



EUROPEAN COMMISSION

LEGAL SERVICE

Legal Revisers Group

Brussels, 14 October 2002

SEMINAR ON QUALITY OF LEGISLATION: THE SWEDISH VIEW

Brussels, 27 September 2002

Summary report

Mr Bevis Clarke-Smith, Head of the Commission Legal Revisers Group, opened the seminar and thanked the participants for showing their interest in the quality of drafting by attending.

Mr Giuliano Marengo, Deputy Director-General of the Commission Legal Service, welcomed the distinguished speakers from Sweden. He pointed out that the Interinstitutional Agreement of 22 December 1998 expressly called for cooperation with the Member States on matters such as drafting and stressed that the seminar was an example of such cooperation which was to be followed by other seminars with representatives of other Member States. He reminded participants in particular of the unique constraints resulting from the multilingual nature of Community law.

Mr Gustaf Sandström, Judge of the Supreme Administrative Court in Sweden and Member of the Council on Legislation, gave his view on Community legislation from his experiences as a judge hearing many cases involving Community legislation, as chairman of a Council Working group, as reviser of draft acts in the Swedish Council on Legislation and as a drafter of legislation in the Ministry of Finance.

He stressed that high-quality lawmaking is crucial to society. The Swedish system is basically well structured to produce laws of a high standard, although time pressure and other constraints have a negative impact. By contrast the Community system of lawmaking, involving negotiations between representatives of States and drafting by technical experts rather than lawyers, is bound to give rise to problems.

Complicated drafts for legislation make the Community lawmaking process more difficult and can mask problems. It is when you come to implement Community directives that you are brought face to face with any weaknesses in them. National provisions can never remove doubts that are inherent in the directive.

A national court has to interpret the provisions in the national law in conformity with the directive or, in some cases, apply the directive directly. So the exact wording of the directive is indeed very important. The Court of Justice can give direct effect to a provision in a directive even if the meaning of the provision has remained obscure until the Court has given its interpretation.

When a legislative text is negotiated line by line, it is all too possible for the result to lack coherence and structure. This makes it particularly important for drafting committees to be chaired by lawyers, who take firm control, keep an overview of the whole and have the authority to get the best result.

The Swedish Council on Legislation is an independent, fast-working body with three supreme court judges in each of its two chambers. The Council gives its opinion on most proposed legislation before it is sent to Parliament. The Council could well serve as a model for the Community. The need for such a body will remain even if the existing Community institutions make the requisite improvements to the lawmaking process.

Mrs Barbro Ehrenberg-Sundin, Senior Adviser in the Division for Legal and Linguistic Draft Revision at the Swedish Ministry of Justice and a member of the Working Party on Clear Language, spoke on the Swedish legislative process and the role of her Division in that process as well as in offering linguistic support to staff in the Community institutions and to Swedish officials in Community working groups. She also reported on Sweden's views on the Community's efforts to improve its legislation and explained what the Plain Swedish Group does.

No Swedish legislation can be sent to the printers without the approval of the revisers. They initially only revised the final drafts of texts but now have a wider role, covering training sessions, handbooks and other written guidance, help-lines and involvement in redrafting of legislation.

One of the requirements for Swedish legislation is that it be accessible and understandable to the citizen. Sweden is pressing the Community to move in the same direction. It is calling for concrete, structural measures to improve Community lawmaking, backed by adequate resources. A whole culture of better regulation is required throughout the legislative process.

The full text of Mrs Ehrenberg-Sundin's presentation may be obtained from the address below.

Mr Clarke-Smith thanked the speakers for their very interesting and thought-provoking presentations and the participants for contributing to the exchange of ideas and to the realisation that the problems we face also confront others and that we can learn from their experience.

He was gratified that the concern for the quality of legislation is shared by so many others throughout the European institutions and other bodies and stressed the commitment to raise awareness of the importance of well-drafted legislation amongst all those involved in the legislative process.

For more information on this and other aspects of the Legal Revisers' work contact:

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