

## **European Governance – A White Paper**



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## **EUROPEAN GOVERNANCE :A WHITE PAPER**

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## EXECUTIVE SUMMARY

Today, political leaders throughout Europe are facing a real paradox. On the one hand, Europeans want them to find solutions to the major problems confronting our societies. On the other hand, people increasingly distrust institutions and politics or are simply not interested in them.

The problem is acknowledged by national parliaments and governments alike. It is particularly acute at the level of the European Union. Many people are losing confidence in a poorly understood and complex system to deliver the policies that they want. The Union is often seen as remote and at the same time too intrusive.

The Irish "no" highlights the impact of these problems on many people. This was reflected not only in the final outcome of the referendum, but also in the low turnout and quality of the debate which preceded it.

Yet people also expect the Union to take the lead in seizing the opportunities of globalisation for economic and human development, and in responding to environmental challenges, unemployment, concerns over food safety, crime and regional conflicts. They expect the Union to act as visibly as national governments.

Democratic institutions and the representatives of the people, at both national and European levels, can and must try to connect Europe with its citizens. This is the starting condition for more effective and relevant policies.

The Commission identified the reform of European governance as one of its four strategic objectives in early 2000. Political developments since then have highlighted that the Union faces a double challenge: there is not only a need for urgent action to adapt governance under the existing treaties, but also for a broader debate on the future of Europe in view of the next Inter-Governmental Conference.

Already within the existing Treaties the Union must start adapting its institutions and establishing more coherence in its policies so that it is easier to see what it does and what it stands for. A more coherent Union will be stronger at home and a better leader in the world. It will be well placed to tackle the challenge of enlargement.

The White Paper on European Governance concerns the way in which the Union uses the powers given by its citizens. Reform must be started now, so that people see changes well before further modification of the EU Treaties.

The White Paper proposes opening up the policy-making process to get more people and organisations involved in shaping and delivering EU policy. It promotes greater openness, accountability and responsibility for all those involved. This should help people to see how Member States, by acting together within the Union, are able to tackle their concerns more effectively.

The Commission cannot make these changes on its own, nor should this White Paper be seen as a magic cure for everything. Introducing change requires effort from all the other Institutions, central government, regions, cities, and civil society in the current and future Member States. The White Paper is primarily addressed to them. It proposes a series of initial actions. Some of these should help the Commission to concentrate its action on clear priorities within the tasks conferred on it by the Treaty: right of initiative, execution of policy, guardian of the Treaty and international representation. These will be taken forward immediately. The paper also launches a consultative process which will run until the end of March 2002 on the need for action by the other Institutions and Member States.

By the end of 2002, the Commission will report on the progress it has made and draw lessons from the White Paper consultation. This should establish a basis for taking the governance agenda forward with the other Institutions.

The Commission will also actively participate in the preparation of the forthcoming European Council in Laeken, presenting its views on the political objectives which should be pursued by the European Union and on the institutional framework necessary to achieve these aims. In doing this it, will draw on the principles of this White Paper.

## **PROPOSALS FOR CHANGE**

The Union must renew the Community method by following a less top-down approach and complementing the EU's policy tools more effectively with non-legislative instruments.

### **Better involvement and more openness**

No matter how EU policy is prepared and adopted, the way this is done must be more open and easier to follow and understand. The Commission will provide:

- Up-to-date, on-line information on preparation of policy through all stages of decision-making.

There needs to be a stronger interaction with regional and local governments and civil society. Member States bear the principal responsibility for achieving this. But the Commission for its part will:

- Establish a more systematic dialogue with representatives of regional and local governments through national and European associations at an early stage in shaping policy.
- Bring greater flexibility into how Community legislation can be implemented in a way which takes account of regional and local conditions.
- Establish and publish minimum standards for consultation on EU policy.
- Establish partnership arrangements going beyond the minimum standards in selected areas committing the Commission to additional consultation in return for more guarantees of the openness and representativity of the organisations consulted.

## **Better policies, regulation and delivery**

To improve the quality of its policies, the Union must first assess whether action is needed and, if it is, whether it should be at Union level. Where Union action is required, it should consider the combination of different policy tools.

When legislating, the Union needs to find ways of speeding up the legislative process. It must find the right mix between imposing a uniform approach when and where it is needed and allowing greater flexibility in the way that rules are implemented on the ground. It must boost confidence in the way expert advice influences policy decisions.

The Commission will:

- Promote greater use of different policy tools (regulations, “framework directives”, co-regulatory mechanisms).
- Simplify further existing EU law and encourage Member States to simplify the national rules which give effect to EU provisions.
- Publish guidelines on collection and use of expert advice, so that it is clear what advice is given, where it is coming from, how it is used and what alternative views are available.

More effective enforcement of Community law is necessary not only for the sake of efficiency of the internal market but also to strengthen the credibility of the Union and its Institutions.

The Commission will:

- Establish criteria to focus its work in investigating possible breaches of Community law.
- Define the criteria for the creation of new regulatory agencies and the framework within which they should operate.

## **Global governance**

The White Paper looks beyond Europe and contributes to the debate on global governance. The Union should seek to apply the principles of good governance to its global responsibilities. It should aim to boost the effectiveness and enforcement powers of international institutions.

The Commission will:

- Improve the dialogue with governmental and non-governmental actors of third countries when developing policy proposals with an international dimension.
- Propose a review of the Union’s international representation in order to allow it to speak more often with a single voice.

## Refocused Institutions

The EU institutions and Member States must work together to set out an overall policy strategy. They should refocus the Union's policies and adapt the way they work .

The Commission will:

- Reinforce attempts to ensure policy coherence and identify long-term objectives.
- Bring forward to the next Inter-Governmental Conference proposals to refocus the Commission's executive responsibility.

The Commission calls on the Council to reinforce its capacity to take decisions and cut through different sectoral interests. The Council should also establish a stronger link between EU policy and national action. By assuming its political responsibility under the Community method, the Council would free the European Council to establish and follow more long-term strategic orientations.

The Council and the European Parliament should focus more on defining the essential elements of policy and controlling the way in which those policies are executed. The Parliament should enhance its role in feeding into the political debate the views of its electors.

### HOW TO REACT TO THE WHITE PAPER

Reactions to this White Paper may be sent directly to the Commission **before 31 March 2002**. The Governance Web Site: [http://europa.eu.int/comm/governance/index\\_en.htm](http://europa.eu.int/comm/governance/index_en.htm) will provide updated information and link with interactive debates, including debates on governance initiated by institutional and non-governmental actors, debates on the Future of Europe and the Commission's portal on interactive policy-making.

If sent to the Commission, comments should be sent to:

[sg-governance@cec.eu.int](mailto:sg-governance@cec.eu.int)

Or by post to:

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|--|-----------|---------------------|------------|---|
| <b>Governance<br/>European<br/>C80<br/>rue<br/>B-1049 Brussels</b> | <b>de</b> | <b>White<br/>la</b> | <b>loi</b> | <b>Paper,<br/>Commission,<br/>05/66,<br/>200,</b> |
|--|-----------|---------------------|------------|---|

Copies of the comments received will be posted on the Web Site. If you do not wish your comments to be available, you should make a specific request for confidentiality.

# I. WHY REFORM EUROPEAN GOVERNANCE?

European integration has delivered fifty years of stability, peace and economic prosperity. It has helped to raise standards of living, built an internal market and strengthened the Union's voice in the world. It has achieved results which would not have been possible by individual Member States acting on their own. It has attracted a succession of applications for membership and in a few years time it will expand on a continental scale. It has also served as a model for regional integration across the world.

These results have been achieved by democratic means. The Union is built on the rule of law; it can draw on the Charter of fundamental rights, and it has a double democratic mandate through a Parliament representing EU citizens and a Council representing the elected governments of the Member States.

Yet despite its achievements, many Europeans feel alienated from the Union's work.

This feeling is not confined to the European Institutions. It affects politics and political institutions around the globe. But for the Union, it reflects particular tensions and uncertainty about what the Union is and what it aspires to become, about its geographical boundaries, its political objectives and the way these powers are shared with the Member States.

