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28. Reaffirms in this context that any recourse to the 'comitology' procedure would necessitate a complete revision of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>, in order to:

- a) guarantee greater openness,
- b) ensure that any conferral of implementing powers on the Commission was limited to non-essential or implementing measures and was conditional upon a clear definition of the objective, content, scope and duration of the delegation of powers, including, where appropriate, 'sunset clauses',
- c) guarantee the introduction of formal equality between the powers of the European Parliament and those of the Council in considering these measures, through the introduction of call-back procedures;

29. Takes note of the list of actions contained in the Commission simplification rolling programme and will actively cooperate in the achievement of the objective of simplifying pieces of legislation, if appropriate, in the context of the forthcoming legislative process;

30. Expects that the various recasting and review proposals emanating from the Commission will contribute to improving the Union's level of economic and social development in the context of the sustainable development policy, as well as the level of citizens' health protection and the quality of their environment, in conformity with the objectives laid down in Article 2 of the EC Treaty;

31. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

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<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

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**P6\_TA(2006)0206**

## **Outcome of the screening of legislative proposals pending before the Legislator**

### **European Parliament resolution on the outcome of the screening of legislative proposals pending before the Legislator (2005/2214(INI))**

*The European Parliament,*

- having regard to the Commission communication of 27 September 2005 to the Council and the European Parliament on the outcome of the screening of legislative proposals pending before the Legislator (COM(2005)0462),
  - having regard to the letter from its President to the President of the Commission dated 23 January 2006 <sup>(1)</sup>,
  - having regard to the letter from the President of the Commission to the President of the Parliament dated 8 March 2006,
  - having regard to Rule 45 of its Rules of Procedure,
  - having regard to the report of the Committee on Constitutional Affairs and the opinion of the Committee on Legal Affairs (A6-0143/2006), whereas
- A. in its above-mentioned communication, the Commission announced its intention to withdraw 68 proposals that it considers inconsistent with the objectives of the Lisbon Strategy and the principles of better regulation, while others will be subject to a reviewed economic impact assessment and, if appropriate, modified,

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<sup>(1)</sup> Ref. Pres-A-Courrier D(2006)300689).

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- B. the letter sent by the President of the Parliament to the President of the Commission at the outcome of the analysis of that communication by the parliamentary committees generally welcomes the intentions of the Commission, but specifically asks it not to withdraw several of those proposals and objects to the possible modification of some other proposals,
- C. the reply sent by the President of the Commission to the President of the Parliament states that the Commission took into due consideration the position of Parliament before adopting its final position and indicates the specific reasons why the Commission did not follow some of the requests of Parliament, as well as the possible initiatives that the Commission plans to undertake, in the future, to address some of those requests,
- D. that communication provides an excellent opportunity for a more thorough analysis of the problems connected with the withdrawal or the modification of legislative proposals by the Commission,
- E. with a few exceptions, most of the Community's legislative acts can only be adopted on the basis of a proposal from the Commission, which enjoys a quasi-monopoly over the legislative initiative,
- F. Article 250(2), of the EC Treaty stipulates that the Commission 'may alter its proposal' at any moment of the procedure leading to the adoption of a Community act, 'as long as the Council has not acted',
- G. although, for historical reasons, the role of Parliament is not mentioned in Article 250(2), that provision must be interpreted in conjunction with Article 251 as concerns its application to the codecision procedure, and with Article 252 as concerns the cooperation procedure,
- H. whenever a common position is adopted after the first reading, the third indent of the second subparagraph of Article 251(2) of the EC Treaty only allows the Commission to inform Parliament of its own position and if the common position is subsequently amended by Parliament, point (c) of the third subparagraph of Article 251(2) only allows the Commission to deliver an opinion, thus making it clear that the Commission is no longer the 'owner' of its proposals,
- I. the Treaties are silent as to the possibility of the Commission withdrawing a legislative proposal,
- J. this absence of provisions concerning the withdrawal of legislative proposals has not prevented the Commission from regularly withdrawing legislative proposals,
- K. Parliament, Council and the Commission seem not to agree on the exact extent to which the Commission is entitled to withdraw its legislative proposals,
- L. despite these disagreements, the withdrawal of legislative proposals has been a regular practice of the Commission, without ever having given rise to a case brought before the Court,
- M. Parliament itself has sometimes in the past asked the Commission to withdraw its proposals,
- N. the Framework Agreement <sup>(1)</sup> on relations between Parliament and the Commission of 26 May 2005 stipulates that:
- in all legislative procedures, 'the Commission undertakes to carefully examine amendments to its legislative proposals adopted by Parliament, with a view to taking them into account in any amended proposal' (point 31),
  - in all legislative procedures, 'the Commission shall give Parliament and the Council prior notification before withdrawing its proposals' (point 32),
  - in legislative procedures not entailing codecision, the Commission undertakes to withdraw legislative proposals that have been rejected by Parliament, 'if appropriate', and also to explain the reasons for not doing so if it decides to maintain the proposal (point 33),

(1) *Texts Adopted*, P6\_TA(2005)0194, Annex.

