REPORT

on the Commission White Paper on European governance

Committee on Constitutional Affairs

Rapporteur: Sylvia-Yvonne Kaufmann
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At the sitting of 12 November 2001 the President of Parliament announced that she had referred the White Paper to the Committee on Constitutional Affairs as the committee responsible and to all interested committees for their opinions (C5-0454/2001).

The Committee on Constitutional Affairs had appointed Sylvia-Yvonne Kaufmann rapporteur at its meeting of 24 January 2001.

It considered the Commission White Paper and the draft report at its meetings of 21 June, 13 September, 11 October, 12 November and 13 November 2001.

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

The following were present for the vote: Giorgio Napolitano, chairman; Johannes Voggenhuber, and Ursula Schleicher, vice-chairmen; Sylvia-Yvonne Kaufmann, rapporteur; Teresa Almeida Garrett, Carlos Carnero González, Richard Corbett, Armando Cossutta, Giorgos Dimitrakopoulos, Manuel António dos Santos, Olivier Duhamel, Andrew Nicholas Duff, Monica Frassoni, José María Gil-Robles Gil-Delgado, Michel Hansenne, (for Christopher J.P. Beazley), Piia-Noora Kauppi (for Iñigo Méndez de Vigo, pursuant to Rule 153(2)), Jo Leinen, Hanja Maij-Weggen, Hans-Peter Martin, Konrad K. Schwaiger (for Lennart Sacrédeus), The Earl of Stockton and Dimitris Tsatsos.

The explanatory statement will be presented orally in plenary sitting.

The opinions of the Committee on Budgets, the Committee on Economic and Monetary Affairs, the Committee on Legal Affairs and the Internal Market, the Committee on Culture, Youth, Education, the Media and Sport, the Committee on the Environment, Public Health and Consumer Policy, the Committee on Women's Rights and Equal Opportunities and the Committee on Petitions are attached.

The report was tabled on 15 November 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.
MOTION FOR A RESOLUTION


The European Parliament,

- having regard to the Commission White Paper on European governance (COM(2001) 428) – C5-0454/2001,

- having regard to of the Treaty on European Union, and in particular Articles 1, 3, 5 and 6 thereof,

- having regard to the Treaty of Amsterdam's Protocol No 7 on the application of the principles of subsidiarity and proportionality and Protocol No 9 on the role of national parliaments in the European Union,

- having regard to the Charter of Fundamental Rights of the European Union, in particular Article 39 (Right to vote and stand as the candidate at elections to the European Parliament), Article 41 (Right to good administration) and Article 42 (Right of access to documents),

- having regard to the conclusions of the Lisbon European Council, in which the Commission, the Council and the Member States were asked to set out by 2001 a strategy for further coordinated action to simplify the regulatory environment, including the performance of public administration, at both national and Community level,

- having regard to the Group of Senior Advisers set up by European ministers responsible for public administration in Strasbourg on 7 November 2000, which should be involved in drawing up the strategy specified by the Lisbon European Council,

- having regard to its resolution of 10 December 1996 on the participation of citizens and social actors in the institutional system of the European Union,

- having regard to its resolution of 15 April 1999 on improvements in the functioning of the Institutions without modification of the Treaties,

- having regard to its resolution of 26 October 2000 on the Commission reports to the European Council: Better lawmaking - A shared responsibility (1998) and Better lawmaking 1999,

- having regard to its resolution of 25 October 2001 on the reform of the Council,

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1 OJ C 287, 12.10.2001, p. 1
5 OJ not yet published

having regard to its resolution of 30 November 2000 on the Commission White Paper on reform of the Commission,

having regard to the opinion of the Committee of the Regions on new forms of governance: Europe - a framework for citizens' initiative of 14 December 2000,

having regard to the Commission's interim report of 7 March 2001 to the Stockholm European Council on improving and simplifying the regulatory environment (COM(2001) 130),

having regard to the opinion of the Economic and Social Committee of 25 April 2001 on organised civil society and European governance,

having regard to the report of the Committee of the Regions of 20 September 2001 on grassroots representation,

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

having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Budgets, the Committee on Economic and Monetary Affairs, Committee on Legal Affairs and the Internal Market, the Committee on the Environment, Public Health and Consumer Policy, the Committee on Culture, Youth, Education, the Media and Sport, the Committee on Women's Rights and Equal Opportunities and the Committee on Petitions (A5-0399/2001),

whereas reform of 'European governance' must be based on a fundamental critical analysis of the democratic deficit and hence also a status report on the application of the principles of legitimacy, parliamentary scrutiny, open government, scrutiny and participation,

whereas the Commission considers its White Paper to be the first step in a reform that will take several years, will be implemented jointly with the other institutions, and will contribute to the debate on the future of Europe,

whereas the new international situation requires the European Union to improve the way it functions and the consistency of Community policies in order to make its external action more effective and to assume a key role on the world stage,

whereas there are close and sometimes inseparable links between the reform of the Commission itself, governance reform and the constitutional process on the future of the Union,
E. whereas the enlargement of the Union will confront its institutions with completely new challenges, which require a far-reaching review of its working methods and whereas the European Parliament will make its contribution to this process - in the form of internal reform which has already started and, in addition, within the framework of the work of a Convention with a view to the 2004 IGC on the further constitutionalisation of the Union,

F. whereas it is regrettable that the White Paper does not contain clear indications as to how 'governance' can be improved by increasing the transparency of the Council as co-legislator, through its Rules of Procedure and without amending the Treaties,

G. whereas the concept of efficiency in the sense of administrative efficiency must not jeopardise democratic legitimisation,

H. whereas the degree of legitimacy and acceptance of the European Union depends to a great extent on how effective its decisions are,

I. whereas the judicial mechanisms and the division of powers between the institutions are not, on their own, enough to stimulate interest on the part of citizens, and whereas a new method, as well as an appropriate communication campaign, should be introduced,

J. whereas the White Paper's main concern is to enhance the acceptance and legitimacy of the European Union through greater involvement of citizens and civil society in the framing and implementation of Union policy,

K. whereas, on the one hand, elements of participatory democracy in the political system of the Union must be introduced cautiously with a constant eye to the recognised principles and structural elements of representative democracy and the rule of law and, on the other, citizens of the Union rightly expect transparent decision-making processes and, at the same time, clear political accountability for decisions,

L. whereas the principles of specific authority\(^1\), subsidiarity\(^2\), proportionality\(^3\) and respect for the national identities of the Member States\(^4\) set strict limits on any horizontal delegation of powers to autonomous EU regulatory agencies and any vertical delegation of powers and tasks directly by the Union to regional or local level for the purposes of 'stronger involvement of regional and local authorities in the Union’s policies'\(^5\), as the Commission concedes,

M. whereas, on the other hand, the contention that the way in which the Union currently works does not allow for 'a partnership in which national governments involve their regions and cities fully in European policy'\(^6\) does not appear to be justified, because the Member States are well able under the Treaties to provide appropriately for the involvement of their regions and local authorities in the shaping and implementation of EU policy, in keeping with their respective constitutional systems,

\(^1\) Article 5 of the EU Treaty and Article 5, first paragraph, of the EC Treaty.
\(^2\) Article 2, second paragraph, of the EU Treaty and Article 5, second paragraph, of the EC Treaty.
\(^3\) Article 6(4) of the EU Treaty and Article 5, third paragraph, of the EC Treaty.
\(^4\) Article 6(3) of the EU Treaty.
\(^5\) White Paper 3.1.
\(^6\) White Paper 3.1.
N. whereas screening of the 'unwieldy system' of almost 700 advisory bodies on which the Commission relies is long overdue but, according to the White Paper on reform of the Commission, a list of the committees and working groups involved in formal or structured consultation procedures (Action 5) was to have been drawn up and published by June 2001, on the other hand a number of proposals mentioned in the White Paper such as 'online consultation through the inter-active policy-making initiative' actually give rise to the risk of an escalation in consultation and such a development would be incompatible with the White Paper's other goal of 'reducing the long delays associated with the adoption and implementation of Community rules',

O. whereas an easily achievable but important breakthrough in terms of transparency would be for the Commission to undertake to attach in future to each legislative proposal a list of all the committees, experts, associations, organisations and institutes consulted when the proposal was drafted,

P. whereas the Union should no longer put off steps to reduce the denseness of regulation, i.e. to tackle the issue of how detailed regulation should be at Union level, not least in view of enlargement, because otherwise the bodies involved in lawmaking will be in danger of imploding,

Q. whereas a solution to this problem requires a new approach to the issue of delegation of lawmaking ('commitology') and a change in the Community Treaty (Article 202 of the EC Treaty) to put the Council and Parliament on equal footing and the Commission's statements on this matter are therefore to be welcomed and its further thoughts on this issue, in particular on a 'simple legal mechanism', are awaited with great interest,

R. whereas, although they have a direct impact on the general public, the measures funded from the Union's budget do not have a high enough profile and therefore fail to make people sufficiently aware of the European added value provided,

1. Welcomes the Commission's readiness to examine critically and without exception the 'rules, processes and behaviour that affect the way in which powers are exercised at European level 'Governance' and to effect change;

