

Thursday, 17 December 1992

Article 16*Entry into force*

This decision shall be published in the Official Journal of the European Communities. It shall enter into force on the date of its publication.

Brussels,

For the European Parliament

(sgd) Egon KLEPSCH

4. Parliamentary committees of inquiry**RESOLUTION A3-0302/92****Resolution on parliamentary committees of inquiry**

The European Parliament,

- having regard to Articles 138c of the EC Treaty, Article 20b of the ECSC Treaty and Article 107b of the EAEC Treaty introduced by the Treaty on European Union of 7 February 1992,
 - having regard to Rule 121 of its Rules of Procedure,
 - having regard to the report by the Committee on Institutional Affairs and the opinion of the Committee on Budgetary Control (A3-0302/92),
- A. whereas the inclusion in the Treaties of a provision empowering the European Parliament to set up temporary committees of inquiry in order to carry out its duties implies recognition of Parliament's role in the Community's democratic process,
- B. whereas such power of parliamentary control, which will fill an important gap in this sphere, can not be exercised in practice unless a consistent and effective system is set up to deal with both the specific functioning of the committees of inquiry and the real impact of their findings,
- C. whereas it is therefore necessary to confer on the temporary committees of inquiry, and hence on the European Parliament, all the powers needed to carry out this task,
- D. whereas the procedures for exercising the right of inquiry must be the subject of a common accord between Parliament, the Council and the Commission,
1. Approves the draft common accord annexed hereto;
 2. Undertakes to adapt its Rules of Procedure to enable the committees of inquiry and the European Parliament to carry out their duties in this sphere;
 3. Instructs its President to convene an interinstitutional conference in order to prepare for the adoption by common accord of the Act on the procedures for exercising the right of inquiry;
 4. Instructs its Committee on Institutional Affairs to report on the outcome of this interinstitutional conference so that a common accord can be concluded once the Treaty on European Union has entered into force;
 5. Instructs its President to forward this resolution and the draft Act annexed thereto to the Council, the Commission and the parliaments of the Member States.

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ANNEX

DRAFT ACT OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION ESTABLISHING BY COMMON ACCORD THE PROCEDURES FOR EXERCISING THE RIGHT OF INQUIRY

THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION,

having regard to the Treaty on European Union, in particular Article 138c of the EC Treaty, Article 20b of the ECSC Treaty and Article 107b of the EAEC Treaty,

having regard to the common accord between the European Parliament, the Council and the Commission,

whereas Article 138c of the EC Treaty, Article 20b of the ECSC Treaty and Article 107b of the EAEC Treaty confer directly on the European Parliament the right of inquiry; whereas these rights and competences are recognized and respected by both the Community institutions and bodies and by the Member States and their national authorities, in line with the principle of the primacy of Community law,

whereas it is therefore necessary to make every means available to the committees of inquiry and hence to the European Parliament in order to accomplish their duties; whereas these duties cover all the Community competences and are only limited by the text of the Treaties and Community law; whereas the right of inquiry extends to any alleged contravention of Community law, as defined by Community case-law, by Community institutions or bodies and by national authorities or natural and legal persons; whereas it also extends to any case of maladministration in the implementation of Community law; whereas the European Parliament has powers of independent judgment and action in these spheres,

whereas the Community and national authorities are required to supply any information requested by the committees of inquiry and to allow the latter free and full access to their files; whereas the Member States are required to cooperate with Parliament and to apply and enforce its decisions on the outcome of the inquiries; whereas the Member States are also required to prosecute any breaches of oath by witnesses and experts and any refusal to allow access to documents as if such infringements were committed in respect of a national court; whereas Parliament is bound by the requirement of confidentiality and secrecy relating to the internal and external security of the Community and its Member States; whereas it is also required to respect the principles and laws governing testimony,

whereas a committee of inquiry may not be set up or, if it is set up, must interrupt its activities if the matter which is the subject of the inquiry is brought before a court,

whereas, in cases where the inquiry relates to the implementation of Community budget expenditure, the Commission must, without fail, implement the recommendations and decisions made by Parliament on conclusion of the inquiry,

whereas, by virtue of its power to organize its internal proceedings and its institutional autonomy, it is up to the European Parliament to lay down the rules and appropriate measures to ensure the smooth operation of procedures within the committees of inquiry; whereas, therefore, it is up to the European Parliament as a Community institution to take the final decisions on the results of any inquiries and on the means of implementing the proposed measures,

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HEREBY ADOPT THE PRESENT ACT:

Article 1

General principle

1. The European Parliament's committees of inquiry shall investigate alleged contraventions or maladministration in the implementation of Community law by Community or national authorities or natural or legal persons.
2. The competences and resources provided for in this Act shall be assigned to the committees of inquiry to enable them to carry out their tasks.

Article 2

Setting up a committee of inquiry

1. Committees of inquiry may be set up by decision of the European Parliament at the request of one quarter of its Members.

The decision to set up a committee of inquiry shall be taken by the European Parliament no later than four weeks after the submission of the request.

2. The committee of inquiry shall cease its operations once the final report has been submitted, which must be done within the time limit established under the decision to set it up and at all events by the end of the parliamentary term of office during which it was set up.

Article 3

Membership and operation

1. The members of a committee of inquiry and their substitutes shall be appointed when the decision to set up the committee is taken. The European Parliament shall ensure that all political groups are represented in accordance with the provisions of Parliament's Rules of Procedure governing the composition of parliamentary committees. Refusal by one or several political groups to participate in a committee of inquiry shall not constitute an obstacle to the setting up or operation of a validly requested and constituted committee of inquiry.
2. The European Parliament shall adopt the necessary provisions concerning the functioning and the specific tasks of the committees of inquiry in its Rules of Procedure.

