

Interview with Hubert Ehring: the role played by the Legal Group (Uccle, 25 October 2006)

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[Étienne Deschamps] What was the role of the Drafting Group? For they were two different things.

[Hubert Ehring] Yes, the role of the Drafting Group was in part the same as that of the sub-committees, but it also had another function that concerned the Treaty in its entirety. Just as it was responsible for drafting parts of the Treaty, it was a drafting committee on the same footing as the other sub-committees. This function involved, above all, drafting the institutional and procedural provisions of the Treaty. It reported to the Committee as the others did, but there was the other role concerning the Treaty as a whole, which consisted in ensuring conformity among the parts of the Treaty drawn up by the sub-committees, independently of one another and without mutual consultation.

As part of its responsibility to ensure conformity, it also had the task of determining the nature of those public authority acts that were to be put forward to the High Authority and to the Council. The Treaty recognises three categories of public authority acts: these are the Regulation, the Decision and the Directive. The sub-committees had received the order not to clarify the nature of the acts which the chapters of the Treaty that they had been allocated provided for. They had to refer to such acts in their text, before submitting it to the Common Market Committee, by the word 'act' or 'Handlung' in German. It was only later that the Drafting Committee made the choice between the three categories.

In this role, however, it did not constitute a higher body in regard to the sub-committees. They were able to stand up to it and this left its mark on the Treaty. For acts that impose on the Member States the progressive abolition of restrictions to the free movement of persons, the Drafting Group recommended an act of the same category. However, if you read the Treaty today, you will notice that for the progressive abolition of restrictions to the free movement of persons, the Treaty makes provision for a Regulation with direct implementation in the Member States, whereas the Chapter on the right of establishment, whilst keeping the same aims, provides for Directives.

The sub-committee on the free movement of workers had resisted change and insisted on its Rules of Procedure. They were not able... lack of time afterwards did not allow the Common Market Committee to deal with it again in order to settle the matter.