



SECRETARIAT WORKING PARTY

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**No 6**  
**BRIEFING**  
**ON**  
**THE ROLE OF THE NATIONAL PARLIAMENTS**

(third update)

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**These Briefings have been drafted by the Parliament Secretariat Task Force on the intergovernmental Conference. Their purpose is to gather, in an organized, summary form, the proposals and suggestions which the authorities in the Member States, the Union's institutions and specialist commentators have put forward on the issues likely to be on the IGC/96 agenda. Briefings will be updated as negotiations proceed.**

**Already out:**

1. The Court of Justice
2. The Commission
3. The Court of Auditors, ESC and COR
4. Differentiated integration.
5. The common foreign and security policy
6. The role of the national parliaments
7. The hierarchy of Community acts
8. Codcision procedure
9. CJHA
10. European citizenship
11. WEU, security and defence
12. Public services
13. Social policy
14. The European Parliament
15. The European Council
16. The Council of the European Union
17. The budget and the IGC
18. The IGC and transparency
19. Subsidiarity and the allocation of powers
20. The Union's legal personality and external representation
21. Commitology
22. Fundamental rights
23. The IGC and the democratic nature of the Union
24. The coherence of the external action of the EU under the first and second pillars
25. The 1996 IGC and the effectiveness of the Union
26. Europei
27. The IGC and the Schengen Convention
28. Combating fraud
29. Energy
30. Tourism and the IGC
31. Economic and social cohesion
32. European environment policy and the IGC
33. The CAP and the IGC
34. Civil protection and the IGC
35. Non-discrimination on sexual grounds
36. The 1996 IGC and the enlargement of the EU
- 36a. Accession of CEECs - agricultural aspects
37. Employment and the IGC
38. The IGC and the EMU
39. Asylum Policy and Immigration
40. Social Exclusion and the IGC
41. The Child and the IGC
42. The Fight against Drugs and the IGC
43. The IGC and the Fight against Racism
44. Youth and the IGC

Subject/Insts. + MS	COM	EP	B	DK	D	GR	E	F	IRL	I	LUX	NL	A	P	SF	S	UK
<b>NATIONAL PARLIAMENTS</b>																	
Reinforce role of national parliaments <sup>(1)</sup>	yes	yes		yes	no	yes	no	yes <sup>(3)</sup>	no	no	no	no	yes	yes	yes	yes	yes
Commission white papers/proposals to be forwarded systematically <sup>(1)</sup>	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
National parliaments' deadlines before Council decision <sup>(1)</sup>				yes				yes		yes							yes
Commissioners to be heard by national parliaments	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Prior information on Council meetings <sup>(1)</sup>	yes	yes	yes	yes	yes		yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Enhance role of COSAC <sup>(1)</sup>	no	no	yes	yes/ R	yes		no	yes	no		no		yes	yes			
Institutionalize COSAC in Treaty <sup>(2)</sup>	no	no	no	no	no		no	yes	no	no	no	no	no	no			no
Second chamber of national parliament <sup>(3)</sup>	no	no	no	no	no	no	no	yes	no								
High consultative council of national MPs <sup>(3)</sup>	no	no	no	no	no	no	no	yes	no								
Insert role of 'assizes" in Treaty <sup>(2)</sup>			no	no			no	yes		no	no	no	no				no

<sup>1</sup> Unanimous trend in favour of keeping national parliaments better informed, for which a Protocol could be inserted in the Treaty. Majority in favour of the establishment of a minimum period (4 weeks) between receipt of Commission proposals in all languages and the inclusion of these proposals in the Council agenda. In addition, directives should leave national parliaments some room for manoeuvre in implementation at national level.

<sup>2</sup> General agreement on the appropriateness of the EP and the national parliaments deciding on improving an informal COSAC, without setting up a new body. Most representatives want no change in the role of COSAC, while a small number of MS suggested a greater role, in particular in certain areas (subsidiarity, CJHA, own resources, enlargement and general CFSP guidelines).

<sup>3</sup> Virtually unanimous opposition (except France) to setting up new institutions and bodies. In fact, even France's position has moved in this direction recently.

**PROPOSALS SUBMITTED IN THE MEMBER STATES  
AND THE UNION INSTITUTIONS  
WITH A VIEW TO ALTERING THE ROLE OF THE NATIONAL PARLIAMENTS  
IN EUROPEAN AFFAIRS  
AS PART OF THE REVISION OF THE TREATIES**

The issue of the role of the national parliaments is beginning to be examined in the Member States' preparatory discussions for revision of the Treaties. The French government and parliament, followed by the new President of the Republic, have singled this out as a priority issue in the revision of the Treaties. The issue has been discussed, though to a lesser extent, in the United Kingdom, the Netherlands, Portugal and Luxembourg in terms of the role of the national parliaments vis-à-vis Community legislation. In the Scandinavian countries, there is general agreement on developing 'the Danish model' of parliamentary scrutiny.

The principal ideas that emerge from the proposals are as follows.

- There is general opposition with the exception of France, to the second Chamber, as proposed by the French authorities, and in general to setting up new institutions and bodies. In fact even France's position has moved in this direction recently.
- There is a unanimous trend in favour of keeping national parliaments better informed, for which a protocol could be inserted in the Treaty. In addition, directives should leave national parliaments some room for manoeuvre in implementation at national level.
- There is broad agreement that each national parliament's powers of scrutiny over its government should be strengthened and that this should generally be done in a pragmatic fashion, without any amendment of the Treaties.
- The Union's parliaments are all in favour of a pragmatic strengthening of COSAC's activities without transforming it into a permanent institution.

