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## **REPORT**

on the strategy for the simplification of the regulatory environment  
(2007/2096(INI))

Committee on Legal Affairs

Rapporteur: Giuseppe Gargani

## CONTENTS

	<b>Page</b>
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION .....	3
EXPLANATORY STATEMENT.....	7
OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY .....	11
PROCEDURE.....	14

## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the strategy for the simplification of the regulatory environment' (2007/2096(INI))

*The European Parliament,*

- having regard to the Interinstitutional Agreement on better lawmaking, signed on 16 December 2003<sup>1</sup>,
- having regard to its resolution of 26 October 2000 on the Commission reports to the European Council: Better lawmaking - A shared responsibility (1998) and Better lawmaking 1999<sup>2</sup>,
- having regard to its resolution of 29 November 2001 on the Commission White Paper on European governance<sup>3</sup>,
- having regard to its resolution of 8 April 2003 on the Commission reports to the European Council entitled 'Better lawmaking 2000' and 'Better lawmaking 2001'<sup>4</sup>,
- having regard to its resolution of 26 February 2004 on the Commission report entitled 'Better Lawmaking 2002'<sup>5</sup>,
- having regard to its resolution of 9 March 2004 on the Commission communication on simplifying and improving the Community's regulatory activity<sup>6</sup>,
- having regard to its resolution of 20 April 2004 on assessment of the impact of Community legislation and the consultation procedures<sup>7</sup>,
- having regard to its resolution of 16 May 2006 on a strategy for the simplification of the regulatory environment<sup>8</sup>,
- having regard to its resolution of 16 May 2006 on 'Better lawmaking 2004: application of the principle of subsidiarity' (12th annual report)<sup>9</sup>,
- having regard to its resolution of 16 May 2006 on the outcome of the screening of legislative proposals pending before the Legislator<sup>10</sup>,
- having regard to the Commission working document of 14 November 2006 entitled 'First progress report on the strategy for the simplification of the regulatory environment' (COM(2006)0690),

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<sup>1</sup> OJ C 321, 31.12.2003, p. 1

<sup>2</sup> OJ C 197, 12.7.2001, p. 433

<sup>3</sup> OJ C 153 E, 27.6.2002, p. 314

<sup>4</sup> OJ C 64 E, 12.3.2004, p. 135

<sup>5</sup> OJ C 98 E, 23.4.2004, p. 155

<sup>6</sup> OJ C 102 E, 28.4.2004, p. 512

<sup>7</sup> OJ C 104 E, 30.4.2004, p. 146

<sup>8</sup> OJ C 297 E, 7.12.2006, p. 136

<sup>9</sup> OJ C 297 E, 7.12.2006, p. 128

<sup>10</sup> OJ C 297 E, 7.12.2006, p. 140

- having regard to Rule 45 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A6-0271/2007) and the opinion of the Committee on the Environment, Public Health and Food Safety,
- A. having regard to the current unstinting and systematic commitment by the Commission, the Council and Parliament to bring about, define and improve the application of legislative simplification tools,
  - B. whereas simplifying the legislative environment to ensure the clarity, efficacy and quality of legislation is an essential prerequisite for attaining the objective of ‘better lawmaking’, which, in turn, is a priority for the Union with a view to securing high levels of growth and employment,
  - C. whereas one of the main results of simplification is its progressive coverage of all EC regulatory areas,
  - D. having regard to the obligations and aims laid down in the Interinstitutional Agreement on better law-making, especially those intended to simplify and reduce the volume of Community legislation and those relating to the impact of that legislation in the Member States,
  - E. whereas the above-mentioned Commission working document is a follow-up to, and implements, the Commission communication of 25 October 2005 entitled ‘Implementing the Community Lisbon programme: a strategy for the simplification of the regulatory environment’ (COM(2005)0535),
  - F. whereas the above-mentioned working document sets out a new ‘simplification rolling programme’ covering the period 2006-2009, in which measures are announced to simplify form, based on 43 recasts, 12 codifications and 8 repeals, in addition to 46 other measures to simplify substance, generally defined as cases of ‘revision’,
  - G. whereas in addition to the above simplification measures, some 500 new legislative initiatives (some 200 of which in 2007 alone) have been included in a separate rolling programme specifically dedicated to codifications,
  - H. whereas the Commission points out that the codification programme remains indicative, since it depends on the availability in all languages of the acts to be codified and whereas, according to the Commission, codification should be postponed when new amendments of these acts are envisaged, with the result that, in the Commission’s view, the order of acts in the rolling programme might change in the light of these two factors,
  - I. whereas, in the above-mentioned working document, the Commission proposes increasing the practice of including in its proposals an initial explanatory memorandum in order better to explain the simplification objectives pursued,
  - J. whereas the success factors for achieving the simplification goals include a solid set of methodologies, which has improved thanks to consultation with all interested parties and to the development of sector-specific analyses, close cooperation between the Commission, the European Parliament and the Council and an increasing use of self-

