

CHAMBRE DES REPRÉSENTANTS DE BELGIQUE

26 juin 2003

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**Conférence des présidents des
parlements de l'Union européenne
Athènes, 23-24 mai 2003**

L'EUROPE EN ÉVOLUTION

RAPPORT DE M. **HERMAN DE CROO**,
PRÉSIDENT DE LA CHAMBRE
DES REPRÉSENTANTS DE BELGIQUE

MESDAMES, MESSIEURS,

Depuis 1975, les présidents des assemblées parlementaires européennes se rencontrent chaque année à l'occasion d'une conférence internationale. Participaient à celle-ci, une année sur deux, les présidents des assemblées parlementaires des pays membres du Conseil de l'Europe ainsi que les présidents des assemblées interparlementaires du Conseil de l'Europe, de l'Union de l'Europe occidentale et du Parlement européen. L'année suivante, la Conférence regroupait les présidents des parlements des pays membres de l'Union européenne ainsi que le Président du Parlement européen. Depuis 1999, il a été décidé de se réunir chaque année. L'année pendant laquelle la Grande Conférence européenne se réunit, une petite conférence complémentaire a donc lieu. Ces rencontres ont pour but d'examiner le rôle que les parlements peuvent jouer dans la construction de l'Europe.

BELGISCHE KAMER VAN VOLKSVERTEGENWOORDIGERS

26 juni 2003

BUITENGEWONE ZITTING 2003

**Conferentie van voorzitters van de
parlementen van de Europese Unie
Athene, 23-24 mei 2003**

EUROPA IN ONTWIKKELING

VERSLAG VAN DE HEER **HERMAN DE CROO**,
VOORZITTER VAN DE BELGISCHE KAMER
VAN VOLKSVERTEGENWOORDIGERS

DAMES EN HEREN,

Sinds 1975 ontmoeten de voorzitters van de Europese parlementaire assemblees elkaar jaarlijks op een internationale vergadering. Het ene jaar namen daaraan de voorzitters deel van de parlementaire assemblees van de Lidstaten van de Raad van Europa, alsmede de voorzitters van de interparlementaire assemblees van de Raad van Europa, de West-Europese Unie en het Europees Parlement. Het andere jaar werd de Conferentie bijgewoond door de parlements-voorzitters van de Lidstaten van de Europese Unie en door de Voorzitter van het Europees Parlement. Sedert 1999 werd beslist deze vergadering elk jaar te houden. In het jaar dat de grote Europese Conferentie samenkomt, heeft dan ook bijkomend een kleine conferentie plaats. Die bijeenkomsten hebben tot doel te onderzoeken welke rol de parlementen kunnen spelen bij de uitbouw van Europa.

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SOMMAIRE

OUVERTURE	5
I. LES PARLEMENTS EUROPEENS ET LA CONVENTION SUR L'AVENIR DE L'EUROPE	5
1. Exposé de Monsieur Debré, Président de l'Assemblée nationale française	5
2. Exposé de Madame Szili, Présidente du Parlement hongrois	6
3. Échange de vues	7
II. LES PARLEMENTS EUROPEENS DANS UNE EUROPE ELARGIE – LA DIMENSION POLITIQUE ET INSTITUTIONNELLE	9
1. Exposé de Monsieur Cox, Président du Parlement européen	9
2. Exposé de Monsieur Casini, Président de la Chambre des représentants italienne	9
III. CONCLUSIONS	11
IV. ANNEXES	15
A. <i>Les Parlements européens et la Convention sur l'avenir de l'Europe</i>	
1. Contribution de M. J.-L. Debré	
2. Contribution du Dr. Katalin Szili	
B. <i>Le rôle des Parlements européens dans une Europe élargie: la dimension politique et institutionnelle</i>	
1. Contribution de M. P. Cox	
2. Contribution de M. P.-F. Casini	

INHOUD

OPENING	5
I. DE PARLEMENTEN IN EUROPA EN DE CONVENTIE OVER DE TOEKOMST VAN EUROPA	5
1. Uiteenzetting door de heer Debré, Voorzitter van de Franse Assemblée nationale .	5
2. Uiteenzetting door Mevrouw Szili, Voorzitster van het Hongaars parlement	6
3. Gedachtewisseling	7
II. DE PARLEMENTEN VAN EUROPA IN EEN UITGEBREID EUROPA – POLITIEKE EN INSTITUTIONELE DIMENSIE	9
1. Uiteenzetting door de heer Cox, Voorzitter van het Europees parlement	9
2. Uiteenzetting door de heer Casini, Voorzitter van de Italiaanse Kamer van volksvertegenwoordigers	9
III. BESLUITEN	11
IV. BIJLAGEN	15
A. <i>De Parlementen in Europa en de Conventie over de Toekomst van Europa</i>	
1. Bijdrage van de heer J.-L. Debré	
2. Bijdrage van Dr. Katalin Szili	
B. <i>De Parlementen van Europa in een uitgebreid Europa – Politieke en institutionele dimensie</i>	
1. Bijdrage van de heer P. Cox	
2. Bijdrage van de heer P.-F. Casini	