## I. POSITIONS IN THE MEMBER STATES

### AUSTRIA

- Discussions initiated within a subcommittee of the Foreign Affairs Committee
- Second Chamber of National Parliaments: against
- At the recent Conference of Presidents of the Parliaments of the European Union (London, 12-13 May 1995), the President of the Nationalrat said that his parliament already exercised close scrutiny over the Austrian Government with regard to the three pillars.
- In its basic position of 26 March 1996 the Federal Austrian Government stated that the fundamental source of democratic legitimacy depended on national representatives on the Council keeping the national parliaments informed. Consequently the importance of the national parliaments' involvement in the integration process had to be recognized in the Treaty. It was up to the Member States to decide on the form that this participation should take.

In view of the Austrian Parliament's important role in European construction, it would be desirable if conditions to encourage the national parliamentary involvement in EU policy were also created at EU level. In future, for any important legislative proposal by the Commission, clear and complete documents had to be made available to each national parliament in good time in a way that would facilitate its work. Strict deadlines would be one way of achieving this.

The Austrian view is that relations between the national parliaments and European Parliament should be complementary and not competitive. Austria is thus in favour of maintaining and developing cooperative structures (e.g. committee cooperation, COSAC).

It is opposed to any attempt to establish a second Chamber consisting of national parliament representatives.

- Position of parties:
    - \* SPÖ: Would like to see a more systematic and intensified co-operation between the national parliaments and the European Parliament, mainly through regular consultations, direct control and common working committees.
- Furthermore, the political control of the CFSP must lie with the national parliaments.

## **BELGIUM**

- The Government recently published its policy guidelines for the IGC. These have been submitted to the parliament for discussion. The Government makes the following remarks:  
'As regards the role of the national parliaments, the Government takes the view that the national parliaments already exert some influence on the decision-making process and the Union's business, in particular through their powers of scrutiny with regard to their respective national members (Ministers) of the Council and through information and consultation procedures - in Belgium, through regular joint meetings between Members of the European Parliament and of the national parliament in the Chamber of Representatives Advisory Committee on European Affairs. The Government is convinced that it would be highly advisable to apply this Belgian method in the other Member States. In any case, the Government will aim at strengthening the European Parliament's powers of democratic scrutiny, as the most effective means of making good the democratic deficit'.
- The Eyskens report - drawn up on behalf of, and presented to the Committee of European Affairs of the House of Representatives - suggests to upgrade the COSAC as a forum where national parliaments can exchange their information and views.

## **DENMARK**

- Second Chamber of National Parliaments: against
- In a recent report the Folketing advocates increasing the influence of the national parliaments' European affairs committees by taking such measures as:
  - \* conferment of powers similar to those of the Folketing's relevant committee;
  - \* appointment of an official to represent each parliament in Brussels;
  - \* closer cooperation within COSAC and closer multilateral cooperation between equivalent parliamentary committees in all the parliaments of the Union.
- In a preliminary report, the Danish Government has put forward three further proposals:
  - \* incorporating a specific reference to the national parliaments in the Treaty on European Union;
  - \* giving the national parliaments an opportunity to deliver an opinion during the preliminary legislative phase - within a limited period to be determined - on Commission proposals before they are officially submitted by the Commission;
  - \* possibly, considering that the national parliaments should approve certain major Community decisions that are not subject to formal ratification.
- Position of parties:
  - \* Conservatives: closer cooperation between the EP and national parliaments. Suggest that once the numerous decision procedures are reduced to a single modified co-decision procedure, national parliaments should participate directly after the second reading of the European Parliament.

Before a common position is adopted through the council, the relevant committees of the national parliaments will be able to check the proposed legislation or resolution and will inform their government about their position.

- \* Social Democrats: national parliaments should have greater influence on EU legislation; the future Treaty should include a requirement that each country provide for adequate parliamentary scrutiny of its government's European activities.
- \* Liberal Party: governments to be required to inform their parliament in due time about all European Union proposals; common information system between EP and national parliaments.
- \* Socialist People's Party: national parliaments should have a right of initiative, as well as 'the possibility of stopping' Commission initiatives; national ministers taking part in the Council should have a mandate from their parliament.

In line with the principle of subsidiarity and in order to enhance national parliaments' access to information on the European Union and Commission proposals, Denmark proposes the insertion in the Treaty of the following Article:

(new Article on national parliaments)

The conditions governing information, involvement and cooperation in respect of national parliaments shall be laid down by joint agreement between the European Parliament, the Commission and the Council.

Moreover, the following Declaration could be inserted in the Final Act of the Conference:

(Declaration on national parliaments in the Final Act of the Conference)

The Conference encourages the institutions to conclude the joint agreement referred to in Article ..... before 31 December 1998. One element of that joint agreement should be the possibility for national parliaments to have a minimum period of time in which to express their views as to whether a legislative proposal from the Commission complies with the principle of subsidiarity before the proposal comes before the Council. Another element of this code of conduct should be a more systematic use of green and white papers for the purpose of draw up important legislative proposals. National parliaments should be consulted on the contents of the joint agreements of the joint agreement prior to its conclusion.

## **GERMANY**

- Bundestag: The parliamentary report, adopted by the Committee on EU Affairs and approved in plenary on the 7.12.1995, calls for a stronger role of the EP and the national parliaments in intergovernmental activities.
- Bundesrat: the Bundesrat has asked to be involved in the preparation of the German IGC negotiating position and will be represented at the IGC by Länder representatives. It favours closer parliamentary cooperation with regard to subsidiarity.

On 15 December 1995, the Bundesrat adopted a resolution which stated that national parliaments should be given the right to bring actions before the Court of Justice.

-Second Chamber of National Parliaments: against

-Position of parties:

- \* FDP: improving cooperation with the national parliaments by setting up joint specialized committees and ad hoc working parties.
- \* CDU/CSU: Wants to intensify the co-ordination between national parliaments and the European Parliament through regular meetings between the rapporteurs of national and European parliamentary committees as well as through a common forum of the EP and of high ranking national parliamentarians for discussions on a report of the state of the EU.
- \* SPD: Suggests that both, the EP and national parliaments should have the right to call onto the European Court of Justice if their rights should be impinged on (this is also a proposition put forward by the majority of the Federal Länder in the Bundesrat).

