

Franco-Dutch contribution to the Convention: ‘Strengthening the role of the Commission’ (2 April 2003)


Caption: As part of the work of the European Convention, France and the Netherlands call for a strengthening of the role of the Commission in order to ensure the effectiveness of the Community method in an enlarged European Union with ten new Member States.

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Franco-Dutch contribution to the Convention: ‘Strengthening the role of the Commission’

Introduction: strengthening the Community method

During the enlargement process, the Union must be able to continue to act and to take decisions properly, and, to that end, it must retain its dynamism and its capacity for action. Its legitimacy and its transparency must be enhanced. In order to be able to attain these objectives, the Community method must be strengthened and extended.

The ‘Community method’ means the interaction between the Commission, the Council, the European Parliament and the Court of Justice in the various stages of the decision-making process — from policy-making to policy implementation — in particular, the Commission’s right to propose legislation, qualified majority decision-making in the Council, the European Parliament’s right of codecision and the review by the Court of Justice of the conformity of decisions with Community primary law.

France and the Netherlands wish to pay tribute to the extensive work carried out by the European Commission over almost 50 years.

The Community method has already proved its effectiveness in the past. The success of the European integration process is largely founded on this unique method of decision-making.

The accession to the Union of 10 new States and, consequently, the increase in the number of members of the Council and the Commission have already changed the shape of relations between the institutions and curbed their dynamism. If the Community method is to continue to bear fruit in an enlarged Union of 25, that method must be strengthened and its scope extended. Failure to act will only weaken it.

The Commission’s position is particularly important in this connection. It is the guardian of the treaty and the institution *par excellence* that pursues the objective of the general Community interest and ensures that activities are coherent and effective. In addition, within the institutional triangle, it plays a key role in reducing tensions between Member States and in acting as a catalyst for their common interests. If the Commission is to be enabled to continue to fulfil this role as the driving force in European integration in a Union of 25, its powers must be reformed. That is the purpose of our proposals.

These proposals are submitted without prejudice to the proposals put forward by France and the Netherlands, in the Franco-German contribution and in the Benelux contribution respectively, on the Presidency of the European Council.

I. Strengthening the role of the Commission

(a) Strengthening the Commission’s right to propose legislation

— Our objective is to extend the Community method in all areas where the Union exercises its legislative functions and, therefore, to extend the Commission’s exclusive right to propose legislation. This should gradually become the rule, even though exceptions are possible. A transitional period could be envisaged in some areas. The Council and the European Parliament could also have the option to invite the Commission to submit a legislative proposal. If the Commission fails to act, it should be formally required to justify its decision to the Council and the European Parliament.

— At the Seville European Council, it was decided that the European Council would adopt a multiannual strategic plan. The Commission could have a non-exclusive right to propose legislation in this regard. Concerted action between the European Council and the Commission would ensure greater coherence between this plan and the Commission’s legislative programme and greater transparency in the Union’s legislative activities.

— The Commission's right to propose legislation could also be extended as part of the enhanced cooperation mechanism. The Commission could, like a group of Member States, be given a right to propose legislation. More generally, we must look at the conditions that would allow the Commission's role in initiating and implementing enhanced cooperation to be strengthened. As guardian of the treaties and of the general Community interest, the Commission is particularly qualified to ensure that the use of enhanced cooperation is at the forefront of measures designed to achieve greater integration.

(b) Strengthening the Commission's implementing powers

— In principle, it is the Commission that is responsible for implementing Community legislation on the basis of the treaty. However, Article 202 of the EC (Treaty establishing the European Community) allows the Council, in specific cases, to exercise implementing powers directly. This may lead to confusion since, in such cases, the Council exercises both legislative and executive power. Article 202 of the EC Treaty should, therefore, be amended to provide that the power to implement legislation, where it is a matter for the Union, is in principle entrusted to the Commission, save in the case of exceptions such as the CFSP and certain measures to implement Community acts in the field of the CFSP. This amendment is consistent with the objective of simplification and comprehensibility. It also seeks to achieve a better separation of powers between the institutions and to improve the transparency and legitimacy of the decision-making process.

— As the Præsidium proposes, a clearer distinction should be drawn between basic legislation, adopted by the Council and the European Parliament, and implementing legislation, enacted by the Commission. It must be possible for the Commission to be entrusted, by the Council and the European Parliament, with the power to adopt delegated legislation. In that event, the Council and the European Council would lay down in the basic legislation the conditions under which the Commission might adopt delegated implementing legislation. To prevent the Commission from exceeding the limits of the powers conferred on it, the European legislator must be equipped with a supervisory mechanism. A right of call-back, a tacit authorisation period or a suspension clause might be envisaged.

— At present, the Commission's implementing measures are often adopted under comitology procedures, where the Member States exercise supervisory powers over the Commission. In order to strengthen the central role played by the Commission in implementing legislation, the comitology rules should be made more flexible, in accordance with detailed arrangements to be specified by the Convention.

(c) Strengthening the Commission's role in socio-economic policy

— A distinction can be drawn between the Commission's supervisory function with regard to the Stability and Growth Pact and its coordinating function in socio-economic policy.

The Commission could be given greater power in evaluating the economic situation in the Member States, making it possible to ascertain the risk of excessive deficit (early warning).

— It is important to strengthen coordination of the broad economic policy guidelines. This makes it possible to encourage economic stability, job creation and sustainable development. The Commission's role in preparing BEPGs in this field must be strengthened.

The implementation of the broad economic policy guidelines by the Member States and their performance should be reviewed each year. The Commission can make a contribution by drawing up, each year, a scoreboard and a report clearly showing the relationship between the various areas and any trends.

At present, the indicators for evaluating advances in the various socio-economic areas are adopted by the Council and, in some cases, by the Commission. It may be decided to confer on the Commission the power to draw up indicators.

II. The Commission's position in the institutional balance

— The Commission's legitimacy and responsibility must be strengthened, in particular by giving the European Parliament an enhanced role in the appointment of its President. At present, the European Parliament is able to pass a vote of censure on the Commission. In order to preserve the institutional balance, the possibility of dissolving the European Parliament should be envisaged.

— In order to ensure greater coherence for the Union's action in the international arena, we are calling for the job of the High Representative for the CFSP and the Commissioner for External Relations to be held by a single person; as a member of the Commission with special status, this European Minister for Foreign Affairs, appointed by the European Council, would perform his or her duties in the field of CFSP/ESDP under the authority of the Council; he or she would have a right to propose legislation in matters relating to the common foreign and security policy and, where appropriate, in cross-pillar matters.

— The Commission's supervisory function can be strengthened by extending the formal notice procedure within the meaning of Article 226 of the EC Treaty to the third pillar, although the exception for public policy measures taken by the Member States would have to be maintained.