Institut Européen
d'Administration Publique

European Institute
of Public Administration

EIPASCOPE

Contents

No. 1999/3

About EIPASCOPE

EIPASCOPE is the Bulletin of the European Institute of Public Administration and is published three times a year. The articles in EIPASCOPE are written by EIPA faculty members and associate members and are directly related to the Institute's fields of work. Through its Bulletin, the Institute aims to increase public awareness of current European issues and to provide information about the work carried out at the Institute. Most of the contributions are of a general character and are intended to make issues of common interest accessible to the general public. Their objective is to present, discuss and analyze policy and institutional developments, legal issues and administrative questions that shape the process of European integration.

In addition to articles, EIPASCOPE keeps its audience informed about the activities EIPA organizes and in particular about its open activities, for which any interested person can register. Information about EIPA's activities carried out under contract (usually with EU institutions or the public administrations of the Member States) is also provided in order to give an overview of the subject areas in which EIPA is working and indicate the possibilities on offer for tailor-made programmes.

Institutional information is given on members of the Board of Governors and Scientific Council as well as on changes, including those relating to staff members, at EIPA Maastricht, Luxembourg and Barcelona.

The full text of current and back issues of EIPASCOPE is also available on line. It can be found at: http://eipa-nl, Bulletin.

EIPASCOPE dans les grandes lignes

EIPASCOPE est le Bulletin de l'Institut européen d'administration publique et est publié trois fois par an. Les articles publiés dans EIPASCOPE sont rédigés par les membres de la faculté de l'IEAP ou des membres associés et portent directement sur les domaines de travail de l'IEAP. A travers son Bulletin, l'Institut entend sensibiliser le public aux questions européennes d'actualité et lui fournir des informations sur les activités réalisées à l'Institut. La plupart des articles sont de nature générale et visent à rendre des questions d'intérêt commun accessibles pour le grand public. Leur objectif est de présenter, discuter et analyser des développements politiques et institutionnels, ainsi que des questions juridiques et administratives qui façonnent le processus d'intégration européenne.

En dehors des articles, EIPASCOPE contient également des informations sur les activités organisées par l'IEAP et, plus particulièrement, ses activités ouvertes qui sont accessibles à toute personne intéressée. Notre bulletin fournit aussi des renseignements sur les activités de l'IEAP qui sont réalisées dans le cadre d'un contrat (généralement avec les institutions de l'UE ou les administrations publiques des Etats membres) afin de donner un aperçu des domaines d'activité de l'IEAP et des possibilités qu'il offre pour la réalisation de programmes sur mesure adaptés aux besoins spécifiques de la partie contractuelle.

Il fournit également des informations institutionnelles sur les membres du Conseil d'administration et du Conseil scientifique ainsi que sur les mouvements de personnel à l'IEAP Maastricht, Luxembourg et Barcelone.

EIPASCOPE est aussi accessible en ligne et en texte intégral sur le site suivant: http://eipa-nl, Bulletin où figurent l'ensemble des bulletins publiés depuis le premier numéro.

Reforming the Commission

Dr Les Metcalfe
Professor of Public Management, EIPA

Introduction

Predictions about important developments in European politics are always hazardous. At the beginning of this year, with the successful launch of the Euro behind him, Jacques Santer was considered a candidate for a second term as President of the Commission. No-one foresaw the chain of events that led rapidly to the resignation of the whole Commission and the installation of a new Commission led by Romano Prodi. Nor was it easy to foresee that in a short space of time a fundamental reform of the Commission would become a top priority. Although there has been a long-standing concern about the deficiencies of the Commission it seemed likely that institutional reform would, as on previous occasions, be pushed aside in favour of new policy initiatives with more political appeal. However, amidst the allegations of nepotism, fraud, mismanagement and neglect that led to the first report of the "Committee of Independent Experts" on 15 March 1999, it was hard for anyone to argue against fundamental reform. The publication of the report precipitated the resignation of all the Commissioners. The crisis immediately prompted proposals for root and branch reform of the organisation. It could hardly have been otherwise when the report concluded that "The studies carried out by the Committee have too often revealed a growing reluctance among the members of the hierarchy to acknowledge their responsibility. It is becoming difficult to find anyone who has even the slightest sense of responsibility." (First Report, Committee of Independent Experts p.144, 1999). The Commission sometimes described as the "conscience" of the EU system appeared, in Freudian terms, to be more "id" than "superego".

The resignation of the Commission caught the Member States unprepared for the process of finding a credible replacement for Jacques Santer. Within the normal time schedule the tactics of the Presidential succession process are somewhat like a 1,500 metres championship in which the main contenders avoid taking the lead and, as rivals falter in the finishing straight, the successful candidate comes through with a late run. In the crisis circumstances of spring 1999 the course of events was more like a cycle race in which the eventual victor broke away almost from the start and established a winning lead before the peloton could even organise to give chase. Since his nomination Romano Prodi has continued to set the pace of reform by announcing a series of initiatives designed to improve the effectiveness, accountability and, not least, the cohesion of the Commission as an organisation and the Commissioners as a college. These include: changes in the status, terms of appointment and accountability of Commissioners; changes in the composition and role of Commissioners' Cabinets; the creation of subgroups of Commissioners to improve internal coordination and changes in structure and top-level personnel of the Commission's DGs and services. One significant indication of commitment to reform is the appointment of Neil Kinnock as the Vice President of the Commission with responsibility for administrative reform.

The hectic pace of political events over the past few months has transformed public expectations about reforming the Commission from 'reform impossible" to "reform inevitable". There are dangers in this. It is important to maintain a realistic perspective. Major changes in the way any organisation functions do not take place overnight. Although the Commission does seem to be on the verge of the first really significant reform in its history, it would be unrealistic and probably counter-productive to expect dramatic improvements in performance in the short term. For understandable reasons concerns have tended to focus narrowly on questions of personal integrity, public accountability and organisational structure. These are important but they are also symptoms of deeper problems. The broader context of reform must not be ignored. The main driving force is the commitment to widening the membership of the EU. The eastward enlargement, whatever its scale and timing, will entail basic institutional changes. The process of transition and the operation of a Union of twenty or more Member States will impose heavy additional loads on the whole system which the present organisation is simply not equipped to bear.

Real progress in reforming a system as complex as the EU (for reform cannot be confined to the Commission itself) will take years rather than months. Fortunately, contrary to general impressions, a start in improving the organisation and management of the Commission had begun before the crisis blew up. The useful preparatory work done under the previous Commission should not be overlooked. Despite the narrow constraints imposed on Santer's Presidency by the Member States at the time of his appointment his Commission did make some progress in implementing the commitment to "do better rather than do more". The political stalemate during the Maastricht II IGC had the unintended consequence of

* *Un bref résumé de cet article en français figure à la fin.*

providing a breathing space by limiting the increase in EU policy responsibilities in the Amsterdam Treaty. Agenda 2000 instigated a process of internal reform of financial and personnel management within the SEM 2000 and MAP 2000 frameworks. The new wave of reform initiatives can build on the experience gained and lessons learned in introducing these changes under the leadership of Erkki Liikanen, who is a member of the new Commission.

Reforming Management: Managing Reform

One of the basic requirements of a well-managed reform process is, paradoxically, a good understanding of the status quo. Without knowing the point of departure, reforms may be based on false assumptions. Proposals for change may provoke disagreements and mis-understandings that compromise the credibility of reformers if they are seen to be ill-informed about the actual situation. It is useful, therefore, that in October 1997 the Santer Commission decided on a review of the Commission's organisation and operations to provide an up-to-date picture of its activities, resources and methods. This exercise known as DECODE (Dessiner la Commission de Demain) began in November 1997 and was completed in May 1999 after the resignation of the Commission. The DECODE review is a more or less comprehensive fact-finding investigation of the Commission's work, resources and working methods. An explanation of its coverage and methodology is contained in the report "Designing Tomorrow's Commission", published in July by the Inspectorate General which managed the review. Twelve teams of officials were assigned the task of investigating what work was being done, why it was being done, who was doing it and how it was being carried out. Each team was led by a Director from outside the areas under investigation. The general approach was to work from the bottom up to create a detailed picture of what the Commission does and how it does it. The results provided both factual information about the current situation and preliminary ideas about where the problems were.

Although there are few surprises, the importance of the review is that it provides an overview, based on up-to-date detailed information, the Commission's activities and tasks. "DECODE has been an opportunity for the Commission, for the first time in its history, to get a detailed description of the activities in which its departments are involved and the tasks carried out by its staff." (Designing Tomorrow's Commission. p.71). If the Commission knows more about its organisation now than ever before it must be emphasised that this is only a start. It is still low on its learning curve. The results, as presented, rely on common-sense categories that badly need to be refined. For example, DECODE arrives at a profile of a "standard" DG by leaving out data about "atypical" DGs and concentrating on "traditional" administrative activities. On one hand, some of the DGs defined as atypical are important in their own right. On the other hand, there is considerable diversity among the so-called standard DGs that warrants closer scrutiny and better discrimination. The differences among them have important implications for the way they should be organised and managed. Standardisation suggests the imposition of a uniform approach. Agriculture is not like Environment or Research and should not be organised in the same way.

DECODE is a beginning. Aside from its descriptive evidence about the organisation of the Commission there are two potentially important side benefits of the exercise that may have lasting value in the process of reform. One is that the work was done by a substantial number of Commission officials who now have a better knowledge of the issues of organisation and management than they would otherwise have had. Their shared experience and knowledge is an asset that should come in useful when further reforms are initiated. The other benefit is that, paradoxically, it is sometimes important not to make positive proposals at any early stage of a reform. In any process of organisational change a preliminary phase of 'unfreezing' can help to reduce resistance to change, facilitate diagnosis, and open up options for solutions that were previously disregarded or considered unfeasible. Expectations of change gain in strength as old assumptions and established practices are questioned and out-dated structures begin to lose credibility.

This is not to suggest that reforms will occur spontaneously as resistance to change melts away. Nor is success assured solely by political will. Political will is a necessary but not a sufficient condition for successful reform. Deliberate choices have to be made about the direction in which to go and thorough preparations are needed to ensure that there is the ability and willingness to implement the necessary changes. A combination of five conditions seems to be necessary for reforms to succeed: external pressure for change; internal commitment; a strategy for reform; a mechanism for managing reform and, finally, feedback to the political level to steer progress and renew support. At the moment, the first two of these conditions are now met. Uncertainty remains about the other three. This article considers issues accounted with the third condition; the development of a reform strategy, taking account of what has already been done to introduce reforms within the Commission, but looking to the broader context. Clearly, there are powerful external pressures now and internal commitment has been strengthened.

The confirmation in office of the Prodi Commission in September triggered important moves towards creating the other conditions for reform. Unfortunately it also seems to have raised expectations of quick results. The proactive leadership style that the new President adopted has given the Commission more room for manoeuvre in developing reform proposals. The question now is how it will be used. There are sure to be pressures from the European Parliament, from the Member States and from other sources to include or exclude particular proposals. Making ad hoc concessions

would reduce the credibility of reforms inside as well as outside the Commission. It will become important that specific changes can be seen as parts of a coherent strategy rather than a piecemeal collection of unrelated individual initiatives. At the same time, there is a danger of being too prescriptive too soon. The Commission needs a sustained and progressive process of reform rather than shock therapy. An overambitious crash programme could undermine rather than strengthen the capacities to manage change in the long term. Neil Kinnock is to present a "blueprint for reform" early next year. It may be wrong to read too much significance into the phraseology. Taken literally, it suggests a complete package of proposals that provide a detailed design. But there is a danger of failing to see the wood for the trees. Before going into details it is important to be clear about the scope and purpose of reform. Should the aim be to make the Commission better at doing what it already does, or to equip it for a new role better suited than it is at present to the challenges of deepening and widening integration? While there is no absolute contradiction between these goals it is important to understand that they are not the same and the actions taken initially have been based on the established agenda for reform which is more clearly geared to upgrading the existing organisation than adapting the Commission to the challenges ahead.

The Established Reform Agenda

Many of the items on the current agenda for reforming the Commission are familiar from previous, unsuccessful, attempts to instigate change. They include:

- the functions of the Commission and the priorities among them;
- the independence of Commissioners and their roles within the organisation and outside it;
- the internal organisation and decision-making processes of the College of Commissioners, including the powers of the President and the continued appropriateness of collegial decision-making;
- the accountability of the Commission as a body and of individual Commissioners;
- the structure of the Commission services, in particular the number of DGs, the division of responsibilities between them and the means of ensuring better coordination among them;
- the role of Commissioners' cabinets in policy development, coordination and management;
- the scope for "unbundling" existing responsibilities and decentralising their performance to, for example, independent regulatory authorities or European Agencies;
- improved management of personnel, finance and policy responsibilities within DGs and greater flexibility across the Commission as a whole, taking advantage of opportunities for greater delegation of management responsibility and less reliance on detailed hierarchical supervision as a means central control.

The Prodi Commission has already begun to introduce changes in several of these areas. But to limit reform to them would be to underestimate the task of reforming the Commission. The established agenda does not address the full range of issues that an effective reform strategy should take into account. The familiarity of the agenda items listed above is a warning that the debate has become stuck in a rut. To a remarkable extent current proposals are framed by the terms of debate established in the Spierenburg Report of twenty years ago. This does not mean that they are insignificant. Some of the reform issues are perennial problems of organisation and management that can and should be dealt with. Perhaps the most frequently quoted examples are reducing the numbers of Commissioners and DGs. There is scope for differences of view about what are the right answers to these questions, but they are details in much larger picture. Discussing the reform of the Commission solely on the basis of the Spierenburg agenda is "safe" in the sense that everyone knows the issues, the arguments and the counter-arguments. But new issues and proposed solutions are emerging more strongly than they have done in the past. The established agenda does not provide an adequate basis for formulating a reform strategy that will assure the effectiveness of the EU in the longer term. Too much is happening in the field of European integration and too little has been done to encompass new issues that have arisen as a consequence of the advances European integration has made in the last twenty years.

Management as the Solution

In one respect the main theme of a forward-looking reform strategy is clear. Better management is the answer to the problems of poor performance, negligence and lack of accountability. And, in fact there appears to have been surprisingly rapid agreement on better management as the solution. The Commission seems to be moving belatedly in the general direction that the Member States have already gone – towards the introduction of modern management methods as the means of improving performance and accountability. No-one can seriously deny that there is a great deal of room for improvement. The crisis earlier this year highlighted the managerial inadequacies of the Commission. Subsequent debate, comment and criticism of lack of accountability and excessive bureaucracy have frequently portrayed "management" as the key to improved performance. The Second Report of the Independent Experts has provided evidence of specific failings and more general management shortcomings.

The logic of the situation requires the introduction of better forms of management. The Commission cannot expect a large increase in staff or financial resources in the coming years. What it can expect is a significant increase in workload as the direct demands of the enlargement process rise and the consequential indirect demands for policy adjustments and institutional reorganisation also grow. The Commission will therefore

have to find ways of managing by making better use of available resources than it has done in the past. Among other things this will mean a greater concern with results and less acceptance of procedural rigidity and complexity. It will mean more decentralisation and greater flexibility in the way human resources are allocated and used. It will also mean better management of financial resources with closer control over their allocation and use. This in turn depends on improved flows of information about actual results and more explicit measurement of performance. Better internal accountability will provide the basis for improved public accountability.

This, however, does not mean that management is a panacea. Nor does it mean that there is a ready-made management solution that the commission can implement. In fact, defining management as the solution to the problem of poor performance is the beginning rather than the end of the debate about what the reform strategy should be. As everyone knows, there is not an agreed body of universally applicable management principles. The days of one-size-fits-all management thinking are long past. Conversely, the management field is very vulnerable to shifting fads and fashions which provide a good living for management consulting boutiques. Apart from anything else it is wrong to assume that there is agreement about what management means in the context of the Commission. Is it basically the same as business management or closely similar to public management in national government? Are the differences more important?

At another level, implementing management reforms is fraught with difficulties. It will require a major cultural change that calls for extremely careful handling. Superficial acceptance of reform proposals will not produce lasting results if it fails to change institutionalised values and deeply ingrained habits of thought. At least until recently, "management" has not been a well-established or highly-valued element in the organisational culture of the Commission. As in most national governments, policy-related responsibilities have been more positively regarded and accorded a higher priority. The Commission's right of initiative has given it a key role in the policy formulation process. Ambitious Commission officials could expect to enhance their reputations and advance their career prospects by being involved in launching new policy initiatives. Conversely, the tasks of management making the resulting policies work in practice have been perceived as much less rewarding intrinsically and extrinsically. Neglect of management has been rationalised by defining it as routine, unproblematic and, therefore, unworthy of the time and attention of top level officials.

One might say that this is nothing new. In national governments public management reforms have encountered similar cultural obstacles and resistance to the acceptance of management ideas. The belief systems of senior officials have been more oriented to current policy issues and short-term political concerns than to questions of long-term performance. As elements of the administrative culture such belief systems are buttressed and protected by "disbelief systems" that simplify and discount the contribution that management can make to performance. One of the most deeply entrenched elements of the disbelief system is the policy-implementation dichotomy itself. By defining management as routine follow-up and implementation of policy decisions it justifies a segregation of policy makers and policy managers. Often status differences and organisational demarcations increase barriers to communication and cooperation.

