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SCOPE OF THE CODECISION PROCEDURE

COMMISSION REPORT UNDER ARTICLE 189b(8) OF THE TREATY



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CONCERNE UNIQUEMENT : EN.

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The Treaty makes specific provision for including the question of widening the scope of the codecision procedure¹ on the agenda for the 1996 intergovernmental conference.

Article 189b(8) of the Treaty reads: "The scope of the procedure under this Article may be widened, in accordance with the procedure provided for in Article N(2) of the Treaty on European Union, on the basis of a report to be submitted to the Council by the Commission by 1996 at the latest."

This document is the Commission's report.

¹ The procedure referred to Article 189b is referred to as codecision in this paper.

INTRODUCTION

I. REVIEW OF THE SCOPE OF THE CODECISION PROCEDURE

1. The codecision procedure was the product of extensive discussions at the time of the negotiation of the Treaty on European Union. It reflects the Member States' wish to enhance the democratic nature of the institutions and their operations by conferring real co-legislative powers on the European Parliament.
2. The codecision procedure entails two readings between Parliament and the Council, a conciliation procedure in the event of disagreement between the partners and the possibility of ultimate rejection by Parliament. The procedure is described in detail in Annex I.
3. The Council and the Commission attempted an evaluation of the codecision procedure in the reports on the operation of the Treaty on European Union, presented to the Reflection Group in the first quarter of 1995:
 - the Council observed that, although there had been certain difficulties, especially in the initial phase, "under this new procedure some 20 legislative acts have been adopted within reasonable periods of time, laid down by the Treaty as from the second reading." (Report of 10 April 1995);
 - the Commission considered that "contrary to certain fears resulting from its complexity and its length, the codecision procedure has worked well so far. Decisions have been taken fairly quickly as a result of a good working relationship between the institutions. This has included an interinstitutional agreement on the operation of the Conciliation Committee, signed on 21 October 1993." (Report of 10 May 1995).
4. In the light of the experience gained since the above reports were compiled, a number of facts update and support the favourable evaluation of the codecision procedure:
 - 49 instruments have been adopted under the procedure; 47 have already been published in the Official Journal and two are being finalized;
 - of the 20 cases where conciliation was needed after amendment by Parliament, agreement was reached in 19 cases. When agreement was not reached in the conciliation process, the Council confirmed its initial common position subject to inclusion of certain amendments proposed by Parliament. The instrument was finally rejected by the European Parliament on 21 July 1994;²

² Proposal for a Directive on the application of open network provision (ONP) to voice telephony. Rejected by Parliament on 21 July 1994.

- in one case agreement was reached in the Conciliation Committee but was not confirmed by the European Parliament;³
- on average the procedure takes 18 to 24 months.

Despite this generally favourable picture of the situation, the codecision procedure remains undeniably cumbersome and merits simplification. The extension of the scope of the codecision procedure would make such simplification all the more necessary. In its opinion of 27 February, the Commission stated that the codecision procedure "could be quicker and more effective if it were simplified, notably by determining time-limits for first readings, by dropping the announcement of the intention to reject a proposal at the second reading stage, and by dropping third reading".

One final point: the combination of the codecision procedure with unanimity in the Council will substantially increase the risk of legislative procedures being blocked.

II. FRAMEWORK OF THE DEBATE

1. The Presidency conclusions adopted at the Turin European Council on 29 March 1996 noted that "in order to improve the European Union's institutions, and also in view of preparing the future enlargement, the Heads of State or Government stress the need to look for the best means to ensure that they function with greater efficiency, coherence and legitimacy. The Conference will have to examine ... the possibility of widening the scope of codecision in truly legislative matters ..."
2. The Reflection Group's report noted with respect to codecision that "a large majority is in favour of extending it. Most would extend it to all legislation adopted by the Council by qualified majority. Another view would focus attention on matters currently dealt with by the cooperation procedure, whereas others suggest a case by case approach. One member, in principle, opposes any extension."
3. In their opinions on the Intergovernmental Conference, the Commission and European Parliament also supported extending the scope of codecision:
 - "As for the scope of the codecision procedure, the Commission's view is that it should apply to the adoption of all acts of a legislative nature. This would entail clarification of what actually constitutes a legislative instrument. The codecision procedure should in any event be adopted for all decisions currently taken by the cooperation procedure, which should be abolished." (Opinion of 28 February 1996);
 - Parliament considers that "there should be only one general procedure for legislation, namely codecision." (Opinion of 13 March 1996).