The decreasing turnout in the European Parliament elections and the Irish "No" vote also serve to show the widening gulf between the European Union and the people it serves:

- There is a perceived inability of the Union to act effectively where a clear case exists, for instance, unemployment, food safety scares, crime, the conflicts on the EU's borders and its role in the world.
- Where the Union does act effectively, it rarely gets proper credit for its actions. People do not see that improvements in their rights and quality of life actually come from European rather than national decisions. But at the same time, they expect the Union to act as effectively and visibly as their national governments.
- By the same token, Member States do not communicate well about what the Union is doing and what they are doing in the Union. "Brussels" is too easily blamed by Member States for difficult decisions that they themselves have agreed or even requested.
- Finally, many people do not know the difference between the Institutions. They do not understand who takes the decisions that affect them and do not feel the Institutions act as an effective channel for their views and concerns.

People do not necessarily feel less European. They still expect Europe-wide action in many domains, but they no longer trust the complex system to deliver what they want. In other words, people have disappointed expectations, but expectations nevertheless.



### *The debate on the future of Europe and the scope of the White Paper*

This disenchantment and with it the fundamental questions concerning the future of Europe will be the subject of intense debate in the run up to the Inter-Governmental Conference. However, in preparing for further institutional change, the Union must start the process of reform now. There is much that can be done to change the way the Union works under the existing Treaties. This is why the Commission decided to launch in early 2000 the reform of European governance<sup>1</sup> as a strategic objective – well in advance of the Nice European Council.

Reforming governance addresses the question of how the EU uses the powers given by its citizens. It is about how things could and should be done. The goal is to open up policy-making to make it more inclusive and accountable. A better use of powers should connect the EU more closely to its citizens and lead to more effective policies.

In order to achieve this, the Union must better combine different policy tools such as legislation, social dialogue, structural funding, and action programmes. This would contribute to strengthening the Community method.

Reforming European governance implies that the Commission must refocus on its core mission. The proposals in this paper will improve the quality of the way it initiates policy. They will ensure more clarity and effectiveness in policy execution, and maximise the impact of the Commission's actions as guardian of the Treaty.

#### **What is the Community method?**

The Community method guarantees both the diversity and effectiveness of the Union. It ensures the fair treatment of all Member States from the largest to the smallest. It provides a means to arbitrate between different interests by passing them through two successive filters: the general interest at the level of the Commission; and democratic representation, European and national, at the level of the Council and European Parliament, together the Union's legislature.

- The **European Commission** alone makes legislative and policy proposals. Its independence strengthens its ability to execute policy, act as the guardian of the Treaty and represent the Community in international negotiations.
- Legislative and budgetary acts are adopted by the **Council of Ministers** (representing Member States) and the **European Parliament** (representing citizens). The use of qualified majority voting in the Council is an essential element in ensuring the effectiveness of this method. Execution of policy is entrusted to the Commission and national authorities.
- The **European Court of Justice** guarantees respect for the rule of law.

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<sup>1</sup> "Governance" means rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence.

The Commission alone cannot improve European governance, nor can this Paper provide a magic cure for everything. Change requires concerted action by all the European Institutions, present and future Member States, regional and local authorities, and civil society. This paper is primarily addressed to them. Their commitment to reforming European governance will be essential in order to regain confidence before the next round of institutional reform. Elected officeholders at various levels, in particular at national level, have a crucial role in this context.

The Union's credibility will eventually be judged by its ability to add value to national policies and address people's concerns more effectively at European and global level. The White Paper identifies the tools that are needed to establish more coherence in the Union's policies and help the work of the various Institutions. It emphasises the need for EU action to be balanced and in proportion to the policy objectives pursued. This will be even more crucial in an enlarged Union. Finally, reform of European governance will improve the EU's ability to influence global developments.

#### *Taking this White Paper further*

The White Paper proposes a set of initial actions, including some which refocus the Commission on its core tasks. These will be taken forward immediately and should also inspire change in the other Institutions. The paper also launches a consultative process on the need for further action, in particular by the other Institutions and Member States.

The public consultation on this White Paper will run until 31 March 2002. It will continue to draw on the network of over 2,500 organisations and people who have already taken part in the governance debate in all parts of Europe, including the applicant countries<sup>2</sup>. By the end of 2002, the Commission will report on its progress and draw lessons from the consultation. This should allow to establish the basis for further co-operation between the Institutions on the reform of European governance under the existing Treaties.

In the meantime, the debate on the future of Europe leading to institutional changes in the next Inter-Governmental Conference will intensify. The Commission will actively participate in the preparation of the forthcoming European Council in Laeken, presenting its views on the political objectives which should be pursued by the European Union and on the institutional framework necessary to achieve them. In doing this it, will also draw on the principles of this White Paper. Moreover, the White Paper sets down markers for the future of Europe and identifies where new ways of working will be held back without corresponding changes to the EU Treaties.

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<sup>2</sup> Internal Commission groups have contributed this work. Their reports are published in parallel with this White Paper and can be obtained via the Governance Web Site mentioned above. The contents of these reports do not reflect the official position of the Commission. In addition, a qualitative opinion survey in the 15 Member States and in nine candidate countries contributed to the preparations of this Paper.

## II. PRINCIPLES OF GOOD GOVERNANCE

Five principles underpin good governance and the changes proposed in this White Paper: *openness, participation, accountability, effectiveness and coherence*. Each principle is important for establishing more democratic governance. They underpin democracy and the rule of law in the Member States, but they apply to all levels of government – global, European, national, regional and local. They are particularly important for the Union in order to respond to the challenges highlighted in the preceding chapter.

- **Openness.** The Institutions should work in a more open manner. Together with the Member States, they should actively communicate about what the EU does and the decisions it takes. They should use language that is accessible and understandable for the general public. This is of particular importance in order to improve the confidence in complex institutions.
- **Participation.** The quality, relevance and effectiveness of EU policies depend on ensuring wide participation throughout the policy chain – from conception to implementation. Improved participation is likely create more confidence in the end result and in the Institutions which deliver policies. Participation crucially depends on central governments following an inclusive approach when developing and implementing EU policies.
- **Accountability.** Roles in the legislative and executive processes need to be clearer. Each of the EU Institutions must explain and take responsibility for what it does in Europe. But there is also a need for greater clarity and responsibility from Member States and all those involved in developing and implementing EU policy at whatever level.
- **Effectiveness.** Policies must be effective and timely, delivering what is needed on the basis of clear objectives, an evaluation of future impact and, where available, of past experience. Effectiveness also depends on implementing EU policies in a proportionate manner and on taking decisions at the most appropriate level.
- **Coherence.** Policies and action must be coherent and easily understood. The need for coherence in the Union is increasing: the range of tasks has grown; enlargement will increase diversity; challenges such as climate and demographic change cross the boundaries of the sectoral policies on which the Union has been built; regional and local authorities are increasingly involved in EU policies. Coherence requires political leadership and a strong responsibility on the part of the Institutions to ensure a consistent approach within a complex system.

Each principle is important by itself. But they cannot be achieved through separate actions. Policies can no longer be effective unless they are prepared, implemented and enforced in a more inclusive way.

The application of these five principles reinforces those of proportionality and subsidiarity. From the conception of policy to its implementation, the choice of the level at which action is taken (from EU to local) and the selection of the instruments used must be in proportion to the objectives pursued. This means that before launching an initiative, it is essential to check systematically (a) if public action is really necessary, (b) if the European level is the most appropriate one, and (c) if the measures chosen are proportionate to those objectives.

The Union is changing as well. Its agenda extends to foreign policy and defence, migration and the fight against crime. It is expanding to include new members. It will no longer be judged solely by its ability to remove barriers to trade or to complete an internal market; its legitimacy today depends on involvement and participation. This means that the linear model of dispensing policies from above must be replaced by a virtuous circle, based on feedback, networks and involvement from policy creation to implementation at all levels.

### III. PROPOSALS FOR CHANGE

The proposals for change are divided into four sections. A first section focuses on improving involvement in shaping and implementing EU policy. A second section aims at improving the quality and enforcement of EU policies. A third section calls for a stronger link between European governance and the role of the Union in the world. Finally, a fourth section examines the role of the Institutions.

#### 3.1. Better involvement

*Making the way the Union works more open...*

Democracy depends on people being able to take part in public debate. To do this, they must have access to reliable information on European issues and be able to scrutinise the policy process in its various stages. Major progress has been made in 2001 with the adoption of new rules giving citizens greater access to Community documents.