There is another cultural dimension to reforming the Commission that could significantly influence the impact and eventual results of reforms. This is the stereotyping of management proposals as alien "Anglo-Saxon' ideas being transplanted into the European body politic. The more clearly reform proposals can be identified as business-based or American in origin, the more likely it is that attempts to introduce them will activate rejection mechanisms in and around the Commission. The appointment of a British Commissioner to lead the reform process may contribute to heightening these anxieties. But the problems would have to be faced anyway. If experience elsewhere is anything to go by, such problems are not insuperable. Most Member States are some way down the road in introducing management reforms. They do not all conform to a uniform approach. Attempts to delimit a unifying concept of "New Public Management" (NPM) or to identify a convergence on a single set of NPM solutions have been inconclusive. There is considerable diversity in the solutions adopted. In part this reflects diversity in the underlying problems and in institutional structures. The fact of diversity in the problems to be solved and the possible solutions preclude any simplistic process of imitation. It makes no more sense for the Commission to copy what national governments are doing than for national governments to copy business management models and methods.

Diagnosing the Management Deficit

Advocating management as the solution presupposes a diagnosis of the problems that need to be resolved. As yet there is no systematic diagnosis and there is a danger that political pressures to demonstrate short-term progress will result in too much attention to obvious symptoms and too little to underlying causes. The importance of thorough diagnosis is especially important in the case of the Commission for two different reasons. The first is that the recent problems of the Commission are part of the wider problem of the EU's management deficit. The EU has a structural bias towards taking on responsibilities that it does not have the capacities to fulfil. This can no longer be regarded as a temporary weakness that can be corrected in the future. On the contrary it is a serious and growing problem that could easily get out of hand if it is not dealt with before the forthcoming enlargement. Although the details are complex and depend on the policy field in question, the

general picture is that there are inadequate capacities. Moreover, dealing with the management deficit requires much more extensive and effective coordination between the administrations of the Member States and the Commission.

The second reason for emphasising the importance of diagnosis that the Commission can easily become the scapegoat for problems and failures that have broader systemic causes. Reform of the Commission is undoubtedly necessary. But it should not be seen in isolation from broader questions about the functioning of the whole system. The last IGC checked the issue of institutional reform but it will be very difficult to avoid in the next one. The diagnostic process, viewed as part of a strategy for managing change should be conducted so as to develop a shared understanding of the problems and shared responsibility for introducing change.

A Three-Pronged Strategy

To deal with the management deficit the Commission is not in a position where it can simply imitate what national governments have already done. It can learn from their experience. But it will have to develop its own criteria for selecting from that experience and it will also have to innovate in designing solutions. In formulating a strategy for reforming the Commission it is important to distinguish among three different objectives. One is reform of the internal organisation. This is what springs most readily to mind when the subject of reform is raised. The second is reforms aimed at improving the Commission's performance in policy management. The focus here is on the processes of EU policy implementation. The third is related to the future needs of integration as a whole. A three-pronged strategy for reform is needed to address the different management issues that arise in pursuing these different objectives.

Reforming the Existing Organisation

Reform of the Commission is often equated with reform of its internal organisation to make it more efficient at what it does. The focus is on getting the Commission to put its own house in order, to be better organised and managed to do what it is currently doing. This is the perspective on which the DECODE review was based. It is where reform of the commission has most in common with public management reforms in the administration of the Member States. The main directions in which reforms can be expected to develop – indeed are already developing – include clarification of structures and responsibilities within DGs with greater decentralisation and better central control; fewer DGs and better coordination among them; specification of operational goals and clearer performance indicators.

Reforming the internal organisation of the Commission is a major task in itself. Organisational structures and established practices have tended to promote fragmentation rather than develop effective means of coordination. Ironically, for an organisation whose business is integration, the Commission is poorly integrated. At the most basic level there has often been confusion and disagreement about the assignment of responsibilities among DGs. Clearer definition of who is responsible for what is a first step towards identifying patterns of interdependence and diagnosing needs for coordination among DGs.

The DECODE review noted the considerable increase in project management responsibilities in the Commission. It also commented on the inadequacy of resources and skills for managing projects in relation to the Structural Funds and the Accession process. Project management is a field in itself with its own set of problems and techniques that are, in some important respects, distinct from those appropriate for running ongoing operations. Projects have determinate goals and a time frame. The key questions for project managers are how to complete a project on time, to standard and within budget. Unrealistic project assessments in any of these three directions is liable to lead to slippage in the others. When project involve contractual relationships with outside organisations, as they often do in the case of the Commission, the need for sophisticated project management increases sharply.

A somewhat different direction of reform that has grown in prominence in recent years is the creation of European Agencies to perform specific specialised tasks. Sometimes this is seen as a way of decentralising the growing range of Commission responsibilities. Parallels are often drawn with the creation of executive agencies in national governments. However, this is a misleading analogy. European agencies are not just executive bodies with narrowly defined operational management tasks. They are in an important respect integrative organisations that help to strengthen the administrative networks through which many EU policies are managed.

The Commission as Policy Manager

Reforming the Commission is not just a matter of streamlining the internal organisation. The external dimension of management is extremely important. Particularly in its role as policy manager the Commission works with and through the administrations of the Member States. As the discussion of project management and European Agencies indicates, managing European policies usually involves networks of organisations linking levels of government and extending across and beyond the administrations of the Member States.

The Commission as policy manager is not usually an executive authority with direct operational responsibilities. Rather, it is responsible for ensuring that operational responsibilities are performed, and necessary support functions are provided, by other organisations. In general this means working through partnerships and establishing reliable organisational networks. Since there is no EU competence in public administration, this is a delicate task. The Commission is in the business of managing interdependence among national organisations that do not necessarily cooperate easily. It might be said that this is not fundamentally different from the

position of central ministries in national governments. Public management is almost invariable getting things done through other organisations. More or less all public services demand the combined efforts of several, or even many, organisations. However there are both qualitative and quantitative differences that influence the performance of the Commission as policy manager when the same policies have to be implemented across fifteen different countries. It is exceedingly difficult to design and manage systems that take account of institutional diversity and variations in levels of resources and expertise. It is not clear that the Commission is equipped to cope with the present complexities of policy management. A great deal has to be taken on trust and if trust proves to be ill-founded the consequences can be catastrophic. The most obvious recent example is the "Mad Cow Disease".

The second report of the Committee of Independent Experts, published in September, made much less public impact than the first report in March. Nevertheless, it should receive close attention from anyone concerned about equipping the Commission to play its role as policy manager. The report draws a distinction between direct and shared management. This is not, as one might expect, a distinction between what is done in-house and what is contracted out. It is a distinction between what is the direct responsibility of the Commission and what is a shared responsibility with the Member States. In fact, as the report observes, one of the problematic features of the Commission's exercise of its direct management responsibilities is that it relies increasingly on contracting out the work that has to be done.

Capacity-Building: A New Role for the Commission

The third objective is the most important in the long term for the effectiveness of the EU. It is to develop a new role for the Commission as the organisation responsible for ensuring that the capacities needed to manage the enlargement process and the enlarged system are adequately provided. Importantly, this does not mean the acquisition of new policy responsibilities or executive authority. To play a capacity-building role in designing organisational networks and developing management capacities to make them work, the Commission will have to re-establish its credibility and acquire new skills. This will be difficult politically as well as technically. Just at the moment the Commission's reputation is at a low point and it is hardly in a position to give lessons in management to others. A capacity-building role does not fit in easily with the responsibilities the Commission already has. But it is hard to see any other organisation taking on responsibility for dealing with the management deficit. No-one has done so until now.

If the political difficulties are obvious the technical challenges are enormous. European integration presents problems that are as different from public management problems at the national level and it is so far ahead of other initiatives in regional integration that there is no option but to find ways of learning from its own experience. Reforms of the Commission's internal organisation and moves to improve its performance in policy management can support developments in this direction. Indeed they should be deliberately designed to do so. However, managing even the present portfolio of responsibilities across a significantly enlarged EU warrants deliberate investment in the new institutional capacities that will be required to ensure success.

Conclusions

The conventional agenda of reform dating back to the Spierenburg report has concentrated on restructuring and streamlining the organisation itself. The current situation demands something broader and more ambitious. In order to cope with the next phase of integration the Commission needs to be reinvented so that it can play a strategic role in building the capacities needed to manage European policies effectively. In the main, the capacities are not internal to the Commission. They are distributed across organisational networks linking the Member States and the core European institutions. Ensuring that the networks contain the requisite capacities and function as effective and reliable regimes will require innovation in organisation and management rather than simply imitation. The challenges are quite unprecedented. There are no ready-made models or blueprints to work from.

In the past the main obstacle to reforming the Commission has been political disagreement about the substantive goals and future course of integration. The proposal here, is to adopt a different approach and focus reform efforts on equipping the Commission to play a new role in building capacities for integration. Whatever the substantive policies and specific objectives of integration, the effective performance of the system as a whole depends on ensuring that there are the right capacities to put them into effect. This will require significant innovation in the design of new governance structures and in the development of new methods for managing very complex and large-scale reforms. At present there is no institution responsible for this. The pressure is on the Commission to move rapidly from being a laggard in public management to being a leader.

RÉSUMÉ

La réforme de la Commission européenne est aujourd'hui un point prioritaire sur l'agenda politique de l'UE. Mais quel est l'objectif de cette réforme? Le but poursuivi est-il de réformer la Commission pour lui permettre de mieux faire ce qu'elle fait déjà ou est-il plutôt de l'équiper pour un nouveau rôle adapté aux défis de l'élargissement et de l'approfondissement de l'intégration? Cet article examine un certain nombre de questions stratégiques quant au développement futur de la Commission qui ont été négligées par le passé. A présent, il s'agit pour les nouveaux membres de la Commission européenne de traiter de toute urgence ces questions.

Stratégie, structure, systèmes, telle est la logique conventionnelle suivie par la pensée managériale. Mais, le débat sur la réforme de la Commission n'a pas suivi cette logique. Une grande partie des discussions ont été un exercice d'introspection et se sont efforcées d'esquiver la question de la stratégie, car trop polémique du point de vue politique. Au lieu de mettre au point une stratégie cohérente pour la réforme, le débat s'est concentré sur la restructuration et la rationalisation de l'organisation déjà en place en vue de la rendre plus efficace. Bien que ce soit là un aspect important et nécessaire, il ne contribuera que dans une faible mesure à résoudre le principal problème stratégique: le déficit de gestion de l'UE, autrement dit le fossé existant entre les capacités dont on dispose et celles dont on a réellement besoin pour gérer de manière efficace les politiques communautaires. S'il est vrai que l'UE est responsable de la gestion des politiques à une échelle continentale, en revanche on ne trouve personne qui soit véritablement chargé d'assurer la présence effective des capacités requises.

Cet article propose une stratégie triple pour réformer la Commission. Premièrement, il est nécessaire d'améliorer l'organisation interne de la Commission. Deuxièmement, il s'agit d'améliorer le rôle de la Commission dans la gestion et la mise en oeuvre des politiques. Troisièmement, la Commission doit développer un nouveau rôle en renforçant les capacités pour l'intégration. Cependant, à l'heure actuelle, la volonté institutionnelle de mettre au point et développer des réseaux plus fiables et plus efficaces entre la Commission et les Etats membres fait défaut. La proposition qui ressort de cet article est donc de réinventer la Commission afin de lui permettre de jouer un rôle nouveau dans la constitution des capacités requises pour résorber le déficit de gestion et améliorer la performance de l'UE dans son ensemble.

REFERENCES

Committee of Independent Experts (1999), First Report on "Allegations regarding Fraud, Mismanagement and Nepotism in the European Commission" (15 March).

Committee of Independent Experts (1999), Second Report on "Reform of the Commission – Analysis of current practice and proposals for tackling mismanagement, irregularities and fraud" (10 September).

European Commission – Inspectorate General (1999), "Designing Tomorrow's Commission – A review of the Commission's Organisation and Operation", Brussels, 7 July.

Metcalfe, Les (1996), "Building Capacities for Integration: The Future Role of the Commission", EIPASCOPE No. 1996/2, pp.2-8. ❑

Council Decision 1999/468 – A New Comitology Decision for the 21st Century!?

Dr Georg Haibach, LL.M.
Lecturer in European Law, EIPA

I. Introduction

On 28 June 1999 the Council adopted a new "Comitology" Decision which contains several significant changes with respect to the previous Decision of 1987. The term "comitology"[1] which is well known today was apparently coined in the European Parliament in 1987.[2] It refers to law-making procedures in the EC which have, however, existed since the 1960s and which involve committees composed of the representatives of the governments of the Member States at the level of civil servants. Comitology in the last 40 years has been probably the most fervently contested interinstitutional battleground between the Commission, Council and the European Parliament. It is the purpose of this article to assess whether the new Decision can put an end to that long-lasting struggle. For a better understanding of the underlying reasons of this power struggle and the positions of the different institutions, first a brief overview of the most important steps from the establishment of the first committees in the 1960s up to the Amsterdam Treaty in 1997 will be given. This is followed by a detailed presentation of the major changes introduced by the new Decision, based on a description of the positions adopted by the Commission and the European Parliament.

II. From the first committees to the Single European Act and the Treaty of Amsterdam

In 1961 and 1962, the first elements of the Common Agricultural Policy (CAP) were established.[3] These initial steps already required extensive and detailed technical regulation which the Council could not carry out alone. The Council also lacked the resources to respond to the needs of day-to-day management in this area, which included the ability to take action quickly.

The Council did not wish to delegate the implementation of the acts it adopted to the Commission without having some form of control over the steps the latter would take in carrying out this delegated task. Therefore, several proposals were put forward as to how this could be accomplished. The compromise that was finally reached provided for the creation of committees known as "Management Committees". These comprised representatives of the governments of the Member States whose task it was to issue an opinion on the implementing measures proposed by the Commission. However, the Commission was entitled to adopt its proposed measures immediately, even if the committee gave a negative opinion by a qualified majority. In the latter case, the proposed measures had to be referred back to the Council, which could then take a different decision (by qualified majority) within a specified time – usually one month. This procedure allowed the Commission to take particularly urgent steps without delay, but at the same time provided the Council with the possibility of intervening and modifying the Commission decision.

Comitology was actually "born" on 4 April 1962 when the first management committee was established by Art. 25f of regulation 19/62.[4] Most sectors of the CAP were subsequently established on this basis and the implementation of decisions was carried out using a variation of this (albeit only provisional) committee procedure in each sector. Before the end of the transitional periods for which the management committees had been established (on 31 December 1969) the Council decided to maintain the committees on a permanent basis.[5] Management committees eventually came to be used for the entire agricultural field.

In 1966, there was a heated debate in the Council about which committee procedure was to be chosen to implement measures in the field of customs, veterinary legislation and legislation on feedingstuffs and foodstuffs. As a compromise, the first "Regulatory Committee" was created on 27 June 1968 by regulations 802 and 803/68.[6] The Commission could only implement its proposals if the committee approved them by a qualified majority. If this was not the case, it had to submit its proposals to the Council. This procedure introduced the provision that the Commission could, nevertheless, implement its proposals if the Council had failed to reach a decision within a certain period of time specified in the act. This possibility was called a *filet (safety net)* procedure. While the Council could agree to this type of committee for the area of customs, there was opposition from some Member States when it came to veterinary matters and the fields of plant health and feedingstuffs. Here, the *filet* procedure was complemented by the *contrefilet* (double *safety net*) procedure.

From the very beginning, the European Parliament followed the development of comitology with mistrust,[7] since "measures of considerable scientific and political importance" were being adopted "without the Parliament being given any opportunity to exercise its obligation of

* *Un bref résumé de cet article en français figure à la fin.*

control laid down in the Treaty".[8]

The EP started pushing for the rationalisation of the apparently ever-increasing number of committees in the late 1970s and when the Commission calculated its budget estimates for 1983, on the basis of a 31% increase in the number of consultative bodies as compared with 1981, the EP decided to freeze a substantial part of the funds for committees.[9] Based on an interim report[10] of the Committee on Budgetary Control submitted in June 1983, the EP adopted a resolution on the expenditure included in the Community budget and on the efficiency of committees,[11] in which it expressed its concern about the fact that "the Commission has no effective centralised system for monitoring the activities of those committees" and that "this situation has led to shortcomings, where consultation activities are to some extent autonomous and no longer fully under the Commission's supervision." It demanded that strict rules should be applied concerning, *inter alia*, the frequency and duration of the meetings and the maximum number of participants from the Member States whose travelling expenses could be reimbursed. The Commission was asked to report to the Parliament on the rationalisation procedure and on the way in which appropriations had been managed during the period of 1983 in which funds had been frozen. In February 1984 the Commission submitted a report which responded in detail to the Parliament's criticism and proposed to dissolve 132 committees (21.9% of the total number).[12] The EP subsequently released the frozen funds in two stages.

The Single European Act and the 1987 Comitology Decision

In the first major revision of the Treaty, the Single European Act, which entered into force in 1987, the provisions on implementation were amended. Article 155 [*new* 211] EC Treaty, which had been the legal basis in the Treaty for comitology until then, only stated that "the Commission shall exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter".

