Interinstitutional Agreement laying down and thus standardising minimum rules for consultation for *all* the institutions would be highly desirable in the interests of the European citizens. This communication on consultation by the Commission is certainly a step in the right direction and could perhaps form the basis for such an agreement.

However, such consultation must not replace parliamentary democracy in Europe. The organisations of civil society are not, after all, elected by the public. The European Parliament, which consists of representatives directly elected by the citizens, is the most appropriate body to exercise the legislative function jointly with the Council, acting on proposals initiated by the Commission.

In addition, it is important to point out that there are various bodies which enable the consultation process to be conducted in a professional manner, such as the Economic and Social Committee and the Committee of the Regions. In 2001, the Commission concluded cooperation protocols with these two committees laying down the principles of proper administration and cooperation procedures. The aim of the protocols is to enhance the committees' advisory function. For example, the Commission may ask them to deliver exploratory opinions about subjects falling within their purview.

Another important aspect of consultation is the institutionalisation of the social dialogue in Europe. Recognition and facilitation of consultation with organisations representing employees and employers is important for the enhancement of horizontal subsidiarity in the European Union. The current proposal by the European Convention to enshrine the role of the two sides of industry in the European Constitution should therefore be warmly welcomed.

#### **4. THE USE OF EXPERTS**

In its communication on the collection and use of expertise by the Commission<sup>1</sup>, the Commission states that it wishes to use external experts in a more structured manner. The three basic principles to be applied here are openness, effectiveness and quality. The communication states a number of guidelines which are not legally binding but should bring about a certain measure of harmonisation and clarity in the use of experts. The guidelines concern such topics as the selection of experts and publishing the results.

External expertise makes an important contribution to the legislative process in the European Union. However, the Commission has a very dense and complex structure of committees within which such external experts are used. The experts are consulted at a very early stage in the legislative process, often to consider highly controversial subjects. The consequence of this structure is that openness and transparency are lacking and that it is virtually impossible to gain a clear overview of the network or to coordinate it. This situation is one of the main causes of the democratic deficit in the European Union.

Measures to standardise the use of external experts are a good step forward, but if one genuinely wishes to attain transparency and comprehensibility, it will be necessary to reform the whole system of committees and groups of experts with the aim of rendering it clearer

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<sup>1</sup> Communication from the Commission on the collection and use of expertise by the Commission: principles and guidelines - Improving the knowledge base for better policies (COM(2002) 713 final).

both to the public and to the institutions and Member States participating in the policy-making process. Holding meetings of groups of experts in public is a first step towards this.

It is also important to publish the evidence and the way in which it is used in the policy-making process. This can be done, for example, in the form of summaries for Members of the European Parliament which make it possible to follow the whole process, including minority positions and the uncertainties which have been faced. This could shed light on the way in which fundamental policy choices are made. Such transparency is essential to enable the European Parliament to perform its role as co-legislator. Democracy, after all, is conditional on the guarantee of transparency. In this way the European Parliament explicitly opts for parliamentary democracy and not for a 'democracy of experts'.

## **5. GLOBAL GOVERNANCE**

There are great opportunities for the Commission in the worldwide promotion of its administrative values. Governance is increasingly supranational. More and more people perceive the economic and social impact of globalisation on a daily basis and no longer accept that the regulation of international relations should be left to diplomats and politicians. As an economic power bloc with a growing political dimension, the European Union can play a pioneering role in democratising international organisations. The Commission is the logical body to implement this policy.

Firstly, the Commission can make an important contribution to the debate on reforming international organisations such as the WTO and the UN. Making these organisations more democratic, efficient and transparent, for example by adding a parliamentary dimension to them, is one of the principal tasks for the years ahead. In addition, the EU's international representation needs to be thoroughly reviewed, both in the form of the representations abroad and within international organisations. Ultimately the aim should be for the EU to have a single seat in the IMF, the World Bank and one day, it is to be hoped, on the United Nations Security Council.

In the White Paper, the Commission indicated that coherence of policy was one of the principles on which good European governance must be based. Coherence is particularly essential when it comes to global governance. All decisions should take account of their impact on third countries, particularly in the field of poverty, social conditions and the environment and the European Union's principles pursuant to Article 6 of the Treaty on European Union.