But the Institutions and Member States also need to **communicate more actively with the general public on European issues**. The communication policy of the Commission and the other Institutions<sup>3</sup> will promote efforts to deliver information at national and local level, where possible making use of networks, grassroots organisations and national, regional and local authorities. Information should be presented in a way adapted to local needs and concerns, and be available in all official languages if the Union is not to exclude a vast proportion of its population – a challenge which will become more acute in the context of enlargement.

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<sup>3</sup> See the Commission's Communication on a new framework for co-operation on the information and communication policy of the European Union, COM(2001) 354, 27.6.01.

Information and communication technologies have an important role. Accordingly, the EU's EUROPA Website<sup>4</sup>, is set to evolve into an inter-active platform for information, feedback and debate, linking parallel networks across the Union.

Providing more information and more effective communication are a pre-condition for generating a sense of belonging to Europe. The aim should be to create a trans-national "space" where citizens from different countries can discuss what they perceive as being the important challenges for the Union. This should help policy makers to stay in touch with European public opinion, and could guide them in identifying European projects which mobilise public support.

#### ACTION POINTS

The European Institutions should jointly continue to develop EUR-LEX<sup>5</sup>, in 2002, as a single on-line point in all languages, where people can follow policy proposals through the decision-making process.

Council and the European Parliament should make, from the beginning of 2002, information available more rapidly about all stages of the co-decision process, particularly concerning the final, so-called conciliation phase.

The Member States should promote public debate on European affairs.

#### *Reaching out to citizens through regional and local democracy...*

The expansion of the Union's activities over the last fifteen years has brought it closer to regions, cities and localities, which are now responsible for implementing EU policies from agriculture and structural funding to environmental standards. The stronger involvement of regional and local authorities in the Union's policies also reflects both their growing responsibilities in some Member States and a stronger engagement of people and grass root organisations in local democracy<sup>6</sup>.

Yet the way in which the Union currently works does not allow for adequate interaction in a multi-level partnership; a partnership in which national governments involve their regions and cities fully in European policy-making. Regions and cities often feel that, in spite of their increased responsibility for implementing EU policies, their role as an elected and representative channel interacting with the public on EU policy is not exploited.

There is also criticism that the legislation adopted by the Council and the European Parliament is either too detailed, or insufficiently adapted to local conditions and experience; often in stark contrast to the original proposals tabled by the Commission.

<sup>4</sup> [www.europa.eu.int](http://www.europa.eu.int)

<sup>5</sup> The EUR-LEX portal already offers a 'one stop' shop to access information about pending and adopted Community law. ([www.europa.eu.int/eur-lex/en/index.html](http://www.europa.eu.int/eur-lex/en/index.html)).

<sup>6</sup> See opinion of the Committee of the Regions of 14.12.2000 on "New forms of governance: Europe, a framework for citizens' initiatives" (CdR 186/2000).

Criticism is not just focused on the Union. The principal responsibility for involving the regional and local level in EU policy remains and should remain with national administrations. But national governments are often perceived as not adequately involving regional and local actors in preparing their positions on EU policies. Each Member State should foresee adequate mechanisms for wide consultation when discussing EU decisions and implementing EU policies with a territorial dimension. The process of EU policy-making, in particular its timing, should allow Member States to listen to and learn from regional and local experiences.

A complementary response at EU level is needed in three areas to build a better partnership across the various levels:

- **Involvement in policy shaping.** At EU level, the Commission should ensure that regional and local knowledge and conditions are taken into account when developing policy proposals. For this purpose, it should organise a systematic dialogue with European and national associations of regional and local government, while respecting national constitutional and administrative arrangements. The Commission welcomes on-going efforts to increase co-operation between those associations and the Committee of the Regions. Furthermore, exchange of staff and joint training between administrations at various levels would contribute to a better knowledge of each other's policy objectives, working methods and instruments.
- **Greater flexibility.** Local conditions can make it difficult to establish one set of rules that covers the whole of the Union, without tying up the legislation in excessive complexity. There should be more flexibility in the means provided for implementing legislation and programmes with a strong territorial impact, provided the level playing field at the heart of the internal market can be maintained.

The Commission is also in favour of testing whether, while respecting the existing Treaty provisions, the implementation of certain EU policies could be better achieved by target-based, tripartite contracts.. Such contracts should be between Member States, regions and localities designated by them for that purpose, and the Commission. Central government would play a key role in setting up such contracts and would remain responsible for their implementation. The contract would provide that the designated sub-national authority in the Member States undertakes to implement identified actions in order to realise particular objectives defined in "primary" legislation. The contract should include arrangements for monitoring. The approach concerns regulations or directives in fields where sub-national public authorities are responsible for implementation within the national institutional or administrative system. The area of environmental policy might be a candidate for this pilot approach. Furthermore, the Commission has already committed itself to a more decentralised approach in future regional policy<sup>7</sup>.

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<sup>7</sup> Second Cohesion Report, COM (2001) 21 final, 31.01.2001.

- **Overall policy coherence.** The territorial impact of EU policies in areas such as transport, energy or environment should be addressed. These policies should form part of a coherent whole as stated in the EU's second cohesion report; there is a need to avoid a logic which is too sector-specific. In the same way, decisions taken at regional and local levels should be coherent with a broader set of principles that would underpin more sustainable and balanced territorial development within the Union.
- The Commission intends to use the enhanced dialogue with Member States and their regions and cities to develop indicators to identify where coherence is needed. It will build upon existing work, such as the European Spatial Development Perspective adopted in 1999 by Ministers responsible for spatial planning and territorial development. This work of promoting better coherence between territorial development actions at different levels should also feed the review of policies in view of the Sustainable Development Strategy<sup>8</sup>.

#### ACTION POINTS

The Commission will:

- Establish from 2002 onwards a more systematic dialogue with European and national associations of regional and local government at an early stage of policy shaping.
- Launch, from 2002 onwards, pilot "target-based contracts" within one or more areas, as a more flexible means of ensuring implementation of EU policies.

The Committee of the Regions should:

- Play a more proactive role in examining policy, for example through the preparation of exploratory reports in advance of Commission proposals.
- Organise the exchange of best practice on how local and regional authorities are involved in the preparatory phase of European decision-making at national level.
- Review the local and regional impact of certain directives, and to report to the Commission by the end of 2002 on the possibilities for more flexible means of application. The Commission will then consider a more systematic approach to allow such flexibility for some parts of Community law.

The Member States should:

- examine how to improve the involvement of local and regional actors in EU policy-making.
- promote the use of contractual arrangements with their regions and localities.

<sup>8</sup> Communication on a sustainable Europe for a better world, COM(2001) 264 final, 15.5.01

### *Involving civil society...*

Civil society plays an important role in giving voice to the concerns of citizens and delivering services that meet people's needs<sup>9</sup>. Churches and religious communities have a particular contribution to make. The organisations which make up civil society mobilise people and support, for instance, those suffering from exclusion or discrimination. The Union has encouraged the development of civil society in the applicant countries, as part of their preparation for membership. Non governmental organisations play an important role at global level in development policy. They often act as an early warning system for the direction of political debate.

Trade unions and employers' organisations have a particular role and influence. The EC Treaty requires the Commission to consult management and labour in preparing proposals, in particular in the social policy field. Under certain conditions, they can reach binding agreements that are subsequently turned into Community law (within the social dialogue). The social partners should be further encouraged to use the powers given under the Treaty to conclude voluntary agreements.

Civil society increasingly sees Europe as offering a good platform to change policy orientations and society. This offers a real potential to broaden the debate on Europe's role. It is a chance to get citizens more actively involved in achieving the Union's objectives and to offer them a structured channel for feedback, criticism and protest<sup>10</sup>. This already happens in fields such as trade and development, and has recently been proposed for fisheries<sup>11</sup>.

**With better involvement comes greater responsibility.** Civil society must itself follow the principles of good governance, which include accountability and openness. The Commission intends to establish, before the end of this year, a comprehensive on-line database with details of civil society organisations active at European level, which should act as a catalyst to improve their internal organisation.

The Economic and Social Committee must play a role in developing a new relationship of mutual responsibility between the Institutions and civil society, in line with the changes to article 257 of the EC Treaty<sup>12</sup> agreed at Nice. In order to do this, its organisation and role will have to be reconsidered. Member States should take this new role into account when appointing members to the Committee.