At the Conference of Presidents of Parliaments of the European Union (London, 12-13 May 1995), Mrs SÜSSMUTH made the following suggestions for strengthening the role of parliaments in the European Union:

- need to increase parliamentary scrutiny with regard to the second and third pillars,
- making the Council's 'legislative' meetings public,
- greater involvement of the European Parliament in appointments to the Court of Justice and Court of Auditors and the procedure for dismissing a Member of the Commission.
- as regards preparations for the 1996 IGC:
  - \* stepping up debates on European affairs in each parliament,
  - \* improving information flows between governments and parliaments,
  - \* setting up an information network between presidents of parliaments, European affairs committees, COSAC and the Conference of Presidents,
  - \* seeking common positions between parliaments on issues on the IGC agenda.

## **SPAIN**

- Parliamentary report pending,
- Second Chamber of National Parliaments: against
- Position of parties:

In a talk given in Paris on 16 January 1995, Mr Aznar (chairman of the 'Partido popular') said that '... from the institutional viewpoint, the national parliaments should be in a position to exercise prior control over Council decisions in a positive manner, i.e. as a mechanism supplementing the states' role in determining Union policy and in

compliance with Article 146 of the Treaty, which stipulates that each member of the Council should be able to commit his Member State'.

## **FINLAND**

- Second Chamber of National Parliaments: against
- At the recent Conference of Presidents of Parliaments of the European Union (London, 12-13 May 1995), the representative of the Finnish Parliament pointed out that national parliaments should have access not only to Commission proposals but also to Commission preparatory working parties.

- Government:

The Finnish Government (in a communication from the Finnish Council of Ministers to the Finnish Parliament on the aims and objectives of Finland regarding the 1996 IGC from the 27 January 1996), wishes that the Commission and the Council supply documents to the member states in good time and to oversee that clear translations will be available at the right time.

Co-operation between the EP and national parliaments should be made more efficient within the framework of declaration N° 13 of the annex in the TEU. The government doubts the applicability of declaration N° 14 (conference of parliaments).

- Parliament:

The Finnish Parliaments Grand Commission adopted a statement (22.11.1995) in which reference is also given to the role of national parliaments. For constitutional reasons, suggestions to assign national parliaments rights or duties under the Treaties should be examined with great caution. Prior to adopting negotiating positions having implications for the Finnish Parliament, parliamentary authorisation will have to be obtained by the government.

Furthermore, the Grand Commission wants - in the light of interparliamentary co-operation - to insist on the role of the COSAC. The Commission does not believe that interparliamentary conferences are an adequate form of co-operation between the Union's national parliaments and the EP.

## **FRANCE**

- Government :

In its official orientation paper of 13 November 1995<sup>1</sup>, the government suggests - as far as the first pillar is concerned - "to create a body composed of representatives of national parliaments which would be consulted in respect to oversee the principle of subsidiarity. Such a High Parliamentary Council (which could consist of two

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<sup>1</sup> Published in "Le Figaro"

representatives per member state) could take shape through an institutionalisation of the COSAC."

Concerning the third pillar, the government suggests "a participation of the national parliaments in the drawing up of legislation regarding civil or penal law, thus enabling national parliamentarians to have their say."

In the article "My Europe" published in "Libération" on 25 March 1996, President Jacques Chirac states : "I am equally in favour for a collective participation of national parliaments in European activities. In this respect one could imagine that a body would be consulted - consisting of the presidents of the parliaments of each member state - particularly in respect to the principle of subsidiarity."

The French Government has set out proposals for achieving this objective in a document entitled 'closer involvement of the national parliaments in the building of Europe'.

1. The Intergovernmental Conference must consider how and to what extent the national parliaments may individually or collectively contribute more to the tasks falling upon the Union (conclusions of the European Council in Turin).

The IGC must also improve application and implementation of the subsidiarity principle and obtain results in the field of internal security and the free movement of persons.

2. In many Member States the public is suspicious of the Union's institutions, This is a priority for the Intergovernmental Conference as this mistrust may ultimately cast doubts on the legitimacy of Union decisions.

The national parliaments can play a key role in solving this problem. It would be better to associate them with Community decisions or involve them in decision-making. This would make expansion of the Union's activities more acceptable and increase the legitimacy of the European institutions.

3. This is particularly true of matters that currently come under the justice and home affairs pillar, which impinges on national parliaments' traditional spheres of competence (civil liberties, citizens' rights).

The problems of insufficient involvement by the national parliaments are well known (difficulties arise when they are involved only at the end of the process to ratify justice and home affairs conventions).

In these circumstances it would be extremely difficult to incorporate third pillar policies without giving the national parliaments a role at an earlier stage. Without this role, ratification of the IGC results may prove delicate: the national parliaments may feel that they have been deprived of an essential part of their powers to the benefit of the Union, contrary to the principle of subsidiarity which is supposed to guide our actions.

4. We know that subsidiarity is also essential in respect of public opinion. Without prejudice to the debate on substance, this is an area that requires reflection on

procedures at Union level and not only in each Member State. Guaranteed respect for this principle implies case-by-case assessment by the Union's institutions of proposals for Community texts. Such assessments would be better understood and better accepted if there were a procedure for the national parliaments to express a collective opinion, if they so wish.

5. For all these reasons, the Union must ensure at the IGC that the national parliaments are more closely involved in the decision-making process at an earlier stage, without slowing it down or complicating it and without creating a new institution. The extent to which proposed reforms are acceptable to public opinion will depend to a large extent on how vigorously national MPs support the IGC results.