2. Warns the Commission nonetheless against taking measures in the legislative sphere which might affect the roles of Parliament and the Council in the legislative process before Parliament has been fully consulted;

3. Proposes instead that the White Paper should be seen as initiating a purposeful dialogue between the institutions of the Union on governance reform, including measures in the 'first phase', and for the outcome to be incorporated into a revised text by the end of 2002;

4. Welcomes the establishment of an interinstitutional working group, as proposed by President Prodi on 2 October 2001;

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2 White Paper 3.1.
3 White Paper 3.2.
4 White Paper 3.4.
5 White Paper, I, footnote 1.
5. Reiterates its confidence in the Community method and advocates maintaining the institutional balance as the most appropriate way of moving forward in terms of integration;

6. Points out first of all that the principle of European governance cannot exist without democratically adopted own resources and without a major simplification of budgetary procedures that will ensure that they are properly understood by the general public;

7. Welcomes the efforts being made by the Commission to improve the planning of procedures; considers, however, that the strategic planning process should be reviewed in the light of the political priorities expressed by the budgetary authority and that the human resources allocated to implementing policies should be adjusted accordingly;

**Principles**

8. Confirms that the 'parliamentarisation' of the Union's decision-making system presupposes increased transparency of the work of the Council and that the involvement of both the European and national parliaments constitutes the basis for a European system with democratic legitimacy and that only regional, national and European institutions which possess democratic legitimacy can take accountable legislative decisions;

9. Considers that Parliament cannot accept the move to reduce the legislative powers and the participation in the legislative process of the one institution to be directly elected by European citizens; enhancing communication between citizens and the institutions of the Union necessarily entails strengthening Parliament's legislative powers, giving more time in which to use them and extending the realm of Community legislation in order to achieve effective harmonisation of the diverse range of national legal systems;

10. Therefore attaches particular importance to the following considerations of principle being taken into account in the further debate on governance:

   (a) governance by the Union institutions requires democratic legitimacy; this is provided jointly by the European Parliament and the parliaments of the Member States, the latter as the bodies exercising democratic scrutiny over governments acting in the Council;

   (b) democratic legitimacy presupposes that the political will underpinning decisions is arrived at through parliamentary deliberation; this is a substantive and not merely a formal requirement; there is also an urgent need for democratic legitimacy and scrutiny when implementing rules are adopted by the executive;

   (c) legitimacy is understood to mean that political decisions must be underpinned by a fundamental consensus, such as that expressed in the Charter of Fundamental Rights recognised by the European Union - in the sense of a list of individual rights and an objective value system;

   (d) legitimacy in this sense is ultimately inconceivable without clear attribution of political responsibility and cannot be replaced by 'technical' factors such as 'effectiveness' or 'coherence'
Participation and consultation

11. Points out, on the basis of these considerations, with regard to participation and consultation that

(a) in terms of the criteria referred to in paragraphs 8 and 10 above, 'organised civil society' as 'the sum of all organisational structures whose members have objectives and responsibilities that are of general interest and who also act as mediators between the public authorities and citizens\(^1\), whilst important, are inevitably sectoral and cannot be regarded as having its own democratic legitimacy\(^2\), given that representatives are not elected by the people and therefore cannot be voted out by the people,

(b) consultation of interested parties with the aim of improving draft legislation can only ever supplement and can never replace the procedures and decisions of legislative bodies which possess democratic legitimacy; only the Council and Parliament, as co-legislators, can take responsible decisions in the context of legislative procedures, due account being taken of the opinions of the bodies specified in the Treaties, i.e. in particular the Economic and Social Committee and the Committee of the Regions,

(c) an important mouthpiece for civil society is, by definition and in accordance with its newly formulated role under Article 257 as amended by the Treaty of Nice, the Economic and Social Committee, which has advisory status and which, as the law stands, may also be consulted by the Council and Commission 'in all cases in which they consider it is appropriate'\(^3\); early consultation of the ESC by the Commission can be seen as a way of increasing participatory democracy at Union level\(^4,5\)

(d) it would not be consistent with good governance for the Commission to set up groups of experts and delegate to them tasks which could better be carried out by the Economic and Social Committee in that it is independent of the Commission\(^6\),

(e) however indispensable it may be to consult relevant groups and experts when drafting legislative proposals in particular, it should not be allowed to add a further level of bureaucracy, for instance in the form of 'accredited organisations' or 'organisations with partnership agreements',

(f) in conjunction with the ESC, the Commission must find organisational structures so that a procedure for consulting interested parties can be conducted in a meaningful and efficient manner; all ongoing consultations should be listed in a register that is

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\(^2\) See also paragraph 30 of Parliament's resolution of 26.10.2000 (see 7th citation Wuermeling report).

\(^3\) Article 262 of the EC Treaty.

\(^4\) Opinion of the Economic and Social Committee of 25.4.2001, points 4.1, 4.2.1, 4.6 and 5.5 'Proposals and guidelines', Proposals 1 and 2.

\(^5\) See also paragraphs 28 and 37 of Parliament's resolution of 10.12.1996 (see 5th citation 'Herzog report').

\(^6\) A preliminary draft opinion of the Governance subcommittee of the Economic and Social Committee quotes the example of the Group for Industrial Policy which is responsible for the competitiveness of industry and is made up of 30 members from the Member States and 40 from the Commission, which leads to vast additional costs. (Document CES 95/2001, 22.2.2001, 4.2.2).
accessible via the Internet;

12. Proposes, following on from the suggestions made by the Commission and the Economic and Social Committee\(^1\), that an interinstitutional agreement on democratic consultation be concluded committing all three institutions to commonly agreed consultation standards and practices at Union level; points out, however, with regard to the independent role of many non-governmental organisations, that the creation of consultation standards must not be tied to any quid pro quo on the part of organisations of civil society because independent and critical public opinion is essential for a vibrant democracy; confirms, however, that the democratic requirements placed on the Community regulatory process as regards accountability and transparency must also apply to these organisations;

13. Points out that access to legislation is an important part of effective participation and consultation, so that legislation must be both consistent and clear, access thereto must be practical, and there must be better understanding of laws by those concerned;

14. Takes the view that this requires effective publicity and the best possible forms of communication, direct (to members of the public) and indirect (via the press), in order to arouse interest and win the public's support for measures to be taken;

15. Emphasises the opportunity which new technologies present as regards meeting new challenges concerning communication, consultation and the direct participation of civil society;

**Autonomous regulatory authorities**

16. Takes the view, based on the principles set out in paragraphs 8 and 10, that the creation of further independent regulatory authorities in addition to the Office for Harmonisation in the Internal Market in Alicante, the Community Plant Variety Office in Angers and the European Agency for the Evaluation of Medicinal Products in London within the framework described in the White Paper\(^2\) can be approved if specific scientific or technical expertise is required and a decentralised administration seems appropriate; however, this must not lead to a reduction in expert and judicial scrutiny by the Commission or to any watering down of the Commission's political accountability;

17. Points out, however, that the Commission must always have the necessary instruments to enable it to account to Parliament and the Council for the activities of such authorities and it goes without saying that authorities of this kind can be created only on a clear legal basis;

18. Remains committed to the principle of autonomous enforcement of Community law by national governments and regions, because this leads to a transparent division of tasks, clear accountability and implementation of EU law that is close to the citizen; insists, however, on effective monitoring of compliance with obligations under European law, e.g. by means of Treaty infringement procedures;

\(^1\) White Paper 3.1 'What is needed is a reinforced culture of consultation and dialogue; a culture which is adopted by all European Institutions and which associates particularly the European Parliament in the consultative process, given its role in representing the citizen' and ESC opinion of 25.4.2001, 3.5, 3.5.1.

\(^2\) White Paper 3.2.
19. Points out that the right of codecision and political scrutiny by the European Parliament and the Council would become more difficult if EU administrative powers were increasingly delegated to European agencies with decision-making powers; moreover, increasing fragmentation of the 'EU executive' would make the Union less transparent for its citizens; administrative powers must therefore be 'delegated' to agencies only in the case of decisions of a purely technical nature which have no political dimension, scientific support or subject matter that is highly specialised and subject to very detailed regulation;

Openness and transparency

20. Takes the view that increased transparency and openness on the part of the Council as legislator is a sine qua non for good governance and that keeping interested parties informed of the Council's legislative work is the basic precondition for improving understanding and increasing participation on the part of the general public;

21. Stresses once again in this connection the need for the Council to hold its meetings in public when acting in a legislative capacity: in such cases, debates and votes must be made public; pursuant to the Council's Rules of Procedure, public debates must take place at the start and at the end of all legislative procedures, and the results of votes and explanations of votes by Members of the Council must be published;

22. Regrets that the White Paper makes no reference to the institution of the petition to the European Parliament and complaints to the European Ombudsman, particularly given that the Commission makes a much appreciated and frequently decisive contribution to the processing of petitions in the interest of the European citizen;

23. Regrets that although the White Paper mainly deals with matters falling under good administration, the Commission has not been able to take a position on the European Parliament's and the European Ombudsman's initiative on good administration;

