

Working Group IV

Working document 10

## **Working group IV – "Role of National Parliaments"**

**Subject:** Paper by Mr Proinsias de Rossa, member of the Convention

Members of Working Group IV will find hereafter a paper by Mr Proinsias de Rossa, representative of the Irish Parliament, member of the Convention.

## **Submission to European Convention Working Group on National Parliaments.**

### **Proinsias de Rossa, Representative of the Irish Parliament**

National Parliaments have a key role to play in ensuring the democratic legitimacy of the EU project, of its institutions and of its legislation – both at the stage of adoption and of implementation. They can fulfil that role only with political will at home and with appropriate recognition in the European structures.

#### ***Scrutiny and Control of National Governments***

Significant changes in the scrutiny system in the Irish Parliament have been agreed by the political parties ( see attached Annex 1, from the Irish Parliament's secretariat) and further changes are contemplated in draft legislation. These developments should bring about real improvement and greater transparency in respect of the work of Irish Ministers and civil servants within the structures of the Council ( Council, Coreper, expert Committees etc.). Scrutiny should also extend to the complexities of inter-institutional negotiation ( comitology).

The drafting of the proposed changes has been greatly facilitated by the exchange of information on best practice with many other parliaments and there must always be a willingness to learn from one another. If the EU institutions can play a role in developing appropriate contacts and exchanges, this would greatly enhance efforts to improve performance.

However, the main impetus to better scrutiny – both of proposed legislation and of subsequent implementation and regulation – must come from national parliaments. There must be a willingness by governments and national administrations to be truly open and co-operative and to engage in genuine, public dialogue on European issues.

This must go beyond scrutiny of legislation to include analysis and open discussion of policy proposals and programmes, for example on the occasion of major European Council initiatives such as the Lisbon or Tampere Conclusions which have such long-term significance.

In this connection, the duty should be imposed on the European Commission (i) to provide complete and timely information to National Parliaments on issues where it is intended to proceed

to formal initiation of legislation and (ii) to provide an effective opportunity to each National Parliament for debate on the Annual Programme of the Commission. Following the decisions of the Seville European Council, a similar provision for debate in National Parliaments on the proposed Multiannual Strategic Programme of the European Council; on the Annual Operating Programme of Council Activities and on the various Indicative Agendas.

This form of planned ex-ante consideration of Commission and Council programmes could contribute significantly to greater public awareness and to ensuring genuine opportunities for the presentation and consideration of the views of the legitimate interests at national, regional and local levels.

Scrutiny by the National Parliaments should extend beyond the legislative and policy proposal fields to cover the stages of implementation and regulation which often give rise to public misunderstanding and disquiet.

A further idea which should attract support is that of providing opportunities for national opposition and government MPs to be present at Council meetings which engage in legislation. Such meetings should, as a general rule, be open to the media and public. The Seville Conclusions have made a welcome move in this direction.

### ***Subsidiarity***

The full implementation of the principle of Subsidiarity represents protection for the citizens of the member states against any tendency to over-centralisation within the Union.

The arguments about the Legal and Political dimensions of Subsidiarity must be considered but it is clear that both aspects arise and that, in certain situations, recourse to the European Court of Justice may be valid. However, the basic approach to the definition and proper implementation of Subsidiarity should be political and it should be accepted that it is desirable to avoid too heavy a mechanism for decisions.

The National Parliaments should be the first point of contact in this respect. Where questions of interpretation or implementation arise it should be possible to envisage the granting of an effective

‘right of appeal’ to a National Parliament through an Appeals Court, composed for example by a group of 5 National Parliament Chairpersons, chosen on a rotation basis. This would not be a court in the legal sense but, rather, a forum of respected personalities whose judgement or interpretation would carry sufficient weight to deal with most conflicts of opinion.

### ***The Question of a New Institution***

The creation of a new institution involving the National Parliaments should be approached with scepticism. The danger of producing a new layer of bureaucracy, distanced from the citizens, must be borne in mind. What is more likely to be fruitful is the development of opportunities for specific, focused joint activities and carefully planned interaction on specific issues ( as suggested above ).

