

**CONV 611/03**

**COVER NOTE**

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from : Secretariat

to : Convention

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Subject : Reactions to the draft protocol on the role of National Parliaments in the European Union  
- Analysis

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Members will find in the attached annex a summary sheet of the proposals for amendments to the protocol on the role of National Parliaments in the European union (CONV 579/03, Annex III).

**SUMMARY SHEET OF THE PROPOSALS FOR AMENDMENTS  
TO THE PROTOCOL ON THE ROLE OF NATIONAL PARLIAMENTS  
IN THE EUROPEAN UNION (CONV 579/03, ANNEX III)**

**I. Analysis of amendments by theme - summary**

1. Four main themes emerge among the proposed amendments to the Protocol on the role of national parliaments in the European Union:
  - a) The role of national parliaments and the manner in which it is reflected in the protocol as well as the way in which the national parliaments are involved in the activities of the Union;
    - The issues raised concern the way in which the role of national parliaments in the life of the Union in general is reflected in the protocol as well as the specific roles that national parliaments should assume. In the second case, the inclusion of several additional roles are proposed, such as the right to comment on substance of legislative proposals in addition to the specific issue of subsidiarity, the organisation of debates on the annual work programme, and the preparation and ratification of amendments to the Constitution. Proposed amendments also concern the definition of national parliaments in the context of the protocol and include proposals for references to each chamber as well as the sub-national level (regions with legislative powers).
  - b) The scope of the information transmitted to national parliaments (and by which institution);
    - Proposed amendments concern the broadening of the scope of information referred to in the draft Protocol or the addition of further elements related to areas covered in the draft text. Proposed additions include the transmission of the multi-annual policy strategy, the annual report of the Ombudsman, records of Council public debates, and the information contained in legislative proposals on their financial and regulatory implications.
  - c) The timeframes applicable to various aspects of the protocol;
    - Proposed amendments concern among other the specification of the timeframe for the transmission of documents by the Commission, additional restrictions pertaining to the period between the transmission of a proposal and its being put on a Council agenda for adoption, the formalisation of a set period between Coreper and the adoption of a common position by the Council, and timeframes for the transmission of agendas and outcomes of the Council.

- d) Interparliamentary cooperation, including the role of COSAC.
  - Proposed amendments concern the general reference to interparliamentary cooperation and its promotion by the European parliament and national parliaments, as well as the role of COSAC. With regard to the latter, several proposals are made concerning a more detailed description of its tasks and the areas in which it can make contributions.

2. A more detailed review of proposed amendments under headings a)-d), as well as a summary of proposals formulated on other aspects, is to be found in section II below.

## II. Detailed analysis of amendments by theme

- a) *The role of national parliaments and the manner in which it is reflected in the protocol, and the way in which the national parliaments are involved in the activities of the Union*
  - Regarding the way in which the role of national parliaments in the life of the Union in general is reflected in the protocol, several members of the Convention propose to add a paragraph as well as to reinforce the language of the existing draft preamble to the Protocol, i.a. to underline that the involvement of national parliaments in the Union could contribute to bringing the Union closer to citizens (NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories, NP31/Azevedo, Nazaré Pereira).
  - Proposals for the specific roles of national parliaments cover the following additional elements:
    - national parliaments should also be able to make recommendations on other aspects (than subsidiarity) of the Commission's legislative proposal; text to be added to the paragraph containing the cross reference to the subsidiarity early warning mechanism, or in a separate paragraph (NP1/Serracino-Inglott, Inguanez, NP30/Costa, d'Oliveira Martins);
    - a debate should be held simultaneously in all the national parliaments regarding the Commission's annual work programme (NP2/van der Linden and 6 co-signatories);
    - amendments to Part II of the Constitution should be ratified by national parliaments, by a (enhanced) majority (NP3/van der Linden and 3 co-signatories);