DISCOURS D'OUVERTURE DE M. KAKLAMANIS, PRÉSIDENT DU PARLEMENT GREC.

Dans son allocution d'ouverture, le président du parlement grec a mis en exergue le rapport dialectique qui existe entre les deux thèmes de la Conférence.

Il a ensuite donné un aperçu du récent processus d'intégration européenne, évoquant notamment l'introduction de l'euro ainsi que l'élargissement et la mise sur pied d'une défense européenne.

Pour terminer, il a dressé un bilan succinct des travaux de la Convention européenne actuellement en cours. La parlementarisation des traités européens confère, en effet, un caractère unique à cette procédure.

La personnalité juridique accordée à l'Union européenne constitue une avancée importante et contribuera à donner corps à la politique étrangère et de sécurité commune. La création de la fonction de ministre des Affaires étrangères y contribuera également.

La fusion des trois piliers dans les traités européens constitue également un acquis.

Enfin, il a été reconnu que les parlements nationaux ont à tout moment un rôle à jouer dans l'intégration européenne. Cette reconnaissance est d'autant plus importante qu'elle permet d'associer le citoyen au processus d'intégration européenne.

I. LES PARLEMENTS DANS L'UNION EUROPÉENNE ET LA CONVENTION SUR L'AVENIR DE L'EUROPE.

1. *Exposé de M. Debré, président de l'Assemblée nationale française*

L'intervenant souligne que l'on assiste à un tournant dans l'histoire européenne : les citoyens attendent davantage de démocratie et de transparence.

Le défi à relever par l'Union européenne consiste à s'élargir tout en continuant à fonctionner convenablement. L'intervenant déplore que, bien qu'ils soient majoritaires au sein de la Convention, les membres des parlements nationaux (56 sur 105 membres) éprouvent des difficultés à dégager une position commune. La relation entre les parlements nationaux et les institutions de l'Union européenne (en particulier, le Parlement européen) doit se fonder sur la complémentarité.

OPENING DOOR DE HEER KAKLAMANIS, VOORZITTER VAN HET GRIEKS PARLEMENT.

In zijn openingstoespraak heeft de Griekse parlementsvoorzitter gewezen op het dialectische verband tussen de twee thema's van de Conferentie.

Vervolgens heeft hij een overzicht geschetst van het recente Europese integratieproces (met o.m. de invoering van de euro, de uitbreiding en de start van een Europese defensie).

Tenslotte maakt hij een korte bilan van de werkzaamheden in de aan gang zijnde Europese Conventie. Het unieke in deze procedure is wel de parlementarisering van de Europese Verdragen.

Een stap vooruit is dat de EU rechtspersoonlijkheid zal krijgen waardoor een bijdrage kan geleverd worden aan het Buitenlands- en Veiligheidsbeleid. Ook de creatie van de functie van een Minister van Buitenlandse Zaken, zal hiertoe bijdragen.

Een verworvenheid is eveneens de fusie van de 3 pijlers in de Europese Verdragen.

Tenslotte is ook de blijvende rol van de nationale parlementen in de Europese integratie, erkend. Dit is des te meer van belang om de burger bij het Europees integratieproces te betrekken.

I. DE PARLEMENTEN IN EUROPA EN DE CONVENTIE OVER DE TOEKOMST VAN EUROPA

1. *Uiteenzetting door de heer Debré, voorzitter van de Franse Assemblée nationale*

Er wordt op gewezen dat we een keerpunt meemaken in Europa: de burgers verwachten meer democratie en transparantie.

De uitdaging voor de EU is tegelijk uit te breiden en toch ook nog goed te functioneren. Spreker betreurt dat, hoewel de NP-leden in de meerderheid zijn in de Conventie (56 op 105 leden), ze moeilijk tot een gemeenschappelijk standpunt kunnen komen. De relatie tussen de NP (nationale parlementen) en de EU-instellingen (i.h.b. het EP) moet gebaseerd zijn op complementariteit.