24. Finds it deplorable that the draft code of good administration does not serves as a point of departure when the Commission elaborates concrete actions to follow the White Paper;

25. Regrets that the Commission does not mention the new regulations on access to documents in the White Paper, since it is evident that proper implementation of these rules and the allocation of adequate resources to that end are of paramount importance for the achievement of good governance in the EU;

Involvement of regional and local authorities

26. Points out furthermore that, on the basis of the considerations set out in paragraphs 8 and 10 above, that there is no question of the direct delegation of powers and tasks to bodies or authorities at regional or local level in the Member States as this would undermine the basic structure of the Union and be in breach of the principles of subsidiarity and proportionality which leaves it up to Members States to decide how to organise themselves internally;
27. Considers that greater involvement of the regional and local authorities in Union policy\footnote{White Paper 3.1.} should rather be achieved by enlisting expertise and experience at regional and local level in the Member States at an early stage in the preparation of legislation, there being nothing to prevent the Commission from asking the Committee of the Regions, as a forum for the regions and local authorities, for appropriate surveys and opinions at an early stage, in particular with respect to the anticipated follow-up costs of legislative proposals at the relevant level\footnote{See study commissioned by Parliament on regulatory impact analysis (RIA) and the report on grassroots representation adopted by the Committee of the Regions on 20.9.2000 (CdR 436/2000).};

28. Is also of the opinion that the development of a dialogue with associations of municipalities should result in municipalities and local authorities being consulted on all Commission plans that affect their interests;

**Better lawmaking**


30. Considers that the drafting of an 'action plan for better regulation' by a Council working party (Mandelkern group on better regulation) and, at the same time, by a Commission working party with a similar brief, represents a serious breach of the Community method, for Parliament, as co-legislator, was neither informed of, nor involved in, the work of these working parties;

31. Calls on the European Council not to adopt the 'Action Plan for Better Regulation' without first consulting the European Parliament;

32. Recalls that, on 2 October 2001, Commission President Prodi assured the European Parliament that the Commission would not present such a plan either to the Laeken European Council or at any other time, without first obtaining Parliament's opinion; calls on the Commission, therefore, not to submit an 'action plan for better regulation', or any other document with the same content but under a different name, to the Laeken European Council before Parliament, as co-legislator, has delivered an opinion;

33. Considers that there are currently no interinstitutional agreements on co-regulation which guarantee Parliament effective exercise of its political role and responsibility, either with regard to the appropriate choice of a legal instrument (while respecting the Commission's right of initiative), or with regard to the form and implementation of a proposed co-regulation;
34. Believes that the use of so-called 'framework' directives must be accompanied by adequate mechanisms of democratic control; in particular, Parliament must in future dispose of a time-limited 'call-back mechanism' for legislation which is delegated;

35. Points out that these methods require further examination and consideration in Parliament and should be regulated by an interinstitutional agreement; if the Commission assumes that co-regulation 'should not be used in situations where rules need to apply in a uniform way in every Member State' then its scope of application is unlikely to be very wide; in no circumstances however should it be allowed to result in a situation in which targets for industry for the purposes of environmental protection are fixed in a way that circumvents Parliament and merely approved by the Council under agreements between the Commission and trade associations which are neither ‘representative’ nor ‘accountable’;

36. Has fewer reservations about the open method of coordination if it is confined to the exchange of procedures that have proved their worth and the comparison of progress achieved and does not apply in the sphere of preparation of European Council meetings from which Parliament is excluded; it must under no circumstances lead to hidden parallel legislation by circumventing the legislative procedures established in the EC Treaty;

37. Points out that better law-making must become part of public administration 'culture' at all levels in the European Union, and must also encompass the implementation of laws and rules by Member State authorities; this will require effective and appropriate information and training of officials, both at European level and at national, regional and local levels, in order to guarantee decentralised administration and 'Europe-friendly conduct' at all levels;

38. Considers that any amendment to Community legislative provisions relating to the institutional and legal aspects of governance must be made by means of amending the Treaties in force and hence be placed on the agenda for the next Convention;

39. Calls on the Commission, in order to 'give priority to consideration of any infringements of Community law' – as it has expressed the intention of doing – not to hesitate to initiate measures possibly leading to proceedings for non-compliance before the Court of Justice of the European Community against Member States under Article 226 of the Treaty;

40. Urges the Commission to intensify its efforts to complete its own administrative reform so as to establish a first-class, open and transparent public administration, without which it will be impossible to aspire to being the principal executive in a well-managed and accountable Union;

Cooperation with the European Parliament

41. Expects the Commission to intensify cooperation in particular with Members of the European Parliament and to support them in what is the most fundamental of their tasks, in maintaining a dialogue with the citizens, the relevant Commission departments making available all the information needed for this purpose, e.g. on progress with administrative procedures and upcoming deadlines, and in particular providing full and detailed information upon request; Enlargement
42. Notes that the political dimension of enlargement is scarcely mentioned in the White Paper despite the fact that in its opinion on the convening of the last Intergovernmental Conference the Commission rightly pointed out that 'enlargement requires changes in the way in which the institutions operate to ensure their effectiveness in a Union whose membership is set to double'; against the background of enlargement, the question of the costs of the reforms to involve citizens and civil society proposed by the Commission also takes on a completely different light.

**Convention and Intergovernmental Conference**

43. Points out that it will examine the topics dealt with in the last chapter of the White Paper ('Debate on the future of Europe') on the basis of separate reports drawn up by the committees responsible and, consequently, these topics will not be discussed in this motion for a resolution in order to avoid overlapping and repetition.

**Specific measures proposed by the Commission**

44. Intends to examine carefully as soon as they are submitted to it the numerous individual proposals and measures announced in the White Paper, such as:

- guidelines on collection and use of expert advice,
- priority attached to treatment of possible breaches of Community law,
- criteria for the creation of new regulatory agencies,
- defining minimum standards for consultation and publishing them in a code of conduct,
- developing an approach to working with key networks,
- programme to review and simplify Community legislation adopted before 2000, supported by fast track procedures,
- codifying the current administrative rules concerning the handling of complaints,
- examining how the framework for trans-national co-operation of regional or local actors could be better supported at EU level.

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2 See, with respect to Parliament, the report adopted by the Bureau on 3 September 2001 'Preparing for the Parliament of the enlarged European Union', PE 305.269/BUR/fin..
3 White Paper 3.2.
4 White Paper 3.2 (Box).
5 White Paper, Proposals for change.
6 White Paper 3.1, Action Points.
7 White Paper 3.1 Action Points.
8 White Paper 3.2 Action Points.
10 White Paper 3.1 Action Points.
- proposing twinning arrangements between national administrations\(^1\),

- a review of the Union’s international representation\(^2\);

45. Instructs its President forward this resolution to the Commission, the Council, the Economic and Social Committee, the Committee of the Regions and the governments and parliaments of the Member States.

\(^1\) White Paper 3.2 Action Points.
\(^2\) White Paper 3.3 Action Points.
OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Constitutional Affairs

on the Commission White Paper on European governance

Draftsman: Catherine Guy-Quint

PROCEDURE

The Committee on Budgets appointed Catherine Guy-Quint draftsman at its meeting of 1 October 2001.

It considered the draft opinion at its meeting of 6 November 2001.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Terence Wynn, chairman; Reimer Böge, vice-chairman; Catherine Guy-Quint, draftsman; Paulo Casaca, Carlos Costa Neves, Den Dover, Salvador Garriga Polledo, Neena Gill, Jutta D. Haug, Anne Elisabet Jensen, Juan Andrés Naranjo Escobar and Ralf Walter.
The budgetary issues raised by the White Paper

The draftsman's main criticism concerning the principles underpinning the White Paper is that the resources made available to the Union do not show the necessary degree of ambition. In her view, European governance is impossible unless a system of own resources approved directly by the budgetary authority is introduced and the budgetary procedures governing the process of making available the resources that the Union provides for the benefit of citizens through its programmes are simplified.

It must also be said that budgetary decisions are implemented in a way that does not give them a sufficiently high profile to make the general public aware of the Community added value provided.