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<sup>9</sup> Civil society includes the following: trade unions and employers' organisations ("social partners"); non-governmental organisations; professional associations; charities; grass-roots organisations; organisations that involve citizens in local and municipal life with a particular contribution from churches and religious communities. For a more precise definition of organised civil society, see the Opinion of the Economic and Social Committee on "The role and contribution of civil society organisations in the building of Europe", OJ C329, 17.11.99 p.30.

<sup>10</sup> This would in particular provide a follow up to the Commission's discussion document on the Commission and non-governmental organisations: Building a stronger partnership, COM(2000) 11 final, 18.1.00.

<sup>11</sup> Green Paper: The future of the common fisheries policy, COM(2001)135 final, 20.03.2001.

<sup>12</sup> "The [Economic and Social] Committee shall consist of representatives of the various economic and social components of organised civil society, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest".



Like the Committee of the Regions, the Economic and Social Committee should be more active by developing opinions and exploratory reports in order to help shape policies at a much earlier stage than at present. The Treaty currently provides for both committees to give their opinion after, rather than before, proposals have been transmitted to the legislature, which minimises their impact. Working arrangements between the Commission and the Economic and Social Committee, similar to those under discussion with the Committee of the Regions, are currently being finalised to give effect to a more pro-active role.

*More effective and transparent consultation at the heart of EU policy-shaping...*

The Commission already consults interested parties through different instruments, such as Green and White Papers, Communications, advisory committees, business test panels<sup>13</sup> and ad hoc consultations. Furthermore, the Commission is developing on-line consultation through the inter-active policy-making initiative<sup>14</sup>.

Such consultation helps the Commission and the other Institutions to arbitrate between competing claims and priorities and assists in developing a longer term policy perspective. Participation is not about institutionalising protest. It is about more effective policy shaping based on early consultation and past experience.

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<sup>13</sup> [www.europa.eu.int/comm/internal\\_market/en/update/panel/index.htm](http://www.europa.eu.int/comm/internal_market/en/update/panel/index.htm)

<sup>14</sup> [www.europa.eu.int/comm/internal\\_market/en/update/citizen/ipm.htm](http://www.europa.eu.int/comm/internal_market/en/update/citizen/ipm.htm)

**How the Commission consults: The example of the "Telecoms Package"<sup>15</sup>.**

The Telecoms Package of 6 measures currently in Council and the European Parliament was developed on the basis of widespread consultation.

**1998-99** A number of studies assessing a range of market and regulatory issues launched. Workshops presenting and debating the studies.

**May/June 1999** Working Paper on regulatory principles for telecoms reform for consultation.

**Nov 1999** Communication launching the 1999 Telecoms Review setting out general orientations and inviting reaction.

**Jan 2000** Two day Public Hearing with 550 participants.

**April 2000** Communication on the results of the 1999 Review. More than 200 responses from national regulators, trade associations, consumer groups, industry and individuals.

**May 2000** Draft legislation published in the form of five working documents for rapid consultation.

**July 2000** Adoption of package of six proposals by the Commission, currently under discussion in Council and European Parliament.

The European Parliament and its committees regularly seek public and expert views through consultation and public hearings, improving the quality of its policy deliberation. Some Member States systematically consult at a national level on proposals tabled in the Council.

In all these areas more should and must be done.

The Institutions and national authorities must reinforce their efforts to consult better on EU policies. Better consultation complements, and does not replace, decision-making by the Institutions.

What is needed is a **reinforced culture of consultation and dialogue**; a culture which is adopted by all European Institutions and which associates particularly the European Parliament in the consultative process, given its role in representing the citizen. The European Parliament should play a prominent role, for instance, by reinforcing its use of public hearings. European political parties are an important factor in European integration and contribute to European awareness and voicing the concerns of citizens.

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<sup>15</sup>The telecoms package consists of 6 measures revising the existing regulatory framework for telecommunications markets which launched liberalisation from 1 January 1998 and which now need updating in the light of several years of effective competition. The measures address framework regulatory conditions and regulatory structures; licensing; interconnection and access; universal service; data protection and privacy, and the treatment of radio-frequency.

Furthermore, the involvement of national parliaments and their specialised European affairs committees, as already practised by the European Parliament, could also be encouraged.

There is currently a lack of clarity about how consultations are run and to whom the Institutions listen. The Commission runs nearly 700 ad hoc consultation bodies in a wide range of policies. The increase in the volume of international negotiations generates further ad hoc consultation. The Commission believes it needs to rationalise this unwieldy system not to stifle discussion, but to make it more effective and accountable both for those consulted and those receiving the advice. As a first step, the Commission will publish a review of existing sectoral consultative fora.

Creating a culture of consultation cannot be achieved by legal rules which would create excessive rigidity and risk slowing the adoption of particular policies. It should rather be underpinned by a **code of conduct that sets minimum standards**, focusing on what to consult on, when, whom and how to consult. Those standards will reduce the risk of the policy-makers just listening to one side of the argument or of particular groups getting privileged access on the basis of sectoral interests or nationality, which is a clear weakness with the current method of ad hoc consultations. These standards should improve the representativity of civil society organisations and structure their debate with the Institutions.

In some policy sectors, where consultative practices are already well established, the Commission could develop more extensive **partnership arrangements**. On the Commission's part, this will entail a commitment for additional consultations compared to the minimum standards. In return, the arrangements will prompt civil society organisations to tighten up their internal structures, furnish guarantees of openness and representativity, and prove their capacity to relay information or lead debates in the Member States.

In the light of practical experience of these partnership arrangements and the code of conduct, the Commission will invite the other Institutions to contribute to extending this new approach to their own activities.

The Commission will:

- Adopt before the end of 2001 minimum standards for consultation and publish them in a code of conduct.
- Develop more extensive partnership arrangements from 2002 onwards in certain sectors.

The Economic and Social Committee should play a more proactive role in examining policy, for example through the preparation of exploratory reports.

Member States should examine how to improve their consultative processes in the context of EU policy

The Council and European Parliament should review their relationship with civil society and, building on the minimum standards for consultations, contribute to a general reference framework for consultation by 2004.

#### ACTION POINTS

### *Connecting with networks...*

European integration, new technologies, cultural changes and global interdependence have led to the creation of a tremendous variety of European and international networks, focused on specific objectives. Some have been supported by Community funding. These networks link businesses, communities, research centres, and regional and local authorities. They provide new foundations for integration within the Union and for building bridges to the applicant countries and to the world. They also act as multipliers spreading awareness of the EU and showing policies in action.

#### **Examples of Network-led initiatives**

The yearly 'Car Free Day' on 22 September now mobilises around 800 cities in 25 European countries on a voluntary basis

The [Netd@ys](#) initiative has increased awareness of schools, pupils and teachers of new media. Last year there were about 300 Netd@ys projects involving 150,000 organisations from 85 countries and the European website received over 8 million hits.

Yet, many of these networks, whose roots reach down deep into society, feel disconnected from the EU policy process. By making them more open and structuring better their relation with the Institutions, **networks could make a more effective contribution to EU policies**. More specifically, regional and city networks that support trans-national and cross-border co-operation, for example under the Structural Funds, are held back by the diverging administrative and legal conditions which apply to each individual participating authority.

#### **ACTION POINTS**

The Commission will:

- Develop by the end of 2002 a more systematic and pro-active approach to working with key networks to enable them to contribute to decision shaping and policy execution.
- Examine how the framework for trans-national co-operation of regional or local actors could be better supported at EU level, with a view to presenting proposals by the end of 2003 .

### **3.2 Better policies, regulation and delivery**

The European Union's policies and legislation are getting increasingly complex. The reluctance of Council and European Parliament to leave more room for policy execution to the Commission means that legislation often includes an unnecessary level of detail. In national systems this would be addressed through implementing rules under the control of national parliaments rather than in the laws adopted by those Parliaments.

The level of detail in EU legislation also means that adapting the rules to technical or market changes can be complex and time-consuming. Overall the result is a lack of flexibility, damaging effectiveness. A slow legislative process is compounded by slow implementation – of the 83 internal market directives which should have been transposed in 2000, only five of them had been transposed in all Member States.

If rules are not supported or inadequately enforced, the Institutions as a whole are called into question. Apart from a new, more inclusive approach to policy shaping, the Union needs to boost confidence in the expert advice that informs its policy. It needs to improve the quality of its legislation, including better implementation and enforcement.

