

Opinion of the Economic and Social Committee on the 1996 Intergovernmental Conference (23 November 1995)

Caption: On 23 November 1995, the Economic and Social Committee (ESC) publishes an opinion on its duties with a view to the forthcoming Intergovernmental Conference (IGC) on the revision of the Treaty on European Union.

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Opinion of the Economic and Social Committee on the 1996 Intergovernmental Conference — the Role of the Economic and Social Committee (Brussels, 23 November 1995)

I. Introduction

Following the entry into force of the TEU, the ESC has held wide-ranging discussions on its aims as an advisory body, on how it may best advance its role, and also on strengthening the links that it maintains between the process of European integration and citizens' groups.

In April 1995 the Bureau adopted a document (CES 273/95) on the role of the Committee. The first part gives an overview of Europe's future; the second part deals with the following proposed changes to the treaty. These are the results of the detailed discussions held at the ESC.

This Opinion was drawn up, following extensive discussions, by the Ad Hoc Group set up by the Bureau. The members of the Group were:

President: Carlos FERRER (ESC President)

Rapporteur: Giacomina CASSINA

Co-Rapporteurs: Manuel CAVALEIRO BRANDCO

(President of Group I - Employers) Tom JENKINS

(President of Group II - Workers) Beatrice RANGONI MACHIAVELLI

(President of Group III - Various Interests)

Members: André LAUR (ESC Vice-President)

Klaus BOISSEREE (member of Group III)

Bent NIELSEN (ESC Vice-President)

Jean PARDON (President of the Section for Economic, Financial and Monetary Questions)

The Committee will continue this consideration of its aims in the short and longer term in order to make changes to - and heighten - its representativeness. The goal of its assessment will be to help tackle the major issues facing European society, including job creation, in order to further the European social model and reshape society by fully involving citizens' groups in the European venture.

On 23 November 1995 the Economic and Social Committee, acting under the third paragraph of Rule 23 of the Rules of Procedure, decided to draw up an Own-initiative Opinion on:

The 1996 Intergovernmental Conference: the role of the Economic and social Committee.

The Bureau's Ad Hoc Group on the 1996 IGC and the role of the Committee was instructed to prepare the ESC's work on the subject. The Rapporteur was Mrs CASSINA.

At its 330th Plenary Session (meeting of 23 November), the Committee adopted the following Opinion by a large majority, with 2 abstentions.

II. Proposed amendments to the treaty on European Union

1. In discharging its consultative duties and, inter alia, through the use of its right of initiative, the ESC has often guided and even encouraged the Commission to draft proposals to respond to the changing needs of European society. The Commission's concern that the "pre- legislative" phase should be more fully prepared has led it to step up consultations, not only with the social partners and national authorities, but also in many cases with organizations representing specific interests and even private individuals. The Committee is therefore prepared to work together with the Commission in organizing consultations prior to the submission of proposals.

In order both to help make the consultative phase preceding the legislative process more transparent, and to consolidate its own consultative work, the ESC proposes the addition of the following paragraph after the first paragraph of Article 198: "The Commission should consult the Committee before it takes any decisions on matters of relevance to the interests represented on the Committee."

2. Within the framework of the strengthening of democracy and the re-balancing of roles between the institutions, the Committee considers that the possible increased use of the co-decision procedure will require stronger consultative powers to meet society's expectations more fully. The ESC is also ready to perform its advisory duties with regard to the European Parliament.

The ESC therefore requests that it be empowered, where appropriate, to contribute to the procedure laid down by Article 189b, at the second reading stage. The ESC Rapporteur for the proposals dealt with under this procedure could attend meetings of the Conciliation Committee as an observer.

The following sentence should be added to the end of Article 189b(4): "The Economic and Social Committee shall attend the Conciliation Committee's proceedings as an observer."

3. As a body representing economic and social interest groups directly involved in the establishment of Economic and Monetary Union, the ESC is closely monitoring this complex process, particularly through reports and Own-initiative Opinions on EMU itself and, in particular, on its socio-economic impact on European society. The ESC requests that its consultative work be made more effective by recognition of its right to be informed under the procedures for multilateral surveillance of the economic policies of the Member States.