In any discussion of this issue the role and further potential of the European Parliament and its committees must be given due attention.

### ***Reforming Existing Mechanisms***

The COSAC system is weak and largely ineffective apart from its value as a network of parliamentarians with a particular interest in European affairs. The system should be reviewed to increase its relevance, for example by creating a forum for exchange of best practice or for discussion of major policy initiatives or major themes, such as the practical implications of enlargement.

### ***National Parliaments and the European Parliament***

Relations between the National Parliaments and the European Parliament can be greatly strengthened by developments such as the provision of audience rights for MEPs in their national parliaments or the use of 'European Weeks' during which MEPs would have opportunities to brief committees and plenaries about current and upcoming European matters and to bring the flavour of the Strasbourg and Brussels debates into their national political debates.

## **Oireachtas (Irish Parliament) Scrutiny of EU Business**

### **Background**

One of the focal issues in the Convention, which was requested in the Laeken Declaration, is the role of national parliaments in the EU. However, the question of the involvement of national parliaments directly in EU affairs is not new. In the 1980 's most national parliaments of EU member States had established European affairs committees to examine EU legislation and other matters. Subsequently in 1989 COSAC was created to act as a means by which national parliaments and the European Parliament could cooperate in relation to EU matters. The 1992 Maastricht Treaty and the 1997 Amsterdam Treaty further enhanced the involvement of national parliaments in EU activities by establishing the subsidiarity principle, which was to be monitored by national parliaments, and by agreeing that a minimum of six weeks should elapse between the receipt of proposed new legislation and its appearance on Council agenda to ensure parliaments had an opportunity to view it.

### **Legislative proposals**

The Oireachtas Joint Committee on European Affairs, while it identified a need for a greater scrutiny role in its report on the role of the Oireachtas in the EU in 1996, it has, up to now, been unable to carry out an efficient and comprehensive overview of EU legislation because of a lack of the necessary information and resources. Following the rejection of the Nice Treaty by the Irish public in the June 2001 referendum, the Oireachtas interpreted the result as evidence of a democratic deficit in relation to the EU and called for comprehensive measures to be taken to remedy the problem. The Labour Party proposed domestic Irish legislation which would have introduced a set of procedures to enhance scrutiny by the Oireachtas of measures proposed to be taken by the Council. The Joint Committee, in its report on the future of Europe, suggested the introduction of procedures which would accommodate a comprehensive scrutiny system of proposed EU legislation and other EU business.

## **Legislative Proposals**

The Irish Government accepted the arguments made and has agreed to the introduction, from 1 July of 2002, a more transparent system to allow the Oireachtas an opportunity to scrutinise draft EU legislation and other EU business. Within four weeks of the formal circulation by the Council of draft legislative proposals, memoranda indicating the nature and purpose of the proposals and containing an initial indication of possible implications for Ireland is to be transmitted to the Oireachtas Joint Committee on European Affairs. (The Government has also promised to provide information notes on Commission Green and White papers). These memoranda will highlight the significance of the proposals and give an indication of the expected time required within the EU to make a decision on them.

It is proposed that a sub-committee of the Joint Committee will first examine the proposals and select those which are deemed to have considerable significance for Ireland for more in-depth scrutiny either by the Joint Committee or by a one of the other standing Committees, who will present their views on the proposals to the Government. Committee meetings in the Oireachtas are held in public with TV access. Apart from Oireachtas members all Irish MEPs may take part in the meetings of the Joint Committee on European Affairs

At the end of each EU Presidency of the Council of Ministers the Government have promised to provide the Oireachtas with a short review note on progress in relation to legislative proposals.

Briefing on request will be given in relation to CFSP and Justice and Home Affairs business. Ministers will be available on request to offer an oral briefing in advance of Council meetings in order to set out the Government's broad approach and hear the views of Oireachtas members. It was also agreed that the Taoiseach (Prime Minister), Minister for Foreign Affairs or Minister of State for European Affairs will, on request, brief the JCEA in advance of the European Council.

Oireachtas

1 July 2002

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