#### *Confidence in expert advice...*

Scientific and other experts play an increasingly significant role in preparing and monitoring decisions. From human and animal health to social legislation, the Institutions rely on specialist expertise to anticipate and identify the nature of the problems and uncertainties that the Union faces, to take decisions and to ensure that risks can be explained clearly and simply to the public.

The advent of bio-technologies are highlighting the unprecedented moral and ethical issues thrown up by technology. This underlines the need for a wide range of disciplines and experience beyond the purely scientific.

Recent food crises have highlighted the importance of informing people and policy makers about what is known and where uncertainty persists. But they have also undermined public confidence in expert-based policy-making. Public perceptions are not helped by the opacity of the Union's system of expert committees or the lack of information about how they work. It is often unclear who is actually deciding - experts or those with political authority. At the same time, a better informed public increasingly questions the content and independence of the expert advice that is given.

These issues become more acute whenever the Union is required to apply the precautionary principle and play its role in **risk assessment and risk management**. The Commission over a number of years has been responding to these challenges, for example, through the revamping of its system of scientific committees in 1997 and ensuring that scientific advice from those committees is publicly available. The current proposal for a European Food Authority will enhance the Union's scientific capability, transparency and networking in the area of food safety.

In many other areas, networking at European and even global level show clear benefits. Expertise, however, is usually organised at a national level. It is essential that resources be put together and work better in the common interest of EU citizens. Such structured and open networks should form a scientific reference system to support EU policy-making<sup>16</sup>.

#### ACTION POINTS

The Commission will publish from June 2002 guidelines on collection and use of expert advice in the Commission to provide for the accountability, plurality and integrity of the expertise used. This should include the publication of the advice given. Over time these guidelines could form the basis for a common approach for all Institutions and Member States.

#### *Better and faster regulation – combining policy instruments for better results ...*

The European Union will rightly continue to be judged by the impact of its regulation on the ground. It must pay constant attention to **improving the quality, effectiveness and simplicity of regulatory acts**. Effective decision-making also requires the combination of different policy instruments (various forms of legislation, programmes, guidelines, use of structural funding, etc.) to meet Treaty objectives. In making full use of the Treaty, the Commission could also make proposals to take the Union's objectives forward through enhanced co-operation.

At the same time, the Union must be able to react more rapidly to changing market conditions and new problems by reducing the long delays associated with the adoption and implementation of Community rules. In many cases these may run to three years or more. A tension between faster decisions and better, but time-consuming consultation is not necessarily a problem: investment in good consultation "upstream" may produce better legislation which is adopted more rapidly and easier to apply and enforce.

Achieving improvements depends on seven factors.

- First, proposals must be prepared on the basis of **an effective analysis** of whether it is appropriate to intervene at EU level and whether regulatory intervention is needed. If so, the analysis must also assess the potential economic, social and environmental impact, as well as the costs and benefits of that particular approach. A key element in such an assessment is ensuring that the objectives of any proposal are clearly identified.
- Second, **legislation is often only part of a broader solution** combining formal rules with other non-binding tools such as recommendations, guidelines, or even self-regulation within a commonly agreed framework. This highlights the need for close coherence between the use of different policy instruments and for more thought to be given to their selection.

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<sup>16</sup>The creation of such a broader set of scientific reference systems is one of the objectives of the European Research Area.

- Third, the **right type of instrument** must be used whenever legislation is needed to achieve the Union’s objectives:
  - The **use of regulations** should be considered in cases with a need for uniform application and legal certainty across the Union. This can be particularly important for the completion of the internal market and has the advantage of avoiding the delays associated with transposition of directives into national legislation.
  - So-called “**framework directives**” should be used more often. Such texts are less heavy-handed, offer greater flexibility as to their implementation, and tend to be agreed more quickly by Council and the European Parliament. Whichever form of legislative instrument is chosen, **more use should be made of “primary” legislation** limited to essential elements (basic rights and obligations, conditions to implement them), leaving the executive to fill in the technical detail via implementing “secondary” rules.
- Fourth, under certain conditions, implementing measures may be prepared within the **framework of co-regulation**. Co-regulation combines binding legislative and regulatory action with actions taken by the actors most concerned, drawing on their practical expertise. The result is wider ownership of the policies in question by involving those most affected by implementing rules in their preparation and enforcement. This often achieves better compliance, even where the detailed rules are non-binding.
  - It has already been used, for example, in areas such as the internal market (agreeing product standards under the so-called “New Approach” directives) and the environment sector (reducing car emissions).
  - The exact shape of co-regulation, the way in which legal and non-legal instruments are combined and who launches the initiative – stakeholders or the Commission - will vary from sector to sector.

Under the following conditions the Commission will consider the use of co-regulation where it will be an effective way of achieving EU objectives.

#### **Conditions for the use of co-regulation**

Co-regulation implies that a framework of overall objectives, basic rights, enforcement and appeal mechanisms, and conditions for monitoring compliance is set in the legislation.

It should only be used where it clearly adds value and serves the general interest. It is only suited to cases where fundamental rights or major political choices are not called into question. It should not be used in situations where rules need to apply in a uniform way in every Member State. Equally, the organisations participating must be representative, accountable and capable of following open procedures in formulating and applying agreed rules. This will be a key factor in deciding the added value of a co-regulatory approach in a given case.

Additionally, the resulting co-operation must be compatible with European competition rules and the rules agreed must be sufficiently visible so that people are aware of the rules that apply and the rights they enjoy. Where co-regulation fails to deliver the desired results or where certain private actors do not commit to the agreed rules, it will always remain possible for public authorities to intervene by establishing the specific rules needed.

- Fifth, in other areas, Community action may be complemented or reinforced by the use of the so-called “**open method of co-ordination**”, which can already involve the applicant countries in some cases.
  - The open method of co-ordination is used on a case by case basis. It is a way of encouraging co-operation, the exchange of best practice and agreeing common targets and guidelines for Member States, sometimes backed up by national action plans as in the case of employment and social exclusion. It relies on regular monitoring of progress to meet those targets, allowing Member States to compare their efforts and learn from the experience of others.

In some areas, such as employment and social policy or immigration policy<sup>17</sup>, it sits alongside the programme-based and legislative approach; in others, it adds value at a European level where there is little scope for legislative solutions. This is the case, for example, with work at a European level defining future objectives for national education systems.

- The Commission plays an active co-ordinating role already and is prepared to do so in the future , but the use of the method must not upset the institutional balance nor dilute the achievement of common objectives in the Treaty. In particular, it should not exclude the European Parliament from a European policy process. The open method of co-ordination should be a complement, rather than a replacement, for Community action.

#### **Circumstances for the use of the open method of co-ordination**

The use of the open method of co-ordination must not dilute the achievement of common objectives in the Treaty or the political responsibility of the Institutions. It should not be used when legislative action under the Community method is possible; it should ensure overall accountability in line with the following requirements:

It should be used to achieve defined Treaty objectives.

Regular mechanisms for reporting to the European Parliament should be established.

The Commission should be closely involved and play a co-ordinating role.

The data and information generated should be widely available. It should provide the basis for determining whether legislative or programme-based action is needed to overcome particular problems highlighted.

- Sixth, a stronger culture of **evaluation and feedback** is needed in order to learn from the successes and mistakes of the past. This will help to ensure that proposals do not over-regulate and that decisions are taken and implemented at the appropriate level.
- Seventh, the Commission has committed itself to **withdraw proposals** where inter-institutional bargaining undermines the Treaty principles of subsidiarity and proportionality or the proposal’s objectives. The Council and the European Parliament must instead stick to the essential elements of legislation as mentioned above and avoid overloading or over-complicating proposals.

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<sup>17</sup> See most recently the Communication on an open method of co-ordination for the community immigration policy, COM(2001)387 final, 11.7.01



- Council and the European Parliament must also make greater efforts to **speed up the legislative process**. When legally possible, Council should vote as soon as a qualified majority seems possible rather than pursuing discussions in the search for unanimity. In appropriate cases, the Council and the European Parliament should attempt to agree proposals in one rather than two readings with the assistance of the Commission. This may reduce the time needed to adopt legislation by 6 to 9 months.

*Community law should be substantially simplified...*

Building on work on single market and agricultural legislation, a **comprehensive programme of simplification** of existing rules is called for – regrouping legal texts, removing redundant or obsolete provisions, and shifting non-essential obligations to executive measures.