In the final paragraph of Article 103(2), the words "and the Economic and Social Committee" should be added after "shall inform the European Parliament". In the second paragraph of Article 103(4), the words "and shall inform the Economic and Social Committee" should be added after "multilateral surveillance".

4. The ESC has made a firm commitment to promoting the Citizens' Europe, while calling for it to be underpinned by a transparent legal framework, and for specific measures to be taken to achieve it.

The ESC therefore requests that in Article 8a(2) the words "and the opinion of the Economic and Social Committee" be added after "of the European Parliament". Similarly, in Article 8b(1) the words "and the Economic and Social Committee" should be added after "the European Parliament", and in the second paragraph of Article 8e, the words "and the Economic and Social Committee" should be added after "the European Parliament".

5. The Committee has always taken account of the cultural dimension of the integration process in its Opinions. The cultural aspect has implications for other policies (and vice-versa); these implications necessarily concern the Committee when European society is involved.

The ESC therefore requests that it be consulted on EU cultural policy.

In the first indent of Article 128(5), the words "the Economic and Social Committee and" should be inserted after "consulting".

6. The Single Market Observatory, set up with the support of the European Parliament, should be incorporated into the ESC's institutional tasks. The following paragraph should be inserted at the end of Article 197:

"An observatory shall be established to analyze, review and report on the operation and further development of the internal market."

7.. The ESC has done substantial work in developing contacts with its natural discussion partners in third countries. In many cases, it has promoted socio-professional dialogue, sometimes even before the Commission has taken any action, and on each occasion with positive results for dialogue and cooperation in the broad sense between the EU and third countries.

The ESC requests that this important function be institutionalized in all the Association Agreements. The ESC also requests that it be consulted on applications for accession.

In the first paragraph of Article O, "and the Economic and Social Committee" should be added after "the Commission".

8. The Council consults the EP on policies concerning cooperation in the fields of justice and home affairs. The ESC advocates a higher profile role for the EP in these policies, even if they are not put on a Community-wide footing. Most of these policies have a significant impact on citizens, European society and its constituent organizations. For this reason, the ESC is directly concerned.

The ESC requests that it be briefed on these policies in order to be able to act, under its right of initiative, on a more concrete basis and with maximum transparency in its relationships with the Council and the Commission.

The first paragraph of Article K.6 should be amended by adding the words "and the Economic and Social Committee" after "the European Parliament".

9. With due regard for the principle of subsidiarity, the ESC considers that any decision to broaden the European Union's powers to act must always be shared by the citizens and by organized society.

The ESC feels that - insofar as Article 235 is retained - the co-operation procedure should be used, and that consultation of the ESC should also be mandatory.

10. By diversifying its consultative role, the ESC has successfully responded to the demand for greater representation arising from the development of the integration process, and to the diversity of European society. This should be reflected in the treaty. The ESC proposes, therefore, that Articles 193 to 198 be amended as follows:

10.1. An amendment to Article 194, 2nd paragraph: The ESC's term of office should be aligned with that of the EP and the Commission (5 years).

10.2 The fourth paragraph of Article 194 should be deleted.

10.3 The Council's and Commission's role in convening the ESC should be abolished: In the third paragraph of Article 196, the text following "its chairman" should be deleted up to the end of the Article.

10.4 The second paragraph of Article 197 should be deleted, since the development of the integration process and of the ESC, combined with the autonomy it enjoys in determining its Rules of Procedure, have rendered the list contained in this paragraph incomplete and obsolete.

10.5 An amendment to Article 198, 3rd paragraph, to ensure that Opinions are followed up, by adding the following sentence: "The institutions which are assisted by the ESC shall inform it of the follow-up to the opinions issued." This information might, for example, be supplied by means of publication in the Official Journal.

11. The specification in Article 193 of the categories of economic and social activity to be represented is

unsatisfactory, as it has remained unchanged since the ESC was first formed. The list of categories should be updated to take account of the major changes which have taken place during the last forty years in economic activity and in the pattern of employment together with those changes which are currently taking place as a result of, for example, the "information revolution".

12. With successive amendments to the treaty, the ESC has secured greater responsibilities and autonomy. This has come about because the ESC has always succeeded in taking stock of its mission, its experiences and its prospects, and in gearing its work to the complex requirements of the consultative function within the integration process. Another factor has been the ESC's ability to commit itself to representing rapidly-changing socio-professional interests, above and beyond the basic role assigned to it in the treaty.