La « procédure d'alerte rapide » proposée au sein de la Convention au profit des parlements nationaux, en vue de l'examen de la subsidiarité, fait l'objet d'une appréciation positive.

En ce qui concerne la coopération interparlementaire entre les parlements nationaux et le Parlement européen, il existe un risque de chevauchement.

La COSAC constitue la forme de collaboration idéale. Le secrétariat de la Troïka peut encore la renforcer, la COSAC ne pouvant toutefois devenir une institution.

L'intervenant met en garde contre le fait que la levée des piliers dans les Traités sur l'Union européenne n'engendre une perte de compétences pour les parlements nationaux. Ceux-ci disposent en effet d'une légitimité inattaquable.

Le rapporteur formule enfin les recommandations suivantes :

- Il y a lieu de retenir la méthode de la convention pour les prochaines révisions des traités.

- En vue, avant tout, d'une meilleure circulation de l'information, la coopération interparlementaire doit être renforcée par le biais de conventions institutionnelles entre les parlements nationaux et les institutions de l'Union européenne.

- La procédure d'alerte rapide proposée (*early warning*) pour les parlements nationaux est accueillie favorablement.

- En ce qui concerne les deuxième et troisième piliers du Traité sur l'Union européenne, des modalités de contrôle parlementaire doivent être élaborées.

- La transmission aux parlements nationaux des informations relatives à la Conférence intergouvernementale (après la Convention) doit être garantie.

2. Exposé de Mme Szili, présidente du Parlement hongrois

Un consensus se dégage au sein de la Convention européenne à propos du rôle des parlements nationaux. Ce consensus ne peut toutefois pas déboucher sur la création de nouvelles institutions, mais sur l'instauration de nouvelles procédures.

Il faut institutionnaliser la formule de la Convention en vue des prochaines révisions des traités.

De in de Conventie voorgestelde «early warning procedure» ten behoeve van de nationale parlementen, met het oog op het onderzoek naar de subsidiariteit, wordt positief beoordeeld.

Wat betreft de interparlementaire samenwerking EP-NP is er een gevaar voor overlapping.

De COSAC is de ideale samenwerkingsvorm. Het Trojka-secretariaat kan deze versterken; nochtans mag COSAC geen institutie worden.

Spreker waarschuwt ervoor dat het opheffen van de pijlers in de EU-verdragen, niet mag leiden tot het verlies van bevoegdheden van de NP. Zij hebben immers een onomstotelijke legitimiteit.

De rapporteur formuleert tenslotte volgende aanbevelingen:

- De conventiemethode moet worden gehandhaafd voor toekomstige verdragsherzieningen.

- De interparlementaire samenwerking moet versterkt worden door institutionele overeenkomsten tussen NP en de EU-instellingen, vooral met het oog op informatie-doorstroming.

- De voorgestelde «early warning procedure» voor de NP wordt positief beoordeeld.

- Met betrekking tot de tweede en derde pijler van het EU-Verdrag moeten modaliteiten uitgewerkt worden voor parlementaire controle.

- De informatieverstrekking aan de NP over de Intergouvernementele Conferentie (IGC) (na de Conventie) moet gegarandeerd worden.

2. Uiteenzetting door Mevr. Szili, voorzitter van het Hongaars Parlement

Er tekent zich in de Europese Conventie een consensus af over de rol van de NP. Dit mag evenwel niet leiden tot nieuwe instituties, maar wel tot andere procedures.

De Conventieformule moet geïnstitutionaliseerd worden met het oog op toekomstige verdragsherzieningen.

Au lieu d'accroître la transparence, la création de nouvelles institutions ajoute à la complexité. Elle ne constitue en tout cas pas une réponse au déficit démocratique, étant donné que les décisions sont prises à l'échelon européen, tandis que le débat a lieu au niveau national. C'est pourquoi il faut établir des liens avec les institutions européennes.

L'oratrice plaide en faveur d'un contrôle, par les parlements nationaux, de l'application correcte du principe de subsidiarité, mais elle estime que la procédure prévue à cet effet ne peut pas bloquer le processus législatif (par exemple, le carton rouge si les deux tiers des parlements nationaux formulent des objections).

L'oratrice souligne également l'importance des « directives de Copenhague » et du règlement de la COSAC relatif au suivi des parlements nationaux.

Mme Szili propose également d'associer d'autres commissions parlementaires au fonctionnement de la COSAC. Il conviendrait également de modifier la dénomination de la COSAC. Les parlements nationaux devraient participer de manière plus systématique aux réunions du parlement européen.