³ Proposal for a Directive on the legal protection of biotechnological inventions. Parliament voted against the proposal on 1 March 1995. The Commission subsequently presented a new proposal.

4. Extending the scope of codecision would achieve a twofold objective:

- it would bring Parliament closer to full legislative capacity ;
- it would contribute to the general goal of simplifying the decision-making process, especially by doing away with the cooperation procedure.

I. SCOPE OF CODECISION

I. FROM THE SINGLE ACT TO THE TREATY ON EUROPEAN UNION

The current scope of codecision (see Annex 2) has emerged from a case-by-case approach. This situation was determined by three factors:

1. Increasing powers of the European Parliament

The first stage in this process was brought about by the Single European Act, which set up the cooperation procedure: the final decision remained with the Council, but for the first time in the legislative field there was a dialogue - albeit at a distance - between the European Parliament and the Council (it had existed in the budgetary field since the 1970s).

The cooperation procedure was regarded both as the first genuine step forward in the European Parliament's legislative powers since the Treaty came into force and as a testing ground - which has yielded positive results - for subsequent extension of its powers.

Next, with the Treaty on European Union, certain important areas such as the common transport policy, were transferred from the ambit of the consultation procedure to the cooperation procedure, though other equally important areas, such as the common agriculture policy, were left under the consultation procedure.

The assent procedure, hitherto confined to certain international treaties and acts of accession, was extended to legislative areas such as citizenship or the basic instruments concerning the Structural and Cohesion Funds.

European Parliament's participation in the legislative process has been steadily evolving and has been extended to a variety of fields, but without following a consistent pattern.

2. Distribution of areas where codecision applies

This is to some extent the result of the transfer of areas from the cooperation procedure to the codecision procedure by the Treaty on European Union.

Consequently, the main measures relating to the internal market have been adopted by the codecision procedures whereas, while certain areas supporting the internal market, such as framework research programmes and guidelines on networks, are covered by that procedure, others, for example the Structural Funds, the Cohesion Fund and taxation, are not.

Similarly, codecision applies to certain policies with a societal impact, for example on education, health, consumer protection and culture, whereas others, such as social policy, vocational training and the environment, are subject, though sometimes only in part, to the consultation or cooperation procedure.

The distribution of areas under codecision is, therefore, fragmentary and arbitrary.

3. Differentiation between different types of instruments in certain areas

In three areas research, the environment and trans-European networks, the idea was to confine codecision to general instruments incorporating the main lines of action.

This was followed logically in the case of research: (the framework programme is adopted by the codecision procedure and specific programmes by the consultation procedure). On the other hand, in the case of networks, and still more the environment, other procedures are used, (in particular the cooperation procedure), which tend to blur the outlines of the initial plan. With respect to the environment in particular, three procedures are applicable: codecision, cooperation and consultation. Only general action programmes are codecision matters; the directives which form the basis of environment law are cooperation or consultation matters.

The European Parliament's degree of involvement then varies, but not according to any identifiable criteria.

In short, as matters stand the application of the codecision procedure is founded neither on a logical structure nor on precise criteria.

This situation has arisen as a result of the different ways of involving the European Parliament, the piecemeal allocation of areas to the codecision procedure, and haphazard differentiation of types of instrument in certain areas.

The resulting structure is complex and heterogeneous: the Treaty is something of a maze and the exact role of each institution is far from obvious. The situation was bound to generate conflicts regarding the legal base and experience has confirmed this.

II. SUGGESTED APPROACHES

During the negotiations for the Treaty on European Union and again during the preparatory work on the forthcoming Intergovernmental Conference, four possible ways of extending the scope of codecision were considered.

1. Case by case

This is the approach which has brought about the present unsatisfactory situation. The exceptions requested by one or other Member State are added to each other, and the outcome is minimal.

Moreover, the case-by-case approach is necessarily piecemeal: every conference undertakes to broaden the scope of codecision at the risk of becoming bogged down in long discussions leading to clumsy compromises, as there is no generally coherent picture.

Pursuing this approach is likely to render the Treaty yet more illogical and confusing.

2. General definition of the "Law" in the Treaty

During the negotiations on the Treaty on European Union certain Member States, the European Parliament and the Commission proposed establishing a hierarchy of norms whereby the "Law", ranking below the Treaty but above national and Community implementing measures, would determine the fundamental principles, general guidelines and basic implementing rules of the Treaty.

This idea was rejected partly on account of the lack of familiarity of most legal systems with such an abstract *a priori* distinction and partly on account of legal uncertainty with respect to the distinction between the "Law" and implementing measures.

