

Working Group IV

Working document 34

Working group IV – "Role of National Parliaments"

Subject: **The comments by Mr Sören Lekberg to the draft final report of Working Group IV on National Parliaments (WD 032 - WG IV)**

Members of Working Group IV will find hereafter comments by Mr Sören Lekberg, representative of the Swedish Parliament, member of the Convention.

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Contribution concerning Draft final report of Working Group IV on National Parliaments (WD 032 - WG IV)

The draft report covers the discussion in the Working Group very well. I generally support the draft report. My comments to individual paragraphs follow. The relevant text in the draft report is quoted.

5. ... the Working Group recommends to the Convention that the future Treaty contain a clear recognition of the role of national parliaments [through specific wording in the (preamble of the) Constitutional Treaty].

COMMENT: The words in brackets should remain in the text.

8 ...

- *The future Constitutional Treaty should [in its preamble] contain specific wording that acknowledges the importance of the active involvement of national parliaments in the activities of the European Union and their [responsibility to act as a] direct link to the citizens.*
- *The Council should act in public in all cases where it exercises its legislative functions, i.e. not only under codecision procedure. [Records of proceedings should be sent directly to national parliaments, in parallel to the transmission to governments.]*

COMMENT: The words in brackets should remain in the text, but *[responsibility to act as a]* are not necessary. They do not do any harm, however. It may be needed to specify exactly what “Records of proceedings” refers to. The present press releases? Verbatim records? A new kind of summary records?

11 ... [In our view COSAC should consider drafting a code of conduct for national parliaments setting out desirable minimum standards for effective national parliamentary scrutiny.]

COMMENT: The words in brackets should remain in the text.

13, 14, 20 ... documents to national parliaments [if requested]

COMMENT: The words “if requested” may be deleted. It is better to have straight forward rules, than making the transmission dependent on requests.

15. ... The Group considers that the definition of legislative proposals should be set out more clearly.

COMMENT: True. But the report may discuss in more detail how the definition should be formulated. For instance, the Commission’s amended proposals in the co-decision procedure should be included.

Other documents than legislative proposals should probably also be included in the protocol, such as proposals for measures under title V (the Common Foreign and Security Policy) and interinstitutional agreements to which the Council is a party. The Versailles COSAC made a valuable Contribution in this regard, and the Working Group report could use that contribution.

17... during the first [two/three/four] weeks of this six-week period, Council Working Groups should not acknowledge any preliminary agreement on proposals.

COMMENT: It should be four weeks.

19, 20 *The Commission should present its annual legislative programme to national parliaments.*

COMMENT: Yes, but could more be said how this could be done? Merely be sending them by e-mail or by oral presentations by the Commissioners in the parliaments? “Present” means something else than “transmit”! Perhaps “inform” would be better?

20. The Commission should transmit all consultative documents and legislative proposals directly to national parliaments [if requested]. Legislative proposals should be transmitted simultaneously to national parliaments and the Council.

COMMENT: Delete “if requested”. Change the second sentence to: “The Commission should transmit all legislative proposals simultaneously to national parliaments and the Council.” Thereby the sentence is parallel to the first sentence.

20. *[The Council's rules of procedure provide for a clear week to elapse between a legislative item being considered at Coreper and the Council.]*

COMMENT: It may not be appropriate to refer to the Council's rules of procedure in the Protocol, since the Council may change the rules of procedure whereas it takes a new IGC to change the Protocol.

I would also like to point at the Versailles COSAC Contribution p. 5: ”A minimum 15-day time period, or one week in urgent cases, should be observed between the final reading of a text by COREPER and the Council decision.” I support that proposal and I hope it will be reflected in the report from the Working Group.

The time limit could be strengthened and safeguarded by becoming enshrined in primary law, for instance within an amended National Parliament Protocol. This should be reflected in the Report.

20. [The Council Secretariat should henceforth keep and publish a record of the observance of the rule.]

COMMENT: It is indeed welcome that the Council publishes a record of the observance of the rule. However, the protocol concerns also the Commission. Another way of stating this demand would be:

“The Commission and the Council, respectively, should annually submit a report to the national parliaments on how this protocol has been upheld”.

This sentence, in some form, could be placed at the end of the protocol.

20. *The six-week period of the Amsterdam Treaty Protocol on the role of national parliaments should be strictly observed*

COMMENT: True, but the whole protocol should be “strictly observed”. A possible text could be: The Amsterdam Treaty Protocol on the role of national parliaments should be strictly observed, including the six-week period.