regulation and co-regulation,

- K. whereas the simplification being promoted at European level should be accompanied by appropriate simplification at national level to ensure that the advantages of Community simplification are not undermined by national rules or technical barriers,
1. Urges the Commission to put more emphasis on implementation, enforcement and evaluation of Community legislation, as an essential part of the 'better regulation' process;
  2. Welcomes the fact that, for the first time, the simplification initiatives have been included in the Commission's legislative and work programme for 2007, in confirmation of the political priority to be given to the simplification strategy;
  3. Calls on the Commission systematically to include from now on the simplification initiatives in a specific part of the legislative and work programme, to indicate therein what priority it intends to give to each individual simplification initiative and, to that end, to set out its simplification proposals already in its annual policy strategy at the start of the annual legislative programming process; calls on the Commission, lastly, to avoid the proliferation of documents containing lists of simplification initiatives, in order to have as clear a reference framework as possible;
  4. Suggests that, just as they have done for the purpose of codifying the *acquis communautaire*<sup>1</sup>, Parliament, the Commission and the Council should conclude an interinstitutional agreement on an accelerated working method for simplification measures as a whole;
  5. Welcomes the efforts made by the Commission to step up the activity of codifying the Community *acquis* as a primary and fundamental way of simplifying the regulatory environment;
  6. Calls on the Commission to address, as soon as possible, the difficulties relating to translation and to prevent the submission of new legislative proposals from having a negative impact on the codification initiatives, thereby undermining the entire simplification process; stresses that the Commission should be consistent and thus refrain from setting out in its legislative and work programme plans for codification on the same topics as those in relation to which it intends to submit substantive legislative proposals;
  7. Proposes that the Commission once and for all adopt recasting as a standard legislative technique so that, for each initiative, the text can be available in its entirety, also where there are specific amendments, providing a clear indication of the new parts and those which are unchanged, thereby increasing the legibility and transparency of Community legislation;
  8. Calls on the Commission, furthermore, to bear in mind that where recasting is impossible, the codification of the legislative area concerned should be the standard legislative technique to be carried out within a six-month time-frame; takes the view that, in accordance with the above-mentioned interinstitutional agreement, Parliament, together

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<sup>1</sup> Interinstitutional Agreement of 20 December 1994, 'Accelerated working method for official codification of legislative texts', OJ C 102, 4.4.1996, p. 2.

with the Council and the Commission and providing for the necessary involvement of those parties concerned, could set up special ad hoc structures with the precise aim of promoting simplification;

