

NOTE

from:	Secretariat
to:	Working Group IV on "National Parliaments"
Subject:	Summary of the meeting held on 19 September 2002

1. The group had an exchange of views regarding measures at the European level that could encourage and facilitate improvements of the national parliamentary scrutiny systems. The group also discussed the draft report from the working group on subsidiarity (WD 19 from WG I, distributed at the meeting as well as by e-mail). The group furthermore had an exchange of views regarding the possible role(s) and shape(s) of multilateral mechanisms on the European level involving national parliaments as well as the European parliament.

Measures at the European level that could encourage and facilitate improvements of the national parliamentary scrutiny systems.

2. As an introduction to the discussion Mr. Michel Barnier, Member of the European Commission, made a presentation regarding the implementation of the Amsterdam Treaty protocol on the role of national parliaments (see also WD 12 of 12 July 2002). The presentation focused on four questions:
 - i) What is the purpose of the protocol?
 - ii) Does the implementation of the protocol slow down the decision making process?
 - iii) Do the provisions of the protocol provide national parliaments with the information they need?
 - iv) Is there a need to amend the protocol?

3. It was underlined that the provisions of the protocol facilitated parliamentary control, but that the way in which control was organised (and its effectiveness) depended on the Constitutional relations between parliament and government. It was furthermore recalled that the mechanisms and the scope (extension of control to second and third pillars) varied between countries. The 6 week period that should elapse between a legislative proposal and the date upon which it is placed on a Council agenda for decision did not cause delay in the decision making procedure, which in most cases was measured in months (or even years) rather than weeks (it was furthermore recalled that only a limited number of decisions were outside the scope of the co-decision procedure, and thus only require a Council decision). Urgent measures could be dealt with within a shorter time-frame, but these were rare (as an example, the timeframe was around 4 weeks in the case of the setting up of a catastrophe fund after the recent floods). Transparency of the work of the Council, and possibly participation of national parliamentarians in national delegations, could raise insight and allay fears voiced by some national parliaments regarding "provisional agreements" reached in the course of deliberation, before the end of national parliamentary scrutiny.
4. As regards the transmission of information to national parliaments, a task that now falls upon governments, the Commission could agree to direct transmission to national parliaments, provided that governments did not object. The protocol covers also the transmission of consultative documents, an area where the Commission already today operates a wide consultation process through the internet and where it could also envisage direct transmission to national parliaments. To date, few national parliaments have seized opportunity to respond to open consultations, and it was underlined that this could be a way to exert influence at a very early stage. Proposals raised in earlier meetings that national parliaments should be consulted in the course of the EU's strategic planning would need to be examined further. Although implementation of the protocol seemed to function rather well, the Commission would be willing to examine any amendments proposed to the Amsterdam protocol, recalling however that the protocol could only contribute to better conditions for scrutiny on the national level. A strengthening of informal relations and the use of hearings (which could include the Commission) could also bring progress and familiarise national parliaments further with European affairs.

5. In the ensuing discussion, it was stressed that while it would be inappropriate to prescribe to governments and national parliaments how they should interact, certain basic framework conditions could be created on European level and that one could perhaps point to certain minima of parliamentary scrutiny by way of example. Certain members insisted that national parliaments had the power to scrutinise their governments' action and positions in European affairs, but that they did not always make full use of them. It was pointed out that it was crucial for national parliaments to build up a level of expertise regarding European matters.
6. Some suggested that rather than involving national parliamentarians directly into work of the Council, as had been suggested by a member, one should examine ways of enhancing contacts between national parliamentarians and MEPs, for instance through improved possibilities for MEPs to attend meetings in national parliaments (or regional parliamentary assemblies). Certain members pointed to the need to improve the co-ordination of the national and European parliaments' calendars, possibly through a better synchronisation of the EP "white weeks" reserved for constituency work and attendance of sessions in national parliaments. Another option would be to organise "European weeks", which would take place at the same time in all capitals. Some added that such an event would fit well with the proposal presented by some that Commissioners could participate in hearings in or with national parliaments.
7. Several members expressed interest in the possibility for national parliaments to be consulted in the Commission's annual legislative programming or the EU's strategic programming.
8. The Group welcomed the proposal by one member that the role of national parliaments in the EU be inscribed at Treaty level (possibly in the preamble) and that Member States be required to state that appropriate parliamentary scrutiny, in accordance with national Constitutional requirements, had been carried out prior to meetings of the Council when it exercised its legislative role. Furthermore, a protocol to the new Treaty would contain details regarding transmission of documents and other information. Several members suggested that the Amsterdam protocol on the role of national parliaments be amended to state that the Commission will transmit documents directly to national parliaments (as a complement to the transmission by governments). It was furthermore suggested by some to inscribe in the protocol that the Council could not start considering a Commission proposal during the first four weeks after its transmission. Others considered this too restrictive, and that presentations of proposals and a first exchange of views should be allowed during this period.