- Article 145 [*new* 202] EC Treaty was amended to the extent that it now provided not just for the possibility of transfering powers but for an obligation to do so: "... the Council shall ... confer on the Commission, in the acts which the Council adopts, powers for the implementation of the rules which the Council lays down". Conferring implementing powers on the Commission was to be the rule; the Council could only resort to reserving such powers for itself in "specific cases".
- Furthermore, the comitology system was given a sound legal basis since Art. 145 [*new* 202] now recognised that "the Council may impose certain requirements in respect of the exercise of these powers".[13]
- Finally, following the proposal of the Commission and after obtaining the opinion of the EP, the Council was to lay down in advance the principles and rules concerning these procedures. The Council's Comitology Decision of 13 July 1987[14] followed that request. It restricted the number of possible committee procedures to three (or rather five, since two of them had two sub-variants a and b each):
  - In Procedure I (Advisory Committee) the Commission had to take the *"utmost account"* of the opinion delivered by the committee.
  - In Procedure II (Management Committee) the Commission was to adopt measures which applied immediately. If these measures were, however, *not in accordance* with the opinion of the committee, the Commission had to communicate them to the Council. *Variant a* stated the Commission "*may*" defer the application of the measures, while *Variant b* stated that it "shall" do so. The Council, acting by a qualified majority, could take a different decision.
  - In Procedure III (Regulatory Committee) the Commission was to adopt the measures only if they were in accordance with the opinion of the committee. If the measures were *not in accordance* with the opinion of the committee, or if *no opinion was delivered*, the Commission was to submit a proposal to the Council concerning the measures to be taken. In Variant a) *(filet procedure)* the Commission would adopt the proposed measures, if the Council had not acted by *qualified majority*. In Variant b) *(contrefilet procedure)* the Commission would adopt the proposed measures unless the Council had *decided against* them by a *simple majority*.

The Commission was concerned about the continuation of the III b) Procedure. In July 1987, it adopted a Decision in which it stated that it would never recommend a III b) Procedure in relation to a proposal for a legal act.[15] The fear the Commission had was that the Council would resort to ever-heavier procedures – and the Council did. Between 1987 and 1990 it set up more than 30 III b) committees in the area of internal market legislation, where the Commission had proposed other procedures.[16]

The European Parliament challenged the Comitology Decision before the Court of Justice on the grounds that it was incompatible with the spirit of the Treaty and the Single European Act. However, the case was declared inadmissible by the Court.[17]

The Interinstitutional Agreements (Plumb-Delors, Modus Vivendi, Samland-Williamsen)

The EP also considered it necessary to have greater and more effective practical control over the way in which the Commission carried out its executive powers. It therefore requested the Commission to implement in full the interinstitutional agreement as of 14 March 1988 (the *Plumb-Delors Agreement*) in the interests of

providing effective information to, and the effective consultation of, the Parliament. In the *Plumb-Delors Agreement*,[18] which was established by an exchange of letters between the then President of the Commission, Jacques Delors, and the then President of the EP, Henry Plumb, the Commission committed itself to forwarding all draft implementing acts of a *"legislative nature"* to the Parliament at the same time as they were forwarded to the implementation committee. "Routine" management documents and documents whose adoption were "urgent", as well as "confidential" measures, were excluded.

The co-decision procedure introduced in the Maastricht Treaty (Art. 189b [*new* 251] EC Treaty) placed the EP as co-legislator on an equal footing with the Council for those legal acts that were to be adopted according to this procedure. The Parliament, as co-legislator, now expected to have the same rights as the Council in controlling the Commission in the exercise of the delegated implementing powers. In the view of the Council the new powers did not go beyond a decision on which powers were supposed to be delegated, and which committee procedure was to be used.

On 20 December 1994, the Council, the EP and the Commission reached an agreement on a *Modus vivendi* to be applied until the 1996 Intergovernmental Conference.[19] This compromise provided that:

- the appropriate committee of the EP was to be sent, at the same time and under the same conditions as the committee comprised of representatives of Member States, any draft general implementing act submitted by the Commission, together with the timetable for it.
- If this draft act was referred back to it, the Council could only "adopt this act after informing the EP, setting a reasonable time limit for obtaining its opinion and, in the case of an unfavourable opinion, taking due account of the EP's point of view without delay, in order to seek a solution in the appropriate framework".
- Additionally, the Commission was to take "into account, as far as possible, any comments by the EP and [keep] the Parliament informed at every stage of the procedure" in order to enable it to assume its own responsibilities in full knowledge of the facts.

Although the EP did not succeed in its efforts to be placed on a completely equal footing with the Council with respect to the implementation of EC law, it was able to increase its participation in comitology to a remarkable extent,[20] by managing to obtain significantly more information and being granted the right to be consulted by the Commission as part of an informal procedure.

Parliament kept up the pressure in December 1995,[21] entering half of the expenditure for each type of committee in the reserve of the general budget for 1996,[22] since the Commission had refused to give any information on the question of committees meeting in public or to render public committee agendas and membership lists to the EP. The Chairman of the budget committee of the European Parliament and the Secretary General of the Commission finally in September 1996 reached an agreement which provides for measures regarding transparency in management and regulatory committee proceedings, the so-called *"Samland-Williamsen Agreement"*.[23] It stipulated that the Commission should make available to Parliament:

- "the annotated agendas for each meeting of management and regulatory committees"; and
- the "results of votes in Management and Regulatory Committees".

Furthermore, it stated that if "Parliament or a parliamentary committee wishes to attend the discussion on certain items on the agenda of a committee, the chairman will put the request to the committee, which may take a decision; if the committee does not accept the request, the chairman must give reasons for the decision; Parliament may wish to publicise such reasons".

The 1996 Intergovernmental Conference and the Treaty of Amsterdam

Since the *modus vivendi* provided that the question of comitology would be "examined in the course of the revision of the Treaties planned for 1996, at the request of the European Parliament, the Commission and several Member States" and the Reflection Group was also "invited to examine the question", the issue came onto the agenda of the Intergovernmental Conference.

The position of the Reflection Group[24] was divided, reflecting the contrasting views of the Member States on the matter. Some members of the group took the position that the best solution to the problem would be to assign full powers to the Commission, subject to supervision by the Council and the EP, whilst others were only willing to consider simplified procedures which would not undermine the Council's executive powers. A compromise position emerged, whereby a single procedure was proposed under which it would be up to the Commission, in consultation with national experts, to decide on the implementing measures under the supervision of the Council and the EP, which would have the right to cancel the measures and request the application of normal legislative procedures.

In its position of 13 May 1996,[25] the EP requested that the procedures be simplified by transferring overall responsibility for implementing measures to the Commission, which was to be supported only by an advisory committee. Type II and III committees were to be abolished altogether. The Council and the EP were to be notified of the measures proposed and each was to have the option of rejecting the Commission proposal and calling for new implementing measures or the initiation of a full legislative procedure.

The Commission[26] suggested that it should fully

exercise its function as the executive body, subject to review by the legislative authorities. It also pointed out that the role of the EP should be taken into account in instances where the basic act had been enacted by co-decision. It proposed a procedure whereby the EP or the Council could object to a draft measure which it had proposed, in which case the measure would be adopted by the co-decision procedure itself. In addition, the Commission took the view that the number of implementing procedures needed to be reduced, in order to avoid debates between the institutions as to the procedures to be followed. It also proposed that there should be, at the very most, three types of committees, namely one each for the Advisory, Management and Regulatory Procedures and that the different variants in the Comitology Decision should be dropped.

However, during the Amsterdam European Council in June 1997 the Member States decided not to make any amendments to the Treaty provisions relating to implementing measures (Art. 202 [*ex*-145] and 211 [*ex*-155]). Instead, a declaration was annexed to the Amsterdam Treaty[27] which provided as follows: "The Conference calls on the Commission to submit to the Council by the end of 1998 at the latest a proposal to amend the Council Decision of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission". According to Art. 202, the Decision was to be adopted "by the Council, acting unanimously on a proposal from the Commission and after obtaining the opinion of the European Parliament".

The fact that the Intergovernmental Conference did not solve the issue was not surprising since the necessary changes and adjustments (including a stronger involvement of the EP) did not require any Treaty amendments, but could be accomplished by a mere amendment of the Comitology Decision. The declaration showed, however, that the Member States recognised the necessity of making changes.

III. The Commission proposal for a new Comitology Decision

The Commission complied with the request of the IGC well in time, on 16 July 1998, by submitting a proposal[28] for a new Comitology Decision. It was to a great extent in line with the position that the Commission had already taken in its proposals for the "old" Comitology Decision, and the *modus vivendi*, as well as with its position during the IGC. But it also contained some new elements.

The proposal had two main purposes:

- Firstly, the proposal provided for the establishment of criteria for the use of the different procedures. For example, "measures of general scope designed to apply, update or adapt essential provisions of basic instruments" were to be adopted by the Regulatory Procedure. This was a new element in the Commission proposals.
- And secondly, the existing procedures were supposed to be simplified. It was proposed that the two sub-variants in procedure II and III[29] should be abolished: the Management Procedure (II) was supposed to become a mixture of procedures II a) and II b), and the Regulatory Procedure (III) was supposed to be changed significantly. If there was no qualified majority in favour of the proposal in the committee, the Commission was not to adopt the measures, but it could "present a proposal relating to the measures to be taken, in accordance with the Treaty.[30]" Procedure III was therefore intended to be a "semi-legislative procedure" in two respects: firstly, because was to be reserved for "measures of general scope", that is measures of a legislative nature; secondly, because it provided for the full legislative procedures if there was no qualified majority in favour of the proposal in the committee.

The proposal thus provided on the one hand for an involvement of the European Parliament according to the legislative procedure in all cases in which there was a reasonable argument for parliamentary participation, i.e. whenever the situation concerned the adoption of measures of general scope (Procedure III). In other matters (Procedures I and II) the separation of executive and legislative powers remained respected.[31] On the other hand the proposal did not provide the EP with the right to reject Commission proposals regardless of the opinion of the comitology committee as demanded by the EP in the context of the IGC. This was only to be the case when there was no positive opinion of the committee, so that the Parliament's right of supervision was subject to the views of the national civil servants.

The proposal finally provided for the European Parliament to receive more information on comitology matters. It was to receive agendas for committee meetings, draft measures submitted to the committees for the implementation of instruments adopted by the co-decision procedure and the results of voting. It was to also be informed whenever the Commission transmitted measures or proposals for measures to be taken to the Council.

IV. The opinion of the European Parliament

The opinion of the European Parliament of 6 May 1999[32] was amazingly ambiguous (not to say contradictory) on the key issue, namely the involvement of the European Parliament in comitology.

On the one hand, in the explanatory statement relating to its proposal the EP demanded quite openly to be placed on an equal footing with the Council in comitology. It expressed its wish to "establish a system whereby it can exercise proper scrutiny and, if necessary, call back an implementing measure that it disagrees with, when it stems from the co-decision procedure". Furthermore, the proposal fell "short of meeting the European Parliament's position" because "it is still only

the committees which have the right to request the Commission to refer back an implementing measure – no equivalent right is given to the European Parliament…. A matter referred back in such a way from the executive to the legislative authority is sent to the Council alone, rather than to both branches of the legislative authority (European Parliament and Council)…. The extension of the field of application of the co-decision procedure provided for by the Amsterdam Treaty implies that the control of the European Commission's executive activity has to be assumed equally by the legislative authority (European Parliament and Council)".

Yet, the legislative proposal itself was – in contrast to the explanatory statement – rather modest. The EP proposed to limit its involvement to an *ultra-virus* control, relating only to the legality of a measure but not to its content. This becomes clear from the proposed Recital 4a according to which "implementing measures must not modify the basic legislation (including annexes)" and "such legislation may not even be modified where the Council claims implementing powers for itself as the sole legislative authority". The proposed Art. 7a and 7b ("Protection of the legislative sphere") limit the involvement of the EP to being able to "challenge the legality of the decision" (Art. 7a) and "ask the Commission to submit a legislative proposal when the EP considers that an implementing measure … exceeds the implementing powers" (Art. 7b). This limitation of the involvement of the EP is confirmed in another part of the explanatory statement: one of the "most important priorities to be taken into account in the modification of the comitology system" was the "distinction between 'substantial legislation' and 'implementation provisions', through a better definition in the basic act by the delegation on the exercise of implementation powers (given that, for the European Parliament, an implementing measure does not amend, update or complete the 'essential aspect' of normative provisions)", while "guaranteeing that the legislative authority, i.e. the European Parliament and Council, does not intervene in the implementing measures".

Furthermore, the EP legislative proposal provided for a simplification of the procedures and an elimination of the Regulatory Committee Procedure. It also aimed at improving the transparency of the procedures by making all documents public except for reasons of confidentiality, by the adoption of uniform rules of procedure and by strenghtening the European Parliament's right to information with respect to draft measures submitted to the committees, agendas, summary records of committee meetings, attendance lists and the results of voting.

V. Council Decision 1999/468 of 28 June 1999

The Council adopted the new Comitology Decision 1999/468/EC[33] on 28 June 1999. It is strikingly different from the 1987 Decision in the sense that the new Decision is largely based on input from the Commission and Parliament.

With regard to the establishment of criteria for the choice of committee procedure and the simplification of the procedures the Decision to a large extent adopted the Commission proposal, whereas the new Regulatory Committee Procedure is a modification of the proposal. The Decision, furthermore, takes into account the concerns of the European Parliament regarding the protection of the legislative sphere. Finally, it aims at introducing more transparency in comitology.

Establishment of criteria

Art. 2 of the Decision provides for criteria which determine the choice of committee procedure for the legislator. The criteria are thus – as the fourth consideration of the Decision says expressly – "of a non-binding nature". They are very similar to those proposed by the Commission:

- The Management Procedure is to be followed as regards *"management measures such as those relating to the application of the common agricultural and common fisheries policies, or to the implementation of programmes with substantial budgetary implications"*.
- The Regulatory Procedure is to be followed as regards *"measures of general scope designed to apply essential provisions of basic instruments, including measures concerning the protection of the health or safety of humans, animals or plants, as well as measures designed to adapt or update certain non-essential provisions of a basic instrument"*.
- The Advisory Procedure is to be followed *"in any case in which it is considered to be the most appropriate"*.

The establishment of criteria has two advantages. Firstly, the distinction between certain types of implementing measures explains the necessity of having three different types of committees, which is certainly not self-evident. And secondly, it will make disagreements between the institutions, in particular the Council and Parliament, less likely. Such conflicts have in the past even caused the failure of the adoption of important pieces of legislation.[34]

Simplification of procedures

The simplification of the committee procedures concerns the Management and Regulatory Procedures, which will no longer have two variants each. Also the question whether Art. 250 [*ex*-189a] was applicable in the III a) Procedure, which led to much confusion,[35] will become obsolete. The same is true for the complex inter-institutional agreements[36]. Thus the simplification achieved by the new Decision should be seen as a significant step.

With regard to the Management Procedure (Art. 4), the Council basically accepted the proposal of the Commission. The new Procedure modifies the old II a)

Procedure only with regard to the time period. The Commission will adopt its proposed measures even in the case of a negative opinion of the committee. In that case:

- the Commission must, however, communicate them to the Council;
- it *may* defer the application for up to three months; and
- within that period, the Council may take a different decision.

Moreover, the Commission recalled in a declaration[37] to Art. 4 "that its constant practice is to try to secure a satisfactory decision which will also muster the widest possible support within the Committee" and gave is assurance that it would "take account of the position of the members of the Committee and act in such a way as to avoid going against any predominant position which might emerge against the appropriateness of an implementing measure".

The most substantial change relates to the Regulatory Procedure (Art. 5): if the implementing measures proposed by the Commission are not approved[38] by a qualified majority in the committee, the Commission "shall, without delay, submit to the Council a proposal relating to the measures to be taken" and shall "inform the European Parliament".

The Council can then either

- adopt the proposal by qualified majority; or
- "indicate by qualified majority that it opposes the proposal". In that case, the Commission "shall re-examine it". In doing so, it may:
  - submit an amended proposal to the Council;
  - re-submit its proposal; or
  - present a legislative proposal on the basis of the Treaty.[39]
- If on the expiry of a period of 3 months maximum the Council has not adopted the proposed implementing act or has not indicated its opposition to the proposal for implementing measures, the proposed implementing act will be adopted by the Commission.

The Council therefore – in contrast to the former III b) Procedure – is no longer able to reject a proposal by simple majority. This is a logical amendment in view of the enlargement of the EU, since a significant number of small Member States will join in the next years. It was nevertheless difficult to accept for the present smaller Member States. Denmark in particular only finally agreed to this amendment after the German presidency submitted a compromise proposal. Under that compromise, the Commission in a statement on the new Comitology Decision[40] made a commitment that "in the review of proposals for implementing measures concerning particularly sensitive sectors … in order to find a balanced solution" it would "act in such a way as to *avoid going against any predominant position* which might emerge within the Council against the appropriateness of an implementing measure".

Any new committee set up has to comply with the new procedures. But "old", already existing, committees also have to be adjusted in order to align them with the new procedures. A Council and Commission Statement on the new Decision[41] provides for a two step procedure:

- In a first step, the provisions are adjusted "without delay" in a rather mechanical way: current I Procedures are turned into the new Advisory Procedure, current II a) and II b) Procedures into the new Management Procedure and current III a) and III b) Procedures into the new Regulatory Procedure.
- But after this first step not all the committees will be in conformity with the newly established criteria. Therefore as a second step, a modification of the type of committee, will "be made, on a case by case basis, in the course of normal revision of legislation".