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- O. an understanding, based on common guidelines between the three institutions, regarding the withdrawal and, to the extent necessary, the modification of legislative proposals by the Commission would positively contribute to the smooth running of legislative procedures,
1. Welcomes the above-mentioned Commission communication, and considers that the withdrawal or modification of the great majority of the proposals mentioned in it will in fact contribute to a simplification of the Community legislative environment, but insists that the Commission should take into proper consideration the objections raised by the President of the Parliament in his letter of 23 January 2006;
  2. Welcomes the fact that, before adopting its final position, the Commission has again reviewed its proposals in the light of Parliament's objections; acknowledges that, in every case in which the Commission has not accepted those objections, it has stated reasons for not doing so and that in some cases it has also indicated possible initiatives by means of which Parliament's wishes could be met;
  3. Stresses that in future proceedings of this nature, the Commission should present specific reasons for the withdrawal or the modification of each proposal, and not confine itself to invoking general principles that do not clearly explain the reasons why the Commission believes that a specific proposal should be withdrawn or modified;
  4. Welcomes the fact that the Commission takes account of the objectives of the Lisbon Agenda before proposing that a legislative proposal should be withdrawn; regrets therefore that the Commission has withdrawn the proposal for a directive on the Statute for a European mutual society despite the fact that it is one of the key elements of the Lisbon Strategy; expresses its surprise that the Commission adduces the diversity of national legislations as an argument against Community initiatives; calls on the Commission, therefore, to adopt an initiative before the end of the year to enable a Statute for a European mutual society and a European association to be drafted;
  5. Asks the Commission, immediately after it has been appointed, to draw up and submit to Parliament and the Council a list stating which of its predecessor's legislative proposals it intends to retain;
  6. Asks the Commission to include in its annual legislative and working programme a list of the proposals it intends to withdraw or modify, in order to allow Parliament to express its point of view in accordance with its prerogatives under the Treaties and the procedures laid down in the above-mentioned Framework Agreement;
  7. Takes note of the fact that the possibility of withdrawing a legislative proposal by the Commission is not mentioned in any provision of the existing Treaties, while the possibility of modifying a legislative proposal is covered by the principle that the Commission may modify its proposal during the procedure leading to the adoption of a Community act, as expressly provided in Article 250(2) of the EC Treaty; acknowledges that that principle is also applicable to the codecision procedure, provided for in Article 251, and the cooperation procedure, provided for in Article 252;
  8. Recognises, however, that, within clear limits, the ability of the Commission to withdraw a legislative proposal during a procedure leading to its adoption
    - flows from its right of legislative initiative and constitutes a logical complement to its ability to modify a proposal,
    - may contribute to enhancing the role of the Commission in the legislative procedure, and
    - can be considered as a positive element in ensuring that the procedures leading to the adoption of a Community act and the interinstitutional dialogue are aimed at promoting the 'Community interest';
  9. Maintains, however, that this possibility must be viewed in the light of the prerogatives of the various institutions in the legislative process, as defined in the Treaties, and in compliance with the principle of loyal cooperation among the institutions;
  10. Stresses that the possibilities of withdrawal or modification must not alter the role of each institution in the legislative process in a way which would endanger the institutional balance, and that the possibility of withdrawing proposals does not signify recognition of some kind of 'right of veto' by the Commission;

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11. Stresses that the withdrawal or modification of legislative proposals must be subject to the same general principles that guide the presentation of proposals by the Commission, namely, it must be guided by the Community interest and must be duly justified;
  12. Considers, without prejudging the competence of the Court of Justice to define the exact scope and boundaries of the prerogatives vested in the institutions by the Treaties, that the definition of common guidelines by the institutions concerning the withdrawal or the modification of legislative proposals by the Commission, as a complement to the relevant principles already laid down in the Framework Agreement on relations between Parliament and the Commission and the Interinstitutional Agreement on Better Law-Making, would constitute a positive step towards facilitating the legislative process and the dialogue between the institutions;
  13. Puts forward the following guidelines on the withdrawal and the modification of legislative proposals by the Commission:
    - a) the Commission may, in principle, withdraw or modify a legislative proposal at any time during the procedures leading to its adoption as long as the Council has not acted. This means that in codecision and cooperation procedures the Commission may no longer do so after the adoption of the common position by the Council unless, in its decision on the common position, the Council has exceeded its powers to amend the Commission proposal, so that the decision in reality constitutes a legislative initiative by the Council itself, for which the Treaty does not provide,
    - b) where Parliament has rejected a legislative proposal or has suggested substantial amendments to it, or where Parliament has in some other way asked the Commission to withdraw or substantially modify a legislative proposal, the Commission shall take this position into proper consideration. If, for important reasons, the Commission decides not to follow the position expressed by Parliament, it shall explain the reasons for that decision in a statement to Parliament,
    - c) where the Commission intends to withdraw or modify a legislative proposal on its own initiative, it shall give Parliament prior notification of its intention. This notification shall be given in good time, allowing Parliament the opportunity to give its view on the matter, and shall include a clear explanation of the reasons for which the Commission believes that a specific proposal should be withdrawn or modified. The Commission shall take the view of Parliament into proper consideration. If, for important reasons, the Commission decides to withdraw or modify its proposal, against the wishes of Parliament, it shall explain the reasons for that decision in a statement to Parliament;
  14. Stresses that the extent to which the Commission takes into consideration the views of Parliament in so far as concerns the withdrawal or the modification of legislative proposals constitutes an essential element of the political trust that forms the basis of sound cooperation between the two institutions;
  15. Considers that, should the Commission withdraw or substantially modify a legislative proposal in a way that affects the legislative prerogatives of Parliament, the question should be referred to the appropriate political bodies of Parliament for political consideration; furthermore, considers that, should the Commission withdraw a legislative proposal in a way that affects the prerogatives of the two branches of the legislative authority, these could consider this withdrawal as non-effective and continue the procedure as provided for in the Treaties up to the eventual adoption of the act in question;
  16. Considers that, where a legislative proposal has been formulated in accordance with Article 138 of the Treaty, the Commission should duly inform the European social partners about its intention to withdraw or substantially modify the legislative proposal;
  17. Instructs its President to forward this resolution to the Council and the Commission.
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