Nevertheless the question of a hierarchy of norms should be re-examined by the Conference.⁴ To judge by experience and recent discussions in the Reflection Group, it seems unlikely, however, that there will be a general clause on the hierarchy of norms applicable to all areas in the Treaty.

3. Codecision applied to all instruments currently enacted by the cooperation procedure

This technique was pioneered in the Treaty on European Union, and it should certainly be one of the bases defining the new scope of codecision. But it cannot be the sole approach, since it would go both too far and not far enough:

- too far, in that it would cover areas that are not strictly legislative, such as certain aspects of Economic and Monetary Union;
- not far enough, since it would not cover such important areas as citizenship, agriculture policy or certain aspects of environment.

4. Codecision applied to all instruments adopted by the Council by qualified majority

This approach has the merit of simplicity, but it would have the effect of making the scope of codecision dependent on a procedural criterion applied by a single institution: the voting method in the Council. Further, it would again go too far and not far enough:

- too far, since codecision would apply to certain instruments which are definitely matters of implementation, (e.g. certain decisions concerning agriculture policy or commercial policy);
- not far enough, since certain legislative areas would not be covered by codecision, if the unanimity rule remained applicable to them.

There are merits to each approach, but none, on its own would seem to provide a satisfactory response to the question of how best to extend the scope of codecision.

⁴ Declaration 16 annexed to the Treaty on European Union reads: "The Conference agrees that the Intergovernmental Conference to be convened in 1996 will examine to what extent it might be possible to review the classification of Community acts with a view to establishing an appropriate hierarchy between the different categories of act."

II. PROPOSED APPROACH

A. THE PROCESS

1. The extension of codecision is a natural step in the process of enhancing the democratic legitimacy of the Union, a constant of European integration.

The Community, the most complete part of the Union, has achieved a stage of development and maturity which now implies full democratic control. The peoples of Europe need to know they are participating in decision-making.⁵

The Commission considers that in the present stage of Community affairs proper, maintaining the European Parliament's diminished role is contrary to democratic principles. Its participation in enacting legislation by codecision with the Council should become the rule. This would establish the twofold legitimacy on which the Community is founded: its States and its peoples.

2. On purely democratic grounds, codecision should be extended to all the Community's legislative activity. But how should that this be defined?

Giving a legal definition of a legislative instrument would in practice entail moving towards a hierarchy of norms.

On the other hand, the Commission considers that the criteria commonly used to define what constitutes a legislative instrument could be used as a guideline; it would have no legal effect and would not be formalized in the Treaty, but it would make it possible to determine which of the various areas in the Treaty should come under codecision and which should not.

In short, to meet these criteria legislative instruments would have to meet the following description:

- be directly based on the Treaty;
- be binding;
- determine essential elements of Community action in a given area; and
- be general in scope.

3. There are two considerations which must be borne in mind:

- the Union's legislative activities are governed by the respect of the of subsidiarity, whereby, in the areas where it has competence to act, the Union concentrates on the most essential activities;
- it is customary for instruments in all areas of activity to "delegate" powers to take implementing measures, which the codecision procedure is not used for.

⁵ In this connection, the German Constitutional Court recalled that the democratic legitimacy represented by the European Parliament was an element which made the Treaty compatible with German Basic Law (judgment given on 12 October 1993).

4. The Commission feels that applying the criteria listed in paragraph 2 to each of the Community's areas of activities would enable the codecision procedure to be used for legislation across the board without the need for a general hierarchy of norms to be established in the Treaty.
5. This approach would also bring the Union closer to one of the conference's major objectives - simplifying decision-making procedures - by abolishing the cooperation procedure and thereby reducing the number of procedures to three.