Pour terminer, elle estime que les États candidats à l'adhésion devraient pouvoir participer au même titre que les autres États à la Conférence intergouvernementale.

3. Échange de vues

De nombreux intervenants estiment que les travaux de la Convention se sont bien déroulés, notamment en ce qui concerne la procédure d'alerte rapide (*early warning*) des parlements nationaux. Ceux-ci devraient cependant également pouvoir accéder directement à la Cour européenne de justice.

Concernant la présidence du Conseil, plusieurs intervenants (notamment les États membres de petite taille) se rallient à la proposition du Benelux (qui prévoit de coupler cette question au renforcement de la Commission et qui prévoit en outre le maintien d'un commissaire par État membre).

La création de la fonction de ministre des Affaires étrangères entraînera le renforcement de la PESC et permettra à l'Union de parler d'une seule et même voix.

En ce qui concerne la planification des travaux, on s'attend à ce que la CIG puisse prendre une décision avant les élections du parlement européen (2004), ce qui devrait permettre aux citoyens de mieux saisir les enjeux de ces élections.

Nieuwe instellingen leiden niet tot grotere transparantie maar tot grotere complexiteit. Hiermee wordt zeker geen antwoord gegeven op het democratisch deficit. Dit vloeit voort uit het feit dat de besluitvorming op Europees niveau gebeurt, terwijl het debat op nationaal niveau plaatsgrijpt. Daarom moeten er linken worden uitgebouwd met de EU-instellingen.

Spreker is gewonnen voor het subsidiariteits-onderzoek door de NP, maar de procedure mag niet leiden tot een blokkering van het wetgevingsproces (bvb. red card indien 2/3 van de NP bezwaren heeft).

Gewezen wordt eveneens op het belang van de «Copenhague guidelines» en het COSAC reglement voor de nationaal-parlementaire follow-up.

Voorgesteld wordt ook om andere parlementaire commissies te betrekken bij de werking van de COSAC. De naam van de COSAC zou moeten wijzigen en de NP zouden meer systematisch aan de EP-vergaderingen moeten deelnemen.

Tenslotte moeten de kandidaat-lidstaten op dezelfde voet als de andere landen kunnen participeren in de IGC.

3. Gedachtewisseling

Tal van interveniënten zijn positief over het verloop van de werkzaamheden in de Conventie, i.h.b. de *early warning procedure* voor de NP. Zij moeten evenwel ook rechtstreeks toegang hebben tot het EHJ (Europees Hof van Justitie).

In verband met het Voorzitterschap van de Raad wordt door meerdere interveniënten (i.h.b. van de kleine lidstaten) het Benelux-voorstel onderschreven (koppeling aan de versterking van de Commissie en het behoud van één commissaris per lidstaat).

De creatie van de functie van een minister van Buitenlandse Zaken zal tot een versterking leiden van het GBVB en toelaten met één stem te spreken.

Wat de planning van de werkzaamheden betreft, wordt verwacht dat de IGC kan besluiten vóór de EP-verkiezingen (2004), zodat de burgers beter de inzet van de verkiezingen kennen.

M. Thierse, président du *Bundestag*, souligne la qualité de la communication et de la rétroaction entre les membres de la Convention et les parlements nationaux.

Ces derniers devraient en outre se prononcer sur les résultats de la Convention avant la CIG.

Si la plupart des intervenants se rallient aux conclusions des deux rapporteurs, certains points de vue ne sont pas passés inaperçus. Le président du Sénat belge a, par exemple, à nouveau défendu l'idée d'un Congrès réunissant des institutions existantes.

Ce Congrès devrait par ailleurs encadrer la coopération entre les commissions parlementaires.

Le président de la Chambre belge, M. De Croo, considère quant à lui que les parlements nationaux sont la source de toute légitimité, et qu'il est dès lors normal qu'ils examinent la question de la subsidiarité. Les membres des parlements nationaux sont, en effet, interpellés par le citoyen au sujet de la politique menée au niveau de l'Union européenne.

Un instrument plus pragmatique doit être élaboré pour constater l'existence du quorum d'un tiers prévu dans le cadre de la procédure d'alerte rapide (*early warning*). Le secrétariat de la Troïka pourrait s'en charger.

CONCLUSION

L'échange de vues a permis de dégager une idée maîtresse, à savoir que les parlements nationaux doivent jouer un rôle dans le processus décisionnel européen. Ce ne sont pas de nouvelles institutions, mais de nouvelles procédures qu'il s'agit de développer à cet effet.

