

CONV 390/02

CONTRIB 135

NOTE DE TRANSMISSION

du: Secrétariat

à la: Convention

Objet: **Contribution présentée par M^{me} Danuta Hübner, membre de la Convention**
- "Le rôle des parlements nationaux"

Le Secrétaire général de la Convention a reçu la contribution figurant en annexe de
M^{me} Danuta Hübner, membre de la Convention.

**Contribution by Prof. Danuta Hübner,
Poland's Government Representative to the Convention
on the role of national parliaments**

The fact that national parliaments need to become more involved and more active in European Union matters is generally agreed. While the Protocol on National Parliaments in the Amsterdam Treaty was an important step forward, I would support Convention proposals which go further.

There are good reasons for enhancing the role of national parliaments in the future European Union. After all, democracy in our countries is first and foremost parliamentary democracy. There are many ways of legitimising decisions taken by national and regional authorities. However, parliaments remain focal elements of all scrutiny mechanisms. At the same time, in strengthening the role of national parliaments in the European construction, the starting point has to lie in defining what is that what we want to achieve by giving national parliaments more of a mission in this field.

In my view there are four such objectives. First of all, national parliaments could have a unique role to play in the activation of initiatives at the European level by investigating their compliance with the principle of subsidiarity. National parliaments are well placed to perform that function because they are not involved in the EU legislative process and hence do not have a stake related to their role in the process. Their judgement can therefore be an opinionated and objective one. The subsidiarity-watching function of national parliaments can be enhanced through establishing a flexible procedure of monitoring at the initial stage of the legislative process. Judgements made by the parliaments should not be on anything other than subsidiarity. Otherwise, we are bound to complicate the legislative process and make decision-making cumbersome. Pre-defined guidelines on what sort of a „subsidiarity test” is to be applied by national parliaments ought to be agreed in advance by the Convention. Hearings of members of the Commission should be envisaged prior to any negative opinion in case the designated subsidiarity committees in national parliaments are in doubt over the intention of the legislative proposals. The Working Group on National Parliaments is therefore right to put emphasis on the relations between parliaments and national governments and on the monitoring of subsidiarity and proportionality throughout the legislative process.

I agree with the Working Group on National Parliaments that the role of national parliaments, particularly in the area of subsidiarity and proportionality should be written into the Constitutional Treaty. However we must make sure that what we propose does not reduce the capacity of the Union to take decisions efficiently and we must clearly avoid interfering in the constitutional arrangements at the national level.

As I said at the last plenary, I think that proportionality, as outlined in Article 5 of the Treaty, is a principle which is often not respected but is as important as subsidiarity. Community legislation is sometimes too detailed, putting too much emphasis on ensuring perfect institutional homogeneity, and losing sight of the overall objectives of policy. National Parliaments are ideally placed to correct such excesses.

Secondly, national parliaments are invaluable in their role of scrutinising government action in the EU arena. Given the relatively large margin for manoeuvre enjoyed by the governments in EU affairs, national parliaments provide the much needed frame of reference. Given the divergent constitutional practices, it is not optimal to define parliamentary control mechanisms at the European level. One should remember, however, that frequently parliaments do not use all existing instruments to control and monitor EU activities of their governments. In this context, the exchange of information and experience practised within the framework of the COSAC is of particular importance. It should be made more effective and extend also to sectoral parliamentary committees. The COSAC should consider adopting a Code of Conduct for national parliaments in which the various standards for exercising effective parliamentary control would be elaborated. It would also be useful in order to strengthen the national parliaments' sense of involvement in EU policy-making if the annual legislative programmes of the European Commission were to be presented to the assemblies by members of the Commission.

The Working Group puts emphasis on the importance of informing national parliaments about European Union legislative measures in time for them to make their positions known to national governments and, if necessary, to the Community institutions perhaps through the mechanism of a somewhat reinforced COSAC. I agree that this is important. National parliaments' knowledge of the complications of legislating and implementing law in many areas could help to improve the quality of legislation at the Union level. However it is really up to the national governments to keep national parliaments informed throughout the legislative process, although we all know that they might be less than happy to do this in certain delicate circumstances.

Thirdly, national governments provide the much needed and irreplaceable link to the citizen. The European Parliament is by definition more involved in the EU decision-making process than the national parliaments. However, given the size of the electorate which gives its mandate, it will never be as close to the people as national parliaments can be. Therefore, a large part of the task of shaping our citizens' view of the European Union lies in the hands of national parliamentarians. I have to stress in this context that I am not convinced that the mandate of a member of the European Parliament as well as that of a national parliamentarian should be linked. For the sake of efficiency and clarity, the two democratic mechanisms have to remain distinct also in the sense of distinct membership. Back in 1979 quite a few people thought that switching to direct elections to the European Parliament was a little premature. Such a decision would perhaps be more appropriate for the European Union of today and not that of 23 years ago. However, we should not create the impression that there is an inherent link between the domestic and the European legitimisation processes.

Fourthly and finally, national parliaments can be useful actors in co-shaping the agenda of European integration. The parliaments are after all the foci of the political ferment and debate which can generate useful inputs into policy-making at the European level. In my view, there are two ways to channel that input. First of all, representatives of national parliaments can be invited to annual debates on the strategic agenda for the European Union. The latter could be hosted by the European Parliament. Secondly, national parliament can influence policy-making in the EU through a constitutional review mechanism which, in my view, could be set up by the forthcoming Treaty. The Convention – which benefits enormously from the generous contributions of national parliamentarians – is a useful model for providing the Union with strategic guidelines and making Treaty amendments.

These four important functions demonstrate that the more active involvement of national parliaments in the EU decision-making system would significantly contribute to the strengthening of democratic legitimacy and bringing the Union closer to the citizen.

Implicit behind many of the things which are said here about the role of national parliaments is the perceived competition between these and the European Parliament. I think that an increasing profile for national parliaments may in fact raise the level of interest in the European Parliament amongst voters. Greater discussion of EU policies and legislation at the national level can only raise the level of knowledge of EU affairs and interest in them amongst voters. The European Parliament elections may then attract more rather than less interest.

In this context, we should give further thought to institutionalising the contact between national and European Parliaments. This has proved successful in the Parliamentary Committees in the Association Agreements and it might be useful in the enlarged Union.

However let us not overburden the system to the point that the boat sinks. Let us remember that all our institutions, national and European, must remain able to work efficiently and effectively. So we must concentrate on just one or two important elements to associate national parliaments with work at the Community level.

I am therefore in favour of inserting into the future Constitutional Treaty a provision which would reflect in a clear and unequivocal fashion the role of national parliaments. At the same time, such a provision ought to leave no doubt that the control exercised by the respective parliaments as far as the governments' EU activities are concerned ought to remain within the sphere of competence of each member state.