20. *[Parliamentary scrutiny reserves should be given a formal status within the Council's rules of procedure. Such reserves should furthermore have an expiry date.]*

COMMENT: Fine, this text should remain in the report, but perhaps “expiry date” should be explained.

IV. Subsidiarity, 21, 22 and 26

COMMENT: The debate is not only about subsidiarity, but also about proportionality. This could be stressed by adding “and proportionality” in the relevant paragraphs and the heading of section IV.

21, 22, 26.

COMMENT: The text concerns the role of national parliaments at the European level. Fine, but there is already a subsidiarity control at the national level. If “at the European level” is added in the relevant paragraphs, it would become clearer that the Working group focuses on that.

28, 37

The method of convening a Convention should be formalised in a future Constitutional Treaty.

COMMENT: The method of convening a Convention is proposed to be formalised in a Constitutional Treaty. This needs to be clarified, since the two Conventions convened so far have had very different remits and purposes. The idea of convening a Convention as a matter of routine for each Inter-Governmental Conference/Treaty change seems premature to me, and has not been sufficiently discussed in the Working Group." The text in para 28 & 37 could be: "... and considered that the method of convening a Convention has its merits, something that could be born in mind when drafting a Constitutional Treaty."

25. – [The national parliaments' early warning mechanism should be strengthened, perhaps requiring the Commission formally to withdraw a draft legislative proposal for a short period while it considers reasoned opinions of national parliaments.]
- The right of judicial appeal should not be restricted to those national parliaments which had issued a reasoned opinion at the early stage.
 - [Each national parliament should have in effect "one voice" in the process [to avoid giving bicameral legislatures a greater say than unicameral ones]].

COMMENT: These proposals, including the ones in brackets, are fine. They should remain in the report.

31. ... [a reconstituted and functionally more focussed] COSAC could provide a platform for contacts between sectoral standing committees of national parliaments, in complement to the contacts between European Affairs Committees. [A new COSAC could be used as a forum bringing together national parliamentarians. This should however not hinder them from inviting MEPs to take part in meetings whenever this is deemed particularly useful.]

COMMENT: The words in brackets should remain in the text.

32 ... The Working Group considers that to foster a real dialogue between the EU institutions and the national parliaments, these institutions should also be encouraged to react to such contributions. [Replies could be provided in different forms. A reformed COSAC could for example invite a Member of the European Commission or a representative of one of the other institutions to a hearing, or the institution could reply in writing.]

COMMENT: The institutions should not merely be “encouraged to react” to COSAC contributions. The institutions should be obliged to react. The text in brackets should remain in the report.

33, 34, 37:3. Congress.

COMMENT: I do not think that new fora or bodies should be created. They will not make the EU more transparent or bring the EU closer to its citizens.

The idea of a 'Congress' is very similar to one that the Group has already rejected, namely that of a second - or third - Chamber. We run a high risk of regretting bitterly in the future if we create an expensive superstructure, when at the same time we have a hard time defending the costs of existing EU institutions.

The present system for high-level appointments, as amended by the Heads of State and Government at Nice, is sufficient. When assessing the idea of a "Congress", I would adopt the same line of thinking as Mr. Peter Hain expressed in the plenary debate last week. He said something to the effect that any new institutional structure that we conceive of should meet either of two criteria. It should either clearly provide increased possibilities for the EU to deliver on important policy areas or provide increased democratic legitimacy to the decision-making process. In my view, the "Congress" does neither of these. If there is a need for a body that debates for instance the State of the Union a reformed COSAC would be appropriate for that task.

35 The Working Group also recognised that there may be ground for contacts between national parliamentarians and MEPs on specific issues on an ad hoc basis. The Group would in this respect welcome the possibility of convening ad hoc interparliamentary conferences on sectoral issues, where the gap between national positions block agreement at the European level. Such mechanisms, bringing together specialists in the specific policy area, would help to build bridges and pave the way for identifying solutions (examples of issues for which this could be a useful mechanism were the reform of the CAP or the reform of the internal resources).

COMMENT: Paragraph 35 should be changed into something like this:

The Working Group also noted the existing meetings between sectoral standing committees. Meetings take place on both bilateral and multilateral basis, and the European Parliament is often involved. The Working Group welcomes these meetings. However, apart from these meetings, there may be ground for contacts through ad hoc interparliamentary conferences on sectoral issues, where the gap between national positions block agreement at the European level. Such mechanisms,

bringing together specialists in the specific policy area, would help to build bridges and pave the way for identifying solutions (examples of issues for which this could be a useful mechanism were the reform of the CAP or the reform of the internal resources).

37. *[It (COSAC) should become a network for exchange primarily between national parliaments.]*

COMMENT: The text in brackets should remain in the report.