As a consequence, e.g. the III a) Committee established by Art. 15 of Council Regulation 443/92[42] on financial and technical assistance to, and economic cooperation with, the developing countries in Asia and Latin America, will first be turned into a new Regulatory Committee, and only later, "in the course of normal revision of legislation", into a Management Committee (because its task is the "implementation of programmes with substantial budgetary implications").

Involvement of the European Parliament

The Decision furthermore provides for a (limited) involvement of the European Parliament *in the implementation of acts adopted by co-decision*. It accepts the request of the European Parliament for a "protection of the legislative sphere", but rejects (possible) further-reaching demands that it should be placed on an equal footing with the Council:

- Under Art. 8, if the European Parliament "indicates that draft implementing measures the adoption of which is contemplated and which have been submitted to a committee would exceed the implementing powers provided for in the basic instrument", the Commission shall "review the draft measures".

  The Commission may then:
  - submit new draft measures to the committee;
  - continue with the procedure; or
  - submit a proposal to the European Parliament and the Council on the basis of the Treaty.

  The Commission shall also "inform the European Parliament and the committee of the action which it intends to take on the Resolution of the European Parliament and the Council and of its reasons for doing so".

  The same applies according to Art. 5 para. 5 if in the framework of the Regulatory Procedure a proposal is referred to the Council. In that case the European Parliament can inform the Council of its position

under the same conditions.

This new procedure is some kind of an "early-warning" procedure in the sense that it gives the EP the possibility of indicating its reservations to the Commission or Council. But since the Commission cannot be forced to withdraw its draft measure the ultimate decision on whether a certain legal act is *ultra vires* or not remains with the European Court of Justice[43] in the context of the already existing procedure according to Art. 230 para. 3 [*ex*-173] EC Treaty (in which Parliament is a privileged applicant[44]).

- Finally, Art. 7 para. 3 provides that "the European Parliament shall be informed by the Commission of committee proceedings on a regular basis". To that end, it shall receive:
  - agendas for committee meetings;
  - draft measures submitted to the committees for the implementation of instruments adopted by the co-decision procedure;
  - the results of voting;
  - summary records of the meetings; and
  - lists of the organisations to which the persons designated by the Member States to represent them belong.

  It shall also be kept informed whenever the Commission transmits measures or proposals for measures to be taken to the Council.

These parts of the Decision replace the *modus vivendi* and the *Samland-Williamsen* agreement. They limit the involvement of the European Parliament in comitology to an *ultra vires* control which is to make sure that implementing measures do not exceed the implementing powers provided for in the basic instrument. The EP is thus not placed on an equal footing with the Council. In some aspects the Decision does not go as far as what had already been granted to the EP in the *modus vivendi* and the *Samland-Williamsen* agreement (for example with respect to the types of draft measures sent to the European Parliament, the right to give an opinion in cases where the Commission makes a proposal to the Council in a Regulatory Committee Procedure, or the (theoretical) right of Members of the EP to attend committee meetings). The Decision, nevertheless, seems to be acceptable to the EP. According to the press release of the General Affairs Council meeting of 31 May 1999,[45] the European Parliament had signalled that it "could accept the compromise solution as in particular the so-called 'double safety net' will disappear and as the Council will have to act in future by qualified majority to oppose a Commission proposal. The Parliament is also satisfied that, under the new system, it will get comprehensive information on the work of the Committees and a right of scrutiny on every phase of the procedure". In fact, the introduction of the *ultra vires* procedure (Art. 5 para. 5, Art. 8) is a remarkable success for Parliament, considering the fact that the latter was not even mentioned in the 1987 Decision.

Transparency

In the past, the lack of transparency in comitology has been criticised repeatly.[46] Now, information to the public on committee procedures is supposed to be improved substantially:

- The principles and the conditions in relation to public access to documents which are applicable to the Commission will also apply to the committees (Art. 7 para. 2).
- The Commission will publish a list of all comitology committees in the Official Journal within six months of the entry into force of the Decision on 18 July 1999. This list will specify in relation to each committee the basic instrument(s) under which the committee is established (Art. 7 para. 4).
- From 2000 onwards the Commission will publish an annual report on the working of the committees (Art. 7 para. 4).
- References for all documents sent to the European Parliament will be made public in a register to be set up in 2001 (Art. 7 para. 5).

Standard Rules of Procedure for Committees

According to Art. 7 para. 1 and a Council and Commission statement concerning that provision, the Commission will adopt standard rules of procedure for committees by the end of 1999 which are to be the "basis" for the rules of procedure to be adopted by each committee. They will be published in the Official Journal and then be proposed by the Commission to each committee. They will then "adapt, in so far as necessary, their rules of procedure to the standard rules". Under the standard rules of procedure, draft measures and agendas should reach the Permanent Representations at least 14 days, in urgent cases at least 5 days before a meeting.[47]

VI. Conclusion

The new Comitology Decision can be regarded as an important step towards a modern system of comitology. It establishes criteria for the use of the different procedures, simplifies the so far unnecessarily complicated procedures, provides for an adequate involvement of the EP without violating the principle of separation of executive and legislative powers, and finally aims at reducing the secrecy in comitology – the main reason for legitimate criticism of comitology.

The new Decision will not lead to any dramatic shifts of power between the institutions involved in comitology: the Commission will remain the most important "player in the game", and the role of the European Parliament will remain rather limited. Only the amendments with regard to the Regulatory Committee Procedure will cause a shift of power between the Commission and Council the effects of which are, however, limited since both the Commission and the Council "win" in one case and "loose" in the other. The adoption of measures which used to fall under the former III a) Procedure will become more difficult for the Commission since now the Council can oppose a

draft measure by qualified majority (before only by unanimity). On the other hand, the adoption of measures which used to fall under the old III b) Procedure will be easier for the Commission: now the Council can oppose a draft measure only by qualified majority (before by simple majority).

Of course it remains to be seen how the new Decision will work in practice – in particular with respect to the implementation of the provisions on transparency. Yet the chances that the new Decision will have a longer "life" than the 1987 Decision did may not be bad.

It is certainly true that the "communitarian method" is based on cooperation between the institutions, or, as former Commission President Jacques Santer put it: *"L'efficacité de la méthode communautaire, on le voit à propos de la comitologie, repose sur la bonne coopération, sur une complémentarité organique, entre les institutions"*.[48] But the experience of the last 40 years seems to suggest that the adoption of the new Decision is not very likely to end the power struggle of the institutions over comitology – after all the new Decision does not confer the control of the Commission's executive activity equally on the Parliament and Council. Maybe the new Decision will be the beginning of a new era of comitology, in which rather than disagreeing over the fundamental issues, the institutions will struggle over the scope of implementing powers and the content of implementing legislation in specific cases.

RÉSUMÉ

Le Conseil a adopté, en juin 1999, la nouvelle décision de "comitologie" 1999/468 qui contient un certain nombre de modifications importantes par rapport à l'ancienne décision de 1987. Au cours des quarante dernières années, la comitologie a été probablement le champ de bataille interinstitutionnel qui a connu les luttes les plus acharnées entre la Commission, le Conseil et le Parlement européen.

Après un bref aperçu des étapes les plus importantes depuis la création des premiers comités dits de comitologie jusqu'au Traité d'Amsterdam, cet article présente la proposition de la Commission, l'avis du Parlement européen ainsi que les principales modifications introduites par la nouvelle décision du Conseil. Cette décision fixe les critères pour le recours aux différentes procédures prévues, simplifie ces procédures, prévoit une implication limitée du Parlement européen et, enfin, entend accroître la transparence.

La nouvelle décision ne devrait pas entraîner de grands bouleversements dans la répartition des pouvoirs entre les institutions impliquées dans la comitologie: la Commission demeurera le principal "acteur de la partie" et le rôle du Parlement européen restera relativement limité. Seules les modifications concernant la procédure du Comité de réglementation causeront un léger glissement dans le rapport de force entre la Commission et le Conseil.

Enfin, cet article se livre à une première évaluation de la nouvelle décision. Bien que l'expérience de ces 40 dernières années semble suggérer que l'adoption d'une nouvelle décision ne risque probablement pas de mettre un terme à la lutte pour le pouvoir que se livrent les institutions sur le terrain de la comitologie, cette décision pourrait bien marquer le début d'une ère nouvelle pour la comitologie. Ainsi, à l'avenir, le conflit entre les diverses institutions concernées, plutôt que de porter sur des questions fondamentales, pourrait se concentrer sur la portée des pouvoirs d'exécution et sur le contenu de la législation d'exécution dans certains cas spécifiques.

NOTES

1 The following articles on comitology have been published in *EIPASCOPE*: Demmke, "The Secret Life of Comitology or the Role of Public Officials in EC Environmental Policy", *EIPASCOPE* 98/3; Haibach, "Comitology after Amsterdam: A Comparative Analysis of the Delegation of Legislative Powers", *EIPASCOPE* 97/3.
Other articles on comitology published recently include: Bradley, "The European Parliament and Comitology: On the Road to Nowhere", *European Law Journal*, 1997, pp. 230-254; Demmke/Haibach, "Die Rolle der Komitologie-ausschüsse bei der Durchführung des Gemeinschaftsrechts und in der Rechtssprechung des EuGH", *Die Öffentliche Verwaltung*, 1997, pp. 710-718; Haibach, "Komitologie nach Amsterdam – Die Übertragung von Rechtsetzungsbefugnissen im Rechtsvergleich", *Verwaltungsarchiv*, 1999, pp. 98-111; Hummer, "Die Beteiligung des Europäischen Parlaments an der Komitologie", Hafner, Gerhard et al (eds.), 1998, *Liber Amicorum Professor Ignaz Seidl Hohenveldern in honour of his 80th birthday*, Kluwer Law International, The Hague, London, Boston; Joerges/Neyer, "From Intergovernmental Bargaining to Deliberative Political Processes: The Constitutionalisation of Comitology", *European Law Journal*, 1997, pp. 273-299; Neyer, "Administrative Supranationalität in der Verwaltung des Binnenmarktes: Zur Legitimität der Komitologie", *Integration*, 1997, pp. 24-36; Vos, "The Rise of Commitees", *European Law Journal*, 1997, pp. 230-254; Sauron, "Comitologie: comment sortir de la confusion", *Revue du Marche Unique Européen*, 1999, pp. 31-78; Wessels, "Comitology: Fusion in Action. Politico-Administrative Trends in the EU System", *Journal of European Public Policy*, 1998, pp. 209-34.
EIPA is organising seminars on comitology on a regular basis in Maastricht and in the Member States. For more information, please check our web site at: http://www.eipa.nl. EIPA has also published a book on the subject (Pedler/Schaefer, *Shaping European Law and Policy: The Role of Committees and Comitology in the Political Process*). Please check our web site at: http://eipa-nl.com/public/public_publications/default.htm.

2 Cf. Bradley, "Comitology and the Law: Through a Glass, Darkly", *Common Market Law Review*, 1992, p. 693, Fn.7.

3 The first part of this article is based on: Demmke, Eberharter, Schaefer, Türk, "The History of Comitology", in: Pedler/Schaefer, *Shaping European Law and Policy: The Role of Committees and Comitology in the Political Process*, European Institute of Public Administration, Maastricht, 1996, p.61.

4 OJ 1962, p. 933.

5 OJ 1969 L 324/23.

6 OJ 1968 L 148/1,6.

7 Cf. also: Bradley Kieran St. Clair, "The European Parliament and Comitology: On the Road to Nowhere", in: *European Law Journal*, 1997, p. 230.

8 See Session Documents of the European Parliament of 5 May

1984 (Doc. 1-205/84).

[9] OJ 1983 L 19; Articles 250 and 251 of section III, Part A of the EC budget for the 1983 financial year.

[10] EP Doc. 1-446/83 (Interim report of the Committee on Budgetary Control on the costs to the EC budget and effectiveness of committees of a management, advisory and consultative nature).

[11] OJ 1983 C 277/195 (Resolution on the cost to the EC budget and effectiveness of committees of a management, advisory and consultative nature).

[12] See EP Doc. 1-40/84, p. 7.

[13] This "confirmed" the ruling of the European Court of Justice in the Köster case (Case 25/70, *Einfuhrstelle v. Köster*, [1970] ECR 1161), the leading case on comitology, in which the Court had held that comitology did not distort the Community structure and the institutional balance since the committees did not have "the power to take a decision in place of the Commission or the Council".

[14] 87/373/EEC, Council Decision of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission, OJ 1987 L 197/33.

[15] Negotiations of the EP of 7 July 1987, No. 2-354, p. 63; also COM (87) Min 881 item XI, A of 8 July 1987, cited in: Communication from the Commission to the Council: conferment of implementing powers on the Commission, SEC (90) 2589 final, Annex II, p. 1.

[16] Communication from the Commission to the Council: conferment of implementing powers on the Commission, SEC (90) 2589 final, Annex II, p. 1.

[17] Case 302/87, European Parliament v Council, [1988] ECR 5615.

[18] SG (88) D/03026; EP-Dok.123.217, in: European Parliament, Conference of Committee Chairmen: The Application of the *modus vivendi* on Comitology: Practical Guidelines for Parliament's Committees, 7 July 1995, pp. 21 and 22.

[19] *Modus vivendi* between the European Parliament, the Council and the Commission concerning the implementing measures for acts adopted in accordance with the procedure laid down in Article 189b of the EC Treaty of 20 December 1994, OJ 1996 C 102/1.

[20] Report of the Committee on Institutional Affairs of the EP on a *modus vivendi* between the EP, the Council and the Commission concerning the implementing measures for acts adopted in accordance with the procedure laid down in Art. 189b of the EC Treaty of 12 January 1995, PE-Coc. A4-0003/95.

[21] Cf. Bradley, Kieran St. Clair, "The European Parliament and Comitology: On the Road to Nowhere", *European Law Journal*, 1997, pp. 230-254 (242-3).

[22] European Parliament, General Budget 96/96/Euratom, ECSC, EC, OJ 1996 L 22/456-459.

[23] Agreement of 25 September 1996, OJ 1996 C 347/125, Resolution on the draft general budget of the European Communities for the financial year 1997 – Section III – Commission.

[24] 1996 IGC**:** Reflection Group's Report, SN 520/95 (REFLEX 21).

[25] 1996 IGC**:** Position of the European Parliament of 13 March 1996, PE 197.390.

[26] Commission Opinion on "Reinforcing Political Union and Preparing for Enlargement", COM (96) 90 final.

[27] Declaration relating to the Council decision of 13 July 1987, OJ 1997 C 340/137.

[28] OJ 1998 C 279/5.

[29] In that respect the proposal resembles the proposal of the Commission for the "old" comitology decision of 3 March 1986, OJ 1986 C 70/6.

[30] i.e. consultation, cooperation or co-decision.

[31] Cf. Haibach, *"Comitology: A Comparative Analysis of the Separation and Delegation of Legislative Powers"*, Maastricht Journal of European and Comparative Law 1997, p. 373; Demmke/Haibach, *"Die Rolle von Ausschüssen in der Europäischen Gemeinschaft und in der Rechtsprechung des EuGH"*, Die Öffentliche Verwaltung 1997, p. 710.

[32] OJ 1999 C 279/258,404,411.

[33] Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission, OJ 1999 L 184/23.

[34] In two cases so far negotiations in the conciliation committee between Council and Parliament have failed because the two institutions could not agree on the type of committee to be set up: The first case occurred in July 1994 when a proposed directive on the application of open network provision (ONP) to voice telephony could not be adopted, the second in May 1998 with respect to the proposed directive establishing a securities committee (because the EP wanted a II b) Committee, while the Council insisted on a III b) Procedure).

[35] Since an Opinion of the Legal Service of Council (!!) of January 1991 had stated that this was the case, it was sufficient for the adoption of a measure by the Commission that one (!!) Member State was in favour of the proposal.

[36] See below (Involvement of the European Parliament).

[37] Declaration No. 1 on Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (Commission Statement), OJ 1999 C 203/1.

[38] This significant difference between the Management Procedure (the Commission must avoid a negative opinion) and the Regulatory Procedure (the Commission must obtain a positive opinion) has remained unchanged.

[39] This provision was adopted by Council although it is quite doubtful whether it is compatible with Art. 7 [*ex*-4] EC Treaty (*"Each Institution shall act within the limits of the powers conferred upon it by this Treaty"*). The Legal Service of Council came to the conclusion that this was **not** the case since Parliament would participate in the adoption of implementing measures in a way not provided for by the Treaty, in particular not by Art. 202 [*ex*-145] (Opinion 11987/98 of 19 October 1998, JUR 370, INST 68).

[40] Declaration No. 3 on Council Decision 1999/468/EC (Commission Statement), see Footnote. 37.

[41] Declaration No. 2 on Council Decision 1999/468/EC (Council and Commission Statement), see Footnote. 37.

[42] OJ 1992 C 52/1.

[43] Sauron (Footnote 1) uses the term "*double mécanisme administratif et juridictionel*" in this context.

[44] In the past, the ECJ has already annulled implementing measures on application of the EP because they were *ultra vires*, Cf. e.g. C-303/94, [1996] ECR I – 2943.