4 November 2003

**OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL  
MARKET**

for the Committee on Constitutional Affairs

on the Commission Communication 'Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission'

(COM(2002) 704 – C5-0200/2003 - 2003/2085(INI))

on the Commission report on European governance

(COM(2002) 705 – C5-0200/2003 - 2003/2085(INI))

and

on the Commission Communication on the collection and use of expertise by the Commission: Principles and guidelines - 'Improving the knowledge base for better policies'

(COM(2002) 713 – C5-0200/2003 - 2003/2085(INI))

Draftsman: Manuel Medina OrtegaPA\_NonLeg

## PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Manuel Medina Ortega draftsman at its meeting of 7 July 2003.

It considered the draft opinion at its meetings of 6 October and 4 November 2003.

At the last meeting it adopted the following suggestions by 22 votes to 0, with 1 abstention.

The following were present for the vote: Giuseppe Gargani (chairman), Willi Rothley (vice-chairman), Ioannis Koukiadis (vice-chairman), Manuel Medina Ortega (draftsman), Maria Luisa Bergaz Conesa (for Alain Krivine pursuant to Rule 153(2)), Maria Berger, Bert Doorn, Janelly Fourtou, Marie-Françoise Garaud, Malcolm Harbour, Philippe A.R. Herzog (for Michel J.M. Dary pursuant to Rule 153(2)), Hans Karlsson (for Evelyne Gebhardt), Giorgos Katiforis (for François Zimeray pursuant to Rule 153(2)), Carlos Lage (for Carlos Candal pursuant to Rule 153(2)), Kurt Lechner, Klaus-Heiner Lehne, Sir Neil MacCormick, Hans-Peter Mayer (for José María Gil-Robles Gil-Delgado), Arlene McCarthy, Marcelino Oreja Arburúa (for Lord Inglewood), Barbara O'Toole (for Fiorella Ghilardotti), Imelda Mary Read (for Bill Miller), Diana Wallis.



## CONCLUSIONS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Reiterates what it said in its report on the Commission's White Paper 'European governance' and its report on the Commission's communications on simplifying and improving Community regulation.
2. Reiterates its view that improving the quality of legislation, transparency and the opening up of the institutions to so-called 'organised civil society', to professional, trade union and business sectors and to citizens as a whole cannot be a substitute for citizens' access to public power by means of open and increasingly democratic electoral processes.
3. Urges that the improvement of the bond between citizens and the European Union's institutions should be achieved primarily by increasing Parliament's legislative powers, through uniform electoral legislation to provide increasingly direct communication between MEPs and their voters and by means of genuine transparency in the work, sessions and proceedings of the Council, at least as far as its legislative function is concerned.
4. Points out that, notwithstanding the above, and in addition to it, the Treaties stipulate that the Commission has the obligation, during the process of preparing legislative or other initiatives, to consult the sectors involved and the most well-qualified experts; within the framework of these consultations the Commission can and should organise itself and the advice it requires in the *(deletion)* most appropriate *way, basing itself, where it needs to be selective, on relevant criteria such as expertise and representativeness*.
5. *Stresses the important role which may be played in the integration of the European Union by citizens acting together in the form of social organisations.*
6. Considers, similarly, that the Commission, throughout the whole process of taking advice before a piece of draft legislation is put forward, should enjoy *adequate* political and professional freedom *(deletion)*.
7. *Considers it essential that the implementation of the Commission's framework for consultation be dealt with in the annual report on 'better regulation'.*
8. *Considers that the Commission, in the collection and use of expert opinions, must ensure compliance with the duty of responsibility, pluralism and the integrity of experts.*

7 July 2003

## **OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS**

of the Committee on Employment and Social Affairs

for the Committee on Constitutional Affairs

on the Communication from the Commission "Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission"  
(COM(2002) 704 – 2003/2085(INI))

and

on the Communication from the Commission on the collection and use of expertise by the Commission: Principles and Guidelines "Improving the knowledge base for better policies"  
(COM(2002) 713 – 2003/2085(INI))

Draftsperson: Jillian Evans

## PROCEDURE

The Committee on Employment and Social Affairs appointed Jillian Evans drafts person at its meeting of 15 January 2003.