Discussion of the draft report from WG I on Subsidiarity

9. The group had an exchange of views on the draft report of the working group on Subsidiarity (WG I), as contained in WD 19 of that group. Members expressed a general satisfaction with the report, which broadly reflected WG IV views on the role of national parliaments in controlling the principle of subsidiarity. The early warning system was recognised by members as an innovation and several members welcomed the fact that the mechanism was simple, that it did not create a new body and did not delay the decision making process. Some members would have wanted to see also an explicit recognition of the close links between the principles of subsidiarity and proportionality. It was furthermore recalled that as texts are often amended in the course of the process, it is important that national parliaments continue to exercise their scrutiny role towards the governments all along the legislative procedure.
10. Certain members stated that they would have liked to see further strength to the proposed system, and suggested that it be made clear that an act could not enter into force until after a judgement in the case of an appeal to the court. It was furthermore suggested that a time-limit be inscribed for a judgement by the Court and that this should be short, for example one month. Several members proposed to break the link between the need to have given a reasoned opinion in earlier stages of the process and the right to refer the matter to Court. Some members suggested that national parliaments also be consulted on the national legislative programme of the Commission, and suggested that COSAC could perhaps be given a role in this respect. There was however no agreement on the latter, as some questioned the representativity of COSAC, albeit pointing to a possible role in terms of the exchange of information between parliaments.

Possible role(s) and form(s) of multilateral mechanisms on the European level involving national parliaments as well as the European parliament

11. The group had an exchange of views regarding the points in time or issues for which it would be useful for national parliaments to get together, between themselves and with the European Parliament, and which format such mechanisms could take.

12. Several members pointed to the innovation of the previous and the current Convention, underlining the usefulness of involving both national parliaments and the EP, and suggested that the method of convening a Convention be formalised in the institutional set-up of the EU.
13. Some proposed that national parliaments should be given an increased role in the shaping of the political agenda of the EU, through a mechanism by which they (possibly together with the EP) would receive the multiannual programme of the Council and possibly convene in a congress on the subject. It was also suggested that such a forum, to be called a congress or something else, could receive a report on, and debate, the state of the Union. Others suggested that it could also play a role in chief nominations, legitimising for example the appointment of the President of the Commission (or of the EU under a changed system). It was underlined by members that a congress-type mechanism should not have any legislative powers. It was further proposed that a congress/forum should convene at most once a year.
14. Several members underlined the demand for inter-parliamentary consultative mechanisms and the important role that this can play in bringing European issues more to the forefront in each national parliament. They pointed to the current and potential role of COSAC in this respect. Some argued that while COSAC should remain a purely consultative mechanism, it could be used increasingly for consultations in a sectoral level, bringing together representatives from sectoral committees. The importance of contacts with EP committees was underlined in this context. Some also suggested that COSAC should play a role with regard to a consultation on the Commission's annual legislative programme. It was furthermore underlined by several members that if COSAC were to disappear, its consultative functions would need to be taken over by some other mechanism. Some suggested that COSAC be reinforced through a small permanent secretariat. Several members cautioned against the creation of new institutions, however.
15. Some suggested that for problematic policy issues, such as for instance reform of the CAP or reform of the own resources system a new type of inter-parliamentary conference could be convened on an ad hoc basis. This could bring together specialists on the policy area in question from each parliament for a debate on the issue to attempt to untangle difficulties and thus possibly pave the way for identifying solutions, without having itself any legislative role (nor necessarily the right to pass resolutions).

Next meeting

16. The next meeting will take place on Thursday 26 September from 10.30 to 13.00. The discussion regarding multilateral/inter-parliamentary mechanisms to involve national parliaments further in European affairs and their specific function will be continued. The Chair invited written contributions.
 17. The following meetings will take place on 10 October (14.30-18.00) and 22 October (14.30-18.00). Please note that the meeting on 17 October is cancelled due to the COSAC meeting taking place the same day.
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