

**COVER NOTE**

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from: Ms Gisela Stuart

to: Members of the Convention

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Subject: **Mandate of the Working Group on National Parliaments**

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Please find attached a note on the above subject, which is intended to facilitate the discussions of the working group on national parliaments.

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## **GROUP IV : "The Role of National Parliaments"**

**Paper by : Gisela Stuart**

*How is the role of national Parliaments exercised in the current architecture of the European Union?*

*What national arrangements function best?*

*Is there a need to consider new mechanisms/procedures at national level or at European level?*

### **I Introduction**

The need to examine and enhance the role of national parliaments has been raised on several occasions in the past: it was referred to in the protocol annexed to the Treaty of Amsterdam, in declarations annexed to the Treaties of Maastricht and Nice, and more recently, in the Laeken Declaration on the future of the European Union. The European Convention decided that one of the working groups should be devoted to the role of national parliaments. The aim of this paper is to help structure the debate in the working group, and set out initial proposals for the issues it should cover. By identifying key issues and suggesting an overall approach to the work of the group, the paper seeks to assist discussion on how we might best establish and achieve the objectives of the working group as effectively as possible within the narrow time frame available.

### **II The issues at stake**

One of the key challenges for the future of Europe is to bring the European Union closer to its citizens. Citizens often perceive the Union as distant. They feel that their influence on decision-making at the European level is too limited. This applies to shaping policy in areas of existing Union competences as well as to the transfer of new competences to the European level.

This question of democratic legitimacy is directly linked to the role and powers of both the European Parliament and the national parliaments, be it through their scrutiny of their national governments or through direct involvement in European decision-making.

### III Key elements to the debate on the role of national parliaments

The terms of reference of the working group are proposed as:

- **How is the role of national parliaments exercised in the current architecture of the European Union?**
- **What national arrangements function best?**
- **Is there a need to consider new mechanisms/procedures at national level or at European level?**

The *first of these questions* is largely covered by the paper on the role of national parliaments in the European architecture presented by the Praesidium (CONV 67/02), which, together with academic and other work that has been done on the functions of national parliaments<sup>1</sup>, will form a valuable background for the working group's deliberations.

The *second question*, which in a sense flows from the first, has also been the subject of comparative studies, which the working group will need to take into account. Studies have shown that even where sufficient opportunity exists for parliamentary scrutiny, not all national parliaments are able to make full use of them. Therefore, although actual scrutiny arrangements remain a matter for each state, depending on its constitutional set-up, there may be scope for a certain degree of co-ordination, and discussion of 'best practice'. In this respect, bench marking for consultation and scrutiny procedures could be helpful. Similar considerations apply to the role of national parliaments in monitoring the implementation of European legislation.

Furthermore, if the working group and the Convention were to draw attention to best practice on parliamentary scrutiny of government action at European level, this could be particularly useful for candidate countries, which are currently in the process of establishing their own scrutiny mechanisms.

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<sup>1</sup> For example, an extremely comprehensive study is about to be published by the Centre for European Integration Studies, entitled *National Parliaments on their ways to Europe: Losers or Latecomers?* Maurer and Wessels (eds).

An essential extension to this question would be to examine those aspects of legislative procedures and working practices at European level which may create difficulties for national parliaments attempting to carry out effective scrutiny of their governments' activities. This could include:

1. examination of the way in which the provisions of the Amsterdam Protocol on the Role of national parliaments in the European Union relating to information to national parliaments of Member States have worked in practice (with information sought from the Commission and the Council)
2. consideration of other factors at European level which may create difficulties or require reform, such as:
  - lack of transparency in the legislative work of the Council, and of the Council and the European Parliament at certain stages of the co-decision process;
  - general administrative practices of the Council;
  - difficulties in co-ordinating national scrutiny processes with the EU legislative timetable (including the question of whether national parliaments should be involved in/better informed about the formulation of the Commission's annual work and legislative programmes).

The *third question* leads us to examine the role we believe *should* be played by national parliaments in the future. In a sense, this part of the group's terms of reference sweeps up the three questions posed in the Laeken Declaration. There are two issues to be addressed here. The first concerns the tasks we want national parliaments to undertake, and there is a range of possible functions (e.g. monitoring subsidiarity, exercising oversight on 2nd and 3rd pillar matters, participation in the legislative activities of the Council). There may be an overlap with other working groups, notably with the one chaired by Mr Mendez de Vigo on subsidiarity. The second involves the institutional frameworks that would best achieve them.

#### **IV Possible avenues for reflection**

A range of suggestions has already been put forward to enhance the role of national parliaments, some of which are outlined below. They are discussed at greater length in paper CONV 67/02. It would be useful for the working group to address them in the course of its work.

- **Scrutiny at the national level**

The institutional arrangements that allow scrutiny by national parliaments of their governments differ from one Member State to another. In some countries the government negotiates at the European level on the basis of a mandate given by its national parliament. In many others the involvement of the national parliament is more limited. Arrangements can also vary within one country depending on the policy area. It could be useful to compare the different national arrangements for consultation and scrutiny and have an exchange of views on best practices. One step further could be to establish guidelines or bench marking in this area.

- **Contacts between MPs and MEPs**

National MPs and MEPs can mutually benefit from enhanced co-operation and exchange of information on EU related subjects. The degree of co-operation and flow of information between the national parliament and corresponding national MEPs differs from one country to another. In this field also one could envisage an exchange of views on national arrangements and best practices.

- **Participation in legislative activities of the Council**

Some have proposed including representatives of national parliaments in the delegations of Member States when the Council exercises its legislative function.

- **Enhancing the role of COSAC**

COSAC, which meets every six months, is composed of members of the national parliaments of Member States and candidate countries, and members of the European Parliament. Its main objective is to facilitate the exchange of information and to draft contributions to the European Parliament, Council and the Commission on subjects related to EU legislation. Some have

suggested reinforcing COSAC by convening more meetings and creating a permanent secretariat. The possibility of granting COSAC a role with respect to monitoring the implementation of the principle of subsidiarity has also been mentioned.

- **The creation of an independent or second Chamber**

Some have suggested creating a second parliamentary assembly of representatives of national parliaments. This Chamber would not duplicate the traditional role of the European Parliament in Community legislation, but would focus on verification of implementation of the principle of subsidiarity, and possibly on areas where the role of the European Parliament is limited, such as foreign policy and justice and home affairs. Others have suggested that the same tasks could be carried out by national parliamentarians without the creation of a second chamber.

## **V Summary**

The working group will therefore concentrate its attention on the following matters:

- **consideration of existing scrutiny and consultation mechanisms of national parliaments at national level, with a view to drawing attention to those systems which work best**
  - **examination of those aspects of legislative procedures and working practices at European level which may create difficulties for national parliaments attempting to carry out effective scrutiny of their governments' activities**
  - **reflection on the role we believe national parliaments could/should play**  
**identification and evaluation of the different means by which we enable parliaments to fulfil this role in the future by examining the proposals made by Convention members and others for formal and/or informal involvement of national parliaments at European level.**
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