B. THE RESULT

1. This approach would mean using the codecision procedure in the following areas:⁶
 - regulations prohibiting discrimination (currently cooperation procedure);
 - citizenship (currently assent procedure, e.g. right to move and reside in other Member States, or consultation, e.g. right to take part in municipal elections and elections to the European Parliament), on the contrary the possible new rights; (Article 8e) would remain subject to the consultation procedure;
 - aspects of the internal market not yet covered by the codecision procedure (social security for migrant workers, the right of establishment, services, capital movements, approximation of Member States' regulations);
 - the common transport policy (currently cooperation procedure);
 - harmonization of legislation on indirect taxes (currently consultation of the European Parliament);
 - the minimum rules required to help achieve harmonization in the field of social policy (currently cooperation or consultation at the European Parliament, except agreements between the social partners, on which Parliament need not be consulted);
 - measures to help achieve general vocational-training objectives (currently cooperation procedure);
 - decisions relating to the Structural Funds, the Cohesion Fund or specific initiatives to promote economic and social cohesion (currently assent, cooperation or consultation procedure);
 - environmental measures (currently cooperation or consultation procedure);
 - legislation concerning development cooperation, excluding international agreements (currently cooperation procedure);
 - measures implementing acts adopted by the codecision procedure (currently consultation at the European Parliament);
 - financial measures (currently consultation at European Parliament); and
 - Staff Regulations (currently consultation at European Parliament).
2. The codecision procedure would not be used, however, in the following areas:⁷
 - visa policy, unsuitable by nature (currently consultation at European Parliament);
 - industrial policy - the Community adopts only specific measures to support Member States' activities (currently consultation at European Parliament);

⁶ A list of Treaty provisions (references and content) is given in Annex 3.

⁷ A list of Treaty provisions is given in Annex 4.

- trans-European networks – technical measures (currently cooperation procedure);
 - implementation of the research framework programme (currently consultation or cooperation procedure);
 - international agreements, unsuitable by nature (currently three different procedures are used: no opinion at the European Parliament, consultation and assent);
 - association arrangements for overseas countries and territories (currently consultation at the European Parliament) – closely linked to the Lomé Convention, for which the assent procedure is used;
 - agreements between social partners (currently no consultation of the European Parliament and no grounds for amendment by the legislative authority).
3. Lastly, the above criteria for distinguishing between legislative and non-legislative areas cannot really be applied to the common agricultural policy, the common commercial policy or economic and monetary union because of the complexity and diversity of the measures adopted in these three areas.

(a) Common agricultural and fisheries policies

At present, consultation at the European Parliament is used for all measures based on Article 43 of the Treaty.

The vast majority of agricultural measures are strictly administrative in scope and do not qualify as legislation, so there is no need to use the codecision procedure for them.

It should, however, be used for fundamental acts of a general political nature concerning agricultural policy conception and orientation. The relevant areas, listed below, should be referred to specifically in the Treaty:

- certain aspects of the common market organizations referred to in Article 40(3): a specific procedural solution will have to be found with Parliament in instruments adopted by the codecision procedure in cases where there is an urgent need for the Council to amend an act;
- application of the competition rules to production of agricultural products and trade in these products;
- the setting up of one or more Agricultural Guidance and Guarantee Funds provided for by Article 40(4);
- common rules on public health, animal and plant health, animal welfare, animal feed and seeds;
- structural policy in agriculture and fisheries;
- policy on product quality.

(b) Common commercial policy

Article 113 as currently drafted does not provide for consultation of the European Parliament.

The common commercial policy is, by nature, essentially concerned with international agreements to be negotiated, concluded and implemented with non-member countries and international organizations and then administered. These do not entail legislative measures, and the codecision procedure is not appropriate.

That procedure should, however, be used for measures of a typically legislative nature such as basic anti-dumping and anti-subsidy rules, rules on defense against barriers to commerce and regulations laying down general import and export rules.

(c) Economic and monetary union

Measures relating to EMU are by and large of the type traditionally seen as a government prerogative. In most cases, the Treaty accordingly leaves the Council to make decisions, sometimes requiring it to consult or inform the European Parliament.

However, the Treaty stipulates that the cooperation procedure be used for:

- detailed rules for the multilateral surveillance procedure (Article 103(5));
- definitions for the application of the prohibition on privileged access (Article 104a(2));
- definitions for the application of the prohibition on purchasing debt instruments and granting overdrafts (Article 104b(2));
- measures to harmonize the denominations and technical specifications of all coins intended for circulation (Article 105a(2)).

The harmonization measures concerning coins intended for circulation are certainly not of a legislative nature. The consultation procedure is therefore most appropriate.

The three other cases could be seen as possessing certain characteristics of "legislative" acts. In particular, they determine certain major aspects of Community activity in the relevant areas or prohibit certain activities.

However, these characteristics do not seem to have been clearly established, and the acts in question are part of EMU, which is essentially the reserve of the national governments.

In view of this, the Commission feels that, if the cooperation procedure is to be abolished, it is preferable for decisions in these four areas to be taken by the Council after consultation of the European Parliament.

CONCLUSION

The Commission feels that the approach outlined above would enable extension of the codecision procedure to be used consistently for all Community legislation.

The approach is consistent with the Commission's position as set out in its opinion for the intergovernmental conference: codecision should be used for legislation only, the assent procedure for "constitutional" areas and international agreements and the consultation procedure for other areas.