The draftsman will confine her remarks strictly to those measures which have implications for the EP's budgetary powers or on which the Committee on Budgets has expressed a view in the past, namely:

- **communicating more actively with the general public on European issues:** over recent years the Committee on Budgets has made use of various budgetary instruments - particularly the placing of appropriations in the reserve - in an attempt to develop an integrated information policy based on synergies and closer interinstitutional cooperation (joint drafting committees, joint Web sites, sharing of premises by Parliament and Commission external offices, setting up of a interinstitutional working party). In its capacity as the Union's executive body, the Commission is responsible for conducting a common, decentralised public information policy and for getting the best possible value for money from the € 86 million which the budgetary authority makes available to it. The draftsman considers that these measures have already produced encouraging results and should be continued;

- **regional and local authority staff exchanges:** the Committee on Budgets has consistently encouraged the Commission to step up such exchanges on condition that they are cofinanced, the a geographical balance is respected and that they the involve the exchange of officials from national, regional or local authorities and Community officials (from all institutions);

- **simplification of Community legislation:** with a view to improving quality and efficiency, the White Paper provides for greater use being made of regulations, which speed up the harmonisation process because they do not need to be transposed into national law, and of framework directives, which offer greater flexibility as to their implementation. The White Paper also provides for greater use being made of 'co-regulation', which combines binding legislative or regulatory action with practical action taken by the actors concerned. The draftsman would emphasise that, having gradually taken on the role of co-legislator with each new treaty, the EP is certainly not prepared to restrict its codecision powers. Legislation based on regulations (which are directly applicable in the Member States) is undoubtedly simpler and faster, but it is less democratic than legislation adopted under the codecision procedure by the European Parliament, whose Members are elected by universal
suffrage. Conversely, accelerated procedures (a single reading) could be used more widely and the possibility of new forms of regulations could be explored as long as the balance between the institutions laid down by the Treaty is maintained;

- **oversight of implementation**: the White Paper states that *the European Parliament should enhance its control on the execution of EU policies and the implementation of the budget. This means departing from the present emphasis on detailed accounting with more policy-oriented control based on political objectives*. Over the last few years, and in particular during the 2001 and 2002 budget procedures, Parliament has endeavoured to improve its oversight of implementation (absorption of outstanding commitments on the one hand and planning of expenditure on the other). Some adjustments to the EP's in-house procedures have become necessary. The Commission should say exactly which it means by emphasis on *accounting*;

- **strategic planning**: in her report on the White Paper, the draftsman stressed the importance of the new planning and management tools introduced by the Commission (APS, ABM and ABB). She feels it necessary to point out here that these tools cannot be of any interinstitutional significance unless they cover the various stages in the budget procedure without changing the balance of power between the institutions;

- **setting up new regulatory agencies**: the Committee on Budgets has repeatedly expressed doubts about outsourcing (TAOs, executive agencies and national agencies) and drawn attention to the risks it involves in terms of supervision, the fragmentation of resources, the relinquishing of public service duties and the cost of the agencies themselves. A report which the Commission recently drew up at the Committee on Budget's request confirms the fact that decentralised activities cost more than centralised activities. In its resolution on the first reading of the budget¹, Parliament called on the Court of Auditors to conduct an assessment of the agencies' productivity and effectiveness.

## CONCLUSIONS

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

- whereas, although they have a direct impact on the general public, the measures funded from the Union's budget do not have a high enough profile and therefore fail to make people sufficiently aware of the European added value provided,

1. Points out first of all that the principle of European governance cannot exist without democratically adopted own resources and without a major simplification of budgetary procedures that will ensure that they are properly understood by the general public;

2. Calls on the Commission to instruct the interinstitutional working party on information policy to make annual reports on the governance-related action taken;

3. Calls for the Commission to submit in support of the human resources requests which

it makes in the PDB a detailed, costed plan of the exchanges it intends to organise, indicating which authorities will be supplying the staff, which DGs or policy areas the national, regional or local officials will be assigned to and the length of the relevant contracts, as well as equivalent information in respect of Community officials to be seconded to authorities in the Member States;

4. Draws attention to the fact that, under the joint statement of 20 July 2000, all proposals with budgetary implications must be assessed by the budgetary authority during the legislative process; points out that adjustments will therefore need to be made to internal rules and that the above requirement will need to be taken into account in all reform proposals;

5. Restates its desire to carry out qualitative and quantitative monitoring of the implementation of budgetary decisions through its relevant bodies, and calls for the necessary financial and human resources to be provided within the European Parliament;

6. Stresses that any legislative decisions taken shall be without prejudice to previously taken budgetary decisions;

7. Welcomes the stated intention to amend Article 202 on comitology in accordance with the repeated requests made by Parliament over recent years, particularly during the 2001 and 2002 budget procedures, so as to enable the Commission to resume full responsibility for its implementation duties in accordance with Article 274;

8. Welcomes the efforts being made by the Commission to improve the planning of procedures; considers, however, that the strategic planning process should be reviewed in the light of the political priorities expressed by the budgetary authority and that the human resources allocated to implementing policies should be adjusted accordingly;

9. Points out that, should the Union decide to adopt a large-scale outsourcing strategy as part of its policy on governance, an article dealing specifically with agencies should be inserted in the Treaty, Parliament should be consulted on the establishment of regulatory agencies, and a prior assessment should be made of the implications of such a move with reference to:

- the relinquishment of public service duties;
- the Community principle being undermined by geographical fragmentation;
- added value for the general public;
- value for money in comparison with decentralised activities;
- duplication and redeployment of human resources.
16 October 2001

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on Constitutional Affairs

on the Commission White Paper on European governance

Draftsman: Karl von Wogau

PROCEDURE

The Committee on Economic and Monetary Affairs appointed Karl von Wogau, draftsman at its meeting of 9 October 2001.

It considered the draft opinion at its meetings of 10 October 2001 and 16 October 2001.

At the latter meeting it adopted the following conclusions unanimously.

SHORT JUSTIFICATION

The Union's decision-making process is becoming further and further removed from the concerns of European citizens, who are displaying a growing mistrust of the objectives of the Union's policies and measures. The Commission proposes that the Community method be brought up to date on the basis of openness, participation, accountability, effectiveness and coherence, whilst observing the principles of proportionality and subsidiarity. It claims that it is necessary to implement an enhanced culture of consultation and dialogue, to reform comitology comprehensively and also to guarantee better representation of the Union in international organisations. The EMU is a very specific area at the height of its development. In addition, the European Central Bank occupies a very special place. Finally, strengthening coordination between monetary policies will probably mean an increased role for the Euro-group, which, whilst retaining its informality, will be called upon to become an essential institutional player. This particular characteristic must be guaranteed by maintaining an institutional equilibrium which respects the independence of the European Central Bank and its democratic accountability to Parliament. Better international representation of the Union, for example at the level of the Monetary Fund or the World Bank is also necessary from now on. Finally, with regard to financial services, the widest possible consultation of economic operators cannot replace Parliament's role as a co-legislator and guarantor of the interests of citizens.

For this initiative to be successful, legislation must be clearly defined by specifying whether legislative acts are regulatory, programme-based or budgetary.

CONCLUSIONS

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

1. welcomes the White Book on governance and the principles of good governance; underlines however that the principles of a parliamentary democracy and the co-decision procedure in the European legislation should be maintained;

2. calls for the extension of co-decision procedure in the field of Economic and Monetary Union especially in relation to competition and economic policies;

3. Advocates making a clear distinction between general legislation and implementing measures coming within the powers of the executive authority; calls, with this in mind, for an in-depth study to be drawn up to see whether the detailed rules for the application of legislative provisions could be laid down by the Commission or by means of self-management procedures, more specifically in areas where the legislation is of a technical nature, agriculture and financial services.

4. welcomes the Commissions support for the European Parliaments call for secondary legislation and the modification of article 202 of the Treaty but insists that any change in secondary legislation should guarantee the institutional balance between the institutions;
5. Believes that it is necessary, in particular in the light of the results of the negotiations on the 'Lamfalussy' approach, to provide safeguard mechanisms, and more particularly a recall procedure enabling it to reappropriate its legislative power where it disagrees with the detailed rules for the implementation of the legislation, with the aim of guaranteeing the democratic legitimacy of the legislative process;

6. calls for a strengthened role of the European Parliament in introducing the confirmation procedures for the nomination of chairs of expert committees dealing with secondary legislation;

7. Recalls the particular characteristics of the EMU's operational rules, and more particularly the requirements of equilibrium between the institutions and the independence of the European Central Bank, which are still essential to ensure the smooth functioning of that system.
6 November 2001

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Constitutional Affairs

on the Commission White Paper on European governance

Draftsman: Manuel Medina Ortega

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Manuel Medina Ortega draftsman at its meeting of 10 July 2001.

It considered the draft opinion at its meetings of 19 September, 11 October and 6 November 2001.

At the last meeting it adopted the following conclusions by 21 votes to 0, with 2 abstentions.

The following were present for the vote: Ana Palacio Vallelersundi, chairman; Willi Rothley and Ward Beysen, vice-chairmen; Manuel Medina Ortega, draftsman; Pedro Aparicio Sánchez (for Enrico Boselli pursuant to Rule 153(2)), Paolo Bartolozzi, Luis Berenguer Fuster, Raina A. Mercedes Echerer, Janelly Fourtou, Gerhard Hager, Malcolm Harbour, Heidi Anneli Hautala, Kurt Lechner, Klaus-Heiner Lehne, Neil MacCormick, Toine Manders, Luís Marinho, Arlene McCarthy, José María Mendiluce Pereiro (for Carlos Candal pursuant to Rule 153(2)), Bill Miller, Angelika Niebler, Diana Wallis, Joachim Wuermeling and Stefano Zappalà.
SHORT JUSTIFICATION

1. The Commission’s White Paper on European Governance deals with issues within the area of competence of the Committee on Legal Affairs and the Internal Market which the committee responsible ought to take into consideration because of their impact on the European Parliament’s powers within the European Union’s institutional system.