9. Welcomes the commitment taken on by the Commission to develop a solid set of methodologies for the work of simplification; to that end, calls on the Commission to persist in consulting the interested parties, for instance by extending to other sectors the initiatives already announced in October 2005 concerning agriculture and fisheries and by strengthening the measures it intends to adopt in this regard in the field of company law and copyright; encourages the Commission to further develop sector-specific analyses and the measurement of the administrative burdens generated by existing Community legislation;
10. Stresses the vital importance of cooperation between the Community institutions as a prerequisite for the success of any simplification strategy; highlights in this respect the strong signal of goodwill emitted by the European Parliament thanks to the amendments to its Rules of Procedure designed, respectively, to facilitate the adoption procedure for codifications and to introduce an *ad hoc* legislative procedure for recasts;
11. Reiterates that the traditional legislative instruments should continue to be used as a general rule in order to attain the objectives laid down in the Treaty; considers that co-regulation and self-regulation could usefully supplement or replace legislative measures where these methods make improvements of equivalent or broader scope than legislation can provide; stresses that any use of alternative regulatory arrangements should be in compliance with the Interinstitutional Agreement on better law-making; points out that the Commission has to lay down the conditions and limits which the parties must observe when employing such methods, and that these should in any event be used under Commission supervision and without prejudice to Parliament's right to object to their use;
12. Calls on the Commission to make every effort to ensure that the process being promoted at European level to simplify regulation and generally to improve its quality is not undermined at national level by internal rules or technical barriers; calls on the Commission to guide and monitor this process also at national level, for instance by acting as a centre for collecting and disseminating the best practices developed within the European Union and its Member States and, not least, responding to indications from stakeholders;
13. Stresses that regular and thorough impact assessments play a key role in the simplification process and that such assessments should be considered by the Council and Parliament when amendments are made to a proposal during the legislative process;
14. Instructs its President to forward this resolution to the Council and Commission, and to the governments and parliaments of the Member States.

## EXPLANATORY STATEMENT

### 1. Introduction

1. In its communication COM(2005) 535 'Implementing the Community Lisbon programme: a strategy for the simplification of the regulatory environment' of 25 October 2005, the Commission began paving the way for improving the quality and effectiveness of the Community *acquis* (known as '*better lawmaking*' or '*better regulation*'), also with the aim of eliminating the administrative burdens which bear heavily on operators in the internal market, serving no useful purpose.

2. The communication illustrated the main simplification techniques and announced 99 initiatives to improve legislative quality for the period 2005-2008. These included 11 proposals for codification, 51 proposals for recasting, 7 proposals for repeal and 30 proposals which cannot be categorised under the any of the above but which nevertheless aim to simplify the regulatory framework (i.e. simplify the substance).

3. **Codification** is a process whereby the acts to be codified are repealed and replaced by a single act, without changing the substance of the provisions. It therefore involves the re-drafting of the text which is consolidated into a single, new legal act which is consistent and comprehensible and which officially replaces the original act and all subsequent amendments.<sup>1</sup>

4. **Recasting** is a process whereby a new legally binding act repealing the acts which it replaces combines both the amendment of the substance of the legislation and the codification of the remaining provisions which are intended to remain unchanged. Recasting is governed by the Interinstitutional Agreement of 28 November 2001<sup>2</sup>.

5. Lastly, **repeal** consists of eliminating the legislative acts adopted since 1957 which have subsequently become irrelevant or obsolete due to technical or technological progress, the evolution in the policies pursued by the Union, changes in the way general Treaty rules are applied, or the development of international rules or standards.

6. As Members will be aware, simplification was the subject of the Interinstitutional Agreement (IIA) on better lawmaking, signed on 16 December 2003<sup>3</sup>, which examines

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<sup>1</sup> In practical terms, codification is made possible thanks to the Legal Services' Consultative Working Party of the three institutions, which has the task of assessing the Commission's proposals and assuring the European Parliament and the Council that they are genuine codifications and that the Commission has not made any substantive changes to the texts. The codification process includes the deletion of all obsolete provisions, the harmonisation of the terminology used in the new act and the drawing up of its preamble. Thanks to this mechanism the volume of legislation can be reduced whilst leaving the substance unchanged. At present, the Committee on Constitutional Affairs is examining the relevant amendments to the European Parliament's Rules of Procedure to facilitate access to the simplification procedures. The Legal Affairs Committee adopted an opinion on this topic on 20 December 2006.

<sup>2</sup> Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, OJ C 77, 28.03.2002, p. 1. Not only does the recasting technique enable legislative acts to be updated by amending their substance, but it also enables regulatory texts which have sometimes gone astray to be codified and thus makes the legislation easier to understand and to simplify.

<sup>3</sup> OJ C 321, 31.12.2003, p. 1

different aspects of the issue: better coordination in the legislative process; greater transparency and accessibility; impact analyses; the transposition of Community law; codification and simplification techniques; comitology; alternative methods of regulation and the reduction in the volume of legislation.