France is therefore proposing a collective expression of views by the national parliaments in the field of justice and home affairs and on the theme of subsidiarity. It is not a case of creating a ponderous new institution involving large numbers but a flexible forum that would deliver its opinions within a period compatible with those currently observed in decision-making. There would thus be no additional constraints. This forum could be formed from national MPs alone or have the same sort of composition as COSAC.

Justice and home affairs:

The forum would have the role of gathering and consolidating the national parliaments' opinions on matters relating to civil liberties and fundamental rights. Opinions could be delivered on:

- the JHA work programme at the beginning of each presidency,
- individual draft texts when they are transmitted from the Commission to the Council.

Opinions would include each national parliament's observations on the draft text and an introductory summary setting out the main reactions to the draft text or programme. This would not be a substitute for opinions delivered in the national parliaments in accordance with each country's sovereignty. These opinions would be advisory, delivered by a certain deadline and forwarded to the Commission, Council and European Parliament. The collective body would thus assemble the views of the national parliaments and add an introductory summary. It would not be a new assembly or a new European institution.

Subsidiarity:

To strengthen the Union's legitimacy, the consultative association of national parliaments must give its opinion when subsidiarity is involved.

- If a national parliament has serious reasons for questioning the subsidiarity principle in relation to a Commission text it could ask its representatives to raise the matter at the consultative meeting of national parliaments. The Commission and Council would be kept informed of this body's views.

- This self-referral of questions of subsidiarity to the national parliaments would occur only exceptionally and in serious cases. A negative opinion would have an undoubted political impact but it would be up to the Council and, where appropriate, the European Parliament to act in accordance with Community legislative procedures.
- If this effort to bring the national parliaments into closer association is to work properly, draft Commission texts would have to be referred to them as soon as possible. There should be a legal requirement to provide the national parliaments with information rapidly.
- National Assembly:

The CATALA report calls for 'the national parliaments to be involved in the decision-making process before the Council of the European Union takes its decisions' and 'considers that the establishment of an interparliamentary committee, made up of an equal and smaller number of representatives from each Member State, could represent the national parliaments in this respect. This committee could express its endorsement of or opposition to specific texts, without being able to amend them, at brief monthly sessions.

This committee's responsibilities could cover the major decisions of the European Union - revision of the Treaties, international agreements, enlargements, the budget, home and judicial affairs - monetary affairs and defence, as well as a priori monitoring of respect for the principle of subsidiarity, possibly through the adoption of a subsidiarity exception.'

In November 1995, the delegation for the European Union of the Assemblée Nationale suggested to renew the powers (institutionalisation) of the COSAC by giving it, in principle, the possibility of stating a position - in a consultative capacity - on Community projects that are the subject of an exception from subsidiarity raised either by a national parliament or the Committee of the Regions.

Furthermore, the Delegation wants COSAC to express its opinion on questions concerning the two intergovernmental pillars (CFSP & internal and legal affairs) and in the area of unanimous decision making in the Council such as the application of article 235 (own resources and fiscal affairs). The new, reformed COSAC should consist of 96 members, six from every member state (equal representation and voting rights) and 6 associated European deputies without voting rights.

In his report to the Conference of Presidents of Parliaments of the European Union (London, 12-13 May 1995), Mr SEGUIN, President of the National Assembly, proposed that the national parliaments be involved in drafting European legislation, without however setting up a new institution. 'They could act jointly with the European Parliament, which would retain its power to amend draft Community legislation falling within its sphere of competence, with regard to respect for the principle of subsidiarity and the substance of draft legislation. It would also be necessary to improve scrutiny by the national parliaments

over their respective governments' action in European affairs and to strengthen interparliamentary cooperation in this field'.

On the subject of subsidiarity, as in the case of draft Community legislation, where a majority of parliaments expressed their opposition to a text within a given period, the Commission would be required to withdraw its proposal.

This procedure could be applied, *mutatis mutandis*, to the Union's draft legislation relating to the second and third pillars'.

Mr SEGUIN also proposes incorporating Declaration No 13 of the TEU in the new Treaty, strengthening parliamentary cooperation and setting up a national parliaments' centre in Brussels.

In the Charlemagne colloquium in Aachen (26.1.1996), Philippe Séguin, President of the Assemblée Nationale - while stressing the complementary roles of the EP and the national parliaments - recommended that the national parliaments be given the role of guardians of the principle of subsidiarity. For instance, COSAC, as the body representing the national parliaments, could be asked, on their request, to make a prior political examination of the principle of subsidiarity in relation to proposed Community acts.

- Senate:

The report by Mr GENTON makes suggestions concerning:

- (a) prior scrutiny of the Government's action in the Council. In his view, the following measures should be taken:
  - inclusion in the Treaty of the principle that proposals for legislation should be forwarded to the national parliaments in good time;
  - 'in certain specific and limited areas' (budgetary resources, enlargement, association agreements), allowing the Council to be composed 'at a preparatory stage' in such a way as to involve the national parliaments;
- (b) monitoring respect for the principle of subsidiarity and supervision of interinstitutional agreements. Mr Genton believes that:
  - a genuine counterbalance should be established to ensure that the Union institutions fully respect the principle of subsidiarity, e.g. by allowing each parliament to raise a 'subsidiarity exception' (with a body appointed by the presidents of the parliaments of the Member states) or allowing an action to be brought jointly before the European Court of Justice by at least two assemblies from at least two Member States;
  - all interinstitutional agreements should be forwarded for approval to the national parliaments, which should ascertain whether the agreements alter the letter or spirit of the Treaties;
- (c) parliamentary scrutiny in respect of the second and third pillars and, where appropriate, applications of 'variable geometry'. Mr Genton suggests:

- as regards defence policy, that the role of the WEU Assembly should be strengthened;
- as regards the CFSP and third pillar, that a consultative body representing the national parliaments should be set up or, alternatively, that interparliamentary scrutiny in respect of the second and third pillars should be entrusted to the Parliamentary Assembly of the Council of Europe (composed, in this instance, only of Members from the Union Member States).
- Position of parties:
  - \* UC: To legitimise Council decisions, a consultative process regarding national parliaments should be started. This could be undertaken in conjunction with article 88-4 of the French constitution.
  - \* PS: In areas of unanimous decision making by the Council or the European Council, national parliaments should exercise control together with the European Parliament. Control of their government representatives will have to be assured through the various regulations in the member states. Furthermore the COSAC should be recognised by a treaty. The PS does not support a second chamber of the national parliaments.
  - \* RPR: Pierre Lellouche and Robert Pandraud (president of the EU delegation of the Assemblée Nationale) presented a document which suggests to upgrade the role of national parliaments through the creation of a "high interparliamentary council". The Commission would become a mere executive body and would receive a precise and imperative mandate.