La « procédure d'alerte rapide » conçue pour la vérification de la subsidiarité par les parlements nationaux (telle qu'elle a été proposée au sein de la Convention) fait l'unanimité. Elle ne peut toutefois déboucher sur une « carte rouge » (blocage du processus législatif).

Tous les parlements nationaux n'exigent pas d'avoir la possibilité de saisir a posteriori la Cour de justice européenne en cas de non-respect du principe de subsidiarité.

La plupart des intervenants soulignent la nécessité de développer la COSAC (non en tant que forme d'action collective des parlements nationaux, mais en vue de soutenir et de renforcer le contrôle des parlements nationaux à l'égard de leur propre gouvernement, notamment en ce qui concerne les deuxième et troisième piliers du Traité sur l'Union européenne).

De heer Thierse, voorzitter van de Duitse Bundestag, wijst op de goede communicatie en terugkoppeling tussen de Conventieleden en het nationaal parlement.

De NP zouden zich moeten uitspreken over de Conventieresultaten vóór de IGC.

De meeste interveniënten onderschrijven de conclusies van de beide rapporteurs. Toch waren er ook enige opmerkelijke standpunten. Zo heeft de Belgische Senaatsvoorzitter terug het idee van een Congres verdedigd, als een vergadering van bestaande instellingen.

Ook zou het Congres het kader moeten zijn waarbinnen de parlementaire commissies samenwerken.

De Belgische Kamervoorzitter, de heer De Croo, ziet de NP als de bron van alle legitimiteit. Het is dan ook normaal dat deze de subsidiariteit toetsen. De NP-leden worden door de burger aangesproken op het EU-beleid.

Er dient een pragmatischer instrument te worden ontwikkeld om het 1/3 quorum in de «early warning procedure» te constateren. Het Trojka-secretariaat kan deze rol vervullen.

CONCLUSIE

Uit de gedachtewisseling komt één grote constante naar voor, nl. dat de NP een rol moeten spelen in de Europese besluitvorming. Hiertoe moeten geen nieuwe instituties maar wel nieuwe procedures worden ontwikkeld.

De «early warning procedure» ter verificatie van de subsidiariteit door de NP (zoals voorgesteld in de Conventie) wordt algemeen onderschreven. Zij mag echter niet leiden tot een «red card» (blokkering van het wetgevingsproces).

Niet alle NP eisen de mogelijkheid op om zich ex post tot het EHJ te kunnen wenden indien het subsidiariteitsprincipe niet gerespecteerd werd.

De meeste interveniënten onderlijnen de noodzaak van de uitbouw van de COSAC (niet als collectieve actieform van de NP, maar wel ter ondersteuning en versterking van de NP-controle op de eigen regering, mede m.b.t. de tweede en derde pijler van het EU-verdrag).

II. LES PARLEMENTS D'EUROPE DANS UNE EUROPE ÉLARGIE – DIMENSION POLITIQUE ET INSTITUTIONNELLE

1. *Exposé de M. Cox, président du Parlement européen*

L'objectif partagé par tous est le renforcement du parlementarisme en tant qu'élément contribuant à la légitimité démocratique.

La collaboration parlementaire doit, à cet égard, être un message et peut être renforcée dans les domaines suivants :

- le contrôle de l'exécution du budget de l'Union européenne ;
- le contrôle de la sécurité et de la défense ;
- le contrôle de la politique en matière de liberté et de justice ;
- le contrôle de l'Union économique et monétaire.

Il conviendrait de renforcer la coopération parlementaire entre le parlement européen et les parlements nationaux, tant au niveau des commissions parlementaires qu'au niveau des groupes politiques.

Les parlementaires européens devront également jouer un rôle plus important en ce qui concerne le gouvernement mondiale.

La coopération interparlementaire doit déboucher sur un renforcement du contrôle parlementaire qui s'exerce sur le système commercial mondial et les organisations internationales (comme l'OMC) qui y sont associées.

2. *Exposé de M. Casini, président de la Chambre des représentants italienne*

Le rapporteur présente un relevé exhaustif des formes de coopération interparlementaire (dans le monde entier).

Il est proposé d'examiner, au sein de cette Conférence, les possibilités de rationalisation et de coordination de cette forme de coopération interparlementaire, en particulier sous l'angle des relations extérieures des parlements dans l'Union européenne.