## **II. Recent developments**

1. On 14 November 2006 the Commission adopted a working document entitled 'First progress report on the strategy for the simplification of the regulatory environment' (COM(2006) 690 final) which is a follow-up to the above-mentioned communication COM(2005) 535 'Implementing the Community Lisbon programme: A strategy for the simplification of the regulatory environment'.

2. This working document takes stock of progress achieved in implementing the simplification rolling programme introduced in October 2005 and presents a number of new initiatives which will enhance the programme over the period 2006-2009. One of the key achievements of simplification is the progressive coverage of all EC regulatory areas. In particular, the new simplification rolling programme will include 43 recasts, 12 codifications, 8 repeals and 46 other measures relating to substantive simplification. In addition to these, some 500 new legislative initiatives have been included in another rolling programme specifically dedicated to codifications (some 200 of which in 2007 alone).

3. This first progress report also addresses the success factors for achieving the simplification goals, in particular a solid set of methodologies, improved inter institutional cooperation with the European Parliament and the Council and increased use of self-regulation and co-regulation. There is also concern that simplification at national level should ensure that the benefits of simplification at EU level are not jeopardised by national rules or technical barriers.

## **III. Problem areas and the rapporteur's position**

1. It is worth noting that for the first time, the simplification initiatives have been included in the Commission's legislative and work programme for 2007; this clearly demonstrates the political priority being given to the simplification strategy. However, the target to be achieved by 2012 is to reduce Community and national legislation overall by 25%.

2. Nevertheless, this point should be stressed, in order to persuade the Commission

- to systematically include the simplification initiatives, from now on, in a specific part of the legislative and work programme;
- to indicate therein what priority it intends to give to each individual simplification initiative, and
- to avoid the proliferation of documents containing lists of simplification initiatives, in order to have as clear a reference framework as possible.

3. As regards the codification proposals in particular, the Commission document points out that measures have been adopted to accelerate the conversion of the backlog of acts into the new EU languages. This backlog is the result of delays in the supply of translations of the texts being codified. However, the document points out that the codification programme remains indicative since it depends on the availability of the acts to be codified in all



languages, in particular in Bulgarian and Romanian. In addition, codification has to be postponed when new amendments of these acts are envisaged. According to the Commission, the order of acts in the programme will change in the light of these two factors.

4. Apart from the translation-related difficulties, which are understandable (although the Commission should address this issue as soon as possible), the impact on the codification initiatives of the new acts should not undermine the entire simplification process. Since under the first pillar the Commission has the monopoly over legislative initiative, clearly, if it intends to put forward new (standard) legislative proposals it will have to refrain from setting out in its legislative and work programme plans for codification on the same topics. Once again, the Commission needs to be consistent, also in relation to the simplification aims it has highlighted.

5. Likewise, recasting should become, once and for all, the standard legislative technique; it would thus always be possible to have the regulatory text in its entirety, also where there are specific amendments, with a clear indication of the new parts and those which remain unchanged. This would result in greater legibility and transparency of Community legislation;

6. The Commission's pledge to draw up solid sets of methodologies for the work of simplification is to be welcomed. The report calls on the Commission to persist in consulting interested parties, for instance by extending to other sectors the initiatives already announced in October 2005 concerning agriculture and fisheries and by strengthening the measures it intends to adopt in this regard in the field of company law and copyright. In this regard, sector-specific analyses and the measurement of the administrative burdens generated by existing Community legislation are certainly helpful.

7. As far as cooperation between the Community institutions is concerned, the report seeks to highlight the strong signal of goodwill given by the amendment to the European Parliament's Rules of Procedure relating to the improvement and introduction, respectively, of the codification procedure (Rule 80) and a new *ad hoc* procedure for recasts (Rule 80(a)). The amendment, which is still being discussed in the Constitutional Affairs Committee, should come into force shortly.