## **GREECE**

- Second Chamber of National Parliaments: against
- The 'Neo-demokratia' party recently stated that it favoured 'the strengthening of the European Parliament's supervisory role, in close interaction with the national parliaments'.

In its note of 5 May 1996 the Greek Government stated that Greece is in favour of enhancing the role of the national parliaments in the unification process. This would help give the legitimacy of the Union a wider base and bring it closer to the European citizen. This objective can be attained through closer contact between the national parliaments and the European institutions, including the European Parliament and the Commission. It is up to the Commission to establish a procedure whereby the national parliaments are informed in advance and in good time of legislative proposals and information. Consideration could also be given to cooperation between committees in the national parliaments and the equivalent committees in the European Parliament. In addition Members of the Commission should be invited to appear before the national parliaments to set out the Commission's position and engage in an exchange of views. However, Greece does not think it would be useful to create new institutions at European level to assist closer cooperation between the national parliaments and the European Union.

## **IRELAND**

- Second Chamber of National Parliaments: against
- Parliamentary report currently being prepared
- At the recent Conference of Presidents of Parliaments of the European Union (London, 12-13 May 1995), the Deputy Speaker of the Dail spoke in favour of involving EP Members in the work of the national parliaments' European affairs committees.

## **ITALY**

- Second Chamber of National Parliaments: against
- At the recent Conference of Parliaments of the European Union (London, 12-13 May 1995), the Vice-President of the Chamber of Deputies said that consideration should be given to the possibility of the national parliaments being allowed to ask for the annulment of Community legislative acts. He also suggested that there should be direct contacts between the national parliaments and the Commission.
- Position of parties:
  - \* PDS: The PDS rejects any movement towards institutionalisation of the national parliaments on Union level. Instead interparliamentary co-operation between the EP and national parliaments should be increased.

In its note of 18 March 1996 the Italian Government stated that if the national parliaments are to be more closely associated with European Union activities this presupposes effective application of the declarations annexed to the treaty and more efficient organization of the consultation and information reports between the national assemblies and their European affairs committees. In addition European Union procedures should be structured in a way that permits more consistent dialogue between the Member State governments and their parliaments.

## **LUXEMBOURG**

- Mr Charles GOERENS, Member of the European Parliament, has been asked by the Government to draw up a report on relations between the national parliaments and the European institutions.
- Mr POOS, Foreign Minister, has stated that Luxembourg wishes to improve the involvement of national parliaments in the European decision-making process and that the Luxembourg Government agrees in principle with Mr Goerens' proposals.
- Mr Goerens believes that consideration should be given to a kind of 'charter' of 'minimum obligations which all governments would now accept vis-à-vis their parliaments' with respect to parliamentary scrutiny of Community affairs. In his view,

the best method would be to incorporate in the Treaty the 'minimum obligations of governments vis-à-vis the national parliaments' and 'to strengthen the Community institutions' obligations - already set out in the Treaty - vis-à-vis the European Parliament. He proposes:

- \* organizing, in addition to the possible general Assises, Assises on specific topics, such as combating fraud and preparation of EMU;
  - \* holding a debate on the Commission's legislative programme at each autumn session of COSAC (Conference of bodies specialized in Community affairs);
  - \* mutual granting of facilities between the EP and national parliaments: EP Members should be able to attend committee meetings which concern them in their national parliament; national parliaments can already attend virtually all EP committee meetings;
  - \* more extensive powers of scrutiny, specified in the Treaties, for the national parliaments in respect of their government's action since 'it is no longer possible to leave the governments to decide what information should be forwarded to their parliaments and when this should be done'. In Mr Goerens' view, 'it is now time to give formal recognition in the new Treaty to the right of each national parliament to be informed of all proposals relating to the three pillars of the Treaty on European Union, with a government explanatory note outlining the justification for the Commission proposal and its impact on national legislation';
  - \* initiatives to improve exchanges of information between members of national parliaments and of the European Parliament in the same country. Governments should thus authorize MEPs to put questions to the appropriate Ministers, as is the case in Belgium (where, as in Germany and Greece, MEPs are full members of their national parliament's European affairs committee, in some cases with the right to vote);
  - \* conferring on the national parliaments the right to bring an action before the European Court of Justice where a European Union act exceeds the Union's powers and provided their government has voted against the act in question. Mr Goerens believes that Article 17 of the Treaty should be supplemented for this purpose, but rejects the proposal to set up a Chamber of National Parliaments to monitor respect for the subsidiarity principle.
- Position of parties:
- \* PCS: National parliaments should have the right to call upon the European Court of Justice in situations where their governments have voted against an act of the Council which exceeds the Union's power.
  - \* LSAP: Would like to see a clause in the EU treaty which guarantees the national parliaments enough time to prepare a statement which would have to be heard by the governments before decisions in the first readings can be taken.