2. The term ‘European governance’ does not exist in the day-to-day language of European citizens. In Spain, in the eighteenth century, the phrase existed as a Gallicism, but it disappeared in subsequent centuries. Today it has reappeared as an Anglo-Saxon term of political science (governance), but its translation into Spanish as ‘gobernanza’ has little significance for the average citizen. The introduction states that ‘governance’ concerns the way in which the Union uses the powers transferred to it by its citizens, and that the White Paper proposes opening up the political decision-making process to get more people involved. If this is the aim of the governance exercise, it would be preferable to use some other expression more easily understood by the citizens, such as ‘democratic government’ or ‘improvement of decision-making processes’.

3. The White Paper does not restrict itself to proposing improvements in public participation in decision-making processes, but goes further and proposes changes to the European Union’s legislative processes, calling for them to be both speeded up and simplified. The White Paper displays the Commission’s preference for co-regulation and other non-legislative decision-making processes. The document also refers to the need to find new mechanisms for the Union’s international representation and to reformulate the Commission’s executive powers. There are proposals in Section I, couched in general terms, for a reform of ‘European governance’, in response to the general perception that the Union is unable to act effectively and the lack of knowledge that people have about how our institutions work. In order to remedy these deficiencies it is proposed that the linear model of top-down decision-making be replaced by a new method which pays more attention to citizens’ needs.

4. The Commission proposes to improve communication with the public by means of networks, grassroots organisations and regional and local authorities. The aim would be to create a trans-national ‘space’ where citizens could communicate directly with the European institutions. Although one cannot oppose an improvement in systems for communication with citizens, in democratic societies there are institutionalised methods for citizens to make their voices reach the centres of power: elections, plebiscites and referenda. No technical procedure or informal channel can be a substitute for the existing procedures for democratic expression, since citizens reach public office through the poll-booths, and the voice of the citizens is expressed through electoral processes in which independence is guaranteed.

5. The intention to replace the legislative process with informal and flexible decision-making procedures also threatens one of democracy’s basic pillars: legislation. In a democracy, legislation, or law, is the expression of the general will. Constitutions grant legislative power to the institution which is the most credible representative of the people’s will: Parliament. In the European Union, legislative power is shared by two institutions: Parliament, directly elected by the citizens, and the Council, made up of members of
democratic governments who are in turn answerable to their own national parliaments. Replacing this process with ‘dialogue’ with interested parties, regional and local authorities or representatives of non-governmental organisations would represent a serious distortion of democratic processes. Direct democracy, feasible in the small cities of ancient Greece or in a Swiss district with a small population, cannot be translated to large-scale modern societies. The multiplication of consultation procedures and bodies recommended by the White Paper will not improve decision-making procedures but will in most cases complicate and delay them even more.

6. The Commission’s proposals designed to reduce the scope of Community legislation would imply a real reduction in the powers of Parliament and the Council, are in breach of the Treaties and would be counter-productive, because they would limit the scope to harmonise the different national laws. Co-regulation would leave legislative powers in the hands of powerful economic groups, to the detriment of the public interest and the weakest sectors – workers and consumers – who are best defended by means of laws adopted by democratically elected bodies.

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 points in its motion for a resolution:

Paragraph 1

Recommends that the term ‘governance’ should be replaced by another more easily understood expression such as ‘improvement of decision-making processes’ or ‘democratic government’.

Paragraph 2

Considers that Parliament cannot accept the move to reduce the legislative powers and the participation in the legislative process of the one institution to be directly elected by European citizens. Enhancing communication between citizens and the institutions of the Union necessarily entails strengthening Parliament’s legislative powers, giving more time in which to use them and extending the realm of Community legislation in order to achieve effective harmonisation of the diverse range of national legal systems.

Paragraph 3

Considers that the improvement of communication systems between citizens and the Community institutions is no substitute for access by citizens to public office through electoral processes which are open and guaranteed. The only proper way for European civil society to express itself democratically is through these electoral processes and the representatives elected at the polling-booths.

Paragraph 4
Affirms that in democratic societies the public legislative process is the responsibility of representative bodies elected by the people, and cannot be replaced by self-regulatory or co-regulatory systems run by parties with an economic stake in the outcome.

Paragraph 5

Is aware of the fact that Community law adopted through the Union’s legislative powers (Parliament and the Council) must be sufficiently precise to allow it to be applied by the Union’s executive (the Commission) and by national executive bodies with the greatest possible degree of harmonisation in order to reduce the possibility of divergent interpretations. Legislative delegation to executive bodies must in all cases be subject to the control of the legislative authority, which must retain the possibility of taking back legislative power if the executive bodies do not apply the law in a precise manner.
OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY

for the Committee on Constitutional Affairs

on the Commission White Paper on European governance

Draftsman: Caroline F. Jackson

PROCEDURE


It considered the draft opinion at its meeting of 5 November 2001.

At the latter it adopted the following conclusions unanimously.

The following were present for the vote: Guido Sacconi, acting chairman; Alexander de Roo, vice-chairman; Caroline F. Jackson, draftsman; Per-Arne Arvidsson, María del Pilar Ayuso González, John Bowis, Chris Davies, Laura González Álvarez, Robert Goodwill, Cristina Gutiérrez Cortines, Christa Klaß, Hans Kronberger, Torben Lund, Rosemarie Müller, Riitta Myller, Marit Paulsen, Giacomo Santini, Phillip Whitehead.

SHORT JUSTIFICATION

The introduction of new policy tools could, in general, lead to greater flexibility and to faster and less detailed legislation, but could also open the door to weak and unclear regulation, to a weakening of the Community's collective endeavour and a lack of democratic control.

Recourse to new policy tools must, in any case, be accompanied by a careful look, instrument by instrument, at systems of democratic accountability (to the European Parliament, in particular) and their adequacy. Strong democratic legitimacy of EU law must be safeguarded in all cases. Therefore, greater use of alternative regulatory instruments, including framework
directives as well as self- and co-regulatory arrangements require full backing of Council and Parliament acting as co-legislative authorities, both at the initial (as to the choice of instruments) and subsequent stages (as to the quality of the proposed arrangement).

Framework directives concentrating on a limited set of essential requirements might be a good idea in theory, but they could be difficult to implement in practice. A key feature of the New Approach Internal Market Directives in the 1980's was to have less detailed directives, but they had only limited success.

When framework directives do not go into details, implementing "comitology" measures can contain sensitive political and commercial issues which merit close Parliamentary scrutiny and cannot be delegated to executives. The European Parliament's role will need to be reinforced if greater reliance is made on such measures, as is indeed recognised by the Commission. A possible way of doing this could be a revision of the 1999 Comitology Decision to ensure Parliament and Council equality in monitoring and controlling implementing measures. In particular, the envisaged extension of the delegation of executive powers to the Commission within framework directives is unacceptable if not completed by a call-back mechanism for secondary legislation to be activated in cases of insufficient progress, or of implementing measures taken in contradiction or beyond the scope of the essential elements defined in the framework directives, or else raising issues of particular sensitivity.

As regards implementation of EU measures in the wider sense, it sounds sensible for the Commission to establish criteria to focus its work in investigating possible breaches of Community law. On the other hand, why is this needed at all? The task should be a simple one, since all that the Commission has to do is to fully use its existing powers. The problem seems to be that the Commission appears reluctant to use them, for fear of offending the Member States.

The idea of greater flexibility that the White Paper talks about in relation to the implementation of Community legislation "in a way that takes account of regional and local conditions" carries considerable risks. If legislation is implemented in this way, then any idea of getting Member States up to more or less the same standard may be a lost cause, especially since the EU is currently trying to keep the acquis intact while negotiating with the Member States;

Voluntary agreements may speed up the process of legislation and have the advantage of a more direct involvement of stakeholders. On the other hand they also pose a great number of problems as long as it is not clear when they would be appropriate and how and when the European Parliament would be involved. They should be accompanied by "fail-safe mechanisms", including when and how to introduce legislation if voluntary agreements fail.

The ideas of improved consultation mechanisms and sources of expertise are to be welcomed, although what is meant by minimum standards needs to be more carefully spelled out. There is a need for a better preparatory phase, and for an assessment of whether legislation is needed and its possible impact. There should be an open and more transparent system of consultation and expert advice and one that does not rely so much on the "usual suspects" but is not too bureaucratic or corporatist either. There does not need to be a new network of intermediaries
between the concerned public and decision-makers.

It seems to be a good idea to develop criteria for establishment of regulatory agencies. However, it must be explained how these criteria would apply to the new agencies currently being set up by the Community under existing powers. The democratic accountability of the agencies will also have to be reinforced.