Simplification at EU level must be accompanied by a similar commitment from Member States. People first and foremost want less red tape at a national level – they do not care whether its origin is in European or national decisions. One of the biggest sources of concern is the tendency of Member States when implementing Community directives to add new costly procedures or to make legislation more complex. Networks should be established between those responsible for simplification at EU and at national level.

**ACTION POINTS**

The Commission will present an Action Plan for Better Regulation to the Laeken European Council; within that framework it will:

- Promote greater use of different policy tools, (regulations, “framework directives”, guidelines and recommendations, co-regulatory mechanisms). These may be complemented where appropriate by the use of the open method of co-ordination.
- Limit its proposals for primary legislation to essential elements, while providing greater scope for implementing measures to complete the technical details of those proposals.
- Launch a high-profile programme to review and simplify Community legislation adopted before 2000, supported by fast track procedures in Council and European Parliament for this work.

Council and European Parliament should limit primary legislation to essential elements.

Member States should refrain from a disproportionate level of detail or complex administrative requirements when implementing Community legislation.

*Better application of EU rules through regulatory agencies*

A range of national regulatory agencies exist across the Member States in areas with a need for consistent and independent regulatory decisions. Increasingly these regulators have an important role in applying Community law.

At EU level, twelve independent agencies have been created. The majority of these bodies have either an information gathering task, such as the European Environment Agency in Copenhagen or they assist the Commission by implementing particular EU programmes and policies, such as the European Training Foundation in Turin. In three cases EU agencies have a regulatory role<sup>18</sup>.

The creation of further autonomous **EU regulatory agencies** in clearly defined areas will improve the way rules are applied and enforced across the Union. Such agencies should be granted the power to take individual decisions in application of regulatory measures. They should operate with a degree of independence and within a clear framework established by the legislature. The regulation creating each agency should set out the limits of their activities and powers, their responsibilities and requirements for openness.

The advantage of agencies is often their ability to draw on highly technical, sectoral know-how, the increased visibility they give for the sectors concerned (and sometimes the public) and the cost-savings that they offer to business. For the Commission, the creation of agencies is also a useful way of ensuring it focuses resources on core tasks.

#### **Conditions for the creation of regulatory agencies at EU level**

The Treaties allow some responsibilities to be granted directly to agencies. This should be done in a way that respects the balance of powers between the Institutions and does not impinge on their respective roles and powers. This implies the following conditions:

- Agencies can be granted the power to take individual decisions in specific areas but cannot adopt general regulatory measures. In particular, they can be granted decision making power in areas where a single public interest predominates and the tasks to be carried out require particular technical expertise (e.g. air safety).
- Agencies cannot be given responsibilities for which the Treaty has conferred a direct power of decision on the Commission (for example, in the area of competition policy).
- Agencies cannot be granted decision-making power in areas in which they would have to arbitrate between conflicting public interests, exercise political discretion or carry out complex economic assessments.
- Agencies must be subject to an effective system of supervision and control.

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<sup>18</sup>The Office of Harmonisation in the Internal Market (Alicante) and the Community Plant Variety Office (Angers) take individual decisions on the grant of European trademarks and plant variety rights. The European Agency for the Evaluation of Medicines (London) makes a technical assessment of applications for the approval of new medicines prior to a Commission decision.

The Commission will consider the creation of regulatory agencies on a case-by-case basis. Currently, proposals are before Council and the European Parliament for three agencies: a European food authority, a maritime safety agency and an air safety agency with only the latter having a clear power to take individual decisions.

The Commission will:

- Define in 2002 the criteria for the creation of new regulatory agencies in line with the above conditions and the framework within which they should operate.
- Set out the Community's supervisory responsibilities over such agencies.

*Better application at national level*

Ultimately the impact of European Union rules depends on the willingness and capacity of Member State authorities to ensure that they are transposed and enforced effectively, fully and on time. Late transposition, bad transposition and weak enforcement all contribute to the public impression of a Union which is not delivering. The prime responsibility for this lies with national administrations and courts.

Strengthening their administrative capacity of applicant countries is already a key theme of the pre-accession strategy and these efforts will need to be sustained after they join. The existing Member States should ensure that they too improve their performance and make adequate resources available in this field. The Union can effectively draw on the experience acquired with the applicant countries, such as the "twinning arrangements". Current and future Member States should consider setting up co-ordination units within central government to improve the enforcement of Community law.

At the same time, the feeling persists that Community rules are "foreign laws". **EU law is part of the national legal order** and must be enforced as such. Despite long-standing co-operation with the European Court of Justice, national lawyers and courts should be made more familiar with Community law, and assume responsibility in ensuring the consistent protection of rights granted by the Treaty and by European legislation. The Commission will continue to support judicial co-operation and the training of lawyers and judges in Community law, but Member States themselves will have to step up their efforts in this field.

The role and effectiveness of the EU Ombudsman and of the Petitions' Committee of the European Parliament should be complemented by creating networks of similar existing bodies in the Member States capable of dealing with disputes involving citizens and EU issues. It should improve people's knowledge of the extent and limits of their rights under Community law, and help them find which Member State authorities can resolve problems. In some highly specific sectors, the creation of European regulatory agencies as proposed above will also contribute to a more uniform application of rules throughout the Community.

**ACTION POINTS**

The Union is based on the rule of law. Monitoring closely the application of Community law is an essential task for the Commission if it is to make the Union a reality for businesses and citizens. The Commission will therefore pursue infringements with vigour. In this context, individual complaints about breaches of Community law are important. The Commission has already adopted measures to improve and speed up internal procedures for handling such complaints and these should now be codified and published.

However, as far as individual complaints are concerned, a lengthy legal action against a Member State is not always the most practical solution. The main aim of an infringement action is to oblige the offending Member State to remedy its breach of Community law. Yet even after a ruling by the European Court of Justice further legal steps by the complainant may be required before national courts in order to enforce his or her rights. In order to maximise the impact of its work in dealing with complaints, the Commission will refocus on-going efforts and establish the criteria that it will use in prioritising cases including the following orientations:

#### **Priority attached to treatment of possible breaches of Community law**

The Commission will focus on:

- The effectiveness and quality of transposition of directives as the most effective way of avoiding individual problems arising at a later stage.
- Situations involving the compatibility of national law with fundamental Community principles.
- Cases that seriously affect the Community interest (e.g. cases with cross-border implications) or the interests that the legislation intended to protect.
- Cases where a particular piece of European legislation creates repeated implementation problems in a Member State.
- Cases that involve Community financing.

Such cases should be handled as a priority in the framework of formal infringement procedures. In other cases, other forms of intervention could be explored before launching formal infringement proceedings.

Finally, the Commission will continue to pursue an active dialogue with the Member States on enforcement. This has the advantage of improving feedback on how rules are applied in practice. It also can lead to a faster resolution of a potential infringement than a full court case and therefore offer a quicker solution to the person at the origin of a complaint.

## ACTION POINTS

The Commission will:

- Propose in 2002 twinning arrangements between national administrations to share best practice in implementing measures within particular sectors, drawing on the experience with applicant countries, and promote the awareness on Community law among national courts and lawyers.
- Establish in 2002 criteria that will be used in prioritising the investigation of possible breaches of Community law .
- Codify the current administrative rules concerning the handling of complaints.

Member States must step up their efforts to improve the quality of transposition and implementation. They must contribute to improving the knowledge of Community law, encourage national courts to take a more active role in controlling the application of Community rules. They should increase the capacity for dispute settlement through networks of ombudsmen or mediators.

### 3.3. The EU's contribution to global governance

The proposals in the White Paper have been drawn up against the background of enlargement, but they also offer a useful contribution to global governance. The Union's first step must be to **reform governance successfully at home in order to enhance the case for change** at an international level.

The objectives of peace, growth, employment and social justice pursued within the Union must also be promoted outside for them to be effectively attained at both European and global level. This responds to citizens' expectations for a powerful Union on a world stage. Successful international action reinforces European identity and the importance of shared values within the Union.

In applying the principles of good governance to the EU's global responsibility, the Union should be more accessible to governmental and non-governmental stakeholders from other parts of the world. This is already part of its strategy for sustainable development, but it must go hand in hand with a commitment by such stakeholders as to their representativity and that they will assume their responsibilities in responding to global challenges. The Union should take the global dimension into account in assessing the impact of policies, in establishing guidelines for the use of expertise, and through a more pro-active approach to international networks.