Cette rationalisation peut être définie dans un accord interparlementaire, ainsi que l'a proposé le Parlement européen.

II. DE PARLEMENTEN VAN EUROPA IN EEN UITGEBREID EUROPA – POLITIEKE EN INSTITUTIONELE DIMENSIE

1. *Uiteenzetting door de heer Cox, voorzitter van het Europees Parlement*

Het doel dat iedereen onderschrijft is de versterking van het parlementarisme als een bijdrage tot de democratische legitimiteit.

Parlementaire samenwerking is hierbij de boodschap en deze kan versterkt op volgende terreinen:

- controle op de uitvoering van het EU-budget ;
- controle op veiligheid en defensie ;
- controle op het beleid inzake vrijheid en justitie ;
- controle op de Economische en Monetaire Unie.

Parlementaire samenwerking tussen EP en NP zou moeten verbeteren, zowel op het niveau van de parlementaire commissies als op het niveau van de politieke groepen.

De Europese parlementairen zullen ook een grotere rol moeten spelen m.b.t. de «world governance».

Interparlementaire samenwerking moet leiden tot een sterkere parlementaire controle op het wereldhandels-systeem en de internationale organisaties (o.m. WHO) die daarbij betrokken zijn.

2. *Uiteenzetting door de heer Casini, voorzitter van de Italiaanse Kamer van volksvertegenwoordigers*

De rapporteur geeft een exhaustief overzicht van de vormen van interparlementaire samenwerking (wereldwijd).

Voorgesteld wordt om in het kader van deze Conferentie de mogelijkheden te onderzoeken om deze interparlementaire samenwerkingsvorm te rationaliseren en te coördineren, vooral vanuit het oogpunt van de externe relaties van de parlementen in de EU.

Deze rationalisering kan gestipuleerd worden in een Interparlementaire overeenkomst zoals voorgesteld door het EP.

La rationalisation de la coopération parlementaire passe par la définition de priorités, en particulier :

- l'attention portée aux régions environnantes : les Balkans, la région méditerranéenne, la Russie et les États indépendants ;
- le renforcement des relations transatlantiques par le biais d'une coopération interparlementaire entre l'Union européenne (parlements nationaux et Parlement européen) et les États-Unis.

À la suite du rapport Casini, le président du Parlement suédois a proposé de constituer un groupe de travail chargé d'examiner la collaboration entre les parlements et l'Union européenne et de formuler des propositions en vue de sa coordination.

La COSAC pourrait faire office de plaque tournante en la matière.

Certains présidents (notamment français, britannique, allemand et espagnol) critiquent la création d'un énième groupe de travail. Il est proposé de mettre d'abord en place le secrétariat de la COSAC (conformément à la décision prise à la COSAC d'Athènes) et de procéder à une évaluation après deux ans. Il convient en tout cas de se baser sur le travail déjà fourni par la présidence danoise.

Certains présidents ont trop vite tendance à confondre ce groupe de travail avec une nouvelle institution.

Par le truchement du président du Sénat, la Belgique a soutenu l'initiative d'un groupe de travail et montré sa volonté de lui apporter sa collaboration.

Ce groupe de travail se composerait de quatre rapporteurs issus du parlement grec et du parlement néerlandais (organisateur de la prochaine conférence, prévue pour juillet 2004). L'Italie s'est dite disposée à organiser une première réunion informelle dudit groupe de travail au cours de la présidence italienne de l'Union européenne.

Ce groupe de travail doit soumettre un rapport à la prochaine conférence (Pays-Bas, juillet 2004) ou à la Conférence extraordinaire. Le président Braks (*Eerste Kamer*, Pays-Bas) estime en effet qu'un rapport concernant cette question doit être prêt d'ici à ce que la CGI prenne ses décisions.

Une autre question (soulevée par M. Thierse, président du *Bundestag*) concernait la revendication visant à ce que les résultats de la Convention soient soumis à un débat au sein des parlements nationaux avant d'être soumis à la CIG. Cette demande a été inscrite dans la version amendée des conclusions.

Rationalisering van parlementaire samenwerking moet gebeuren door het formuleren van prioriteiten, i.h.b.:

- de aandacht voor de omringende gebieden: de Balkan, de Mediterrane regio, Rusland en de Onafhankelijke staten.
- de transatlantische relaties moeten versterkt worden door interparlementaire samenwerking tussen de EU (NP en EP) en de VS.

Aansluitend op het rapport Casini, heeft de Zweedse parlementsvoorzitter een voorstel geformuleerd ter oprichting van een Werkgroep om de samenwerking tussen de parlementen in de EU te onderzoeken en voorstellen te formuleren om deze te coördineren.