## **NETHERLANDS**

- The second Chamber of the Netherlands Parliament set out its proposals on the subject in the report submitted to the Conference of Presidents of Parliaments of the European Union (London, 12-13 May 1995). It believes that giving the national

parliaments a more effective role will not require any amendment of the Treaties nor the holding of a conference of parliaments. It has put forward specific proposals based on the following five points:

- \* for national parliaments to be able to exercise powers of scrutiny, agendas for Council meetings will need to be published well in advance,
  - \* scrutiny of second- and third-pillar activities should be based on specific procedures, along the lines of the internal agreement reached between the Dutch Government and Parliament to monitor the implementation of the Schengen Agreement,
  - \* the national parliaments should, in conjunction with the European Parliament, exercise more effective control over the use of Community funds,
  - \* the European Parliament should inform the national parliaments, especially in areas where, under the terms of the Treaties, it has no decision-making powers but is informed by the Council and Commission,
  - \* the national parliaments' coordinating body should draw up a comparative calendar of ratification of European Union decisions by the Member States.
- In its recent report on the third pillar, the Dutch Government calls for closer involvement of the European Parliament and the national parliaments in this area.
- Position of parties:
- \* PvdA: If the Council of Ministers decides unanimously, the representatives of the member states are responsible to their national parliaments. In this case, the EP should only have consultative power. As far as majority voting is concerned, the EP must participate through the co-decision procedure in the decision making.
  - \* VVD: Political decisions in the field of fiscal, social, budget and economic policies should be subject to national parliamentary control.

## **PORTUGAL**

### **- Government**

In March 1996 the Portuguese parliament considered a government document on the role of the national parliaments in the European Union.

This states an increase in public participation in areas coming under the European Union requires support for a larger and more effective association of national parliaments in the life of the Union. It would thus be possible to bring together in the interests of participation all structures representing the Member States in the building of Europe, while conforming to domestic procedures. This would be positive contribution of very great importance in mobilizing general support for the European enterprise and helping to make it more democratic.

This association of national parliaments would not change the Union's institutional machinery. Any model or formula could be considered that does not affect the present

balance and institutional machinery and takes account of the parliamentary culture and traditions of the Member States.

Consideration could be given to an association of national parliaments that would apply the COSAC formula to other areas, especially with regard to the second and third pillars, which touch upon more sensitive matters concerning national sovereignty and citizens' rights.

- Parliament

A resolution, adopted by the Assembly of the Republic on 2 March, calls for:

- \* greater involvement of the national parliaments and more effective scrutiny at national level,
- \* closer cooperation between the national parliaments and the EP, by giving greater importance to COSAC and the continuity of its work, as part of the process of making institutions more transparent,
- \* mutual provision of facilities between the EP and national parliaments and development of an information exchange network.

The resolution also raised the idea of appeals to the Court of Justice on matters relating to subsidiarity.

The Portuguese Parliament has also expressed reservations about the idea of a second Chamber of National Parliaments.

## **UNITED KINGDOM**

- Government:

Speaking in Leyden (September 1994), Prime Minister John MAJOR called for greater efforts to build up links between the national parliaments and the European Parliament. He put forward the idea of a joint committee (asking Members of the European Parliament to contribute to the work of national parliamentary scrutiny committees and vice versa).

In the white paper on the Governments approach on the IGC dating from the 12 March, the Major Government wishes for the Maastricht Declaration 13 to become legally binding through integrating it into the Treaty. A minimum period for national parliaments should be introduced in order to scrutinise Community documents and draft legislation. Furthermore, national parliaments should play a greater role as far as the third pillar is concerned.

### **Proposal on the Role of National Parliaments in the European Union**

1. The United Kingdom believes national parliaments play a vital role in enhancing confidence in, and the legitimacy of, the EU, particularly by their role in examining legislative proposals. In the IGC we should seek to facilitate this role.

### *Minimum Scrutiny Period*

2. Previous discussion has shown wide support for specifying in the Treaty a minimum period for examination of legislative proposals. We suggest a period of four weeks after a documents is available in each language in capitals before the Council reaches a decision on a proposal in other cases. There should be provision for the Council to override the period in urgent cases only, after careful consideration and stating its reasons. In such cases the Council should vote according to the voting procedure for the item concerned.

### *Reports on Justice and Home Affairs and Common Foreign and Security Policy Matters*

3. Another measure to strengthen national parliaments' role would be for the Council to circulate regular written reports on Justice and Home Affairs and the Common Foreign and Security Policy, for example at the beginning or end of each Presidency, for Member States to send to national parliaments. This provision too should be specified in the Treaty.
4. Draft Treaty language is attached on these points. The United Kingdom believes the role of national parliaments in the EU is also enhanced by members and officials of the Commission giving evidence to national parliaments and contact between national parliaments and the European Parliament. All encouragement should be given to build upon these practices.

### **A: New Article for insertion in the EC Treaty**

1. To allow Member States to seek the views of their parliaments, each Commission proposal for an act to be adopted by the Council shall be made available to the government of each Member State in its own language:
  - (a) at least four weeks before the Council adopts a common position pursuant to Article 189b or 189c; or
  - (b) in all other cases, at least four weeks before the Council adopts the proposed act.
2. By way of derogation from paragraph 1, where the Council considers that urgency so requires it may, acting in accordance with the voting procedure prescribed by the Treaty in relation to the proposed act, decide to disregard the requirement in paragraph 1. In such cases it must state its reasons in the act.
3. Each document submitted to the Council by the Commission which envisages the possibility of a proposal for an act to be adopted by the Council shall, except in cases of urgency, be made available to the government of each Member State in its own language at least four weeks before it is considered by the Council.

## B: New Article for insertion in the EC Treaty

The Council shall produce six monthly reports about activities carried out in Titles V and VI of the Treaty which Member States may submit to their parliaments.

