

***CHECK AGAINST DELIVERY!***

**DRAFT ARTICLES 24-33 OF THE FUTURE CONSTITUTIONAL TREATY**

**DRAFT PROTOCOL ON THE APPLICATION OF THE PRINCIPLES OF  
SUBSIDIARITY AND PROPORTIONALITY**

**DRAFT PROTOCOL ON THE ROLE OF NATIONAL PARLIAMENTS IN THE EU**

**Intervention by Mrs. Meglena Kuneva,  
Representative of the Bulgarian Government to the European Convention  
Brussels, 17-18 March 2003**

Ladies and Gentlemen,

Let me start by making a general observation on the Praesidium's **draft articles 24-33 of the Constitutional Treaty**. I am particularly satisfied that the proposals of the Praesidium follow to a large extent the conclusions of the working group on Simplification which discussed thoroughly and with great attention those questions. I support the radical reduction of the number of legal instruments and especially the generalization of the codecision procedure. It is also very positive that the proposals introduce in practice the hierarchy of the different acts by dividing them into legislative and implementing.

As far as the exceptions to the normal legislative procedure are concerned – present article 25 (2) - we consider it preferable to insert in the text the right of initiative of the Commission and the necessity to consult the Parliament. The procedure thus specified could not be an alternative to the general procedure for adoption of legislative acts since the exceptions will be explicitly defined in Part Two.

The **draft Protocol on the application of the principles of subsidiarity and proportionality** has given the early warning system a central place and therefore is acceptable to us. I would mention here our main considerations regarding that Protocol:

Firstly, we suggest the inclusion of two subparagraphs to paragraph 1 of the Protocol, which provide clear definition of the principles of subsidiarity and proportionality as well as guidance on what those principles mean in practice. Our view is that those additional texts will help clarify the essence of the two principles and the impact they have on the transfer of competences and the EU legislative process. Actually, those texts based on the present protocol, complement the definitions of the Constitution itself and make them more detailed and comprehensible.

We have also suggested inserting references to proportionality in the draft Protocol alongside those to subsidiarity. As drafted now, the Protocol provides no indication of how the principle of proportionality is to be monitored. Decisions on proportionality would bear similar political significance to those of subsidiarity, which makes us consider that the link between the two principles should be emphasized.

Concerning paragraph 8 of the Protocol we consider it unnecessary to explicitly specify that Member States' national parliaments could request upon their governments to refer to the European Court of Justice, since this possibility is provided by the respective constitutional arrangements of the Member States. As for the right of the Committee of Regions to refer cases to the ECJ on grounds of infringement of the principles of subsidiarity and proportionality we are of the opinion that the Committee of Regions should exercise a political control only – mainly in the process of the ex-ante consultation within the legislative procedure. Another argument against giving the Committee of Regions the right of judicial recourse is that we should avoid overloading the Court of Justice.

We agree to the proposed text of the **draft Protocol on the role of national parliaments** in the European Union. It reflects fairly the spirit of the discussions we have had so far and could be subject to consensus as it stands.

Thank you for your attention.