De COSAC wordt hierbij als mogelijke draaischijf gezien.

Sommige voorzitters (o.m. Frankrijk, VK, Duitsland, Spanje) hebben kritiek op alweer een nieuwe Werkgroep. Voorgesteld wordt eerst het COSAC-secretariaat (zoals beslist op de Athene-COSAC) op te starten en na twee jaar te evalueren. Er moet in elk geval worden uitgegaan van het werk reeds geleverd door het Deense Voorzitterschap.

Sommige voorzitters verwarren deze Werkgroep al te vlug met een nieuwe institutie.

België heeft bij monde van de Senaatsvoorzitter het initiatief voor een Werkgroep gesteund en zijn bereidheid getoond om mee te werken.

De Werkgroep zou samengesteld zijn uit de 4 rapporteurs, het Griekse parlement en het Nederlandse (als organisator van de volgende conferentie in juli 2004). Italië heeft zich bereid verklaard een eerste informele vergadering van de Werkgroep te houden tijdens het Italiaans EU-voorzitterschap.

De Werkgroep moet een rapport voorleggen tegen volgende conferentie (Nederland, juli 2004) ofwel tegen een Buitengewone Conferentie. Voorzitter Braks (*Eerste Kamer* Nederland) is immers van oordeel dat een rapport ter zake moet klaar zijn tegen de IGC-besluiten.

Een ander discussiepunt (aangebracht door de heer Thierse, voorzitter Duitse Bundestag) was de eis om de Conventieresultaten eerst aan een debat in de NP te onderwerpen alvorens ze aan de IGC voor te leggen. Deze revendicatie is opgenomen in een geamendeerde versie van de conclusies.

On observera, à titre d'évaluation de cette Conférence, que si la plupart des présidents confirment la situation de fait (les mesures qui constituent déjà un acquis dans la Convention), ils ne formulent aucune nouvelle proposition volontariste.

III. CONCLUSIONS DE LA PRESIDENCE

A. *Observations préliminaires*

1. Les 23 et 24 mai 2003 s'est tenue au siège du Parlement Hellénique la Conférence annuelle ordinaire des Présidents des parlements nationaux de l'Union européenne ainsi que du Parlement européen. A cette conférence ont été invités à participer, et ce, dès le début, les Présidents des parlements des pays adhérents à l'Union européenne ainsi que des pays candidats, que la Présidence Hellénique au nom de tous les Etats membres de l'Union salue et félicite.

2. Le thème général de la Conférence "L'Europe en évolution" a été examiné par le biais de deux sous-thèmes plus spécifiques "Les parlements européens et la Convention sur l'avenir de l'Europe" ainsi que "Le rôle des parlements européens dans une Europe élargie: la dimension institutionnelle et politique". Au cours de son introduction générale, le Président du Parlement hellénique, Monsieur Apostolos Kaklamanis a évoqué le tournant historique que représentent pour l'Union européenne les récents défis mondiaux, et a exprimé sa problématique sur sa réforme et son élargissement.

3. Le président de l'Assemblée nationale de la République française, Monsieur Jean-Louis Debré a décrit en détail les différents rôles remplis par les parlements dans le cadre de la Convention ainsi qu'en d'autres enceintes, et a souligné l'importance de redéfinir le rôle de ces derniers au sein d'une Europe élargie. La Présidente de l'Assemblée générale hongroise, Mme Katalin Szili a souligné la nécessité de simplifier les procédures au sein de l'Union européenne au lieu de créer de nouvelles institutions. Le Président du Parlement européen, Monsieur Pat Cox a passé en revue le rôle des parlements au sein d'un système de gouvernance européenne et mondiale, en proposant des mesures spécifiques pour améliorer la coopération entre les parlements nationaux et le Parlement Européen. Enfin, le Président de la Chambre des Députés italienne, M. Pier Ferdinando Casini, a fait référence aux relations extérieures de l'Union européenne ainsi qu'à la coopération interparlementaire.

Ter evaluatie van deze Conferentie moet gesteld dat de meeste voorzitters de feitelijke situatie (de maatregelen die reeds een acquis vormen in de Conventie) bevestigen, maar geen nieuwe voluntaristische voorstellen formuleren.