**CONCLUSIONS**

The Committee on the Environment, Public Health and Consumer Policy calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

**Better Lawmaking**

1. recognises that the use of new policy instruments could be fuller and more flexible in certain circumstances, but could also lead to a loss of overall cohesion, to weaker and uneven regulation, and could also undercut democratic accountability and the European Parliament's hard-won powers of codecision;

2. asks the Commission to accompany the introduction of new policy tools with a careful analysis, instrument by instrument, of how democratic control by the legislative authorities can be ensured;

3. asks the Commission to outline its criteria as to when voluntary agreements might be appropriate, how and when the European Parliament would be involved and asks for the introduction of a "fail-safe mechanism" including when and how to introduce legislation if voluntary agreements fail;

4. reiterates therefore its request to have a legal framework adopted on voluntary agreements, which grants the Council and the European Parliament the right of participation and adoption of objectives, guarantees the access and involvement of the public, and contains effective monitoring mechanisms and penalties;

5. agrees that regulations can have advantages over directives in some cases, but that they are often extremely difficult to deliver politically;

6. raises strong doubts about the promotion of different policy tools if this is to endanger common Community standards and to constitute a tacit admission that some countries will have weaker standards than others;

7. asks the Commission to further specify how it plans to simplify laws while, at the same time, maintaining the acquis communautaire in the context of the enlargement of

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the Union;

8. believes that the co-regulatory approach - given its legally non-binding nature and the fact that it substitutes itself generally to what would otherwise be regulated by a directive under the co-decision procedure - needs to be brought into a more appropriate inter-institutional context, in that both Parliament and Council should be formally consulted on a case-by-case basis whether a co-regulatory arrangement is the most appropriate means in comparison to legally binding instruments and, once a draft agreement is proposed by the Commission, whether this is appropriate and should be concluded;

9. asks, in particular in the light of the possible increased use of new policy instruments, for the Commission to come forward with a proposal for a revision of the 1999 Comitology Decision, to ensure European Parliament and Council equality in monitoring and controlling implementing measures, and providing for appropriate call-back mechanisms for secondary legislation. Further suggests the possible introduction of "sunset" clauses for certain implementing measures, whereby they would expire after a certain date unless explicitly affirmed and prolonged by the Parliament;

**Implementation and enforcement of EU legislation**

10. calls for the Commission to make more vigorous use of its existing powers as regards implementation of EU legislation, but welcomes the Commission's recognition that the European Parliament has to play an increased role in monitoring implementation;

11. welcomes the idea that the Commission will establish criteria to focus its work in investigating possible breaches of Community law; underlines, however, that this is not sufficient and that the Commission has to use to the full its powers, in order to ensure that the provisions of the EC Treaty, and measures taken by the institutions pursuant thereto, are properly applied;

12. expresses strong doubts about the greater flexibility that the White Paper mentions in relation to the implementation of Community legislation "in a way that takes account of regional and local conditions", since this would lead to different standards of implementation;

13. believes that co-regulatory arrangements (such as the one currently proposed on pedestrian protection) must in all cases be subject to a close monitoring by the Commission to ensure their full implementation by industry or other parties that may have agreed to it; accordingly, the Commission should inform Parliament and Council annually about the degree of implementation of co-regulatory arrangements;
Participation and consultation

14. welcomes the idea of publishing the source of expert advice, since this will help to allay the suspicion of the Commission just listening to one side, or of particular groups getting privileged access;

15. asks the Commission to specify what it means by the idea of a code of conduct setting forward minimum standards for consultation;

16. pleads for an inter-institutional agreement on democratic consultation which would commit the Commission as well as the European Parliament and the Council to commonly agreed consultation standards and practices at EU level;

17. in order to increase the transparency of the Council, requests that when the Council acts as legislator both the deliberations and the votes should be in the public domain;¹

18. suggests that the Joint Research Centre no longer reports directly to the Commission, but be an independent body reporting to the European Parliament and Council as well as the Commission;

Autonomous regulatory authorities

19. asks the Commission to clarify what is meant by using the White Paper to start a process of defining "the criteria for the creation of new regulatory agencies and the framework within which they should operate" and how these criteria are to be applied to the new agencies which are currently being set up;

20. underlines the importance of an "effective system of supervision and control" of the agencies as mentioned in the White Paper; democratic accountability of the agencies could for example be enhanced by their directors being confirmed by, and reporting to, the European Parliament.

The EU’s contribution to global governance

21. asks the Commission to encourage EU companies to follow EU environmental legislation in their investments outside the EU by adopting a mandatory code of conduct setting minimum standards;

22. stresses that the Community's right to legislate on the protection of social and public services, social and environmental standards and the right to take precautionary measures to protect public health, consumers and the environment must be insulated against challenges from the WTO;

OPINION OF THE COMMITTEE ON CULTURE, YOUTH, EDUCATION, THE MEDIA AND SPORT

for the Committee on Constitutional Affairs

on the Commission White Paper on European governance

Draftsman: Barbara O'Toole

PROCEDURE

The Committee on Culture, Youth, Education, the Media and Sport appointed Barbara O'Toole draftsman at its meeting of 17 September 2001.

It considered the draft opinion at its meetings of 9-10 and 15-16 October 2001.

At the latter it adopted the following conclusions unanimously.

The following were present for the vote: Giuseppe Gargani, chairman; Vasco Graça Moura, vice-chairman; Barbara O'Toole, draftsman; Ole Andreasen, Pedro Aparício Sánchez, Christine de Veyrac, Raina A. Mercedes Echerer (for Eurig Wyn), Geneviève Fraisse, Ruth Hieronymi, Karin Junker (for Lissy Gröner), Elizabeth Lynne (for Marco Formentini), Lucio Manisco, Mario Mauro, Pietro-Paolo Mennea, Doris Pack, Marieke Sanders-ten Holte, Luckas Vander Taelen, Stavros Xarchakos (for Mónica Ridruejo), Theresa Zabell and Sabine Zissener.
SHORT JUSTIFICATION

1. **Background:** In early 2000, the Commission listed reform of European governance as one of its four strategic objectives. In doing so, the Commission was responding to diminishing confidence among Europeans in the ability of politicians and political institutions to find solutions to the problems they face in their everyday lives - the impact of globalisation, unemployment, environmental problems, crime, and so on. This lack of confidence is manifested in distrust of, and disengagement from, formal politics at all levels in Europe. But it is particularly apparent in citizens' attitudes towards 'Brussels': the institutions of the European Union are poorly understood, and commonly seen as both too remote and too intrusive.

THE WHITE PAPER

2. **'European Governance: A White Paper'** was published on 25 July 2001 and presented formally to the Parliament by President Prodi during the September part-session. It is the Commission's attempt to address 'the way in which the Union uses the powers given by its citizens': its overall goal is to 'help people to see how Member States, by acting together within the Union, are able to tackle their concerns more effectively'. The White Paper lists the principles of good governance as openness, participation, accountability, effectiveness and coherence; and proposes reforms grouped under four headings.

3. **Better involvement and more openness:** The formulation and adoption of policy must be more open and easier to understand. The Commission will provide up-to-date on-line information on policy formulation at all stages of the decision-making process. It will also take steps such as drawing-up and publishing standards for consultation on EU policy, making Community legislation more flexible so that it can be implemented with due regard for regional and local conditions, and consulting national and European associations of local and regional government early on in the policy-making process. The overall aim is to get more outside groups (local and regional government, non-governmental organisations) involved in EU policy-making.

4. **Better policies, regulation and delivery:** The goal is 'to improve the quality of its [EU] policies'. The principles of necessity (is action needed?) and subsidiarity (if so, is it needed at European level?) must be respected. Where European legislation is necessary, it must be made more quickly, strike the right balance between uniformity and flexibility, and win the confidence of citizens in the way that experts' advice has helped shape it. The concrete steps the Commission proposes include a further simplification of EU law and of the national implementing provisions imposed by Member States; more transparency in the way in which advice from experts is sought; and clear criteria for the setting-up and operation of any new regulatory agencies.

5. **Global governance:** The EU has responsibilities beyond Europe and should, the White Paper suggests, apply the principles of good governance to these: it should also enhance 'the effectiveness and enforcement powers of international institutions'. The Commission says that it will consult more closely with governments and non-governmental organisations in third countries when developing policies with an international dimension. It also proposes a review of the EU's international representation.
6. **Refocused institutions:** Finally, the White Paper argues that the Member States and the EU institutions need to improve the way they work so that they can develop a coherent set of policies. The **European Council** must focus more clearly on strategic objectives (e.g. improving human capital, knowledge and skills). The **Council of Ministers** must ensure greater consistency between policies agreed by its constituent parts (e.g. decisions taken in the education council should not contradict those taken in the employment council) and between policies agreed in Council and those pursued in Member States. The **Commission** must concentrate on its core activities - policy initiative, execution of policies, guardianship of the Treaties, and international representation of the Community; while there must be a simpler mechanism for control by the Council and Parliament of the way the Commission uses these powers. Finally, the **European Parliament and all national parliaments** should become more active in stimulating a public debate on the future of the EU and its policies; while the **European Parliament** should enhance its control of execution of EU policies and implementation of the budget. Co-decision should be extended.


**DRAFTSMAN'S COMMENTS**

8. **A good start:** The problem that the Commission takes as its starting point is serious: political apathy is dangerous. The proposals contained in the White Paper are plainly the product of sustained reflection; and, if implemented, they would help to overcome popular disaffection with the European institutions. But perhaps the Commission has underestimated the scale of the problem the EU faces.