- national parliaments should participate in any Convention established to amend the Constitution, on the basis of parity with the European Parliament (NP12/Duff and 16 co-signatories);
  - national parliaments should be invited to contribute on proposals for acts relating to the coordination of national policies, including the broad economic and social guidelines (NP15/Berès) or to report to the European Parliament each year on the adherence of its government to the broad economic guidelines (NP12/Duff and 16 co-signatories);
  - national parliaments should be able to comment on the Commission's annual legislative programme and decide (with support of 75%) on the legal basis of the proposals it refers to, deliberate on proposals and communicate the result to the institutions, and decide to veto a proposal for vital reasons (NP25/Bonde, Seppänen);
  - every national parliament should elect a Commissioner, and have right to censure him/her (NP25/Bonde, Seppänen);
  - the addition of a section to the Protocol concerning the specific role of national parliaments in relation to the area of freedom, security and justice (NP28/Floch, NP29/Lequiller).
- The issue of the definition of national parliaments is addressed in several proposals for amendments. Several members of the Convention propose that the relevant paragraphs of the protocol be amended so as to state that each chamber of a national parliament should receive the legislative proposals and other the texts referred to therein, or that this be stated in a separate paragraph (NP9/Pieters, NP13/Teufel, NP 19-24/Wuermeling, Altmaier, NP41/Michel, de Gucht, di Rupo, Van Lancker, Chevalier, Nagy, Dewael and NP33/Fischer – in the latter case in relation to paragraph3 which refers to the subsidiarity early warning mechanism in the Subsidiarity and Proportionality Protocol).

Some furthermore propose that the protocol should not only apply to parliaments on the national level, but also to the regional/sub-national level in cases where these have legislative powers in accordance with the constitution of a Member State, as indicated by Member States (NP41/Michel and 6 co-signatories, NP9/Pieters, NP12/Duff and 16 co-signatories, NP20/Wuermeling and Altmaier).

- Proposed amendments regarding the paragraph containing a cross-reference to the early warning mechanism in the Protocol on the application of the principles of subsidiarity and proportionality (paragraph 3 in the draft Protocol on the role of national parliaments) concern:
  - a reformulation (and move) of the paragraph containing the cross-reference to refer also to reasoned opinions following a convening of the Conciliation Committee and to state that the European Parliament, the Council and the Commission shall act in accordance with the (Subsidiarity) Protocol in the event of such reasoned opinions (*NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories*);
  - a reformulation reproducing main elements of the early warning mechanism, including the response by the Commission and the threshold of one third of parliaments (*NP12/Duff and 16 co-signatories*);
  - adding a reference to the principle of proportionality (*NP27/Hain, NP31/Azevedo, Nazaré Pereira*) and to the President of the European Council (*NP31/Azevedo, Nazaré Pereira*);
  - deleting the existing paragraph 3, to include a shorter reference in a new paragraph 2 on the Commission's transmission of legislative proposals to national parliaments (*NP32/Lopes, Lobo Antunes*).

*b) The scope of the information transmitted to national parliaments (and by which institution)*

Proposed amendments cover the following elements:

- Several members of the Convention propose to amend paragraph 1 of the draft protocol to include a reference to the annual legislative programme (*NP39/Brok and 42 co-signatories*). Another proposal is that paragraph 2 of the draft protocol should include a reference to any instrument of legislative planning or policy strategy, in particular the Annual Policy Strategy and annual legislative work programme, and that paragraph 4 of the draft protocol should consequently be deleted (*NP18/Farnleitner*). Several members propose that the European Council should consult national parliaments on the multi-annual policy strategy (*NP12/Duff and 16 co-signatories*);
- Several propose to amend the paragraph relating to the transmission of legislative proposals by the Commission (par. 2 of the draft protocol) to national parliaments to specify that these should contain statements relating to the motivation behind the initiative and its financial and regulatory implications (*NP12/Duff and 16 co-signatories*);

- Some propose that the Commission should also transmit amended proposals (par. 2 of the draft protocol) to national parliaments (*NP16/Tillikainen, Peltomäki*);
- Several members of the Convention propose that the paragraph on the transmission of agendas for Council meetings and the outcome of these (par. 5 of the draft protocol) should be amended to include the transmission of a record of the debate in the case of Council meetings held in public (*NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories*). It is also proposed that this paragraph state that the Council submits the Commission's legislative proposals, as well as agendas and outcomes of Council meetings, to national parliaments (*NP26/Muscardini*). Some also propose that the scope of documents from the Council be extended to cover working group agendas and minutes as well as and working documents(*NP25/Bonde, Seppänen*).