Article 4

The powers of a committee of inquiry

1. The committees of inquiry shall carry out any inquiries and investigations that they consider necessary to verify alleged contraventions or maladministration in the implementation of Community law.
2. At the request of the chairman of a committee of inquiry addressed to the Presidents of the Community institutions and bodies or to the Permanent Representatives of the Member States, any information required and any relevant dossier shall be immediately made available to that committee. Officials and other persons employed by the authorities in question shall be automatically authorized to give evidence or testify to the committee.
3. Where the required assistance is not provided, the chairman of the committee of inquiry shall inform Parliament, which shall take appropriate action in accordance with the relevant provisions of its Rules of Procedure.

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Article 5*Taking of evidence*

1. At the request of one quarter of their members, committees of inquiry may proceed to take evidence. The request may be rejected by a majority of members only where it is unrelated to the subject of the inquiry.
2. The committee of inquiry may include an on-the-spot investigation among its methods of inquiry.
3. Committees of inquiry may summon any person as a witness or expert and request that any document deemed useful for their work be delivered to them. However, Member States shall not be obliged to forward documents containing information which is legally classified as secret. Summons and requests for attendance shall be forwarded by the chairman of the committee of inquiry to the relevant Community or national authorities which shall enforce them.
4. The hearings and testimony shall take place in public. However, proceedings shall take place in camera if so requested by one quarter of the members of the committee of inquiry, or by the Community or national authorities. Witnesses and experts shall have the right to make a statement or provide testimony in camera.
5. The committee of inquiry shall decide whether witnesses or experts shall be required to take the oath or give an undertaking. At the request of one quarter of its members, the committee of inquiry shall dispense them from this obligation.
6. The chairman of the committee of inquiry shall inform witnesses and experts in advance of their rights and of the consequences of false testimony or a false oath.
7. In each Member State, refusal to provide the requested documents by those required to do so, failure to appear, false testimony or the suborning of witnesses shall be deemed offences equivalent to those committed before a national criminal or civil court. This provision shall also apply to officials or other servants of the Communities.

If so requested by the European Parliament, the Member State concerned shall bring proceedings before the competent national court against those who have committed such offences.

Where such offences have been committed by a Community institution, Parliament may employ any means of legal redress available to it under the EEC Treaty.

Article 6*Incompatibilities*

1. No committee of inquiry may be set up where the matter in question is identical to a case being examined by a court of law until legal proceedings have finished.
2. An investigation conducted by an existing committee of inquiry may cease upon the initiation of legal proceedings relating to the subject of the inquiry.

It shall be for Parliament to establish incompatibility on the basis of an opinion by the committee of inquiry.

A request to this end may be submitted by a Member State, the Commission or a person directly concerned by the inquiry. If disputed, the matter may be brought before the Court of Justice, as provided for in the Treaties.

Article 7*Results of inquiries*

1. After the inquiry has closed, the committee shall submit its report to Parliament in plenary sitting. The report will trace the various stages of the procedure and outline, the matter under investigation, the result of the inquiry and specific proposals.

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The Rules of Procedure of the European Parliament shall lay down procedures to ensure that minority opinions and differing points of view are adequately recorded in the report and made known.

2. The report by the committee of inquiry shall be published in the Official Journal of the European Communities.

3. The European Parliament shall take the steps required to protect the secrecy and confidentiality of the proceedings of committees of inquiry. Where information relating to the proceedings of a committee of inquiry not meeting in public is disclosed or published, an action may be brought before a criminal or civil court against any person responsible.

4. On the basis of the final report, Parliament may refer the matter to the competent judicial authorities either directly or through the Commission. In the latter case, the Commission, in its capacity as guardian of the Treaties, is required to act as indicated by Parliament.

Through its President, Parliament may also refer the matter to the competent Community or national authorities with a view to implementation of the recommendations adopted by Parliament.

On completion of any inquiry into the implementation of Community budgetary expenditure, Parliament may instruct the Commission to act on the results of the inquiry by taking appropriate measures.

Parliament may take any other measure which is needed or may instruct the Commission to take any other suitable measure, within the limits of their respective powers.

Article 8

Implementing provisions

Under its Rules of Procedure, the European Parliament shall adopt the necessary measures to ensure that the committee of inquiry can carry out its work successfully.

Article 9

Transitional and final provisions

The present Act shall take effect once the Treaty on European Union comes into force. If a committee of inquiry has been set up before that date, its remaining work will be automatically governed by this Act and any measures shall be taken in compliance therewith.

This Act shall be binding in its entirety and directly applicable in all Member States.

Brussels,

For the Council

For the Commission

For the European Parliament

(sgd) Dr Egon KLEPSCH

5. Telecommunications and steel products market

RESOLUTION B3-1719, 1786, 1753 and 1779/92

Resolution on the external aspects of the European Community's industrial policy

The European Parliament,

- A. whereas the entry into force on 1 January 1993 of Directive 90/531/EEC on public procurement ⁽¹⁾ opens up the European telecommunications market to competition not only from within Europe but also from outside, without any results having been obtained from the bilateral negotiations between the EEC and the USA and the EEC and Korea on compliance with the principle of reciprocity,

⁽¹⁾ OJ No L 297, 29.10.1990, p. 1.