9. **The big challenge:** The real problem, surely, is that the European institutions often appear to be remote and mysterious because they are so unfamiliar and because the relationship between them is so complicated. Many citizens find it difficult to understand the precise role of the Commission, which has both executive responsibilities and civil service functions. One arm of the legislative process (the Council) votes in secret and, for ordinary people, seems nothing like the parliaments with which they are familiar. For its part, the powers of the Parliament are not well-understood and it is often criticised for continuing to hold most of its part-sessions in Strasbourg. The law-making process is highly complex and varies from subject to subject. Finally, if we remember that many things which make politics interesting at national level - well-known personalities, extensive coverage of political issues in newspapers and on TV, satire and humour, - are missing at European level, it becomes easier to understand why so many Europeans are uninterested in the EU. Since the EU institutions and the balance of power between them are the outcome of hard-fought political bargains, and since a genuinely European political culture cannot be created by an act of will, overcoming these misunderstandings may be even more difficult than the Commission suggests.

10. **Information and communication policy:** The European Parliament is the only one of the Union's institutions which is democratically-elected: it will have a central place in 're-connecting' the Union with its citizens. Along with every other committee in the Parliament, the Culture Committee wishes to welcome those of the Commission's ideas which aim at clearer and more transparent policy-making. Above all, however, the White Paper makes
clear the need to establish an overall information and communication policy, based on pluralism and respect for cultural and linguistic diversity, to inform Europe's citizens about all aspects of the Union. In the cause of greater transparency and openness, the Council could set a good example by publishing full records of how individual Member States vote and by granting public access to its meetings. Given that the Union will soon expand to include societies which have only recently emerged from decades of totalitarianism, greater transparency within the Union and the development of an effective information and communication policy should be regarded as matters of urgency.

CONCLUSIONS

The Committee on Culture, Youth, Education, the Media and Sport calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Welcomes the White Paper commitment to substantial reform and modernisation, particularly its commitment to transparency, openness and a greater level of democracy;

2. Supports wider consultation with civil society; notes the role that the Committee of the Regions and the Economic and Social Committee might play in facilitating such consultation; but underlines that, as the only Community institution which is democratically-elected, it is the ideal conduit in the consultation process;

3. Supports the Commission in its statement that 'the greater the participation in European policies of national and regional actors, the more they will be prepared to inform the public about those policies';

4. Stresses that a more widespread use of 'co-regulatory mechanisms' and 'open methods of coordination' as part of a 'better regulation' will require the prior consent of the European Council and the European Parliament and an interinstitutional agreement and must be actively monitored and controlled by the European Parliament;

5. Agrees that policy-making must be more flexible; welcomes the attention given in the White Paper to better implementation of policy and more clearly-defined powers and roles for EU regulatory agencies which will only be effective if they are limited in number; in addition a root and branch assessment of the various policy-making instruments should also take place to ensure that EU decisions are made and implemented in the most appropriate and effective way;

6. Applauds the emphasis on public hearings and partnership arrangements as tools to improve information and communication, which will have to take place at an early stage in the drawing-up of legislation in a systematic fashion if they are not to undermine the Commission's stated intention of accelerating the legislative process;

7. Welcomes the commitment in the White Paper to the identification of long-term policy objectives and its proposals on multi-annual policy agendas;
8. Welcomes the proposal to draw up and publish minimum standards for consultation and guidelines for taking expert advice;

9. Reiterates its conviction that a European information and communications policy based on the principles of pluralism, openness and diversity would strengthen public debate and awareness - especially among young people - of the benefits of European co-operation within the framework of the EU; believes that the key principles of the EU's information policy should be decentralised implementation, notably through existing Commission offices, coordination (especially between the efforts of the Commission and of the Parliament), targeting, and the best use of information technology; continues to believe that greater cooperation between the EU and the applicant countries in this field would help to ensure that forthcoming enlargements are successful;

10. In order to achieve a greater level of democracy, the Commission ought to promote and finance more information and publicity programmes concerning the EU, its institutions and the results of its activities, including the criteria for the granting of aid, the allocation of funds and the selection of projects;

11. Considers that the White Paper ought to take as its primary model for citizen consultation and information the existing arrangements within democratic systems, and should take account of the diversity of democratic models recognised by the constitutions of the various countries;

12. Calls, as a complement to an effective information and communication strategy and in line with the Union's commitment to maximising openness and transparency, for an end to the secrecy surrounding voting in Council and for public access to Council meetings.
16 October 2001

OPINION OF THE COMMITTEE ON WOMEN'S RIGHTS AND EQUAL OPPORTUNITIES

for the Committee on Constitutional Affairs

on the Commission White Paper on European governance

Draftsman: Maj Britt Theorin

PROCEDURE

The Committee on Women's Rights and Equal Opportunities appointed Maj Britt Theorin draftsman at its meeting of 1 October 2001.

It considered the draft opinion at its meetings of 15 and 16 October 2001.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Maj Britt Theorin, chairman and draftsman; Anne E.M. Van Lancker, vice-chairman; María Antonia Avilés Perea, Marie-Hélène Gillig, Lissy Gröner, Mary Honeyball, Juan de Dios Izquierdo Collado, Anna Karamanou, Maria Martens, María Rodríguez Ramos, Patsy Sörensen, Joke Swiebel, Helena Torres Marques, Elena Valenciano Martínez-Orozco, Louisewies van der Laan, Sabine Zissener
SHORT JUSTIFICATION

The reasons for the reform of European governance, according to the White Paper, are summarized as follows.

- a perceived inability of the Union to act effectively where a clear case exists, such as unemployment, food safety threats, crime etc;

- where the Union does act effectively, it rarely gets proper credit for its actions;

- Member States do not communicate well about what the Union is doing and what they are doing in the Union; “Brussels” is too easily blamed;

- many people do not know the difference between the Institutions, and they do not understand who takes the decisions that affect them.

The five principles which are the basis for the proposals are: openness, participation, accountability, effectiveness and coherence. “Governance” means rules, processes and behaviour that affect the way in which powers are exercised at European level as regards the five principles just mentioned. The proposals for changes concern the following fields: better involvement, better policies, regulation and delivery, EU’s contribution to global governance and refocused policies and institutions.

The Committee on women's rights and equal opportunities is concerned that the White Paper does not take any notion of equality of women and men or of gender mainstreaming, important principles stipulated in Article 2 and Article 3.2 respectively of the Treaty. A wide spectrum of questions arises: how can the way in which the Union uses the powers given by its citizens be reformed if the different perceptions, conditions and needs of both women and men are not taken into account? How can involvement, policies, regulation and delivery be improved if special focus is not addressed on the aspect of equality of women and men? How can EU’s contribution to global governance be strengthened, and its policies and objectives be clearer defined and understood if the principle of gender mainstreaming is not taken into consideration?

CONCLUSIONS

The Committee on Women's Rights and Equal Opportunities calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

Openness and involvement

1. emphasises that efforts to deliver information at national and local level, adapted to local needs and concerns, should contain a gender mainstreaming approach, as women's and men's priorities, conditions and needs differ in many respects

2. emphasises the importance to give all EU citizens, both women and men, the possibility to
take part in the web-based EUR-LEX dialogue, therefore calls on the Commission to include special actions directed to women, necessary to bring them to an equivalent IT level with men;

Reaching out to citizens through regional and local democracy

3. calls on the Commission to include the area of equality of women and men as a suitable candidate for the 2002 pilot target-based, tripartite contract among Member States, regions and localities, and the Commission, in order to ensure an efficient implementation in Member states and regional or local levels;

Involving civil society

4. calls on the Commission to incorporate women’s rights groups and NGO’s in the on-line data-base on European civil society organisations, which the Commission intends to establish before the end of this year; offers input from the responsible EP committee in preparing this data-base;

More effective and transparent consultation at the heart of EU policy-shaping

5. welcomes actions to make consultation procedures more effective and transparent as interested parties will be more visible and will get increased possibilities to influence; requires that gender mainstreaming is incorporated in the code of conduct on minimum standards for consultation procedures, which the Commission intends to adopt before the end of the year;

Confidence in expert advice

6. demands that the planned guidelines on collection and use of expert advice in the Commission specifies how the gender mainstreaming approach should be incorporated in the experts advice;

Assessment of consequences

7. requests that all analyses of whether it is appropriate to intervene at EU level - besides evaluating the potential economic, social and environmental impact - must also assess the potential gender mainstreaming impact, in accordance with Article 3.2 of the Treaty;

Regulating agencies

8. Requests the setting up of an independent advisory body of gender policy experts, which would advise on the coherent and efficient implementation of the principle of gender mainstreaming laid down in the Treaty and reiterates its support for a gender institute which would collect and analyse the necessary data and trends;
Better application at national level

9. underlines that actions to ensure enforcement of Community law are important in the field of gender equality where EU legislation often is more far reaching than national law. Highlights that the candidate countries lag even further behind in this respect. Calls therefore on the Commission to prioritise the updating of the applicant countries legislation in the field on gender equality.

Refocus EU policies

10. stresses the importance to include equality between women and men among the long-term objectives of the Union; furthermore, stresses that the gender mainstreaming approach should be explicitly incorporated in each one of the other long-term policy objectives, in line with the Treaty.
15 October 2001

OPINION OF THE COMMITTEE ON PETITIONS

for the Committee on Constitutional Affairs

on the Commission White Paper on European governance

Draftsman: Vitaliano Gemelli

PROCEDURE

The Committee on Petitions appointed Mr Vitaliano Gemelli draftsman at its meeting of 10 October 2001.