8. With regard to co-regulation and self-regulation<sup>1</sup>, Parliament cannot but reiterate the argument set out in its resolution on a strategy for the simplification of the regulatory environment (2006/2006(INI)), adopted on 16 May 2006, namely that 'traditional legislative instruments must continue to be used as a general rule to attain the objectives laid down in the Treaties; (...) the use of alternative regulatory methods such as co-regulation and self-regulation could usefully supplement legislative measures where these methods make improvements of equivalent or broader scope than legislation can provide; (...) any use of alternative regulatory methods must comply with the interinstitutional agreement on 'better law-making'; (...) the Commission has to lay down the conditions and limits which the parties

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<sup>1</sup> Co-regulation, according to the IAA on better law-making (paragraph 18), is the mechanism whereby a Community legislative act entrusts the attainment of the objectives defined by the legislative authority to parties which are recognised in a given field (such as economic operators, the social partners, non-governmental organisations, or associations). Self-regulation, meanwhile, is the possibility for economic operators, the social partners, non-governmental organisations or associations to adopt amongst themselves and for themselves common guidelines at European level (particularly codes of practice or sectoral agreements) (paragraph 22 of the IAA).

must observe when employing such regulatory methods, and these should in any event be used under Commission supervision and without prejudice to Parliament's right to object to their use' (paragraph 23).

9. Lastly, Parliament can undoubtedly agree with the Commission that the simplification process promoted at European level cannot be jeopardised by national decisions which go in the opposite direction, but must always be accompanied by national simplification measures. The report wishes to emphasise that it is up to the Commission to guide and monitor this process, also at national level, for instance by acting as a centre for collecting and disseminating the best practices developed within the European Union and its Member States.

6.6.2007

## **OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY**

for the Committee on Legal Affairs

on "The strategy for the simplification of the regulatory environment"  
(2007/2096(INI))

Draftsman: Miroslav Ouzký

### **SUGGESTIONS**

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Strongly supports the process of simplification of Community legislation with a view to strengthening the effectiveness, efficiency, coherence, accountability and transparency of EU law. Stresses, however, that such a process needs to be based on a number of preconditions:
  - (i) full involvement of the European Parliament;
  - (ii) wide and transparent consultation of all relevant stakeholders, including non-governmental organisations;
  - (iii) strengthening of the general transparency of the regulatory process;
  - (iv) any assessment for simplification has to consider economic, social, environmental and health aspects on an equal footing and should not be limited to short-term considerations;
  - (v) the simplification process must under no circumstance entail lowering the standards contained in current legislation;
2. Stresses that traditional legislative instruments must continue to be the normal means of achieving the policy objectives laid down in the Treaties; considers however that the use of alternative methods of regulation, such as co-regulation, may be a useful complement to legislative measures when they bring improvements of equivalent or broader scope than those achievable through legislation; underlines that any use of

alternative methods of regulation must be in conformity with the Interinstitutional agreement on better law-making<sup>1</sup>;

3. Calls on the Commission to develop, in cooperation with the Council and the European Parliament, a checklist which can facilitate the work of the institutions in ensuring better or smarter regulation;
4. Urges the Commission to put more emphasis on implementation, enforcement and evaluation of Community legislation, as an essential part of the Better Regulation process;
5. Calls on the Commission to take into account the results of the study requested by the European Parliament's Committee on the Environment, Public Health and Food Safety on the simplification process, "Simplifying EU Environmental Policy"<sup>2</sup>, in its further work on better regulation;
6. Supports the conclusion from the study "Simplifying EU Environmental Policy" that Impact Assessments can play an essential role in ensuring better regulation and that the quality of some of these Assessments needs to be improved. Urges the Commission to ensure:
  - that adequate time and financial resources are allocated for these assessments;
  - that impact assessments consider economic, social, environmental and health aspects on an equal footing, both in the short and the longer term;
  - that impact assessments consider not only the costs of measures but also the costs of not addressing the environmental, public health or food issues;
  - transparency and input of all relevant stakeholders;
  - that the impact assessments are broad enough in scope and take into account the different national circumstances in the Member States.

Recognises that Impact Assessments could also play an essential role in the case of amendments proposed by the European Parliament or the Council with potentially significant impacts;

7. Calls on the Commission to further promote exchange of information on the best practices on simplification of EU environmental policy in the Member States, such as:
  - the use of Information Technology to reduce the administrative burden;
  - the simplification and integration of permit schemes and licensing, while safeguarding environmental and health standards;
  - the simplification and integration of monitoring and reporting requirements,

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<sup>1</sup> OJ C 321, 31.12.2003, p. 1.

