

THE EUROPEAN CONVENTION

THE SECRETARIAT

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COVER NOTE

from	Secretariat
to	The Convention
Subject :	Contribution by Mr Filadelfio Basile, alternate member of the Convention "The Role of National Parliaments"

The Secretary-General of the Convention has received the contribution annexed hereto from Mr Filadelfio Basile, alternate member of the Convention.

Sen. Filadelfio Basile
(Alternate member of the Convention)

Contribution of the role of National Parliaments

Rethinking the role of the national parliaments within the Community institutional system as guarantors of the full involvement of Europe's citizens in the Union's decision-making processes implies, first and foremost, a reappraisal of the relations between the national parliaments and the four main institutions of the European Union: the Commission, the Council, the European Parliament and the Court of Justice. There is already broad agreement that the participation of national parliaments in the European decision-making process begins with the scrutiny that they exercise over the work of their respective governments, which must be optimised and harmonised according to best practices within the limits of their own domestic constitutional system. But there is also a widespread feeling that the institutional architecture of Europe could and should be made more effective and more transparent, giving parliaments of the individual member states the instruments they need to perform their tasks better.

The **European Commission**, being vested with legislative power, must provide the national parliaments with as much information as possible, and as promptly as possible. This can only be done if draft legislation, White Papers and Green Papers are forwarded to the national parliaments as soon as they are forwarded to the European Parliament, the Council and the governments of the member states.

As a number of contributions to the Convention have pointed out, another important opportunity for scrutiny and debate could be the presentation of the **Commission's annual work programme**, that could become the focus of a broader institutional debate, fully involving the representatives of the national parliaments at the European level.

Even during the first meeting of the Working Group on national parliaments, the role of the Council was the issue about which the most serious concerns were expressed. Some quite rightly pointed to

the total lack of transparency regarding the meetings of the Council and the production and circulation of the working papers, with made it difficult for national parliaments to exercise any form of scrutiny over the work of their governments and thus ensure their governments' compliance with the more or less binding positions, depending upon their domestic legal systems, expressed in the debate on a particular draft measure placed before the national parliament.

Many also pointed to the institutional anomaly of having both the legislative and executive functions vested in the Council, and quite rightly demanded that they be separated. This could be done by empowering the European Council to issue broad policy guidelines for the Union, while the General Affairs Council and the sectoral Councils – which should be far fewer in number and less complex in composition – would have the functions of a second Chamber. We should pay tribute to the Seville European Council for having taken a first major step forward towards reforming the Institution by substantially reducing the number of sectoral Councils, making provision to fully publicise deliberations on matters for which co-decision-making is required, and to “duplicate” the General Affairs Council. But the reform process must continue and be taken still further, by extending co-decision-making to new subject-matters, until all the deliberations of the Council are finally made public. This will enable the national parliaments to improve their scrutiny, following uniform procedures and criteria based on best practices, whose adoption should be encouraged.

As far as the relations between national parliaments and the **European Parliament** are concerned, considerable support has rightly been given to the proposal, set out in the resolution of the European Parliament on the role of the national parliaments, for a full-fledged “inter-institutional agreement” between the European Parliament and the national parliaments to strengthen inter-parliamentary cooperation and systematise the indicative mutual commitments to multilateral and bilateral meetings regarding European issues of joint interest, both of general and of sectoral nature. It is necessary that the substance and procedures for such an agreement be gradually developed during the Convention, in order to see how far such an agreement is able to solve the problems of the democratic deficit and the substantially subordinate character of the national parliaments, which have emerged in the Reports to the Convention concerning the debates on the future of Europe held in the member states.

Lastly, as far as the relations between the national parliaments and the **Court of Justice** are concerned, a number of voices have been raised in favour of enabling the national parliaments to refer instances of violations of the principle of subsidiarity to the Court.

The problem of subsidiarity, as was amply mentioned at the first meetings of the ad hoc working groups within the Convention, is above all a political issue. This being so, in order to guarantee the full involvement of the national parliaments a solution must be found involving every stage in the legislative process; this solution should consequently address relations between the parliaments themselves and the Commission (being vested with the power of initiating legislation and hence with the initial responsibility for applying the principle of subsidiarity) and well as the European Parliament and the Council (in their capacity as co-legislators).

In order to guarantee a solution of this kind, one particularly effective proposal among the ones that were set out in the contributions to the Convention and discussed at the first meeting of the Working Group is to set up a **Joint Subsidiarity Committee** composed of an equal number of representatives of the European Parliament and the national parliaments.

A Committee of this kind could perhaps be established under the future interinstitutional agreement, or at all events provisions could be specifically made for it in the Treaty. Establishing such a Committee would seem to take into account, in a comprehensive and balanced fashion, a fact that has been raised many times: that there exists top-down and bottom-up subsidiarity, and that there is often a tendency to make use of subsidiarity for wholly “political” purposes, not only by the European institutions but also by national authorities (governments and parliaments). In order to enable it to perform its task effectively as a “subsidiarity watchdog”, the Committee should be able to act in every phase in the law-making process, by issuing opinions which the European Court of Justice, acting subsequently, would have to take into account. The Committee would therefore work along similar lines to what occurs in the Italian system with the so-called “filter committees” (the Budget Committee or the future joint Regional Affairs Committee), which are required to issue an opinion on draft legislation in its original version, and on all the amendments and changes that are subsequently made as the bill proceeds through parliament.