[45] Press Release No. 8657/99

[46] Cf. e.g. Trotman, "Agricultural Policy Management: A Lesson in Unaccountability", *Common Market Law Review*, 1995, p.1385; Schaefer, "Committees in the EC Policy Process", in: Pedler/Schaefer, *Shaping European Law and Policy: The Role of Committees and Comitology in the Political Process*, European Institute of Public Administration, Maastricht, 1996, p. 3.

[47] Cf. in that context case C-263/95, Germany/Commission, [1998] ECR I-441. In that case the court invalidated a Commission decision because the German member of the Standing Committee on Construction had received only the English, but not the German version of the draft measure within the 20-day period provided for in the rules of procedure of the committee, but 19 (!!) days before the meeting. The Court confirmed that Art. 3 of Regulation No. 1 of the Council of 15 April 1958 establishing the language regime of the European Community (OJ 1958 17/385 is applicable to committees *("Documents which an institution of the Community sends to a Member State or to a person subject to the jurisdiction of a Member State shall be drafted in the language of such State")*. This was now recalled by Council when it adopted the new Comitology Decision in the statement attached to the minutes of Council.

[48] Santer, *L'avenir de l'Europe. Quel rôle pour la Commission? Eloge de la méthode communautaire*, European University Institute, Florence, Jean Monnet Lecture of 20 October 1995. ❑

L'intégration de la Suisse dans l'Europe: Les accords bilatéraux comme première étape?*

Dr Sanoussi Bilal **

Maître de conférences, Représentant suisse à l'IEAP

Dans la nuit du 8 au 9 décembre 1998, à Bruxelles, les négociations entre la Suisse et l'Union européenne (UE) pouvaient enfin s'achever. Ainsi se concluaient quatre années de longues et souvent difficiles négociations en vue d'accords sectoriels entre la Suisse et l'UE. Ces accords, paraphés par les négociateurs suisses et européens lors d'une cérémonie dans la capitale suisse le 26 février 1999 et officiellement signés le 21 juin 1999 à Luxembourg, portent sur les sept domaines suivants: les transports terrestres et aériens, la libre circulation des personnes, la recherche, les marchés publics, les obstacles techniques au commerce et l'agriculture. Leur entrée en vigueur est prévue, après ratification par la Suisse et l'UE, le 1er janvier 2001. Cet article présente brièvement les principales étapes de ces négociations et les accords conclus entre la Suisse et l'UE.

Les séquelles du refus de l'EEE

Le 6 décembre 1992, le peuple (et les cantons) suisse rejetait, à une faible majorité, la participation de la Suisse à l'Espace Economique Européen (EEE). Cet accord était principalement basé sur l'extension des quatre "libertés" fondamentales, à savoir la libre circulation des biens, des services, des personnes et des capitaux, entre la Communauté européenne (CE) et les pays membres de l'Association Européenne de Libre Echange (AELE).[1] Il aurait constitué une première étape à l'intégration dans la CE. Ainsi, l'adhésion en 1995 de l'Autriche, de la Finlande et de la Suède à l'UE reflète la stratégie d'intégration européenne totale poursuivie par ces pays. Toutefois, le refus de la Norvège d'entrer dans l'UE démontre aussi, si besoin était, que la participation à l'EEE n'entraîne pas une adhésion automatique ou obligatoire à l'UE.

Quoi qu'il en soit, le non de la Suisse à l'EEE fut aussi interprété comme un rejet de la politique générale menée par le gouvernement suisse (le Conseil Fédéral) visant à l'intégration de la Suisse à l'Europe. Début 1993, le Conseil Fédéral opta donc pour une autre approche: la négociation d'accords sectoriels avec la CE dans les domaines prioritaires pour la Suisse. L'objectif était double. Afin d'éviter l'isolement de la Confédération Helvétique au coeur de l'Europe, il s'agissait de "maintenir la compétitivité de l'économie suisse" et d'améliorer "la qualité de la place économique suisse dans les relations avec le marché intérieur de l'UE".[2] Ainsi, le gouvernement proposa à la CE l'ouverture de négociations dans quinze secteurs jugés prioritaires, à savoir: règles d'origine, perfectionnement passif des textiles, produits agricoles transformés, obstacles techniques aux échanges, marchés publics, responsabilité du fait des produits, règles vétérinaires, règles phytosanitaires, propriété intellectuelle, transport aérien, transport terrestre, recherche, programme audiovisuel MEDIA, statistique, et éducation-formation-jeunesse.

Cependant, la CE n'était pas prête à entamer des négociations dans tous ces domaines. Elle ne voulait pas se voir imposer un agenda par la Suisse et cherchait à défendre ses propres intérêts. De plus, elle ne souhaitait pas de négociations indépendantes, mais une approche globale. Le problème pour la CE était de permettre une meilleure intégration de la Suisse dans l'Europe sans toutefois lui offrir un EEE "à la carte". Les domaines de la recherche, des obstacles techniques aux échanges, des marchés publics et des transports aériens et terrestres furent donc acceptés sur proposition de la Suisse. Mais la CE a insisté pour que deux domaines fort sensibles dans l'opinion publique suisse fassent aussi l'objet de négociations: la libre circulation des personnes et l'accès au marché des produits agricoles. Par ailleurs, les principes de la "globalité" et du "parallélisme approprié" étaient à la base de l'approche communautaire. L'objectif consistait donc, contrairement au souhait initial du Conseil Fédéral, à négocier en parallèle (c'est-à-dire en étroite corrélation) dans les sept domaines et de conclure les sept accords en bloc, et non individuellement.

Les négociations bilatérales

Le début des négociations fut toutefois retardé suite à l'acceptation par le peuple et les cantons suisses, le 20 février 1994, de l'initiative populaire pour la protection des Alpes visant à régir le trafic transalpin. La Suisse s'étant par la suite engagée à ne pas changer sa constitution de manière discriminatoire vis-à-vis de la CE, il n'y avait plus d'opposition de principe à des négociations sur les transports terrestres. Les négociations pouvaient donc être officiellement ouvertes le 12 décembre 1994.

Les négociations ont été longues et parfois houleuses. La Suisse a pu se rendre compte qu'il n'était pas toujours facile de négocier avec une UE composée de

---

* *A summary in English of this article can be found at the end.*

** Cet article ne représente que l'opinion de son auteur, et non celle du gouvernement suisse, ni celle de l'IEAP.

quinze pays membres aux intérêts parfois divergents. Du côté suisse, les difficultés à déterminer une stratégie diplomatique cohérente et à générer un consensus stable entre les différentes institutions et groupes d'intérêts ont aussi contribué à ralentir le processus de négociation. Le Conseil Fédéral a également tenté d'introduire d'autres secteurs sur la table de négociation (tels les textiles, les produits agricoles transformés ou l'éducation-formation), et de conclure et mettre en application de manière provisoire les premiers accords dès 1995. Mais elle s'est vu opposer un refus catégorique de la CE qui ne tenait pas à découpler les domaines de négociations ni à en introduire de nouveaux avant que les sept accords ne soient simultanément conclus.

Afin de relancer les négociations qui tendaient à s'enliser, en particulier dans les domaines sensibles de la libre circulation des personnes (la Suisse craignant un afflux d'étrangers) et des transports terrestres (la Suisse désirant réduire le trafic routier transalpin), le Conseil Fédéral a formellement reconnu, en janvier 1996, le principe communautaire de conclusion simultanée des sept accords (principes de la globalité et du parallélisme approprié)[3] et a redéfini, en avril 1996, sa politique de négociation.

Cette stratégie d'ouverture a ainsi permis de débloquer les négociations dans le domaine de la libre circulation des personnes en incluant une clause de sauvegarde permettant de limiter l'entrée en Suisse en cas d'afflux massif de travailleurs étrangers.

C'est finalement la question des transports, aérien et surtout terrestres, qui s'est avérée la plus délicate à résoudre. Alors que l'ensemble des autres négociations étaient techniquement achevées en juin 1998, le dossier des transports était toujours pendant. En outre, le montant de la redevance demandée par la Suisse pour le passage des poids lourds de plus de 40 tonnes à travers les Alpes, bien que finalement admise dans son principe, suscita une forte opposition de la part de certains pays membres de l'UE, surtout parmi les pays frontaliers de la Suisse, et tout particulièrement l'Allemagne (pourtant un allié traditionnel de la Suisse). De plus, il était crucial pour l'UE que les autorités helvétiques puissent garantir une redevance non-discriminatoire pour les étrangers et le développement d'un système de transport ferroviaire adéquat afin de délester le trafic routier de marchandises à travers les Alpes (le principe de ferroutage). En approuvant le 27 septembre 1998 l'introduction de la Redevance poids lourds liée aux prestations et le 29 novembre 1998 le financement des grands projets du transport public (dit "Le rail moderne"), le peuple Suisse a permis la conclusion rapide des négociations bilatérales.

Le contenu des accords

Il n'est pas possible de résumer en quelques lignes le contenu des 611 pages des accords bilatéraux sectoriels entre la Suisse et l'UE.[3] De manière succincte, on peut toutefois relever les éléments suivants.

1) La libre circulation des personnes

L'objectif de l'accord est l'abolition graduelle des restrictions à la circulation des personnes. L'UE s'engage, deux ans après l'entrée en vigueur des accords, à accorder aux Suisses la libre circulation au sein de l'UE, conformément à l'acquis communautaire. Du côté helvétique, l'ouverture sera plus lente et réversible si nécessaire. Dans une première phase, la Suisse éliminera les principales mesures discriminatoires affectant surtout le marché du travail. Dans une deuxième phase, après cinq ans, elle adoptera la libre circulation des personnes, mais en conservant la possibilité d'imposer des mesures (unilatérales) de sauvegarde (contingents) en cas d'immigration massive. Ce n'est que douze ans après l'entrée en vigueur des accords que la libre circulation des personnes avec une clause de sauvegarde consensuelle sera introduite. Finalement, il est important de noter que l'accord a une durée initiale limitée à sept ans, le peuple suisse ayant ensuite la possibilité de voter (par référendum facultatif) sur l'opportunité de prolonger pour une durée indéterminée l'accord.

L'accord régit également des questions telles que l'acquisition immobilière, la coordination du système de sécurité sociale et la reconnaissance des diplômes. Mais c'est l'ouverture du marché du travail, traditionnellement très régimenté, qui marque le principal tournant dans la politique helvétique. C'est aussi un des domaines, avec les transports terrestres, qui risque le plus de générer une forte opposition en Suisse. L'approche graduelle, la période initiale limitée de l'accord (permettant la réversibilité), le principe de mesures de sauvegarde, et bien d'autres éléments techniques des 80 pages de l'accord semblent principalement destinés à dissiper les craintes d'invasion étrangère et de "dumping social" exprimées au sein de la population suisse et de certains cercles économiques et politiques.

2) Les transports terrestres

Ce secteur constitue l'autre grand dossier de ces accords bilatéraux. L'objectif est d'une part la libéralisation progressive et mutuelle des transports routiers et ferroviaires pour les biens et les personnes; d'autre part, il s'agit de développer une politique coordonnée des transports entre la Suisse et l'UE, principalement dans l'arc alpin, et ceci dans le respect de l'environnement. Pour le Conseil Fédéral, il fallait donc faciliter le transit transalpin tout en protégeant l'environnement. La solution adoptée est le transfert du transport de la route vers le rail, grâce d'une part à l'introduction progressive de contingents et d'une redevance (dont le montant fut le sujet d'âpres négociations) sur les poids lourds (en fonction du principe du "pollueur-payeur"), et d'autre part au financement d'une "offre ferroviaire performante".[4] Il s'agit là de mesures importantes qui s'insèrent dans la politique globale des transports de la Suisse et qui pourraient nécessiter un investissement dans la promotion du rail de l'ordre de EURO 2 milliards (FS 3,3 milliards) sur dix ans.

3) Le transport aérien

L'accord vise, sur la base de la réciprocité, à ouvrir progressivement le marché déjà libéralisé du transport aérien européen aux compagnies suisses. Ainsi, la Suisse adopte en substance l'acquis communautaire dans le domaine, à l'exception de l'accès aux vols intérieurs dans chacun des pays membres de l'UE (la dite huitième liberté) qui pourra être négocié cinq ans après l'entrée en vigueur de l'accord.

4) L'agriculture

L'accord qui comprend quelque 316 pages (dont 311 pages d'annexes), soit plus de la moitié du volume total des accords, a pour objectif de stimuler les échanges de produits agricoles entre la Suisse et l'UE, principalement dans les secteurs des fromages, des fruits et légumes, de l'horticulture, et dans une moindre mesure les spécialités de vins et de viande porcine et bovine. Les mesures adoptées, spécifiques aux différents secteurs, portent notamment sur des concessions tarifaires réciproques et la diminution, voire suppression, de barrières techniques aux échanges de produits agricoles. L'introduction d'une "clause évolutive" permet également d'envisager l'adoption future d'autres mesures favorables aux échanges de produits agricoles.

5) Les obstacles techniques au commerce (OTC)

Il s'agit de faciliter l'échange de produits industriels grâce à l'introduction de la reconnaissance mutuelle, d'évaluation de conformité pour certains produits et d'allégements des procédures de certification. Les principaux bénéficiaires de cet accord seront les industries de pointe suisses fortement tournées vers l'exportation, tels les secteurs pharmaceutiques, des appareils médicaux, des machines-outils, et de la télécommunication.

6) Les marchés publics

Comme pour le cas des OTC, l'accord prévoit un prolongement aux accords de l'Organisation Mondiale du Commerce (OMC). Il s'agit, d'une part, d'étendre aux communes les règles de l'Accord (plurilatéral) de l'OMC sur les Marchés Publics et, d'autre part, d'intégrer les secteurs de l'eau, de l'énergie, des transports et des télécommunications à l'accord, à l'exception toutefois des entreprises opérant dans un secteur en cours de libéralisation et soumis à la concurrence (comme c'est souvent le cas, par exemple, dans le secteur des télécommunications). L'accord réglemente la passation des marchés publics pour des montants au-dessus de valeurs seuils (à l'instar de l'Accord de l'OMC et des Directives de la CE relatives aux marchés publics), mais prévoit aussi l'application du principe de non-discrimination au-dessous de ces valeurs seuils.

7) La recherche

La principale mesure de cet accord est l'ouverture du cinquième programme-cadre de recherche et de développement de l'UE aux participants de la Confédération Helvétique.

Un premier pas vers l'Europe? Une perspective suisse

La conclusion des accords bilatéraux est indéniablement un succès pour la Suisse. Non seulement ces accords lui ouvrent les portes de l'UE, mais les mesures de libéralisation qu'ils incluent contribueront à stimuler son économie. Diverses études montrent en effet un gain de croissance pour la Suisse de l'ordre de 0,6% du PIB par habitant pour les prévisions les plus pessimistes à 2% pour les plus optimistes.[5] Outre la libre circulation des personnes, qui ne devrait pas générer d'immigration importante ni faire baisser à long terme les salaires mais au contraire améliorer l'efficacité du marché du travail[6], l'accord sur les transports devrait être une des principales sources de gains économiques. A court terme, ces accords représentent donc une avancée significative pour la Suisse.

Toutefois, le processus de négociations bilatérales a aussi montré les limites de la diplomatie suisse et les contraintes qu'une telle approche entraîne. Ainsi, la Suisse a dû faire d'importantes concessions, entre autres en acceptant le principe de négociations globales et de parallélisme approprié, en acceptant de négocier dans des domaines qui n'étaient pas prioritaires pour elle (voire qu'elle aurait préféré ne pas aborder du tout), tels la libre circulation des personnes et le secteur des produits agricoles, en acceptant de réduire de manière significative ses exigences (dans le domaine des transports, par exemple, sur des sujets tels que le montant de la redevance et des contingents). Il n'est plus possible pour la Suisse d'ignorer ses partenaires européens ("l'Alleingang") ou de ne négocier que sur les sujets qui l'intéressent (accords "à la carte"). Même en dehors du marché commun, la Suisse doit s'adapter aux demandes et contraintes de l'UE.

Est-ce à dire que les accords bilatéraux entre la Suisse et l'UE constituent un premier pas de la Suisse vers l'UE avant de rentrer officiellement dans le marché intérieur? Les accords sectoriels bilatéraux ne sont pas liés à la demande d'adhésion, les deux questions étant juridiquement et politiquement distinctes. Les accords, ainsi que des mesures accompagnatrices pour la Suisse, ont été adoptés par le parlement suisse (Conseil National et Conseil des Etats). Les risques d'un référendum populaire (qui peut être initié dans les cent jours suivant la procédure parlementaire, soit à partir du 8 octobre 1999) sont relativement faibles.[7] Un hypothétique refus des accords condamnerait bien sûr toute chance d'une adhésion rapide de la Suisse à l'UE. En revanche, les accords sectoriels ont montré les limites de l'approche bilatérale: lenteur du processus (huit ans, soit de 1993 lorsque le Conseil Fédéral a exprimé son désir d'entamer des négociations à 2001, date prévue de l'entrée en vigueur des accords), difficultés dans la détermination d'un agenda et des modalités de négociation, problèmes liés aux concessions spécifiques à chaque secteur, contraintes imposées par l'obligation de prendre en compte l'acquis communautaire, tensions diplomatiques et politiques, etc. Il semble peu probable que l'UE soit

prête dans l'immédiat à entamer un nouveau cycle de négociations portant sur d'autres secteurs. Dans l'optique de la poursuite de l'intégration dans l'UE, l'adhésion semble donc bien devoir être la prochaine étape, comme le voudrait le Conseil Fédéral.[8] La Suisse sera ainsi un membre à part entière de l'UE, en mesure de profiter de tous les avantages économiques de l'intégration européenne et partie prenante au processus de décision politique de l'UE.