The cooperation procedure could be abolished. In most cases it would be replaced by codecision, though the consultation procedure would be used for some, non-legislative instruments currently adopted by the cooperation procedure.

Finally, the Commission would point out that extending the scope of the codecision procedure is also dependent on simplification. This point should also be examined by the Conference.

ARTICLE 189b

Description of the co-decision procedure¹

1. Commission proposal.
2. Parliament opinion, by simple majority.
3. Opinions of the Economic and Social Committee and the Committee of the Regions (if consulted).
4. Council common position, by qualified majority.
5. Common position communicated to Parliament with Council's reasons and Commission position.
6. Parliament:
 - (a) approves the common position by a simple majority within three months
 - or
 - (b) takes no decision by that time

The Council adopts the act in accordance with its common position

or

- (c) indicates, by an absolute majority of its members, that it intends to reject the common position and informs the Council; in this case the three-month period is extended by two months

The Council may convene the Conciliation Committee to explain further its position

Parliament can then:

- confirm its rejection, again by an absolute majority

The proposed act is deemed not to have been adopted

or

- propose amendments (see (d))

or

- (d) proposes amendments to the common position by an absolute majority of its members and transmits them to the Council and the Commission.

7. The Commission delivers an opinion on the amendments.

¹ In the fields of research (framework programme) and culture (incentive measures) the Council always acts by unanimous decision.

8. The Council:
- (a) approves Parliament's amendments within three months by a qualified majority (unanimously where the Commission has delivered a negative opinion)

The Council adopts the act

or

- (b) if it does not, the President of the Council, in agreement with the President of Parliament, forthwith convenes the Conciliation Committee.

9. The Conciliation Committee:

- (a) reaches agreement, within six weeks of being convened, by a qualified majority - even in the case of a negative opinion by the Commission¹ - of the members of the Council or their representatives and by a majority of the representatives of Parliament. The Commission takes part in the Committee's proceedings and does everything in its power to reconcile the positions of Parliament and the Council

Within six weeks thereafter Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority even if the Commission has delivered a negative opinion,¹ adopt the Committee's text

If either of the institutions fails to adopt the act within the time limit, the proposal is deemed to have been rejected

or

- (b) fails to reach agreement, in which case the proposal is deemed not to have been adopted unless:
 - the Council, acting by a qualified majority within six weeks after expiry of the period allowed the Conciliation Committee, confirms its common position (see 4), possibly with amendments proposed by Parliament (requiring unanimity if the Commission does not accept them); in this case the act is finally adopted unless:
 - Parliament rejects the text by an absolute majority of its members within six weeks.

Time limits

The three-month and six-week time limits may be extended by up to one month and two weeks respectively if Council and Parliament agree.

¹ See Article 189a(1).

Scope of the co-decision procedure**(Article 189b of the EC Treaty)****1. Co-decision and qualified majority voting in the Council**

Article 49	Free movement of workers
Article 54(2)	Right of establishment
Article 56(2), second sentence	Right of establishment
Article 57(1) and (2), third sentence	Right of establishment
Article 66	Services
Article 100a	Internal market
Article 100b	Internal market
Article 126	Education (encouragement measures)
Article 129	Health (encouragement measures)
Article 129a	Consumers
Article 129d	Trans-European networks (guidelines)
Article 130a(3)	Environment: general action programme

2. Co-decision and unanimity

Article 128	Culture (encouragement measures)
Article 130i	Research (framework programme)

NEW AREAS FOR CODECISION**Non-discrimination**

Rules aimed at prohibiting discrimination - Article 6(2)

Citizenship

Measures to facilitate the right to move and reside freely - Article 8a(2).

The right at every citizen of the Union to vote and stand at municipal elections in the Member State in which he resides - Article 8b(1).

Common agricultural and fisheries policies

The codecision procedure should be used for a variety of acts (to be specified in the Treaty) with general significance for the conception and orientation of the common agricultural policy - Article 43:

- certain aspects of the common market organizations referred to in Article 40(3);
- application of the competition rules to production of agricultural products and commerce in these products;
- the creation of one or more agricultural guidance and guarantee fund provided for by Article 40(4);
- common rules on public health, animal or plant health, animal welfare, animal feed and seeds;
- structural policy in agriculture and fisheries;
- policy on product quality.

Internal market

Rules on social security for Community immigrant workers - Article 51.

Measures on the exercise of public authority with respect to the right of establishment - Article 55.