<sup>2</sup> 1P/A/ENVI/ST/2006-45.

including the risk-based approach, while safeguarding transparency and effective implementation and enforcement.

## PROCEDURE

<b>Title</b>	Strategy for the simplification of the regulatory environment	
<b>Procedure number</b>	2007/2096(INI)	
<b>Committee responsible</b>	JURI	
<b>Opinion by</b> Date announced in plenary	ENVI 26.4.2007	
<b>Enhanced cooperation – date announced in plenary</b>		
<b>Draftsman</b> Date appointed	Miroslav Ouzký 27.3.2007	
<b>Previous draftsman</b>		
<b>Discussed in committee</b>	7.5.2007	5.6.2007
<b>Date adopted</b>	5.6.2006	
<b>Result of final vote</b>	+: 52 -: 0 0: 0	
<b>Members present for the final vote</b>	Adamos Adamou, Georgs Andrejevs, Liam Aylward, Irena Belohorská, Johannes Blokland, John Bowis, Hiltrud Breyer, Martin Callanan, Dorette Corbey, Chris Davies, Avril Doyle, Mojca Drčar Murko, Edite Estrela, Jill Evans, Karl-Heinz Florenz, Matthias Groote, Jens Holm, Caroline Jackson, Dan Jørgensen, Christa Kläß, Eija-Riitta Korhola, Holger Kraemer, Urszula Krupa, Peter Liese, Jules Maaten, Linda McAvan, Alexandru-Ioan Morțun, Riitta Myller, Péter Olajos, Miroslav Ouzký, Antonia Parvanova, Vittorio Prodi, Frédérique Ries, Guido Sacconi, Daciana Octavia Sârbu, Karin Scheele, Carl Schlyter, Richard Seeber, María Sornosa Martínez, Antonios Trakatellis, Evangelia Tzampazi, Thomas Ulmer, Marcello Vernola, Anja Weisgerber, Glenis Willmott	
<b>Substitute(s) present for the final vote</b>	Alfonso Andria, Iles Braghetto, Kathalijne Maria Buitenweg, Umberto Guidoni, Erna Hennicot-Schoepges, Miroslav Mikolášik, Alojz Peterle	
<b>Substitute(s) under Rule 178(2) present for the final vote</b>		
<b>Comments (available in one language only)</b>		

## PROCEDURE

<b>Title</b>	Strategy for the simplification of the regulatory environment				
<b>Procedure number</b>	2007/2096(INI)				
<b>Committee responsible</b> Date authorisation announced in plenary	JURI 26.4.2007				
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ALL 26.4.2007				
<b>Not delivering opinion(s)</b> Date of decision	AFET 8.5.2007	DEVE 5.6.2007	INTA 7.5.2007	BUDG 23.5.2007	CONT 3.5.2007
	ECON 24.1.2007	EMPL 13.12.2006	ITRE 7.6.2007	IMCO 7.5.2007	TRAN 21.11.2006
	REGI 2.5.2007	AGRI 12.4.2007	PECH 29.5.2007	CULT 7.5.2007	LIBE 21.5.2007
	AFCO 26.4.2007	FEMM 7.5.2007	PETI 25.6.2007		
<b>Enhanced cooperation – date announced in plenary</b>					
<b>Rapporteur(s)</b> Date appointed	Giuseppe Gargani 18.12.2006				
<b>Previous rapporteur(s)</b>					
<b>Discussed in committee</b>	3.5.2007      25.6.2007				
<b>Date adopted</b>	25.6.2007				
<b>Result of final vote</b>	+ :            16 - :            0 0 :            0				
<b>Members present for the final vote</b>	Bert Doorn, Cristian Dumitrescu, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Othmar Karas, Klaus-Heiner Lehne, Manuel Medina Ortega, Hartmut Nassauer, Francesco Enrico Speroni				
<b>Substitute(s) present for the final vote</b>	Sharon Bowles, Luis de Grandes Pascual, Kurt Lechner, Marie Panayotopoulos-Cassiotou, Gabriele Stauner, József Szájer, Jacques Toubon				
<b>Substitute(s) under Rule 178(2) present for the final vote</b>					
<b>Date tabled</b>	2.7.2007				
<b>Comments</b> (available in one language only)	...				