SUMMARY

On the night of 8 December 1998 it was finally possible to bring negotiations between Switzerland and the European Union to an end in Brussels, thus concluding four years of long and often difficult talks on sectoral agreements between the two parties. These agreements, initialled by the Swiss and European negotiators during a ceremony in the Swiss capital on 26 February 1999 and officially signed on 21 June 1999 in Luxembourg, concern the following seven areas: terrestrial and air transport, the free movement of persons, research, public procurement, technical obstacles to trade and agriculture. Their entry into force is expected after ratification by the Swiss and European Union on 1 January 2000. This article briefly presents the main stages of these negotiations and the agreements concluded between the Swiss and the EU.

NOTES

1 L'EEE a été ratifié en 1992 par tous les autres pays membres de l'AELE à l'époque, soit l'Islande, le Liechtenstein, la Norvège, la Suède, la Finlande et l'Autriche, les trois derniers étant rentrés dans l'UE en 1995.

2 Cf. Conseil Fédéral, *Message relatif à l'approbation des accords sectoriels entre la Suisse et la CE*, 23 juin 1999, p.2.

3 Le texte complet des accords est disponible sur internet à l'adresse http://www.europa.admin.ch/f/int/abindex.htm . Un résumé officiel est aussi disponible sur http://www.europa.admin.ch/f/int/eurofiches.htm. Finalement, la Société pour le développement de l'économie suisse (SDES), par l'intermédiaire du comité "Oui aux Accords bilatéraux", a aussi développé son propre site internet pour présenter et discuter les accords bilatéraux: http://www.accordsbilateraux.ch/ .

4 Le Conseil Fédéral, qui proposait au début des négociations une redevance de plus de EURO 360 (FS 600), a finalement dû se contenter, suite aux pressions surtout de l'Allemagne, de l'Autriche, de l'Italie et des Pays-Bas, d'une redevance pour le transit Bâle-Chiasso des poids lourds de 40 tonnes, de EURO 180 (FS 297) à partir de 2005 et de EURO 200 (FS 330) dès l'ouverture du tunnel du Lötschberg ou au plus tard en 2008.

5 Voir notamment les récentes études économiques suisses portant sur des scénarios d'intégration de la Suisse dans l'UE, y compris la conclusion d'accords bilatéraux: Tobias Müller et Jean-Marie Grether (1999), *Effets à long terme d'une intégration de la Suisse à l'Europe*, Laboratoire d'économie appliquée, Université de Genève; André Müller et Renger van Niewkoop (1999), *Intégration de la Suisse à l'UE – effets économiques*, ECOPLAN, Berne; Renger van Niewkoop et André Müller (1999), *The Economic Effects of the Bilateral Sectoral Agreements and the Swiss EU Membership*, ECOPLAN, Berne (http://www.ecoplan.ch/download/euireferat.pdf); et Jürg Bärlocher, Bernd Schips et Pete Stalder (1999), *Effets macro-économiques d'une adhésion de la Suisse à l'UE*, Konjonkturforschungsstelle, ETHZ, Zürich.

6 Voir, entre autres, à ce sujet Thomas Straubhaar (1999), *Intégration et marché du travail: conséquences d'un rapprochement de la Suisse et de l'Union européenne*, Université de la Bundeswehr, Hambourg.

7 Même si cela était le cas, un récent sondage indique que deux tiers des Suisses sont favorables aux accords bilatéraux (voir *Le Temps* du 17 septembre 1999).

8 Voir à ce sujet: Conseil Fédéral, *Suisse-Union européenne: Rapport sur l'intégration 1999* du 3 février 1999 (http://www.europa.admin.ch/f/int/ri_f.pdf). ❑

The "Falcone" Research Project on Organisational Changes within the Police and Prosecution Services of the EU Member States as a Consequence of the Fight against Organised Crime*

Dr Monica den Boer and Patrick Doelle

Respectively Associate Professor, Katholiek Universiteit Brabant, Tilburg, and Research Assistant, EIPA

Introduction

The assumption that organised crime constitutes a common threat to the EU Member States has contributed to the establishment of new structures of judicial and police cooperation under the Treaty on the European Union signed in Maastricht in 1992. Since the creation of the so-called "Third Pillar" on Justice and Home Affairs, which lays down the framework for EU decision-making in this field, several instruments have been adopted with a view to strengthening cooperation between the Member States. Examples are the Europol Convention and the 1997 Action Plan to Combat Organised Crime. The 1997 Amsterdam Treaty, which entered into force on 1 May 1999, has given a considerable impetus to the provisions on police and judicial cooperation in criminal matters, which now explicitly include the objective to control organised crime in order to achieve an area of freedom, security and justice.[1]

As part of the process of implementing the Action Plan to Combat Organised Crime, the Council of the EU adopted the "Falcone" programme in 1998, the objective of which is to finance activities such as exchanges, seminars, training or research projects.[2] Among the ± 30 cooperation projects approved in 1998 is a research project presented by EIPA.[3] This project aims to establish, analyse and evaluate the recent organisational changes in the law enforcement and public prosecution services of the EU Member States, and to assess the influence of the EU on these reforms. The project seeks to guarantee significant scientific and practical value and involves a final comprehensive report, covering all Member States, which is to be submitted to the European Commission at the end of May 2000. Hence, on the one hand, the research activity is based on a series of hypotheses related to the convergence of the 15 national criminal justice systems, and on the other hand, on an original methodology involving a network of researchers coordinated by EIPA.

The influence of EU measures on organisational reforms in the Member States

Several legal instruments adopted by the EU – mainly within the framework of the Third Pillar – oblige or urge the Member States to change the organisational structures and procedures of their law enforcement and public prosecution bodies.

The establishment in 1993 of the Europol Drugs Unit (EDU) in The Hague, as a forerunner of Europol, required the creation of a National Drugs Unit in each Member State in order to channel intelligence between EDU and the competent national law enforcement agencies.[4] The Europol Convention – signed in July 1995 – strengthens the position of the Europol National Units and furthermore demands the designation of a national data protection board, which should have an impact on the accountability procedures concerning law enforcement agencies.[5] The functioning of Europol may also have a harmonising effect on the way national authorities collect, analyse and classify information, and, finally, on the way they perceive and define organised crime.

The 1997 Action Plan to Combat Organised Crime follows a very broad approach to the issue, by formulating 30 recommendations that should be implemented by the Member States in accordance with various timetables.[6] Some of these recommendations are of great interest for the EIPA research project. Recommendation No. 1 asks for the designation of a national body for the coordination of the fight against organised crime, while Recommendation No. 2 points out the necessity of setting up a common mechanism for the collection and analysis of data which allows for the production of an EU-wide organised crime situation report.

Recommendations No. 19 to 21 again concern the organisational structures in the Member States, and propose respectively: the creation of central national contact points at the level of law enforcement agencies for the exchange of information on organised crime; multidisciplinary integrated teams at national level to improve complex investigations in the field of organised crime; and national judicial contact points which are part of the European Judicial Network.[7]

Among the other EU instruments which have had or

---

* *Un bref résumé de cet article en français figure à la fin.* More information on the "Falcone" project is available on EIPA's web site (http://eipa-nl.com/falcone/default.htm).

might have an influence on organisational reforms in the Member States, the draft Convention on Mutual Assistance in Criminal Matters and the 1991 EC Money Laundering Directive could be considered o be the most important.[8] Even if they were originally concluded outside the EU framework and do not have the control of organised crime as their principal objective, the Schengen Agreements of 1985 and 1990 also played a significant role in the police and judicial cooperation between the Member States, and are therefore taken account of in the research project.[9]

However, despite the presence of numerous EU measures designed to improve the fight against organised crime, their impact on national reforms is far from obvious. Thus, the present research will also have to examine how far EU and national policies really relate to each other.

Towards a Convergence between National Criminal Justice Systems?

The outcome of the research will allow the researchers to verify or refute research hypotheses which are based upon empirical indications about organisational trends in the Member States and which have been formulated in order to direct the research in a specific course. According to one of these hypotheses, the organisational reforms in the different Member States seem to be much more the product of national crises and of informal, bottom-up processes than of EU policy decisions and legal instruments.

Notwithstanding this presumption, the principal research hypothesis remains that the 15 national criminal justice systems are increasingly converging, thereby weakening the traditional opposition between the Anglo-Saxon and continental policing models.[10] The central direction that seemed to be the key-characteristic of most continental systems has become more diffuse due to a growing emphasis on locally and regionally determined intervention, while the Anglo-Saxon system of Community policing has been challenged by the repeated creation of new central structures.

Other hypotheses flowing from the increasing systemic convergence are the rather complementary centralisation and decentralisation tendencies in the Member States. On the one hand, there is a tendency to create or designate central bodies for the exchange of information and/or the coordination of investigations in the field of organised crime, which are also often given operational competences at the national level. This centralisation process is generally accompanied by an enlargement of scale in the human and technical resources of the competent authorities. On the other hand, the regional and local level may be reinforced in order to promote better cooperation with the central structures. In the same way, one can notice a "bifurcation process": centralisation is paralleled by specialisation, task division, fragmentation and sometimes even "delocalisation" of the law enforcement agencies dealing with organised crime.

Less apparent but also essential aspects of convergence concern the use of proactive policing methods and the interaction between public and private policing bodies. The challenge to investigate organised crime has led to an extension in the popularity of undercover methods and the employment of intelligence. As the use of these methods poses the problem of how to ensure civil liberties are respected by the law enforcement agencies, the research will also focus on the accountability systems (authorisation procedures, etc.) in the Member States. Particular attention will be paid to forms of cooperation between the law enforcement agencies and private companies. The latter can provide useful intelligence because they generally have more resources and are not subject to strict accountability procedures.

Finally, international cooperation seems to unleash more intensive competition between national law enforcement agencies.[11] The mutual adoption of rules and techniques which have already been successfully applied in another Member State may also contribute to the growing convergence of the 15 national criminal justice systems.

The research network

The ambition to make a comparative inventory of the recent organisational changes in the national criminal justice systems of the EU Member States prompted the idea of creating a research network composed of one national expert for each Member State. This network is coordinated and assisted by EIPA, which also hosted the first meeting at the beginning of June 1999. This meeting had the purpose of bringing together all the participants of the project to discuss the research area and methodology. Thanks to the dynamic interaction between the participants and to their different cultural and professional backgrounds (social scientists, lawyers and police officers from 15 Member States), the debates were very fruitful and facilitated the framing of a common questionnaire which will be used by the experts in their research. In producing each national report, the researchers are free to combine the questionnaire with other means of research, such as interviews and documentary research. After all national reports have been submitted to EIPA at the end of this year, a second meeting will be held in February 2000, in order to present and synthesise the outcomes. The final report to be published by EIPA and submitted to the Commission will contain all the national reports and a synthesis of the results.

RÉSUMÉ

Dans le cadre de ses compétences en matière de justice et d'affaires intérieures conférées par le traité de Maastricht, l'Union européenne a adopté en 1998 le programme "Falcone", qui prévoit le financement d'activités (comme les échanges de personnel, les

séminaires ou les études) dans le domaine de la lutte contre la criminalité organisée. L'un des projets qui bénéficient du soutien financier de ce programme est un projet de recherche présenté par l'IEAP.

En le justifiant notamment par le besoin de mieux lutter contre la criminalité organisée, les Etats membres de l'UE ont récemment adopté ou prévoient des réformes dans l'organisation de leur ministère public et/ou de leurs services répressifs.

L'objectif du projet de recherche consiste à recenser et analyser ces réformes et à évaluer l'influence qu'exercent à cet égard les initiatives européennes (telles que Schengen, Europol ou le Programme d'action relatif à la criminalité organisée). En fin de compte, le projet devrait permettre de déterminer si les différents systèmes nationaux sont en train de converger vers un modèle européen de justice criminelle.

Le projet est exécuté par un réseau de recherche qui est composé d'un expert par Etat membre et coordonné par l'IEAP. Deux tables rondes permettent de discuter d'une méthodologie commune et d'effectuer une évaluation collective des résultats de la recherche. Chaque expert national remettra un rapport sur l'organisation et les réformes dans son pays. Ces quinze rapports nationaux ainsi qu'un rapport de synthèse seront soumis fin mai 2000 à la Commission européenne et publiés par l'IEAP.

NOTES

1 Art. 29 of the consolidated version of the TEU.

2 *OJ* 1998 L 99/8-12. The Joint Action establishing the "Falcone" programme was adopted by the Council on 19 March 1998. Its name is a tribute to the famous Italian judge Giovanni Falcone, who was killed by the Sicilian Mafia on 23 May 1992.

3 The project is co-sponsored by the Scientific Research and Documentation Centre of the Dutch Ministry of Justice.

4 The Ministerial Agreement on EDU of 2 June 1993 covered unlawful drug trafficking and related money- laundering activities. The Agreement was replaced by a Joint Action of 10 March 1995 (93/73/JHA, published in the *Official Journal of the European Communities*, 1995 L 62/1) which extended the competence of EDU to illegal trafficking in nuclear and radioactive substances, clandestine immigration networks and illicit vehicle trafficking.

5 *OJ* 1995 C 316/1-32. The Europol convention was adopted on 26 July 1995 by the Council and entered into force on 1 October 1998. However, the convention only went into operation on 1 July 1999, when all the related texts to the functioning of Europol were approved.

6 *OJ* 1997 C 251/1-18. The Action Plan was adopted by the Council on 28 April 1997.

7 The European Judicial Network was established by a Joint Action adopted on 29 June 1998 (*OJ* 1998 L 191/4).

8 The EC Money Laundering Directive deals with the financial intelligence structures in the Member States (*OJ* 1991 L 166/77).

9 All the EU Member States, except the UK and Ireland, are currently Schengen members. With the entry into force of the Amsterdam Treaty, the Schengen *acquis* has been incorporated into the EU. Among the organisational changes triggered by Schengen the installation of national SIRENE bureaux for the functioning of the Schengen Information System (SIRENE=Supplementary Information Request at the National Entry) should be mentioned.

10 R. Mawby (1990), *Comparative Policing Issues. The British and American Experience in International Perspective*, London, Unwin Hyman.

11 P. van Reenen (1989), "Policing Europe after 1992: Cooperation and Competition", *European Affairs*, 2, pp. 45-53. ❑

ANNOUNCEMENTS / *ANNONCES*

Colloquium

Peace by Pieces or Pieces of Peace?

The Future of European Security: a colloquium to assess CFSP's record and potential with an emphasis on the defence industrial aspects.

European Institute of Public Administration (EIPA) &
Western European Union Institute for Security Studies (WEU-ISS).

Maastricht (NL), 18-19 November 1999

The last year has been marked by a number of momentous events for European security ranging from anniversaries, to declarations, the nomination of a High Representative and, overshadowing all, the Kosovo crisis. These events make this a particularly pertinent time to assess the future for the EU's common foreign and security policy including its relations with the Western European Union and NATO. The purpose of the colloquium will be twofold:

i) To provide an assessment of CFSP's development in the past year and prospects for the future;
ii) To consider the state of the European arms industries and their relations with CFSP.

The colloquium will be held in Maastricht and will be hosted by the European Institute of Public Administration (EIPA) in collaboration with the Western European Union Institute for Security Studies (WEU-ISS). The speakers include experts from the policy world as well as academics.

The colloquium language will be English although a French language version of the resultant publication is anticipated (manuscripts may therefore be submitted in French).

A registration form can be found enclosed with this edition of EIPASCOPE.

For further information, please contact:
Ms Lisettte Borghans, Programme Organisation, EIPA
P.O. Box 1229, NL – 6201 BE Maastricht
Tel: +31-43-3 296334; Fax: +31-43-3 296296; E-mail: l.borghans@eipa-nl.com
EIPA web site: http://www.eipa.nl

Conference

Keep Ahead with European Information

Maastricht, 22 and 23 November 1999

This annual conference is, for the second time, being organised by the European Institute of Public Administration (EIPA) in collaboration with the European Information Association (EIA).

The conference will focus on new and important issues, products and services of interest to those who work with European information. The conference is aimed at experienced professionals who work in the field of information. It will bring together officials working in the European Union and other European organisations, professionals involved in the dissemination of EU information as well as those from related organisations, and people with an interest in the issues under discussion.

The working language of the conference will be English.

For more information and registration form, please contact:
Ms Joyce Groneschild, Programme Organisation, EIPA
P.O. Box 1229, NL – 6201 BE Maastricht
Tel: +31 43-3296 357; Fax: +31 43-3296 296; E-mail: j.groneschild@eipa-nl.com
EIPA web site: http://www.eipa.nl

Third Training Seminar

"Innovation and Technology Policy and Strategy for European Regional Progress Post 2000"

Barcelona (E), 20-22 October 1999

Follow-up Workshop

"Innovation Policy and Strategy for Regional Progress in Europe"

Maastricht (NL), 29-30 November 1999

The European Centre for the Regions (EIPA-ECR), EIPA's Antenna in Barcelona (E), would again like to draw attention to the topic of **innovation** *"as the key to unlocking the potential of the European workforce"* for future regional prosperity. It is therefore announcing the **Third Training Seminar** on *"Innovation and Technology Policy and Strategy for European Regional Progress Post 2000",* to be held in Barcelona (E), and a **Follow-up Workshop** on *"Innovation Policy and Strategy for Regional Progress in Europe"* to be held in Maastricht (NL).