Principles governing the professions with respect to training and conditions of access for physical persons - Article 57(2).

Extension of freedom to provide services to service-providers from non-member countries established in the Community Article 59.

Measures relating to the movement of capital to or from third countries - Article 73c.

Approximation of laws - Article 100.

Transport

Measures to implement a common transport policy - Articles 75 and 84, and in particular:

- common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;
- the conditions under which non-resident carriers may operate transport services within a Member State;
- measures to improve transport safety.

Taxation

Harmonization of legislation concerning indirect taxation - Article 99.

Common commercial policy

The codecision procedure should be applicable for measures of a typically legislative nature such as anti-dumping and anti-subsidy rules, rules on defence against barriers to commerce and regulations laying down general import and export rules - Article 113.

Social

Adoption of minimum requirements for gradual harmonization - Article 118a(2), Protocol 14, Article 2(2) and Protocol 14, Article 2(3)

Implementing decisions relating to the Social Fund - Article 125

Vocational training

Measures to contribute to the achievement of the objectives referred to in this Article - Article 127(4).

Economic and social cohesion

Structural Funds, Cohesion Fund and specific initiatives - Articles 130d(1) and (2), 130e(1) and 130b

- definition of the tasks, priority objectives and the organization of the Structural Funds and the Cohesion Fund;
- general rules applicable to the Funds;
- provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing financial instruments;
- implementing decisions relating to the European Regional Development Fund.
- specific initiatives except for the Funds.

Environment

Community measures to be adopted to achieve the objectives set down in Article 130r:

- provisions primarily of a fiscal nature;
- measures concerning town and country planning;

- ~~measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply.~~

Measures needed to implement general action programmes setting out priority objectives to be attained (Articles 130s(1), (2) and (3) (second subparagraph)).

Development cooperation

Measures needed to attain the objectives set out in Article 130u, which may take the form of multiannual programmes - Article 130w(1).

Procedures for acts adopted by the codecision procedure

It would be necessary to adapt Article 145 to enable Parliament and the Council to adopt implementing rules for instruments adopted by the codecision procedure.

Financial provisions

- financial regulations specifying in particular the procedure for establishing and implementing the budget and for presenting and auditing accounts;
- methods and procedure whereby the budget revenue provided is made available to the Commission, and the measures to be applied, if need be, to meet cash requirements;
- rules concerning the liability of financial controllers, authorizing officers and accounting officers and appropriate arrangements for inspection - Article 209.

Staff Regulations

This legislative act should be adopted by codecision while observing the requirement to consult the other institutions as provided at present - Article 212.

AREAS FOR WHICH THE CODECISION PROCEDURE IS INAPPROPRIATE

Citizenship

New rights of a constitutional nature, which are, incidentally, subject to ratification by national Parliaments (Article 8e)

Common agricultural policy

All areas not listed in Annex 3.

Visas

This area, by its very nature, is not a suitable candidate for the codecision procedure (Article 100c(1) and (3)).

EMU

Technical areas usually considered as being a government prerogative are not appropriate for the codecision procedure (a group of provisions)

Common commercial policy

All areas not listed in Annex 3.

Industry

The codecision procedure is not appropriate for individual measures designed to support projects in the Member States (Article 130).

Trans-European networks

The guidelines adopted in this area cover the objectives, priorities and the main thrust of planned projects, as well as projects of common interest. They are adopted by the codecision procedure.

The other measures referred to in Article 129d, currently adopted by the cooperation procedure, concern harmonization of technical standards to ensure the interoperability of networks and financial support for Member States. The codecision procedure is not suitable for technical measures (Article 129d and Article 129c(1)).

Research

The framework programme is implemented through specific programmes developed within each activity. Thus, the codecision procedure is used for measures concerning implementation and administration of the framework programme. It should also be borne in mind that, since the Treaty on European Union came into force, the specific

programmes have been adopted by ~~qualified majority~~ after consultation of Parliament whereas the cooperation procedure was used previously (Article 130l(3)).

Three other cases concern measures implementing the framework programme. The codecision procedure should not be used for these (Article 130 j and Articles 130k and 130l).

Overseas countries and territories

These acts are closely linked to the ACP Convention and, like it, should be adopted by the assent procedure (Article 136).

International agreements

International agreements cannot be amended by legislation (Article 228).

Agreements between the social partners

Agreements between the social partners may be implemented by a Council decision, if the two parties so desire, but they cannot be amended, so codecision cannot be used. The assent procedure could be used (Protocol 14, Article 4(2)).