The ESC therefore declares that it is "de facto" an Institution with an advisory role and requests that the 1996 IGC grant it "de jure" institutional status with all that this entails, in particular the right to bring an action before the Court of Justice, as laid down in the first paragraph of Article 175. With this in mind, the ESC proposes the following amendments:

12.1 In Article 4(1), "an ECONOMIC AND SOCIAL COMMITTEE" should be added after "a COURT OF AUDITORS".

12.2 Article 4(2) should be deleted.

12.3 The first paragraph of Article 193 should be replaced as follows: "The Economic and Social Committee in its capacity as an advisory body, shall assist the institutions which exercise legislative powers where this treaty so provides."

III. The proposals in context

N.B. TEU Articles are reproduced in the order in which they are mentioned in the Report.

The economic and social committee

Current text of the TEU: (1) Article 198, 1st paragraph

The Committee must be consulted by the Council or by the Commission where this treaty so provides. The Committee may be consulted by these institutions in all cases in which they consider it appropriate. It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

ESC Proposal: Article 198, 1st paragraph

The Committee must be consulted by the Council or by the Commission where this treaty so provides. The Committee may be consulted by these institutions in all cases issue an opinion on its own in which they consider it appropriate. It may initiative in cases in which it considers such action appropriate. The Commission should consult the Committee before it takes any decisions on matters of relevance to the interests represented on the Committee.

Provisions common to several institutions

(2) Article 189b(4)

The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of representatives of the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament. The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

Article 189b(4)

The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of representatives of the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European parliament. The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European parliament and the Council. The Economic and Social Committee shall attend the Conciliation Committee's proceedings as an observer.

Economic policy

(3) Article 103(2), final paragraph

[The European Council shall, acting on the basis of the report from the Council, discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the Community (Art. 103, second paragraph).

On the basis of this conclusion, the Council shall, acting by a qualified majority, adopt a recommendation setting out these broad guidelines. The Council shall inform the European Parliament of its recommendation.

Article 103(2), final paragraph

The European Council shall, acting on the basis of the report from the Council, discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the Community.

On the basis of this conclusion, the Council shall, acting by a qualified majority, adopt a recommendation setting out these broad guidelines. The Council shall inform the European Parliament and the Economic and Social Committee of its recommendation.

(3) Article 103(4), 2nd paragraph

The President of the Council and the Commission shall report to the European Parliament on the results of multilateral surveillance. The President of the Council may be invited to appear before the competent committee of the European Parliament if the Council has made its recommendations public.

Article 103(4), 2nd paragraph

The President of the Council and the Commission shall report to the European Social Committee. The President of the Council surveillance and shall inform the Economic and Parliament on the results of multilateral may be invited to appear before the competent committee of the European Parliament if the Council has made its recommendations public.

Citizenship of the Union

(4) Article 8a(2)

[Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this treaty and by the measures adopted to give it effect. (Article 8a (1))]

The Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1; save as otherwise provided in this treaty, the Council shall act unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament.

Article 8a(2)

The Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1; save as otherwise provided in this treaty, the Council shall act unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament and the opinion of the Economic and Social Committee.

(4) Article 8b(1)

Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements to be adopted before 31 December 1994 by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.

Article 8b(1)

Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements to be adopted before 31 December 1994 by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee; these arrangements may provide for derogations where warranted by problems specific to a Member State.

(4) Article 8e, 2nd paragraph

[The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee before 31 December 1993 and then every three years on the application of the provisions of this Part. This report shall take account of the development of the Union. (Article 8e, 1st paragraph)]

On this basis, and without prejudice to the other provisions of this treaty, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may adopt provisions to strengthen or to add to the rights laid down in this Part, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

Article 8e, 2nd paragraph

On this basis, and without prejudice to the other provisions of this treaty, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, may adopt provisions to strengthen Part, which it shall recommend to the Member or to add to the rights laid down in this States for adoption in accordance with their respective constitutional requirements.

Culture

(5) Article 128(5), first indent 5.

In order to contribute to the achievement of the objectives referred to in this Article (culture), the Council:

- acting in accordance with the procedure referred to in Article 189b and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonization of the laws and regulations of the Member States. The Council shall act unanimously throughout the procedure referred to in Article 189b.