By acknowledging the global dimension more strongly, the Union will strengthen its voice in multilateral negotiations. It should aim to improve the effectiveness and legitimacy of global rule making, working to modernise and reform international and multi-lateral institutions in the medium to long term. The goal should be to boost the effectiveness and enforcement powers of multi-lateral institutions. In the short term, the Union should build partnerships with other countries in order to promote greater co-operation and coherence between the activities of existing international organisations and increase their transparency.

International action should be complemented by new tools. Many ideas in this White Paper could be tested at global level, such as peer review of progress made towards internationally agreed targets or the development of co-regulatory solutions to deal with aspects of the new economy. As in the Union, these approaches should complement successful elements of international public law, most notably the World Trade Organisation and the International Court of Justice.

To achieve these objectives, the Union needs to speak more with a single voice. It should strengthen its representation in international and regional fora, including in relation to economic and financial governance, the environment, development and competition policy. Often, important improvements can and should be introduced under the current Treaty, and would considerably improve the visibility of what the Union is doing at the global level. In some areas, like finance, a change in the Treaty is required.

#### **ACTION POINTS**

The Commission will:

- Improve the dialogue with governmental and non-governmental actors of third countries when developing policy proposals with an international dimension.
- Promote the use of new tools at global level as a complement to “hard” international law.
- Promote a discussion in 2002 on how the Union can contribute to a comprehensive reform of multilateral institutions and improve co-operation and openness of international organisations.
- Propose a review of the Union’s international representation under the existing Treaties in order to speak more often with a single voice and propose changes at the next Inter-Governmental Conference.

### **3.4. Refocused policies and institutions**

Connecting the European Union to its citizens means identifying clear policies and objectives within an overall vision of where the Union is going. People need to understand better the political project which underpins the Union.

The task is not easy. The step by step integration which has characterised the Union's development has tended to slice policies into sectoral strands with different objectives and different tools: over time the capacity to ensure the coherence has diminished. The current working methods of the Institutions and the relations with the Member States prevent them from showing the necessary leadership.

As a partial response, the Union has launched cross-cutting policy agendas, such as those developed in Tampere (1999) for freedom, security and justice issues; in Lisbon (2000) with an agenda for economic and social renewal extending up to 2010; or in Göteborg (2001) with the strategy for sustainable development.

But more needs to be done. The Institutions and the Member States must work together to set out an overall policy strategy. For this purpose, they should already refocus the Union's policies and adapt the way the Institutions work under the existing Treaties.

### *Refocus EU policies*

The introduction of the euro and enlargement will be catalysts for fundamental changes. The euro will soon become a tangible reality in people's pockets and will increase the visibility of the Union at home and in the world. Enlargement will raise particular problems in terms of the wide gaps between rich and poor countries. It will bring new challenges for the management of the Union's external frontiers and the relationships with our future neighbours.

Refocusing policies means that the Union should **identify more clearly its long-term objectives**. These may, with the overall objective of sustainable development, include improving human capital, knowledge and skills; strengthening both social cohesion and competitiveness; meeting the environmental challenge; supporting territorial diversity; and contributing to regional peace and stability. Improved focus will help to guide the reform of policies in preparation for a successful enlargement and ensure that expanding the Union does not lead to weakening or dilution of existing policies.

In setting priorities and ensuring coherence, the Institutions must guard against decisions on future policies which are inspired by short-term thinking on long-term challenges. This is a real risk as in the near future institutional reform, important policy choices, budgetary bargaining and enlargement could all coincide. It is likely to stretch the Union's capacity to show leadership through a coherent vision of the future. The Union must also continue to ensure that it has adequate resources to carry out the tasks assigned to it.

Within the Commission, important steps have been taken to strengthen its capacity for strategic planning and policy setting as one of the three pillars of the on-going administrative reforms. They are reflected through key events each year that promote a political debate within the framework of the Commission's five year strategic objectives:

- The Commission's Annual Policy Strategy at the start of each year focuses on identifying strategic priorities with a 2 to 3 year horizon. It enables a medium term, more coherent approach, and provides an essential reality check to ensure that the necessary resources are available.

- The Commission President in his annual State of the Union address in the European Parliament surveys the progress made against the Commission's strategic priorities and indicates new challenges on the horizon. This is complemented by the annual Synthesis Report to the Spring European Council which covers the Union's economic, social and environmental policies.
- In addition to this, from 2002 onwards, the annual report on the implementation of the Amsterdam Protocol on Subsidiarity and Proportionality will be oriented towards the main objectives of European Union policies. It will investigate the extent to which the Union has applied the proportionality and subsidiarity principles in pursuing its main goals.

However, attempts to structure a better debate on policy coherence need to be built on a dialogue between the Institutions on future objectives and priorities for the Union. The Commission's role in initiating policy and steering the long-term agenda can be particularly effective in preparing the **European Council**. These Summits, which now take place four times a year, bring together the fifteen Heads of State and Government and the Commission President.

The European Council should have a more important role in shaping the strategic direction for the Union in partnership with the Commission. It should not deal with the day to day detail of EU policies. The requirement for consensus in the European Council often holds policy-making hostage to national interests in areas which Council could and should decide by a qualified majority of Member States. This is one example of a failure by the Council to assume its political responsibility for decision-making within the Community method.

### *Refocus the Institutions*

To deliver better policies, the Union must revitalise the Community method. Everyone should concentrate on their core tasks: the Commission initiates and executes policy; the Council and the European Parliament decide on legislation and budgets - whenever possible in Council using qualified majority voting, the European Council exerts political guidance and the European Parliament controls the execution of the budget and of the Union's policies.

This means changes in the way the Institutions work. A lot could be done already in the short term without amending existing Treaties. A greater effort to ensure the consistency of what is done in different sectoral Councils is needed. The **Council of Ministers**, in particular the General Affairs Council composed of Ministers for Foreign Affairs, has lost its capacity to give political guidance and arbitrate between sectoral interests, particularly where this involves resolving disputes between different home departments over the position to be taken on EU proposals. Some changes in the way it works have already been introduced by Council. The Presidency Conclusions of the Göteborg European Council called again for an 'effective co-ordination between different Council formations'. The consensus is that progress has been slow so far.



It is time to recognise that the Union has moved from a diplomatic to a democratic process, with policies that reach deep into national societies and daily life. There is a need for the Council to develop its capacity to co-ordinate all aspects of EU policy both in the Council and at home. This would free the European Council to refocus its activity on shaping strategic objectives and monitoring more effectively the Union's success in achieving them.

The **European Parliament and all national parliaments** of the Union and the applicant countries should become more active in stimulating a public debate on the future of Europe and its policies<sup>19</sup>. The strong relationship between changes at national level, EU policies and global developments cannot simply find its response in Brussels. These changes should be discussed in a national context and in each national parliament. The Commission would welcome public debates, jointly organised by the European and national Parliaments, on the Union's policies.

Moreover, the European Parliament should enhance its control on the execution of EU policies and the implementation of the budget. This means departing from the present emphasis on detailed accounting with more policy-oriented control based on political objectives. The areas in which co-decision should apply must be reviewed in order to reinforce the role of the European Parliament.

The **Commission** must focus on its Treaty tasks of policy initiation; execution; guardian of the Treaty; and international representation of the Community. The measures proposed in this White Paper, including an enhanced dialogue with European and national association of regional and local government, better and more open consultation of civil society, better use of expert advice, and better impact assessment will help to improve the quality of policy proposals.

The link between European and global governance should lead to the Union speaking more often with a single voice. The prioritisation for dealing with complaints about breaches of Community law will maximise the impact of the Commission's work as guardian of the Treaty.

The proposals to simplify Community legislation further, better regulation through a greater diversity of policy tools and their combined use, and tri-partite contractual arrangements will all improve the quality of policy execution. The increased use of regulatory agencies will ensure better execution and enforcement of policies in specific cases. It will also avoid having to assign Commission resources to too technical tasks.

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<sup>19</sup> Member States should exchange best practice on the application of the Protocol to the Amsterdam Treaty on the role of national parliaments in the European Union.

In the same spirit, the Commission has already proposed a communication and a regulation laying down the framework for the work of “executive” agencies under the Commission’s control. This means using external executive agencies rather than Commission resources to management tasks for spending programmes.