### - Parliament:

The two parliamentary committees concerned adopted preliminary reports in July. The Committee on Community Legislation presents a series of very detailed proposals for the Intergovernmental Conference. These proposals concentrate on the role of national parliaments and the mechanisms needed to make the system more efficient and democratic. The committee:

- proposes that the Treaty should provide for a minimum period of four weeks between the receipt of a document by a national parliament and the Council's decision;
- considers the possibility of giving the national parliaments a formal role in the legislative process. If a certain number of these parliaments recommended amending or rejecting a proposal, it could only be adopted unanimously by the Council;
- is categorically opposed to the convening of a new Conference of Parliaments;
- reiterates the importance of consolidating and updating Community legislation to enable private and public organizations and individuals to understand Community law;

At the XIIth COSAC meeting in Paris, the chairman of the House of Commons European Affairs Committee, Mr HOOD, pointed out that part of Declaration 13 of the TEU had largely been ignored and that it could therefore be seen as having failed. Governments ought therefore to insist that national parliaments have a say in Union affairs<sup>1</sup>.

- Position of parties:
- \* Tony BLAIR, of the Labour Party, has proposed that the Commission should be made more answerable to the national parliaments.
- \* Labour: Would like to see a "obligatory mandatory procedure" (exercised by the national parliaments) as a control mechanism vis-à-vis the governments representatives in the Council. In the preparation and consideration of European legislation, closer co-operation between the national parliaments and the EP should take place.
- \* Sir Leon BRITTAN, speaking in a personal capacity, has put forward the idea of a council of members of national parliaments meeting regularly to discuss proposals for directives at first reading and the Commission's legislative programme before it is submitted.

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<sup>1</sup> CRAO, 27 February 1995, pp. 15-16

## **SWEDEN**

The Report (Swedish equivalent of a "Green Book") of the Swedish Parliamentary IGC 96 Committee (from 8.2.1996), rejects the idea of a second chamber. Through initiatives taken on a national basis, national parliaments influence on their governments negotiation positions should be strengthened. Legislative proposals of Union institutions should be made available to the national parliaments at an early point so that there is enough time to form an opinion on such proposals.

National parliaments should not be given any right of initiative on Community legislation. They should however receive any proposals submitted by the Commission to the Council through their national governments at an early point.

## **FRANCE AND GERMANY**

In their joint letter, addressed to the Irish Presidency on 9 December 1996, the French President and the German Chancellor consider it necessary to further develop the institutional disposition, inter alia by an association of the national parliaments:

To improve the European Union's democratic foundations, the authors think it is necessary to associate the national parliaments more closely with the European integration process. A provision along these lines should be incorporated in the revised treaty. This would apply in the first instance to sectors that hitherto have fallen within the ambit of the national parliaments. They are willing to examine any proposals for a collective association, such as the one that has just been presented to the conference that would bring together the specialized committees of the national parliaments and the European Parliament (COSAC). There should also be an investigation as to whether the creation of a joint committee consisting of an equal number of Members of the European Parliament and the national parliaments would not present an adequate solution.

## **THE IRISH PRESIDENCY**

At the Dublin European Council of December 1996 the Irish President presented a proposal for a new Protocol on the Role of National Parliaments in the European Union to be annexed to the Treaty on European Union:

## **THE HIGH CONTRACTING PARTIES**

RECALLING that scrutiny by individual national parliaments of their own government in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State,

DESIRING, however, to encourage greater involvements of national parliaments in the activities of the European Union and to enhance their ability to express their views collectively on matters which may be of particular interest to them,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on the European Union:

*I. Information for National Parliaments of Member States*

1. All Commission consultation documents (green and white papers) shall be promptly forwarded to national parliaments to the Member States.
2. Commission proposals for legislation, as defined in Article 151 of the Treaty establishing the European Community, shall be made available in good time so that the Government of each Member State may ensure that its own national parliament receives them as appropriate.
3. A four-week period shall elapse between a legislative proposal, as defined in Article 151 of the Treaty establishing the European Community, being made available in all languages to the European Parliament and the Council by the Commission and the date when it is placed on a Council agenda for decision either for the adoption of an act or for adoption of a common position pursuant to article 189b or 189c, subject to exceptions on grounds of urgency.

*II. The Conference of European Affairs Committees*

4. The Conference of European Affairs Committees, hereinafter referred to as COSAC, established in Paris on 16-17 November 1989, may contribute to the activities of the Union under the conditions set out in this Protocol.
5. COSAC may make any contribution it deems appropriate for the attention of the EU institutions, in particular on the basis of draft legal texts which Representatives of Governments of the Member States may decide by common accord to forward to it, in view of the nature of its subject matter.
6. COSAC may examine, at the request of any national parliament, any proposal or initiative falling in particular under Title VI and which might have a direct bearing on the rights and freedom of individuals. The European Parliament, the Council and the Commission shall be informed of any request made to COSAC under this paragraph and shall receive any contribution made by COSAC in the light of that request.
7. COSAC may hold debates at regular intervals on the normative aspects of the activities of the Union. It may address to the European Parliament, the Council and the Commission any contribution which it deems appropriate in this regard, notably concerning the implementation of the principle of subsidiarity.
8. The Protocol suggested by the Presidency is designed to respond to concerns voiced during discussions on this question by improving information to, and encouraging greater involvement of, national parliaments regarding the activities of the Union, without creating any new institution or body, without upsetting the

balances in the current decision-making procedures and without complicating the Union's decision-making process.

9. Some delegations do not favour a Protocol which would contain the elements set out in part II of the Protocol suggested above.
10. A number of other practical ways of enhancing the role of national parliaments have also been suggested. In particular, it has been suggested that a declaration emphasising the nature of directives as set out in the Treaty might be included in the Final Act of the Conference.

## **DECLARATION No 13 ON THE ROLE OF NATIONAL PARLIAMENTS IN THE EUROPEAN UNION ATTACHED TO THE TREATY ON EUROPEAN UNION (THE MAASTRICHT TREATY)**

The Conference considers that it is important to encourage greater involvement of national Parliaments in the activities of the European Union.

