

CONVENÇÃO EUROPEIA

SECRETARIADO

Bruxelas, 10 de Outubro de 2002 (10.10)
(OR. EN)

CONV 334/02

CONTRIB 116

NOTA DE ENVIO

de: Secretariado

para: Convenção

Assunto: **Contributo de Filadelfio Basile, membro suplente da Convenção "O Papel dos Parlamentos Nacionais"**

O Secretário-Geral da Convenção recebeu de Filadelfio Basile, membro suplente da Convenção, o contributo que figura em anexo.

Sen. Filadelfio Basile
(Alternate member of the Convention)

"THE ROLE OF NATIONAL PARLIAMENTS"

As expressly underlined by the most important European treaties and declarations of the last decade (the Declaration annexed to the Treaty of Maastricht, the Protocol annexed to the Treaty of Amsterdam, the Declaration annexed to the Treaty of Nice as well as the Laeken Declaration on the future of the European Union), the role of national parliaments should be strongly enhanced.

First of all, national parliaments should be put in the position of efficiently carrying out the actual scrutiny of their own governments' action.

What is certainly possible to do at the European level is amending European legislative procedures as well as improving mere working practices so that all those obstacles to the aforementioned national parliaments' scrutiny role may be eliminated or at least considerably reduced. It will certainly imply, above all, a better co-ordination of the European legislative process with the different national parliaments scrutiny mechanisms, namely through the review of the rules and administrative practices inspiring the European institutions legislative action with the view to rendering more transparent such legislative process and, consequently, much easier the opportune and effective scrutiny role of national parliaments.

Furthermore, any effort should be made in order to enable national parliaments to actually make full use of all the already existing opportunities for parliamentary scrutiny of government action at European level. Although, on the one hand, identifying and ruling the parliamentary

scrutiny mechanisms is a typical matter for the constitutional law of each Member State, on the other hand, we can not help underlying the need for a minimum degree of co-ordination in this regard at European level (for instance, outlining a minimum basic parliamentary scrutiny pattern or at least general guidelines on this subject). In this regard, it might be very important to adopt a pattern based on the government duty to submit all proposals for community measures or Union initiatives to the respective national parliament and take into account the resolutions including political guidelines approved by the latter, especially with regard to foreign policy, security and defence issues or in areas such as police and judicial co-operation in criminal matters.

Such a problem does not only affect the scrutiny of government action before the European legal rules will be enacted but also arises with regard to the need to ensure that national parliaments may actually play an active role in monitoring the implementation of European legislation within the respective Member State.

Besides the improvement of the present role of the national parliaments, it is hopeful they will undertake - directly or only indirectly - new important functions, as stressed by Laeken Declaration.

Among the possible improvements, the participation of national parliaments in the legislative activities of the Council may be ensured involving the Conference of Community and European Affairs Committees (COSAC) in the European legislative process, for instance during the Council meetings, although - of course - without any decision-making power, rather than only including some representatives of national parliaments in the delegation of Member States, since the first solution could clearly facilitate the co-ordination between the several national parliaments and could also reduce the risk of enhancing a unilateral approach. This will certainly strengthen the role of COSAC and will also require a better structural organisation, through the creation of a permanent secretariat, charged with organising work. A step further could then be conferring upon this body a wider or even general function of monitoring all European legislative processes (also including the activities of the other European institutions, besides the Council) in order to ensure a permanent link between the European Union and national parliaments so that the latter may be immediately, fully and continuously informed on European Union legislative activities. With particular reference to the relationship between national parliaments and the European Parliament, such a wider role of COSAC would manifestly entail a better and deeper coordination between them.

Nothing prevents from conferring upon COSAC the role of monitoring the implementation of the principle of subsidiarity, as this task would allow national parliaments to be correctly informed on this subject. It has never been forgotten that the single national parliaments must be the principal actors in controlling the respect of the subsidiarity principle. But the working group on subsidiarity singled out the possibility of an early warning system, somehow affecting the EU institution legislative proposals – and even leading, when a significant number of national parliaments converges, to possible redrafting.

In this perspective, COSAC could become both a significant arena for this convergence to take place, and an essential link in the chain connecting the national parliaments with the EU legislative process.

It is however useful now to remind that, for the purposes of the Convention, national parliaments are fully represented by the members of the Convention designated by each of them, as such members are empowered to submit to the Convention the official positions of the respective national parliament.

As for the creation of a second European parliamentary Chamber, whose members should be representatives of national parliaments, it is doubtful whether such Chamber should play the usual role of European Parliament in the European legislative process or, on the contrary, should undertake only specific tasks and then confine itself to exercising its functions only with regard to areas not covered by the present European Parliament sphere of competence (such as, for examples, foreign policy and justice and home affairs or the control of the implementation of the subsidiarity principle). Personally, I do believe that - whether or not it would be possible to create a second Chamber without any risk of duplicating the traditional role of the European Parliament - the existence of such a second Chamber would be a useless complication of the European institutional framework without necessarily implying the enhancement of the national parliaments' power. On the contrary, it seems easier and more advisable to appropriately widen the competences of the present European Parliament.

A final general remark on this subject is absolutely necessary. It is common opinion that strengthening the role of national parliaments would reduce the distance between European Union and its citizens and would then meet one of the major objectives of the Convention. In abstract terms, I share this opinion. However, I also think it might be more consistent with the general purpose to ensure that European Union be closer to its citizens and, on the other hand, that European citizens may really feel to be less far from European institutions and decisions, strongly enhancing the role of the present European Parliament in the European decision-making process. In order to achieve such a specific objective without weakening the effectiveness of the decision-making process within the Union, it is possible, on the one hand, to widen the scope of application of the parliamentary co-decision making procedure, and, on the other hand, to simplify such a procedure. This is the easiest and most direct way of solving the traditional and controversial matter of the democratic legitimacy in the European Union.