It is also proposed that the text of paragraph 5 be amended to include a statement that governments endeavour to provide national parliaments with clear information regarding European legislative proposals (*NP29/Lequiller*);

- Several members propose to add a paragraph stating that Council agendas should indicate any outstanding scrutiny reserves and that in the case agreements are reached despite such reserves, reasons should be stated (*NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories*);
- Some propose to amend paragraph 7 of the draft protocol (on the transmission of the annual report of the Court of Auditors) through the addition that specialised committees of national parliaments should have access to any documents they ask for, possibly under confidentiality (*NP25/Bonde, Seppänen*);
- Some propose to add an obligation for the Ombudsman to send annual reports to the national parliaments, at the same time as to the European Parliament (*NP14/Belohorska and 2 co-signatories*);
- Several propose to add a paragraph stating that the Commission should respond promptly to request for information and questions from national parliaments or their committees about proposals (*NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories*);
- Some propose that references to the "Commission" be changed to the "European Parliament" and vice versa in several paragraphs (i.e. changing procedures) (*NP11/Kirkhope, NP34-37/The Earl of Stockton*).

c) *The timeframes applicable to various aspects of the protocol*

- Proposed amendments to paragraph 1 of the draft protocol concerning the Commission's transmission of consultative documents to national parliaments include adding that this should be done "upon publication" (NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories, NP31/Azevedo, Nazaré Pereira).
- Several of the proposed amendments in this field concern paragraph 4 of the draft protocol, which indicates that six weeks should elapse between a legislative proposal being made available by the Commission and the date when it is placed on a Council agenda for adoption. Several members of the Convention propose to add a restriction stating that no formal or informal agreement should be reached on the proposal within this period (NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories, NP31/Azevedo, Nazaré Pereira). According to one proposal the timeframe referred to in the paragraph should be "more than 6 weeks" (NP33/Fischer). Some propose to delete the reference to exceptions on the grounds of urgency and suggest that the six weeks should also apply to the placing of documents on Council working group agendas "for negotiation" (NP25/Bonde, Seppänen). One proposal is made to delete paragraph 4 in its entirety (NP6/Voggenhuber). Another proposal is to delete the reference to (texts being sent to) national parliaments in this paragraph (NP26/Muscardini).
- It is further proposed to add to the paragraph that a "reasonable timeframe" should elapse between the examination of a proposal by Coreper and the adoption of a common position by the Council (NP29/Lequiller). Several members propose to add (in a separate paragraph) that such a timeframe should be "ten clear days", unless Commission proposals are adopted without amendment, and that a record should be kept of the observance of this provision (NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories).
- Proposed amendments to paragraph 5 of the draft protocol, which deals with the transmission of agendas for and the outcome of Council meetings, include that the Secretary-General of the Council should send agendas directly to national parliaments at least 21 days before the Council meetings (NP4/de Vries, de Bruijn) and that the records of proceedings should as far as possible being transmitted within 10 days (NP18/Farnleitner) or "as soon as possible" (NP4/de Vries, de Bruijn) or that agendas and outcomes should be communicated "upon their establishment" (NP29/Lequiller).

- Several members propose that the Commission should transmit its annual legislative programme to national parliaments each November (*NP12/Duff and 16 co-signatories*). It is furthermore proposed to clarify that the transmission of instruments of legislative planning or policy strategy, and the annual report of the Court of Auditors, referred to in paragraphs 6 and 7, respectively, of the draft text, should be addressed directly to national parliaments (*NP29/Lequiller*). Some propose that national parliaments should send their comments on the annual legislative programme (“annual catalogue for European legislation”) to the Commission within six weeks after receiving it (*NP25/Bonde, Seppänen*).