It considered the draft opinion at its meetings of 10/11 October 2001.

At its meeting of 11 October 2001 it adopted the following conclusions unanimously.

The following were present for the vote: Vitaliano Gemelli, chairman and draftsman; Herbert Bösch, Felipe Camisón Asensio, Laura González Álvarez, Margot Keßler, Ioannis Marinos, Christian Ulrik von Boetticher and Eurig Wyn.
I. Preliminary observations

The Committee on Petitions has considered with the greatest interest the Commission White Paper, which broaches a number of subjects on which the committee feels moved to comment.

The Committee on Petitions warmly welcomes the Commission's White Paper, which covers a number of subject areas. While agreeing with the overall analysis contained in the document the Committee nevertheless considers that on a number of points it is open to criticism. Although it acknowledges that the document is filled with good intentions the committee is inclined to be sceptical in the light of past experience. Recalling the old Italian adage 'Fra il dire e il fare c'è di mezzo un mare' ('easier said than done') which means that good intentions will be judged by results, since all too often such intentions are merely voiced without being put into practice.

II. No mention of petitions to Parliament and complaints to the Ombudsman: significant 'oversights'

The Commission sets out by stating that the document is concerned with all Community institutions while understandably giving particular attention to its own area of activity, since it has the power of initiative and is responsible for administering Community policies, while also fulfilling the role of guardian of the Treaties. However, the Commission sometimes seems to forget completely the existence of other institutions or bodies within the European Parliament itself.

Not even a passing reference is made to the European Ombudsman and his role in processing complaints. On the contrary, the Commission concentrates on its own action in response to complaints from citizens.

No mention is made of the institution of the petition and the role of Parliament, despite the fact that the Commission itself makes a decisive contribution to the analysis and processing of petitions. To coin a phrase, the right hand appears to be forgetting what the left hand is doing. All this appears inconsistent with the Commission's repeated recommendations and exhortations to 'stay tuned' to the individual citizen, 'engage in dialogue', make use of the consultation procedures, etc.

The Commission's comments (p. 30 and inset) concerning 'priorities for the consideration of possible infringement of Community law are of particular interest'. While one can only agree with them it would nevertheless have been gratifying to find even a passing reference to the role played by the Committee on Petitions concerning the 'verification of the situation and of the quality of measures taken to transpose directives', 'compatibility of national law with the fundamental principles of Community law' or infringement proceedings before the Court of Justice.

The Committee on Petitions is taking bold initiatives to promote the institution of the petition
in the interests of the citizen, the rule of law and legal certainty: a subject which it has covered in numerous opinions expressed in recent years. Its recent report on 'the institution of the petition at the dawn of the 21st century' and the report being drawn up 'on the right of petition of the European citizen: underpinned by amendment of the Treaty' contain a number of proposals seeking to bring the citizen closer to the Union, strengthening the only institutions which provide an interinstitutional channel recognised by the European citizens: petitions to Parliament and complaints to the Ombudsman.

The European Parliament has recently adopted a report – following on from a special report by the European Ombudsman – on a code of good administrative conduct. When it is known how much importance the citizen attaches to contacts with the public administration (particularly if its geographically and often culturally remote) and the impression made on him by such contacts, one would expect to find in the White Paper few words by the Commission concerning relations and contacts between its administrative services and the European citizen and at least a nod in the direction of the code of good administrative conduct. The document does not appear to make any allusion to public access to documents produced by the European institutions, a potent means of achieving a transparency regarding the activities of the Community. The word transparency does occur in this document but only on one occasion (p. 14) in the following subtitle: 'making the functioning of the Union more transparent ......'.

The Committee on Petitions would also have appreciated a clearer explanation of the ways in which the Commission and its decentralised agencies maintain a dialogue with the 'man in the street' explaining in clear, specific and comprehensible terms what Europe and its institutions are and what they do. A rapid glance through the White Paper leaves the reader with the impression that the Commission is seeking to communicate mainly through technological support and opinion-multiplier networks. While such an approach should not be neglected, we should not forget the importance of direct communication with the man in the street. The Commission may have something to learn regarding the potentially direct and immediate impact of advertising. Your rapporteur recalls that a long time ago posters were up everywhere in Brussels (when Belgium was introducing VAT) with the words 'VAT, a European tax', creating in the mind of the reader an association between the idea of taxes – an uncongenial notion and Europe. Concerning information and networks, the Commission makes only a brief reference to communication with schools, students or less favoured groups, for whom the message of solidarity, tolerance and non-discrimination, vital in establishing the Community’s public image, is intended.

In conclusion, the Committee on Petitions considers that the Commission could, as the Committee on Petitions urges it to do in one of its reports, have referred to measures to end the harm being done to the environment and consumer interests, etc. in contravention of Community law.

For all these reasons the Committee on Petitions – while greatly appreciating certain sections of the White Paper – cannot recommend it as the definitive bedtime book for European decision makers but rather occasional light reading, that is unless, the Commission is able to summon up greater generosity of spirit – and only experience will show whether it can – so as to lift it out of the rut of ‘bureaucratic technology’, which has in the recent past all too frequently 'clipped its wings' … and not only its wings.
III. Conclusions

1. The White Paper is addressed to all Community institutions. The European Parliament and its bodies, in particular the Committee on Petitions and European Ombudsman, play a very important role regarding the processing of complaints. By providing citizens of the European Union with the opportunity of tabling petitions, they constitute their only direct means of influencing and communicating with the European institutions.

2. The Petitions Committee, as in the past, is still taking far-reaching initiatives to further develop the right of petition for individual citizens, the rule of law and legal certainty. In recent years it has considered these issues in numerous opinions. Its latest report on 'the institution of petition at the dawn of the 21st century' and its report currently being drawn up 'on the right of petition of European citizens: consolidation through amendment of the Treaty' contain a number of proposals seeking to bring citizens close to the Union.

3. On the basis of a special report by the Ombudsman, the European Parliament recently drew up a report on the drawing up and public accessibility of a code of conduct for good administrative practice in the various Community institutions and organs. Despite the legal differences between the administrations of the Member States, it is of great importance to ensure that the same code of conduct for good administrative practice applies so as to ensure better treatment of citizens by all Community institutions, organs and bodies.

4. Public access to documentation in the European institutions is a very important instrument in ensuring that European Union activities are open and transparent and to guarantee effective participation by civil organisations and all Union citizens.
CONCLUSIONS

The Committee on Petitions calls on the Committee on Constitutional Affairs, the committee responsible, to include the following in its report:

A. considers that petitions to the European Parliament and complaints to the European Ombudsman as an institution provided for by the Treaty constitute an essential instrument and central element in a frank and transparent dialogue between the European institutions and citizens which is at the very heart of the White Paper,

B. recalling its views expressed on consideration of annual activity reports of the Committee on Petitions and the European Ombudsman,

C. recalling its report on transparency regarding action by the Community institutions through the adoption of a code of good administrative conduct and public access to documentation held by the Community institutions,

D. regretting that the European Ombudsman, the 'instigator' of the report, was not consulted by the Commission on the White Paper,

E. whereas the European Parliament unanimously ruled in favour of strengthening the powers of inquiry of the European Ombudsman removing all restrictions to testimonies by officials and other servants of the Community,

F. whereas European citizens will be all the more able to identify and communicate with the Union and its institutions if the latter adopt policies more attuned to international challenges which are clearly explained to the public and meet the expectations of public opinion,

1. Regrets that the White Paper makes no reference to the institution of the petition to the European Parliament and complaints to the European Ombudsman, particularly given that the Commission makes a much appreciated and frequently decisive contribution to the processing of petitions in the interest of the European citizen;

2. Regrets that although the White Paper mainly deals with matters falling under good administration, the Commission has not been able to take a position on the European Parliament's and the European Ombudsman's initiative on good administration, which was finalised in September¹;

3. Finds it deplorable that the draft code of good administration does not serves as point of departure when the Commission elaborates concrete actions to follow the White Paper;

4. Regrets that the Commission does not mention the new regulations on access to documents in the White Paper, since it is evident that a proper implementation of these

¹ A5-0245/2001
rules and the allocation of adequate resources to that end are of paramount importance for the achievement of good governance in the EU;

5. Asks the Commission to strengthen its capacity to advice citizens on the application of community law and to that end increase the resources available to the Eurojust-network;

6. Calls on the Commission, in order to 'give priority to consideration of any infringements of Community law' – as it has expressed the intention of doing – not to hesitate to initiate measures possibly leading to proceedings for non-compliance before the Court of Justice of the European Community against Member States under Article 226 of the Treaty;

7. Calls on the Commission to consider what instruments could be introduced to consolidate the right of petition so as to meet the growing expectations of European citizens petitioning the European Parliament and calls on it at the same time to consider new procedures and new instruments enabling precautionary measures to be taken each time an infringement of Community law is noted by the Committee on Petitions Parliament or the Commission itself.