The **Third Training Seminar (Barcelona)** will, following the successful model used in previous events, again up-date public officials and policy makers in the fields of innovation and technology, areas which are particularly crucial in the face of European, national and, increasingly, regional competition. Among the subjects which will be examined in depth are:

- The fundamental principles of innovation and its regional (infrastructural) context;
- The need to build consensus among the partners through communication, etc.;
- The 'new' private/public as well as EU (e.g. 5FP) support infrastructures;
- Learning from experience and examples.

The involvement of local partners (the *Centre d'Innovació "Les Cúpules"* and local business and company representatives) shall again assure a practice oriented event and provide the possibility for networking.

The **Follow-up Workshop (Maastricht)** on innovation is targeted:

- at experts and practitioners who are, or will be, involved in regional innovation programmes, projects and strategies and therefore confront specific issues and problems;
- at professionals who are preparing (new) activities for their region and consequently want to learn from real examples of 'best practice';
- at participants from the previous training seminars who wish to come back to exchange their experience of transferring the theory into practice.

The Workshop is based on interactive learning methods, guided by carefully selected experts. Each subject will be developed through the presentation of case studies and subsequent discussion. A considerable amount of time will be dedicated to debates and the analysis of each topic area in such a way as to underline the practical approach.

For further information, the programme and registration forms, please contact:
Ms Miriam Escolà, Programme Organisation Assistant, EIPA-ECR
Av. Pearson, 28, E – 08034 Barcelona
Tel: +34.93.4024059; Fax: +34.93.4024063; E-mail: m.escola@eipa-ecr.com
EIPA web site: http://www.eipa.nl

The European Centre for the Regions 1999 Round Table /
Table ronde 1999 du Centre européen des régions

The EU "Membership" of Regional and Local Governments – Safeguarding Sub-National Interests Post 2000 / *Les implications de l'appartenance à l'UE pour les collectivités territoriales – Comment sauvegarder les intérêts des niveaux subnationaux après 2000*

Brussels, 2 December 1999 / *Bruxelles, le 2 décembre 1999*

in collaboration with / *avec la collaboration de*

The Association of Finnish Local and Regional Authorities /
l'Association des collectivités territoriales finlandaises

Further information on the programme and practical organisation can be obtained on the EIPA-ECR web site (www.eipa.nl) or from: / *De plus amples informations sur le programme ainsi que sur les aspects pratiques de l'organisation figurent sur le site Web du CER-IEAP (www.eipa.nl) ou peuvent être obtenues en s'adressant à:*

Mrs Miriam Escola, Programme Organisation,
European Centre for the Regions, Ave. Pearson 28, E – 08034 Barcelona
Tel: +34 93 402 4059; Fax: +34 93 402 4063; E-mail: m.escola@eipa-ecr.com
EIPA web site: http://www.eipa.nl

Conference

The EU and the National Civil Services: Adapting to European Integration

Maastricht, 13 and 14 January 2000

The European Institute of Public Administration (EIPA), Maastricht (NL), is organising a conference on the European Union and the national civil services of the EU Member States.

The aim of the conference is to highlight some of the main challenges which the national civil services have to face with the further deepening of the European integration process. The different lectures will mainly deal with the adaptation strategies of the MS as regards personnel policy, interministerial coordination, restructuring of the Ministries, training on Europe etc. A crucial issue of the conference is to identify the major requirements necessary for the civil services to successfully adapt their internal structures to the permanently changing environment of the EU.

The conference is mainly targeted at civil service departments dealing with personnel, staff training, administrative reform and European matters, as well as at civil servants and academics who are concerned with the issues that will be raised in this conference.

The conference will be conducted in English and French.

A registration form can be found enclosed with this edition of EIPASCOPE.

For further information, please contact:
Ms Eveline Hermens, Programme Organisation, EIPA
P.O. Box 1229, NL–6201 BE Maastricht
Tel. +31 43 3296 259; Fax: +31 43 3296 296 ; E-mail: e.hermens@eipa-nl.com
EIPA web site: http://www.eipa.nl

Seminar

Committees and Comitology in the Political Process of the European Community

Maastricht, 18-20 January 2000

Committees play a significant role in the various phases of the political process in the European Community. They participate in designing, deciding and implementing EC policy: expert or advisory committees help the Commission in the process of drafting legislation; Council working parties or committees prepare decisions of the ministers; and in the process of implementation, so-called 'Comitology' committees supervise the implementation of EC law.

The seminar is designed to help civil servants from the Member States and the Community institutions to gain a better understanding of the role these committees play in the policy process both from a theoretical and from a practical point of view. In the first part of the seminar a typology of committees – based on their function in decision-making – will be developed, followed by simulations and case studies of the various types of committees designed to illustrate the role they play in the policy process and the way they operate.

Particular emphasis will be placed on the new rules for Comitology committees as laid down by Council Decision 1999/468 of June 1999.

The combination of theoretical discussions and interactive learning will give participants the opportunity to improve their theoretical and practical knowledge of the work of committees in all aspects of Community policy-making and implementation.

The working language will be English.

For more information and registration forms please contact:
Belinda Vetter, Programme Organisation, EIPA
P.O. Box 1229, NL – 6201 BE Maastricht
Tel: +31 43 3296 382; Fax: +31 43 3296 296; E-mail: b.vetter@eipa-nl.com
EIPA web site: http://www.eipa.nl

Seminare des *Europäischen Instituts für öffentliche Verwaltung*
in Zusammenarbeit mit der
Hochschule für Verwaltungswissenschaften, Speyer

Der politische Entscheidungs- und Umsetzungsprozeß in der Europäischen Union und seine Bedeutung für die Bundesländer

Maastricht (NL), 14. – 18. Februar 2000

Seit Mitte der 80'er Jahre sind die deutschen *Länder* in zunehmendem Maße zu der Erkenntnis gelangt, daß sie sich im Rahmen der rechtlichen Möglichkeiten verstärkt an der Gestaltung der Europäischen Union (EU)/ Europäischen Gemeinschaft (EG) beteiligen müssen, um ihre Eigenständigkeit im Prozeß der europäischen Integration zu wahren und zu stärken. Während der letzten Jahre wurde diese Einsicht in die Tat umgesetzt: die meisten Länderministerien haben Europareferate eingerichtet; alle Bundesländer haben in Brüssel Informationsbüros eingerichtet. Wichtiger noch ist die aktive und konstruktive Rolle die Ländervertreter im politischen Entscheidungsprozeß in zunehmendem Maße übernommen haben durch ihre Mitarbeit an den Arbeitsgruppen des Rates und im Regionalausschuß.

Das Seminar ist für Bedienstete der Bundesländer geplant, die noch relativ wenig Erfahrung und Kontakt mit der Europäischen Union haben, Kenntnisse in diesem Bereich jedoch in ihrer Arbeit oder in ihrer zukünftigen Arbeit brauchen. Es vermittelt grundlegendes Wissen über die Strukturen und Entscheidungs- und Umsetzungsprozesse in der Europäischen Union und die Rolle, die die Länder dabei heute spielen bzw. spielen können.

Es ist die Aufgabe dieses Seminars, Bediensteten der Bundesländer die Gelegenheit zu bieten:

- ihr Verständnis der politischen Entscheidungs- und Implementationsprozesse auf europäischer Ebene zu vertiefen,
- ihre Kenntnisse über wichtige Bereiche der europäischen Politik zu verbessern,
- die Problematik der Beziehungen zwischen *Ländern*, Bund und EU besser kennenzulernen.

Die europäische Integration nach dem Amsterdamer Unionsvertrag: Herausforderungen für Politik und Verwaltung der deutschen Bundesländer

Maastricht (NL), 3. – 7. April 2000

Das Seminar spricht in erster Linie Bedienstete der Bundesländer an, die bereits weitgehende Erfahrungen in der Zusammenarbeit mit den europäischen Institutionen haben, diese Institutionen gut kennen und auch mit dem Vertrag über die Europäische Union vertraut sind. Ziel des Seminars ist es, grundlegende Probleme der institutionellen, politischen und wirtschaftlichen Weiterentwicklung der europäischen Integration aus der Perspektive der deutschen Bundesländer zu diskutieren. Es soll die Teilnehmer in die Lage versetzen, über ihre Zusammenarbeit mit europäischen Institutionen zu reflektieren und ihr Wissen und ihr Verständnis der europäischen Integration, insbesondere auch im Hinblick auf aktuelle Entwicklungen, zu vertiefen. Dabei werden die Mitgestaltungs- und Mitwirkungsmöglichkeiten der Bundesländer im Entscheidungsprozeß und in der Gestaltung der Politik der Europäischen Gemeinschaft hinterfragt.

Das Seminar ist ein Diskussionsseminar. Das EIPA-Team, ergänzt durch Europa-Experten aus Wissenschaft und Praxis, diskutiert kritisch mit den Teilnehmern folgende Themen:

- Grundprinzipien der europäischen Integration
- Institutionen und Entscheidungsprozesse in der EG
- EG-Recht, nationales Recht und nationale (regionale) Verwaltung
- Wirtschaftspolitische Herausforderungen
- Das Verhältnis zwischen der Europäischen Union, den Mitgliedstaaten, den Ländern und Regionen
- Perspektiven für den europäischen Integrationsprozeß im nächsten Jahrtausend aus der Sicht des Rates, der Kommission und des Parlamentes
- Perspektiven für eine Neudefinition des Verhältnisses zwischen der Europäischen Gemeinschaft und den Ländern und Regionen.

Eine Teilnahme an den Seminaren ist für alle Bediensteten der deutschen Bundesländer möglich. Weitere Informationen und Anmeldeformulare erhalten Sie bei:

Belinda Vetter, Programmorganisation, EIPA
Postfach 1229, NL – 6201 BE Maastricht
Tel.: + 31 43 – 3296 382; Fax: + 31 43 – 3296 296; E-mail: b.vetter@eipa-nl.com
EIPA web site: http://www.eipa.nl

Seminar / Séminaire

European Negotiations / *Négociations européennes*

Maastricht

22-26 November 1999, 20-24 March 2000,
19-23 June 2000, 2-6 October 2000, 20-24 November 2000

This is a practical seminar which aims to explore and define the strategies and tactics inherent in European bilateral and multilateral negotiations, and to develop ways to promote their efficient conduct. It is intended for civil servants from Member States and Community institutions and designed to involve full participation. While providing a theoretical framework, the seminar aims above all to help participants improve their negotiation capabilities and therefore places emphasis on practical skills development. Moreover, the multinational composition of the group should offer participants an ideal opportunity to discover together the special dynamics of the negotiation process in general and of European Union negotiations in particular.

Programme Outline

- Defining essential aspects of negotiations
- Simulation and application of the essential aspects of negotiations
- Negotiations between more than two parties: various styles and roles of the Chairman, special features of multilateral negotiations
- The institutional and procedural dimensions: applying multilateral negotiation techniques in the EU context
- Simulation I: A Council working group on a Commission Proposal relating to Packaging and Packaging waste (video recorded). Debriefing and video analysis: the negotiation techniques
- Simulation II: Introduction to EU multi-dimensional exercise. Debriefing
- Some key characteristics of EU negotiations in the light of recent Treaty reforms (Maastricht, Amsterdam and inter-institutional agreements)
- Simulation III: A high-level conflictual/distributional exercise (video recorded). Debriefing and video analysis
- Multilateral and multi-dimensional negotiations in the European Union: a practitioner's experience and personal tips
- Key lessons from the seminar and points for further development

The working languages are English and French. Simultaneous translation will be provided.

Ce séminaire, à caractère pratique, vise à explorer et à définir les stratégies et tactiques inhérentes aux négociations européennes, qu'elles soient bilatérales ou multinationales, et à montrer comment les mener avec plus d'efficacité. Il est destiné aux fonctionnaires des Etats membres et des institutions communautaires et est fortement participatif. S'il fournit un cadre théorique, ce séminaire est avant tout conçu pour aider les participants à perfectionner leurs talents de négociateurs, et met donc l'accent sur le développement des aptitudes pratiques. En outre, la composition multinationale du groupe devrait offrir aux participants une occasion unique de découvrir ensemble la dynamique particulière du processus de négociation en général, et notamment des négociations européennes.

Aperçu du programme

- *Définition des aspects essentiels de la négociation*
- *Simulation et application pratique des concepts*
- *Négociations multilatérales: différents types d'approches et rôles du président, caractéristiques particulières des négociations impliquant plus de deux parties*
- *Institutions et procédures: application des techniques de négociations multilatérales dans le contexte communautaire*
- *Exercice de simulation I: Un groupe de travail du Conseil réuni pour examiner une proposition de la Commission européenne sur les emballages et déchets d'emballages (avec enregistrement vidéo). Commentaires sur l'exercice de simulation et analyse de l'enregistrement vidéo*
- *Exercice de simulation II: introduction à un exercice multidimensionnel de négociations communautaires. Commentaires sur l'exercice de simulation*
- *Quelques caractéristiques essentielles des négociations communautaires après les récentes réformes des Traités (Maastricht, Amsterdam et les accords interinstitutionnels)*
- *Exercice de simulation III: négociations à haut niveau dans une situation conflictuelle impliquant des concessions (avec enregistrement vidéo). Commentaires sur l'exercice de simulation et analyse de l'enregistrement vidéo*
- *Négociations multilatérales et multidimensionnelles dans l'Union européenne: expérience et recettes personnelles d'un praticien*
- *Principaux enseignements à tirer du séminaire et points à développer*

Langues de travail: anglais et français (l'interprétation simultanée étant assurée)

For more information please contact:
Ms Noëlle Debie, Programme Assistant,
Tel.: +31-43-3296226; Fax: +31-43-3296296; E-mail: n.debie@eipa-nl.com
EIPA web site: http://www.eipa.nl

Institutional News

At their meeting of 25 June 1999, the Board of Governors of EIPA unanimously approved the following changes.

BOARD OF GOVERNORS:

Greece
Mr Vassilis ANDRONOPOULOS, Director-General at the Greek Ministry of the Interior, Public Administration and Decentralisation, left the Ministry at the end of April 1999. He has been succeeded by **Mrs Efstathia BERGELE**, who consequently will be the new Greek representative on EIPA's Board of Governors.

Spain
In view of the fact that **Mr Ignacio GONZÁLEZ GONZÁLEZ** has succeeded Mr Francisco VILLAR GARCIA-MORENO as State Secretary of Public Administration in Spain, he will be the new Spanish representative on EIPA's Board of Governors.

SCIENTIFIC COUNCIL:

France
Professor **Jean-Claude THOENIG**, Professor at the *CNRS-Groupe d'Analyse des Politiques Publiques*, who has been a member of EIPA's Scientific Council from the very beginning of EIPA's existence, has resigned from the Scientific Council.

The Netherlands
The Dutch Institute of Public Administration (*Opleidingsinstituut voor de Rijksoverheid – ROI*) in The Hague will be represented on EIPA's Scientific Council in the person of its Dean, **Mr Carel JACOBS.**

SUCCESSION OF EIPA'S DIRECTOR-GENERAL IN APRIL 2000:

At the meeting of EIPA's Board of Governors on 25 June 1999, Mrs Corte-Real announced that she intends to fulfil her duties as Director-General of EIPA until the term of her mandate ends (14 April 2000), but that she will not put herself forward as a candidate for the post after that date. The procedure to find her successor has started and each Board member has been invited to propose one candidate before 15 October.

MEDAL OF HONOUR:

On 15 June 1999, EIPA's Director-General was awarded with a Medal of Honour by the European Institute in Lódz in cooperation with the Centre for European Studies of the University of Lódz on the occasion of their 5th and 10th anniversaries respectively. It was awarded in recognition of Mrs Corte-Real's contribution to the development of the two institutions' activities and in gratitude for her support and personal involvement in the advancement of their work in the field of European studies in Poland and in the process of Poland's integration into the European Union.

In June 1999 EIPA was informed of the sad news that Professor Raymond E. GERMANN of the *Institut de Hautes Etudes en Administration Publique* (IDHEAP) had passed away.
Professor Germann joined the Scientific Council in May 1992 and was very much an appreciated member.

EIPA Staff News

* Newcomers at EIPA

– **Joanna Liponska-Labérou** (F) joined EIPA's Luxembourg Antenna on 1 September 1999 as Researcher
– **Pertti Ahonen** (FIN), joined EIPA Maastricht on 18 October 1999 as Professor of Public Management

Visitors to EIPA

On 8 September 1999 EIPA received Professor Gorazd Trpin, State Secretary of the Slovenian Ministry of the Interior. Following a tour of EIPA's premises he gave a presentation to all staff on "Public Administration Reform in Slovenia".

Professor Gorazd Trpin, State Secretary of the Slovenian Ministry of the Interior and Mrs Isabel Corte-Real, Director-General of EIPA

An inauguration ceremony for the Master's Programme in European Public Affairs, run by the University Maastricht in cooperation with the European Institute of Public Administration, was held at EIPA, Maastricht, on 6 September 1999. During this event H.E. Mr Otto von der Gablentz, the Rector of the College of Europe, gave a presentation on "Teaching in Europe".