To this end, the exchange of information between national Parliaments and the European Parliament should be stepped up. In this context, the governments of the Member States will ensure, *inter alia*, that national Parliaments receive Commission proposals for legislation in good time for information or possible examination.

Similarly, the Conference considers that it is important for contacts between the national Parliaments and the European Parliament to be stepped up, in particular through the granting of appropriate reciprocal facilities and regular meetings between Members of Parliament interested in the same issues.

## **II. POSITION OF THE COMMISSION**

In addition to democratic scrutiny at Union level, national parliaments must be more directly involved in scrutinizing and steering national policies relating to the Union.

According to the Commission, this will, in accordance with each Member State's national rules, cover both the role which national parliaments can play in determining each Member State's position in the Council and monitoring the Member State's implementation of Union decisions. (Source: Commission report on the functioning of the Treaty)

In order to assure transparency and democratic control, the national parliaments should be closer associated with European affairs. In this respect they should obtain in good time all necessary information from institutions and bodies of the Union as well as from their government. (Commission opinion from the 28 February 1996)

### **III. POSITION OF THE COUNCIL**

The Council points out that Declarations 13 and 14 annexed to the Treaty on European Union have only partly been followed up: for instance, the Conference of Parliaments has not met since the entry into force of the Treaty.

(Source: Council report on the functioning of the Treaty).

### **IV. POSITION OF THE EUROPEAN PARLIAMENT**

#### **1. Resolution of 17 May 1995 on the basis of the MARTIN/BOURLANGES report**

##### As regards democratic control:

'Democratic control of EU matters would be best achieved by partnership between the European Parliament and the national parliaments. The role of national parliaments should be reinforced in a number of ways, such as through strengthened cooperation between equivalent parliamentary committees of national parliaments and the European Parliament, and providing opportunities for specialist organs of national parliaments to discuss major European proposals with their ministers prior to Council meetings' (paragraph 24).

'Democratic accountability for matters which do not form part of the first pillar must be shared between both the European Parliament and the national parliaments'.

##### As regards the follow-up to the IGC:

'The negotiating phase of the 1996 Conference should involve more open debate than at previous IGCs, and the role of both national parliaments and of the European Parliament should be reinforced:

- a consultative conference of parliaments could meet at the beginning and at the end of the revision conference' (extract from paragraph 42).

##### As regards future revisions:

'The Treaty should be amended to provide for future revisions to be approved jointly by Parliament and the Council before being submitted to national parliaments for ratification. In addition to forwarding all proposed Treaty changes to the parliaments of the Member States and the European Parliament for final ratification, the Council must communicate a single, consolidated text of the founding treaties at the same time.'

#### **2. Resolution of 13 March 1996 on the basis of the DURY/MAIJ-WEGGEN report**

The report states that "all documents which concern legislation or EU decisions must be made accessible to national parliaments [...] as early as possible and in any event immediately after adoption by the institution concerned."

Furthermore, "it is essential that the elected representatives of the European citizens at national level are directly informed of the progress and substance of the IGC."

## **V. REPORT OF THE REFLECTION GROUP**

Suggests that it should become part of the treaty that all national parliaments will have to be informed about all propositions for new community legislation. The task of overseeing the principle of subsidiarity should be given to a representative body of the national parliaments, such as the COSAC. This body should also have the task to give its opinion concerning the choice of the most adequate jurisdiction.

## **VI. INTERPARLIAMENTARY REFLECTION GROUP**

At its meeting in Athens in December 1995, the interparliamentary reflection group proposed that the overseeing of the principle of subsidiarity by representatives of the national parliaments should be incorporated in the Treaty on European Union. Furthermore, proposals were put forward to furnish the COSAC with a permanent secretariat and to guarantee continuity of the representation by the various assemblies to the COSAC.

## **VII. COSAC**

In its conclusions, adopted in Dublin Castle on 16 October 1996, the XV COSAC states:

1. Within the European Union, National Parliaments have their own role to play to strengthen democracy and improve the efficiency of the Union. COSAC, through its work, will give a high priority to the pursuit of these aims.

COSAC can assist individual National Parliaments by making available to them the experience and information of other Parliaments.

2. It is the view of COSAC that, to further the useful work of parliamentary cooperation, the organisation should be strengthened and its meetings should be organised to maximise its potential. A number of National Parliaments are in the course of considering sending official representatives to Brussels who could in time come together to offer a support service for COSAC.
3. It is appropriate that the flow of information from the Union Institutions to the National Parliaments be improved and that National Parliaments should have control over the decisions of their respective governments as set out in the constitutional arrangements of the Member States. To this end, COSAC believes that Declaration 13 should be reinforced by the Intergovernmental conference, by including it in the Treaty, to insure that governments follow through on their commitments under the Declaration and that the National Parliaments have a period of at least four weeks for examining all proposals of relevance to the legislative process.
4. There is a desire to improve the working of COSAC. The following are among the ways in which this can be brought about:

- the dates of COSAC should be set at the conclusion of the previous COSAC,
  - each delegation should have, with reason, the opportunity to include items on the agenda of COSAC,
  - each delegation should be allowed to distribute, before the COSAC, documentation and proposals relevant to the agenda,
  - a meeting of officials should be called to preview COSAC,
  - to allow each delegation and each delegate an opportunity to speak on an agenda item; time limits of, say, five minutes should be imposed on speakers from the floor and
  - to arrange during COSAC meetings for time for informal association and dialogue between delegates.
5. COSAC may pursue certain specific issues, e.g. Subsidiarity, second and third pillar items and questions relating to the fundamental rights of European Union citizens, with a view to arriving at some ideas as to the way forward for these items. However, its conclusions will be offered as suggestions and would not seek to bind any delegate or delegations. The communiqués and the above will be forwarded by the President of COSAC to the Institutions of the European Union and to the governments of Member States.

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