It must also be clearer who is responsible for policy execution. This constitutes the pre-condition for making the EU system more open and accountable to all European citizens.

The main responsibility for executing policy and legislation by adopting implementing regulations or decisions is normally conferred on the Commission. The conditions under which the Commission adopts those executive measures should be reviewed.

In the end, this should lead to a situation where

- legislation defines the conditions and limits within which the Commission carries out its executive role, and
- a simple legal mechanism allows Council and European Parliament as the legislature to monitor and control the actions of the Commission against the principles and political guidelines adopted in the legislation.

This change would make decision-making simpler, faster and easier to understand. It would improve accountability, helping Council and the European Parliament to make political judgements on how well the executive process is working.

If these orientations are followed the need to maintain existing committees, notably regulatory and management committees<sup>20</sup>, will be put into question. Therefore a review of existing committees would have to be undertaken and their continued existence assessed. This assessment should take account of the need for expert advice for the implementation of EU policies.

This adjustment of the responsibility of the Institutions, giving control of executive competence to the two legislative bodies and reconsidering the existing regulatory and management committees touches the delicate question of the balance of power between the Institutions. It should lead to modifying Treaty article 202 which permits the Council alone to impose certain requirements on the way the Commission exercises its executive role. That article has become outdated given the co-decision procedure which puts Council and the European Parliament on an equal footing with regard to the adoption of legislation in many areas. Consequently, the Council and the European Parliament should have an equal role in supervising the way in which the Commission exercises its executive role. The Commission intends to launch a reflection on this topic in view of the next Inter-Governmental Conference.

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<sup>20</sup> Committees composed of Member States administrations assisting the Commission for the exercise of implementing powers (see decision 1999/468/EC, “comitology” decision).

## ACTION POINTS

The Commission will:

- Use its right of initiative to focus debates more strongly on policy coherence and identifying long-term objectives, building upon on-going efforts for strategic planning and reporting.
- Bring forward at the next Intergovernmental Conference proposals to refocus executive responsibility on the Commission, while streamlining the control by Council and the European Parliament over how the Commission uses its executive powers.

The Council should improve the co-ordination between its various formations as well as its capacity for political guidance and its ability to link EU and national action.

The European Council should strengthen its focus on strategic objectives.

The European and national Parliaments should play a central role in stimulating public debate on the future Europe and its policies.

## IV. FROM GOVERNANCE TO THE FUTURE OF EUROPE

The challenge for the Union is to renew the European political process. The questions raised by this White Paper and the answers it offers are linked to that renewal. This paper starts a process responding to the disenchantment of many of the Union's citizens. Alienation from politics is not just a European problem, it is global, national and local. But for the Union it represents a particular challenge. Given the deep level of integration already achieved, people have similar expectations for the Union as they have for domestic politics and political institutions. But the Union cannot develop and deliver policy in the same way as a national government; it must build partnerships and rely on a wide variety of actors. Expectations must be met in different ways.

Our overall goal draws on the simple principle that has guided European integration since the European Community was founded: integrate the people of Europe, while fully respecting individual national identities. The reforms proposed are possible if the Union rekindles the original spirit of the EU Treaties and makes full use of the flexibility they offer.

Five political principles - **openness, participation, accountability, effectiveness and coherence** underpin the proposals in this White Paper. They should guide the Union in organising the way it works and in pushing reforms forward within the current Treaty, but they also provide markers for the debate on the future of Europe.

Together they allow better use of the principles of proportionality and subsidiarity. This is reflected, for example, in the weight attached in this White Paper to using the right combination of instruments to deliver policies that are matched to the objectives pursued, to limiting legislation to its essential elements, and to the use of contracts to take greater account of local conditions.

*Present and future: a question of political will...*

Building on these principles, the proposals in this White Paper will:

- **Structure the EU's relationship with civil society.** A code of conduct for consultation will identify responsibilities and improve accountability of all partners. It will enhance dialogue, and contribute to the openness of organised civil society.
- **Make greater use of the skills and practical experience of regional and local actors.** In the first place, this is an issue for national authorities according to their national constitutional and administrative arrangements.. At the same time the Union should make fuller use of the existing potential for flexibility to improve the ways European policies are applied on the ground.
- **Build public confidence in the way policy makers use expert advice.** The EU's multi-disciplinary expert system will be opened up to greater public scrutiny and debate. This is needed to manage the challenges, risks and ethical questions thrown up by science and technology.
- **Support the clearer definition of EU policy objectives and improve the effectiveness of EU policies** by combining formal legislation with non-legislative and self-regulatory solutions to better achieve those objectives.
- **Set out the conditions for establishing EU regulatory agencies.** These agencies can reinforce the effectiveness and visibility of EU law in the eyes of both business and the public by bringing decisions in some of the most complex and technical areas closer to the sectors affected.
- **Refocus the roles and responsibilities of each Institution.** This should help citizens to hold their political leaders and the Institutions to account for the decisions that the Union takes.

Carrying these actions forward does not necessarily require new Treaties. It is first and foremost **a question of political will**. It is part of a wider process. Changing the way the Union works calls not only for a response from the Commission, but also from all those interested, particularly the Council, the European Parliament, the Member States and European citizens.

By adapting governance at home, the Union will be better placed to contribute to new forms of global governance. Policies and global institutions must respond to popular concerns.

*A new focus for the Union's Institutions...*

But what will really change if these changes are implemented? At the heart of the proposed reform of governance is the refocusing of the Institutions – the Commission, the Council, and the European Parliament. This should lead to:

- **A more targeted use by the Commission of its right of initiative.** Better consultation and involvement, a more open use of expert advice and a fresh approach to medium-term planning will allow it to consider much more critically the demands from the Institutions and from interest groups for new political initiatives. It will be better placed to act in the general European interest.
- **EU legislation which is stripped back to essential principles and a framework setting out how they should be implemented.** The White Paper shows how the Council and European Parliament can focus more on political direction and content, leaving implementation to the executive. But at the same time, both Institutions should be able to streamline their control over the way the Commission carries out its executive responsibility.
- **The more effective involvement of national actors in the shaping, application and enforcement of Community rules and programmes.** This will result from the proposals on dialogue, decentralisation, stronger co-operation between administrations, and more effective enforcement of Community law. Moreover, the greater the participation in European policies of national and regional actors, the more they will be prepared to inform the public about those policies.

This refocusing of institutional roles is an important step in preparing and managing a successful enlargement.

*A renewed Community method as the model for the future...*

Both the proposals in the White Paper and the prospect of further enlargement lead in one direction: a **reinvigoration of the Community method**. This means ensuring that the Commission proposes and executes policy; the Council and the European Parliament take decisions; and national and regional actors are involved in the EU policy process.

The Community method has served the Union well for almost half a century. It can continue to do so, but it must be brought up to date.

In setting out the consequences of better European governance for the Institutions, the White Paper is drawn into the debate on the future of Europe. Reforming European governance also sketches a path towards future Treaty changes at the next Inter-Governmental Conference – it presents the outlines of a model for the Union's future political organisation:

- In **dividing powers between the legislature and the executive**, the model follows that of national democracies. At European level, separating these two roles would make it easier to apply the principles of subsidiarity and proportionality. In the context of a gradual extension of the areas where decisions are taken jointly by the Council and the European Parliament (the so called co-decision procedure), those two Institutions should enjoy equal roles. That is not the case under the current Treaty. At the same time, this clarification of roles must allow the Commission to assume full executive responsibility.
- The Union needs **clear principles identifying how competence is shared between the Union and its Member States**. In the first place this is to respond to the public's frequent question "who does what in Europe?" A common vision is needed to answer this question. The White Paper has highlighted a tangible Europe that is in full development; a Union based on multi-level governance in which each actor contributes in line with his or her capabilities or knowledge to the success of the overall exercise. In a multi-level system the real challenge is establishing clear rules for how competence is shared – not separated; only that non-exclusive vision can secure the best interests of all the Member States and all the Union's citizens.

This White Paper in starting a process responds to the expectations of the Union's citizens. It should enable them to see the Union as an instrument through which they can bring about change. The reflections on these reforms will now continue; they will be completed by the wider process of constitutional reform to be initiated at the European Council in Laeken: a process to which the Commission will actively contribute.

**IP/**

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