From left to right: Les Metcalfe, Professor of Public Management at EIPA; Otto von der Gablentz, Rector of the College of Europe, Bruges; Mrs Isabel Corte-Real, Director-General of EIPA; and Huub Spoormans, Director of EPA, University Maastricht

---

Visite à l'IEAP de S.E. M. WANG Zhongyu, Conseiller d'Etat, Secrétaire général du Conseil d'Etat et Président de l'École Nationale d'Administration de Chine, et de sa délégation

Prix Alexis de Tocqueville 1999

Tous les deux ans, l'IEAP décerne ce Prix qui porte le nom du Comte Alexis de Tocqueville (1805-1859), à une ou plusieurs personnalités, voire à un groupe de personnes, qui se sont distinguées par leur travail et leur engagement particuliers dans le domaine de l'amélioration de l'administration publique en Europe.

Le premier Prix Alexis de Tocqueville (lancé en 1987) fut décerné le 24 février 1988 à Lord RAYNER qui reçut cette distinction pour avoir introduit une méthode de modernisation particulière dans l'administration centrale et le *Civil Service* au Royaume-Uni, méthode qui pouvait être également utile à toutes les administrations publiques dans la Communauté européenne.

Le 12 octobre 1989, le *deuxième Prix Alexis de Tocqueville* fut attribué à S.E. Otto VON DER GABLENTZ pour ses idées et contributions innovantes, tant dans ses publications que dans ses activités, en faveur de la modernisation du fonctionnement du corps diplomatique dans le cadre des relations bilatérales entre les Etats membres de la CE.

En 1991, lors de *la troisième édition du Prix Alexis de Tocqueville*, le Prix récompensa un groupe de huit hauts fonctionnaires français, dont quatre avaient rédigé le rapport de la Commission sur le 10ème Plan sur l'efficacité de l'Etat, et les quatre autres avaient eu une influence déterminante sur le renouveau du service public en France. Ce groupe se composait de: M. François DE CLOSETS, M. Hubert PRÉVOT, M. Robert FRAISSE, M. Gérard METOUDI, Mme Sylvie FRANÇOIS, M. Bernard PÊCHEUR, M. Philippe BÉLAVAL et M. Serge VALLEMONT.

En 1993, le Prix, qui en était à *sa quatrième édition*, fut décerné à M. Hans A.P.M. PONT (Directeur général de la gestion et de la politique du personnel du service public au ministère néerlandais de l'Intérieur) pour sa contribution personnelle à la réforme de la structure des relations professionnelles dans la fonction publique aux Pays-Bas. Cette évolution, qui se caractérise par une "normalisation" des relations professionnelles, implique l'abolition du statut juridique spécial des fonctionnaires. Un pas important sur la voie du processus de modernisation fut réalisé en février 1993 par l'introduction d'un nouveau système de consultation pour la fixation des conditions de travail dans la fonction publique néerlandaise.

A la suite de l'adhésion de l'Autriche, de la Finlande et de la Suède à l'Union européenne, le Conseil d'administration et le Conseil scientifique de l'IEAP ont souhaité décerner en 1995 *le cinquième Prix Alexis de Tocqueville* à trois personnalités de ces pays qui ont contribué activement à l'adhésion de leur pays respectif à l'UE. Les lauréats du Prix Alexis de Tocqueville 1995 étaient, pour l'Autriche, Dr Gerhart HOLZINGER, Directeur de la section Service constitutionnel à la Chancellerie fédérale. M. Holzinger s'est distingué par son engagement en faveur de l'adhésion de l'Autriche à l'UE et, en particulier, par sa précieuse contribution dans la préparation de l'administration publique autrichienne à l'adhésion à l'UE. Pour la Finlande, M. Juhani KIVELÄ, Sous-secrétaire d'Etat permanent au Ministère des Finances. M. Kivelä a joué un rôle important dans la modernisation de la fonction publique finlandaise et s'est montré particulièrement actif pour l'établissement de relations avec des institutions de développement et de recherche administratifs dans les Etats membres de l'UE. Pour la Suède, M. Bo RIDDARSTRÖM, en sa capacité d'ancien Sous-secrétaire pour l'Administration publique au Ministère des Finances. M. Riddarström a travaillé depuis 1989 à des réformes dans le domaine de la gestion financière et de la gestion publique. Ses travaux ont été d'une grande importance pour le renouveau en cours de l'administration publique suédoise et pour la préparation de la Suède à son adhésion à l'UE.

En 1997, le Prix, qui en était à sa *sixième édition*, fut décerné au Professeur Sabino CASSESE (I) sur la base d'un accord unanime s'expliquant par une appréciation extrêmement élevée pour ses capacités scientifiques et professionnelles. Le Professeur Cassese est considéré comme étant l'un des scientifiques les plus renommés dans le domaine de l'administration publique et un éminent spécialiste en droit public administratif. En outre, il a apporté d'importantes contributions à l'amélioration de l'administration publique européenne et pendant la période où il exerça la fonction de ministre (sans portefeuille), il fut l'un des principaux artisans de la réforme de l'administration publique italienne et opéra des changements fondamentaux. En bref, on peut dire que le Professeur Cassese est un scientifique et un praticien de dimension européenne, et il faut souligner que ses qualités sont reconnues également aux Etats-Unis où il a réalisé à de nombreuses reprises des travaux scientifiques fort appréciés.

En 1999, le Conseil scientifique et le Conseil d'administration de l'IEAP ont choisi à l'unanimité de décerner le *septième* Prix Alexis de Tocqueville au Professeur Eduardo GARCÍA DE ENTERRÍA (E). Ce choix s'explique par une appréciation extrêmement élevée pour les capacités scientifiques et professionnelles du Professeur García de Enterría qui est considéré comme une des personnalités scientifiques les plus dynamiques du monde universitaire européen et, en même temps, la figure la plus marquante du droit public en langue espagnole depuis l'adoption de la Constitution espagnole. En outre, il est un expert incontesté du droit public et du droit administratif et il a livré une importante contribution dans le domaine de l'administration publique européenne et du droit communautaire et a publié de très nombreux ouvrages et articles dans ces domaines. Par ailleurs, il a reçu plusieurs distinctions honorifiques de la part de plusieurs universités en Espagne, en Europe et en Amérique latine, notamment l'Université de Paris I – Panthéon Sorbonne et l'Université de Bologne.

La cérémonie de remise du Prix est prévue pour le 11 novembre 1999 à l'Hôtel de Ville de Maastricht à 16 h 30. ❑

Alexis de Tocqueville Prize 1999

1999 marks the seventh occasion that the Alexis de Tocqueville Prize will be awarded.

Every two years EIPA awards this prize, named after Count Alexis de Tocqueville (1805-1859), to one or more, or even to a group of persons, whose work and commitment have made a considerable contribution to improving public administration in Europe.

The first Alexis de Tocqueville Prize (introduced in 1987) was awarded on 24 February 1988 to Lord RAYNER. He received this distinction for having introduced a special method of modernizing the central government and Civil Service of the United Kingdom, but a method which could also be of use to public administrations within the European Community.

On 12 October 1989 the Prize was awarded for *the second time* to H.E. Otto VON DER GABLENTZ for his innovatory ideas and contributions, both in his published works and activities, to the modernization of the operations of the diplomatic corps within the framework of bilateral relations between EC Member States.

In 1991, *the third Alexis de Tocqueville Prize* went to a group of eight French officials, four of whom were charged with drafting the report of the Commission on the "*10ème Plan sur l'efficacité de l'Etat*", while the others exerted determining influence on the reorganization of the public service in France. This group consisted of the following people: Mr François DE CLOSETS; Mr Hubert PRÉVOT; Mr Robert FRAISSE; Mr Gérard METOUDI; Ms Sylvie FRANÇOIS; Mr Bernard PÊCHEUR; Mr Philippe BÉLAVAL and Mr Serge VALLEMONT.

In 1993, the Prize was awarded for *the fourth time* to Mr Hans A.P.M. PONT (Director-General for Management and Personnel Policies for the Civil Service at the Ministry for Home Affairs of The Netherlands) for his personal contribution to the modernization of industrial relations in the civil service in The Netherlands.This development which can be characterized as "standardization" entails the abolition of the special legal position of civil servants. An important step in the modernization process was made in February 1993 when a revised consultation system for the conditions of employment in the civil service was introduced.

In 1995, it was the wish of EIPA's Board of Governors and Scientific Council – in the light of the accession of Austria, Finland and Sweden to the European Union – to award *the fifth Alexis de Tocqueville Prize* to persons, one from each of the three new Member States, who have been active in the accession of their countries to the EU, this being for Austria: Dr Gerhart HOLZINGER, Head of the Constitutional Service Department in the Federal Chancellery. Mr Holzinger had distinguished himself by his committed work for Austria's accession to the EU and in particular by his extremelyvaluable contribution towards preparing Austria's public administration for EU membership. For Finland: Mr Juhani KIVELÄ, Permanent Under-Secretary of State at the Ministry of Finance. Mr Kivelä had been prominent in the modernization of the Finnish civil service and had been active in establishing relations with administrative development and research institutions in the Member States of the EU.

For Sweden: Mr Bo RIDDARSTRÖM in his former capacity as Under-Secretary for Public Administration in the Ministry of Finance. Mr Riddarström had been working since 1989 on reforms in the field of financial management as well as public management. This work has been important for the on-going renewal of Swedish public administration and the preparation for EU membership.

In 1997, *the sixth Alexis de Tocqueville Prize* was awarded to Professor Sabino CASSESE in view of the extremely high regard held overall for his scientific and professional capacities. He was considered to be one of the most highly respected scholars in the field of public administration and an outstanding scholar in public and administrative law. Furthermore, he had made important contributions in the field of European public administration and during the period that he was Minister (without portfolio) he was involved in the reform of public administration in Italy, carrying out sweeping changes. In short: he was considered to be a scientist and practitioner of European character who had, moreover, successfully carried out research in the United States on numerous occasions.

In 1999 there has been unanimous agreement to award *the seventh Alexis de Tocqueville Prize* to Professor Eduardo GARCÍA DE ENTERRÍA who is considered to be one of the most notable academics in Europe and one of the most outstanding experts in public law in the Spanish-speaking world since the adoption of the Spanish Constitution. In addition he is an outstanding scholar in public and administrative law who has made important contributions in the field of European public administration and European law and who has published extensively in all these fields. Furthermore, he is holding an honorary degree from several universities in Spain, Europe and South America, including those of Paris I – Panthéon Sorbonne and Bologna.

The Ceremony is scheduled to take place in the Town Hall of Maastricht on Friday, 11 November 1999, at 16.30 hrs. ❑

Recent and Forthcoming EIPA Publications

Le niveau intermédiaire d'administration dans les pays européens: La démocratie au défi de la complexité?
Torbjörn Larsson/Koen Nomden/Franck Petiteville (éds)
IEAP 1999, 446 pages: **NLG 65**
(Also available in English)

Understanding State Aid Policy in the European Community: Perspectives on Rules and Practice
Sanoussi Bilal and Phedon Nicolaides (eds)
EIPA/Kluwer Law International 1999, 260 pages
Paperback available from EIPA: **NLG 70**
Hardcover available from Kluwer Law International
(Only available in English)

European Environmental Policy – A Handbook for Civil Servants
Christoph Demmke/Birgit Schröder
EIPA 1999, 385 pages: **NLG 50**
(Only available in English)

Internal Management of External Relations: The Europeanization of an Economic Affairs Ministry
Adriaan Schout
EIPA 1999, 360 pages: **NLG 65**
(Only available in English)

Schengen's Final Days? The Incorporation of Schengen into the New TEU, External Borders and Information Systems
Monica den Boer (ed.)
EIPA 1998, 174 pages: **NLG 65**
(Mixed texts in English, French and German)

L'Euroformation des administrations régionales et locales d'Europe"
(Actes de la Conférence interrégionale; Barcelone, juin 1998) /**Eurotraining for Regional and Local Authorities in Europe**
(Proceedings of the Interregional Conference; Barcelona, June 1998)
Sous la direction de Eduardo Sánchez Monjo
IEAP 1998, 409 pages: **NLG 65**
(Pour faciliter la compréhension de cet ouvrage et lui assurer une large diffusion, les textes sont publiés dans la langue originale mais aussi en traduction française et anglaise)

Guide de l'information officielle de l'Union européenne
3e édition
Veerle Deckmyn
IEAP 1998, 68 pages: **NLG 30**
(Also available in English)

Schengen, Judicial Cooperation and Policy Coordination
Monica den Boer (ed.)
EIPA 1997, 274 pages: **NLG 65**
(Mixed texts in English and French)

Managing European Environmental Policy: The Role of the Member States in the Policy Process
Christoph Demmke (ed.)
EIPA 1997, 255 pages: **NLG 65**
(An adapted version is available in German)

* CURRENT EUROPEAN ISSUES SERIES

Les administrations en mouvement
Les réformes de modernisation administrative dans quatre pays: Portugal, Pays-Bas, Irlande et France
Isabel Corte-Real/Koen Nomden/Michael Kelly/Franck Petiteville
IEAP 1999, 148 pages: NLG 50
(An English version is forthcoming)

A Regional Representation in Brussels: The Right Idea for Influencing EU Policy Making?/*Une représentation régionale à Bruxelles: un choix judicieux pour influer sur l'élaboration de la politique européenne?*
Alexander Heichlinger
EIPA 1999, approx. 30 pages in both the English and French versions: NLG 35
(This publication comprises both an English and a French version)

Services of General Interest in the EU: Reconciling Competition and Social Responsibility
Developments in Telecommunications and Postal Services
Georg Haibach (ed.)
EIPA 1999, approx. 170 pages: **NLG 60**
(Only available in English)

A Guide to the Enlargement of the European Union (II): A Review of the Process, Negotiations, Policy Reforms and Enforcement Capacity
(Revised and Extended Edition)
Phedon Nicolaides/Sylvia Raja Boean/Frank Bollen/Pavlos Pezaros
EIPA 1999, 102 pages: **NLG 40**
(Only available in English)

Formation à l'intégration européenne: Pour une coopération, entre les institutions européennes et les administrations des États membres de l'Union européenne, en matière de formation permanente du personnel et des gestionnaires publics
Sous la direction de Robert Polet
IEAP 1999, 56 pages**: NLG 25**
(Also available in both English and German)

La face nationale de la gouvernance communautaire: L'élaboration des "positions nationales" des Etats membres sur les propositions d'actes communautaires
Franck Petiteville
IEAP 1999, 113 pages: **NLG 40**
(Disponible en français uniquement)

Taming the Third Pillar. Improving the Management of Justice and Home Affairs Cooperation in the EU
Monica den Boer
EIPA 1998, 44 pages: **NLG 15**
(Only available in English)

An Institution's Capacity to Act: What are the Effects of Majority Voting in the Council of the EU and in the European Parliament?
Madeleine O. Hosli
EIPA 1998, 26 pages: **NLG 15**
(Only available in English)

Coping with Flexibility and Legitimacy after Amsterdam
Monica den Boer/Alain Guggenbühl/Sophie Vanhoonacker (eds)
EIPA 1998, 259 pages: **NLG 65**
(Mixed texts in English and French)

Agenda 2000: An Appraisal of the Commission's Blueprint for Enlargement
Marie Soveroski (ed.)
EIPA 1997, 142 pages: **NLG 40**
(Only available in English)

* WORKING PAPERS

– *Available both in hard copy and on EIPA's web site:*

Competition Policy and the WTO: Is there a need for a multilateral agreement?
Sanoussi Bilal and Marcelo Olarreaga
EIPA 1998, 18 pages: **NLG 15**
(Only available in English)

– *Only available on EIPA's web site:*

The Agenda 2000 CAP Reform Agreement in the Light of the Future EU Enlargement
Pavlos Pezaros
EIPA 1999

The EU Approach Concerning Agriculture in the New WTO Round
Pavlos Pezaros
EIPA 1999

Case Study: Public Transport in Helsinki Metropolitan Area
Yrjö Venna
EIPA 1999

Regionalism, Competition Policy and Abuse of Dominant Position
Sanoussi Bilal and Marcelo Olarreaga
EIPA 1998

The UK Presidency: A Second Pillar Perspective
Dr Simon Duke
EIPA 1998

The Trouble with Kosovo
Dr Simon Duke
EIPA 1998

All prices are subject to change without notice.
A complete list of EIPA's publications is available on request from the Publications Department or can be found on EIPA's web site.

Editorial Team: Dr Sanoussi Bilal, Veerle Deckmyn, Dr Torbjörn Larsson, Claude Rongione,
Typeset and layout by the Publications Department, EIPA.
Photos by Ms Henny Snijder, EIPA
Printed by Atlanta, Belgium.

For further information contact:
Activities: Ms W. Veenman, Head of Programme Organisation
Publications: Ms V. Deckmyn, Head of Information, Documentation and Publications Services
European Institute of Public Administration
P.O. Box 1229,
6201 BE Maastricht
The Netherlands
Tel: + 31 43 – 3296 222
Fax: + 31 43 – 3296 296
Web site: http://www.eipa.nl