Article 128(5), first indent 5.

In order to contribute to the achievement of the objectives referred to in this Article (culture), the Council:

- acting in accordance with the procedure referred to in Article 189b and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt incentive measures, excluding any harmonization of the laws and regulations of the Member States. The Council shall act unanimously throughout the procedure referred to in Article 189b;

The economic and social committee

(6) Article 197, final paragraph

[Economic and Social Committee ... specialized sections ... agricultural and transport sections ... terms of reference of specialized sections ... subcommittees ...etc.]

The Rules of Procedure shall lay down the methods of composition and the terms of reference of the specialized sections and of the subcommittees. .

Article 197, final paragraph

[Economic and Social Committee ... specialized sections ... agricultural and transport sections ... terms of reference of specialized sections ... subcommittees ... etc.]

The Rules of Procedure shall lay down the methods of composition and the terms of reference of the specialized sections and of the subcommittees.

An observatory shall be established to analyze, review and report on the operation and further development of the internal market.

Final provisions (title vii)

(7) Article O, first paragraph

Any European State may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.

Article O, first paragraph

Any European State may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and the Economic and Social Committee and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.

Provisions on cooperation in the fields of justice and home affairs

(8) Article K.6, first paragraph

The Presidency and the Commission shall regularly inform the European Parliament of discussions in the areas covered by this title

Article K.6, first paragraph

The Presidency and the Commission shall regularly inform the European Parliament and the Economic and Social Committee of discussions in the areas covered by this title.

General and final provisions (part six)

(9) Article 235

If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures. Insofar as the Article is retained

Article 235

If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee take the appropriate measures.

The economic and social committee

(10.1.) Article 194, 2nd paragraph

The members of the Committee shall be appointed by the Council, acting unanimously, for four years. Their appointments shall be renewable.

Article 194, 2nd paragraph

The members of the Committee shall be appointed by the Council, acting unanimously, for five years. Their appointments shall be renewable

(10.2.) Article 194, 4th paragraph

The Council, acting by a qualified majority, shall determine the allowances of members of the Committee.

(10.2.) Article 194, 4th paragraph

DELETE

(10.3.) Article 196, 3rd paragraph

The Committee shall be convened by its chairman at the request of the Council or of the Commission. It may also meet on its own initiative.

Article 196, 3rd paragraph

The Committee shall be convened by its chairman

(10.4.) Article 197, 2nd paragraph

In particular, it shall contain an agricultural section and a transport section, which are the subject of special provisions in the Titles relating to agriculture and transport.

(10.4.) Article 197, 2nd paragraph

DELETE

(10.5.) Article 198, 3rd paragraph

The opinion of the Committee and that of the specialized section, together with a record of the proceedings, shall be forwarded to the Council and to the Commission.

Article 198, 3rd paragraph

The opinion of the Committee and that of the specialized section, together with a record of the proceedings, shall be forwarded to the Council and to the Commission. The institutions which are assisted by the ESC shall inform it of the follow-up to the opinions issued.

(11.1.) Article 4(1)

The tasks entrusted to the Community shall be carried out by the following institutions:

- a EUROPEAN PARLIAMENT,
- a COUNCIL,
- a COMMISSION,
- a COURT OF JUSTICE,
- a COURT OF AUDITORS.

Article 4(1)

The tasks entrusted to the Community shall be carried out by the following institutions:

- a EUROPEAN PARLIAMENT,
- a COUNCIL,
- a COMMISSION,
- a COURT OF JUSTICE,
- a COURT OF AUDITORS
- an ECONOMIC AND SOCIAL COMMITTEE

(11.2.) Article 4(2)

The Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.

(11.2.) Article 4(2)

DELETE

(11.3.) Article 193, first paragraph

An Economic and Social Committee is hereby established. It shall have advisory status.

Article 193, first paragraph

The Economic and Social Committee, in its capacity as an advisory body, shall assist the institutions which exercise legislative powers where this treaty so provides.

Done at Brussels, 23 November 1995.

The President of the Economic and Social Committee

Carlos FERRER

The Secretary-General of the Economic and Social Committee

Simon-Pierre NOTHOMB