

XXIIIrd COSAC - Versailles - 16-17 October 2000
Questionnaire to Member States' Parliaments
Answers of the Bundesrat (Germany)

Question 1.

The Bundesrat responded very promptly to the challenge posed by Europe, setting up a 'Special Committee on the Common Market and Free Trade Area' almost as soon as the European Economic Community (EEC) was established. In 1965 the title of this body was changed to "Standing Committee on European Union Affairs". The committee has been known as the "Committee on European Union Affairs" since the Treaty on European Union entered into force on 1st November 1993.

Right from the outset the Länder or federal states have been keen to have clear rules and a legal basis for their participation in matters pertaining to the European Union. The federal government has long been obliged to keep both houses of parliament (Bundestag and Bundesrat) informed about developments in the Council of the EEC and the EAEC. Later, Bundesrat participation was enshrined in the Bill on the Single European Act. The Bundesrat used this as a basis in adapting its rules of procedure to respond to the exigencies of Europe. After entry into force of Article 23 and 52 par. 3 a) of the Constitution pursuant to the Maastricht Treaty, further developments carried on from this initial adaptation. Thus there was no need to adapt procedures further after 1995.

Question 2.

As already explained, Article 2 of the 1957 Bill on the Treaties of Rome stated that the Federal Government should inform both the Bundestag and the Bundesrat on developments in the Council of the EEC and the EAEC. Article 2 of the 1986 Bill on the Single European Act stipulates that the Federal Government shall provide comprehensive information as early as possible to the Bundesrat on all matters addressed within the European Union framework that might be of interest to the federal states.

The "Europe Article" (Article 23 Basic Law) was added to the constitution as part of amendments made on 21st December 1992. This reinforced the Bundesrat's right to participate in European Union matters, by providing a legal basis for this in the constitution itself. "The Bundestag and, through the Bundesrat, the Länder shall participate in matters concerning the European Union" (Article 23, Par. 2, 1st sentence Basic Law).

The term "matter" is not clearly defined but is interpreted in a broad sense. The federal government circulates almost all official documents from the European Council, the Council and informal ministerial meetings to the Bundesrat. Furthermore the Bundesrat receives copies of the documents listed below, as the federal government presumes these might be of interest to the federal states:

Commission documents made available to the federal government through official channels, which have not appeared as Council documents,

Reports and communications from EU bodies on meetings of the advisory bodies with the Commission,

Preparatory papers from the Commission, which might assist the federal states in forming their opinion,

Reports from the Permanent Representation of the Federal Republic of Germany on meetings of the Council and Council working groups, informal ministerial meetings, meetings of COREPER and the European Parliament and its committees, together with Commission decisions,

Documents and information on formal initiatives, opinions and statements by the federal government vis-à-vis EU bodies,

Documents on cases before the European courts involving the Federal Republic of Germany.

There have been no changes in this realm since entry into force of the protocol on the role of national parliaments in the European Union, as the Bundesrat is already provided with full information on a comprehensive range of matters.

Question 3

As explained above, the federal government has an obligation to provide information as promptly as possible. Furthermore, the government always attempts to fulfil this obligation. In general there is sufficient time to deal with European Union documents. In some cases however documents may be received very late, generally because there is no German translation of the document. In 1998 the Bundesrat set up a body, known as the "Chamber for European Union Affairs", to allow for sufficient flexibility in such situations. This body was empowered to decide on behalf of the Bundesrat in urgent and/or confidential cases. Additional provisions on this procedure were added to the Bundesrat's rules of procedure. The December 1992 amendments to the Constitution also provided a constitutional basis for this "Europe Chamber" in Article 52 Par. 3 Constitution.

Question 4

As explained above, the federal government informs the Bundesrat about all matters that might be of interest to the federal states. This concept is interpreted in a broad sense and is not restricted to legislative matters. The definition of the term in the Protocol is hence not decisive for the Bundesrat.

Question 5

The Bundesrat currently sees no need for improvement on this point.

Question 6

The Bundesrat regularly receives invitations from the EP to joint meetings. Insofar as general European questions are addressed at such meetings, the Bundesrat endeavours to appoint members of the EU committee. The Bundesrat tries to appoint a member of the relevant expert committee if topics from a specific field are to be discussed. The Bundesrat does not have any proposals to improve the procedure employed to date.