d) *Interparliamentary cooperation, including the role of COSAC*

i) *Interparliamentary cooperation in general*

Several proposals for amendments concern the wording of paragraph 8 of the draft protocol, which indicates that the European Parliament and national parliaments together shall examine how to effectively promote interparliamentary cooperation within the Union. Several members propose that the text should be rendered more concrete and committing, through saying that the European parliament defines together with national parliaments how to organise a regular interparliamentary cooperation (*NP8/Duhamel and 6 co-signatories*) or that national parliaments and the European Parliament promote such cooperation (*NP31/Azevedo, Nazaré Pereira, NP32/Lopes, Lobo Antunes*). Some prefer to say that the European parliament and national parliaments encourage such cooperation (*NP29/Lequiller*). Another proposal puts the emphasis on encouragement of efforts made by national parliaments to improve interparliamentary cooperation, which may be bilateral or multilateral (*NP38/Lennmarker and 3 co-signatories*). One proposed amendment states that the paragraph should either be specified or removed (*NP40/Kohout*).

The proposal is also made to add paragraphs stating that the European Parliament shall seek to involve representatives of national parliaments in committee work and that Members of the European Parliament should be enabled to participate in relevant activities of their own national parliament, including the right to table written parliamentary questions to ministers (*NP12/Duff and 16 co-signatories*).



ii) *The Conference of European Affairs Committees (COSAC)*

Proposals regarding COSAC concern the addition of a reference to the role of COSAC already in the preamble of the protocol and the addition of further details regarding the activities of COSAC in the relevant paragraph (or through adding further paragraphs). The proposed amendments cover:

- the addition of references to the “Copenhagen Parliamentary Guidelines” for relations between governments and parliaments, agreed by COSAC in Brussels on 27 January (*NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories*), or references to minimum indicative standards allowing for national parliamentary scrutiny adopted at this meeting (*NP29/Lequiller*), to the preamble of the protocol;
- the addition of text stating that national parliaments will coordinate their work in COSAC, that it may invite representatives of the European Parliament to participate in its work and that the Parliament shall consult COSAC regarding the development of inter-parliamentary cooperation (*NP12/Duff and 16 co-signatories*);
- the replacement of paragraph 9 of the draft protocol, which refers to the role of COSAC, by a text stating that an “Interparliamentary conference for European affairs” takes the place of and builds on COSAC and on the “Copenhagen guidelines” (*NP31/Azeveda, Nazaré Pereira*);
- reformulation of paragraph 8 of the draft protocol, on interparliamentary cooperation, and transfer to the section on COSAC, to state that the European Parliament shall consult COSAC and invite it to cooperate with it regarding the promotion of interparliamentary cooperation (*NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories*);
- the addition of a paragraph stating that COSAC shall promote interparliamentary conferences on specific policy questions as the need arises (*NP12/Duff and 16 co-signatories*);
- detailed references to the areas in which COSAC may examine legislative proposals or initiatives, instead of the general wording (“may submit any contribution it deems appropriate”) of paragraph 9 of the draft protocol (*NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories, NP30/Costa, d’Oliveira Martins – in the latter case renaming it “Interparliamentary Conference”*) and an expanded description of the possibility of COSAC to examine and contribute on legislative proposals or initiatives, without references to specific areas (*NP7/Schlüter*);

- the addition that contributions from COSAC must follow a motion for resolution and approval (*NP11/Kirkhope*);
- the addition of a paragraph stating that the European Parliament, the Council and the Commission shall be informed of COSAC contributions and that they shall respond within three months (*NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories, NP29/Lequiller*);
- the addition of a paragraph stating that COSAC may, inter alia, promote exchange of information and best practice (*NP17/Stuart and 18 co-signatories, NP5/Andriukaitis and 2 co-signatories*).