It considered the draft opinion at its meetings of 20 May and 9 July 2003.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Marie-Hélène Gillig, acting chairperson; Winfried Menrad and Marie-Thérèse Hermange, vice-chairpersons; Jillian Evans, drafts person; Jan Andersson, Regina Bastos, Ieke van den Burg, Alejandro Cercas, Harald Ettl, Carlo Fatuzzo, Ilda Figueiredo, Fiorella Ghilardotti (for Elisa Maria Damião), Anne-Karin Glase, Richard Howitt (for Proinsias De Rossa), Stephen Hughes, Anne Elisabet Jensen (for Marco Formentini), Anna Karamanou, Ioannis Koukiadis (for Karin Jöns), Rodi Kratsa-Tsagaropoulou, Jean Lambert, Elizabeth Lynne, Thomas Mann, Mario Mantovani, Claude Moraes, Ria G.H.C. Oomen-Ruijten (for Philip Bushill-Matthews), Manuel Pérez Álvarez, Bartho Pronk, Lennart Sacrédeus, Herman Schmid, Miet Smet, Barbara Weiler and Sabine Zissener (for Luigi Cocilovo).

## CONCLUSIONS

The Committee on Employment and Social Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Believes that the Commission's use of expertise has always been important in terms of its legislative proposals but that the Commission must also now ensure that its work on the Lisbon process benefits from such specialist input, in the interests of the credibility of its targets, evaluations and recommendations; the Commission must also ensure that specialist input and impact assessments are based on up-to-date scientific evidence, where appropriate;
2. Notes that the adopted standards on Commission consultations came into force on 1 January 2003 and initially apply at least to initiatives singled out for extended impact assessment; therefore asks the Commission to detail its application of the consultation standards to its recent proposal for the revised Employment Strategy and to its imminent proposal to re-cast the gender equality Directives;
3. Notes that the standards apply only to external consultations; is aware that comitology rules are the subject of a separate reform; regrets that no real attention is given to the Commission's internal consultation procedures - in need of radical reform given the Commission's aspirations to promote integrated, global objectives such as sustainable development;
4. Regrets that neither the consultation standards nor the use of expertise framework give proper attention to implementation and review; the Commission seems to view the legislative process as linear - but what is clearly needed is an on-going cycle of monitoring, evaluating, adapting and updating both adopted law and its implementation by the Member States;
5. Notes the recognition of the special role for social partners in many consultations and through the Treaty-based social dialogue; underlines that social partners and specifically SMEs can also be sources of invaluable expertise which could be more systematically tapped, including as part of mainstreaming employment across Community policies and activities (Article 127 TEC);
6. Believes that the consultation and involvement of civil society actors is essential to the quality of Community policy-making/implementation, to alleviating the administrative burden on enterprises and to making Europe more meaningful to its citizens; welcomes the inclusion of Article 46 in the draft Constitution of Europe which would give a legal base to civil dialogue and considers it appropriate to launch pilot actions in anticipation of the adoption of the Constitution;
7. Welcomes the Commission's aim of achieving gender balance in identifying experts to work with but notes that this perspective is missing from the consultation standards; more generally believes that truly active steps are needed in both contexts to reach groups who are under-represented in public life; in this context, welcomes the Commission's intention to provide information in formats accessible for disabled people and hopes that all the other Community institutions will follow;

8. Recommends that high-level political initiatives should also respect both the use of expertise framework and the standards on consultation; therefore asks the Commission and Council to indicate how the new Task Force on Employment headed by Wim Kok will make use of these key tools for good governance;
9. Welcomes the Commission core principle of ensuring openness; welcomes that this includes Departments being encouraged to consider allowing the public to observe certain expert meetings; notes with surprise that there is no mention of equivalent openness being extended to Members of the European Parliament, and trusts that this omission will be immediately rectified both in the principles and in the practices of the Commission.