*e) Other issues*

These concern among other (proposals to change the order of paragraphs in the draft protocol or linguistic proposals not listed):

- the denomination of the act (*“Acte complémentaire”/additional act rather than Protocol – NP10/Paciotti*);
- the replacement of the preamble of the draft Protocol with operational paragraphs (*NP12/Duff and co-signatories*);
- the merger of the Protocol on the role of national parliaments and the Protocol on the application of the principles of subsidiarity and proportionality (*NP13/Teufel*);
- the replacement of the “Union” with the “Community” and the “Constitution” with “the simplifying Treaty” throughout the Protocol (*NP11/Kirkhope*);
- the addition that when adopting framework laws in the Council, governments shall state how they intend to implement the measure (*NP12/Duff and co-signatories*).

### **III. List of amendments**

NP 1	<i>Serracino-Inglott, Inguanez</i>
NP 2	<i>van der Linden, Timmermans, Andriukaitis, Einem, van Eekelen, van Dijk, Altmeier</i>
NP 3	<i>van der Linden, Timmermans, van Eekelen, van Dijk</i>
NP 4	<i>de Vries, de Bruijn</i>
NP 5	<i>Andriukaitis, Gricius, Šivickas</i>
NP 6	<i>Voggenhuber</i>
NP 7	<i>Schlüter</i>
NP 8	<i>Duhamel, Marinho, Van Lancker, Berès, Carnero, Paciotti, Thorning-Schmidt</i>
NP 9	<i>Pieters</i>
NP 10	<i>Paciotti</i>
NP 11	<i>Kirkhope</i>
NP 12	<i>Duff, Helminger, Rupel, Kreitzberg, Gricius, Hasotti, Kacin, Akçam, Dybkjaer, van Eekelen, Lord MacLennan, Uzun, Matsakis, Vassoiliou, Szent-Ivanyi, Eckstein-Kovacs, Ozal</i>
NP 13	<i>Teufel</i>
NP 14	<i>Belohorska, Figel, Migas</i>
NP 15	<i>Berès</i>
NP 16	<i>Tillikainen, Peltomäki</i>
NP 17	<i>Stuart, Haenel, Costa, Dam Kristensen, Heathcoat-Amory, Kiljunen, Lekberg, Lennmarker, Liepina, Oleksy, Piks, Vanhanen, Hänni, Krasts, Kvist, d'Oliveira Martins, Svensson, Lord Tomlinson, Wagener</i>
NP 18	<i>Farnleitner</i>
NP 19	<i>Wuermeling, Altmaier</i>
NP 20	<i>Wuermeling, Altmaier</i>
NP 21	<i>Wuermeling, Altmaier</i>
NP 22	<i>Wuermeling, Altmaier</i>
NP 23	<i>Wuermeling, Altmaier</i>
NP 24	<i>Wuermeling, Altmaier</i>
NP 25	<i>Bonde, Seppänen</i>
NP 26	<i>Muscardini</i>
NP 27	<i>Hain</i>
NP 28	<i>Floch</i>

NP 29	<i>Lequiller</i>
NP 30	<i>Costa, d'Oliveira Martins</i>
NP 31	<i>Azevedo, Nazaré Pereira</i>
NP 32	<i>Lopes, Lobo Antunes</i>
NP 33	<i>Fischer</i>
NP 34	<i>The Earl of Stockton</i>
NP 35	<i>The Earl of Stockton</i>
NP 36	<i>The Earl of Stockton</i>
NP 37	<i>The Earl of Stockton</i>
NP 38	<i>Lennmarker, Lekberg, Kvist, Svensson</i>
NP 39	<i>Brok, Almeida Garrett, Alonso, Altmaier, Attalides, Azevedo, Basile, Brejc, Cisneros, Cushnahan, Demetriou, Dolores, Farnleitner, Fogler, Frendo, Giannakou, Kauppi, Kelam, Kelemen, Korhonen, Krasts, Kroupa, Kutzkova, Lamassoure, Lennmarker, Lequiller, Maij-Weggen, Mladenov, Nazaré Pereira, Piks, Rack, Santer, Stylianidis, Szajer, Teufel, Tusek, van der Linden, van Dijk, Wittbrodt, Wuermeling, Zile, Zieleniec</i>
NP 40	<i>Kohout</i>
NP 41	<i>Michel, de Gucht, di Rupo, Van Lancker, Chevalier, Nagy, Dewael</i>

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