III. CONCLUSIES VAN HET VOORZITTERSCHAP

A. *Voorafgaande opmerkingen*

1. Op 23 en 24 mei 2003 werd in de zetel van het Griekse parlement de jaarlijkse gewone Conferentie gehouden van voorzitters van de nationale parlementen van de Europese Unie alsook van het Europees Parlement. De parlementsvoorzitters van de tot de Europese Unie toetredende landen en van de kandidaat-lidstaten werden uitgenodigd om reeds van bij de aanvang aan die conferentie deel te nemen; het Grieks Voorzitterschap groet en feliciteert die landen in naam van alle lidstaten van de Unie.

2. Het algemeen thema van de conferentie, »Europa in ontwikkeling«, werd besproken aan de hand van twee meer specifieke subthema's, met name «De Europese parlementen en de Conventie over de toekomst van Europa» en «De rol van de Europese parlementen in een uitgebreid Europa : de institutionele en politieke dimensie». In zijn algemene inleiding heeft de voorzitter van het Griekse parlement, de heer Apostolos Kaklamanis, aangegeven op welk keerpunt de Europese Unie staat ingevolge de recent ontstane wereldomvattende uitdagingen, en heeft hij het vraagstuk geschetst inzake de hervorming en uitbreiding van de Unie.

3. De voorzitter van de Franse *Assemblée nationale*, de heer Jean-Louis Debré, heeft een gedetailleerd overzicht gegeven van de verschillende rollen die de respectieve parlementen spelen binnen de Conventie en in andere fora, en hij heeft beklemtoond dat het van belang is de rol van die parlementen binnen een uitgebreid Europa opnieuw af te bakenen. De voorzitster van Hongaarse Algemene Assemblee, Dr. Katalin Szili, heeft de noodzaak onderstreept van vereenvoudigde procedures in plaats van nieuw opgerichte EU-instanties. De voorzitter van het Europees Parlement, de heer Pat Cox, heeft de diverse rollen opgesomd die de parlementen spelen binnen een bestel dat erop is gericht te voorzien in een Europese en wereldwijde *governance*, en heeft daarbij voorgesteld specifieke maatregelen te nemen ter verbetering van de samenwerking tussen de nationale parlementen en het Europees Parlement. Ten slotte heeft de voorzitter van de Italiaanse Kamer van volksvertegenwoordigers, de heer Pier Ferdinando Casini, verwezen naar de externe betrekkingen die de Europese Unie onderhoudt en naar de onderlinge samenwerking tussen de parlementen.

B. *Points discutés pendant l'exposé*

Les Présidents des parlements ont souligné les questions suivantes:

1. Ils sont convenus que l'Union européenne se trouve à un tournant critique de son histoire en raison des évolutions internationales, dont les répercussions se font sentir au niveau européen et mondial. Pour relever les nouveaux défis qui se présentent, l'Union européenne doit moderniser ses structures et renforcer sa présence au niveau international.

2. Ils ont souligné que l'Union européenne doit jouer un rôle essentiel dans le domaine des relations internationales. La Convention européenne doit soumettre des propositions positives afin de redéfinir le rôle de l'Union sur la scène internationale et de lui permettre d'y exercer son influence d'une manière plus dynamique.

3. Ils ont constaté avec un esprit positif les efforts gigantesques et parallèles déployés pour la première fois par l'Union européenne, d'une part pour la révision de ses institutions - par le biais de la Convention sur l'avenir de l'Europe et de la Conférence intergouvernementale - et d'autre part pour l'intégration d'une grande partie du continent européen dans un ensemble cohérent - par l'adhésion de nouveaux pays de l'Europe centrale et orientale et de la Méditerranée. Ils ont déclaré le soutien total des parlements à cette grande tentative et soulignent la nécessité de soumettre les propositions de la Convention européenne aux parlements Nationaux et au Parlement européen, dans un temps réel, avant le début des travaux de la Conférence intergouvernementale. Ils s'attendent à ce que tous les pays adhérents participent pleinement aux travaux de ladite Conférence intergouvernementale et soulignent la nécessité de soumettre les propositions de la Convention européenne aux parlements nationaux et au Parlement européen, et ceci avant le début de la Conférence intergouvernementale.

Ils espèrent également que tous les pays candidats pourront participer sur la même base à la Conférence intergouvernementale

4. Ils ont confirmé le rôle fondamental des institutions parlementaires dans l'instauration du dialogue démocratique ainsi que la nécessité de diminuer davantage le déficit démocratique au sein de l'Union. Ils ont adopté une attitude positive par rapport au processus entamé par les Traités de Maastricht et d'Amsterdam, et surtout les Déclarations de Nice et de Laeken. Néanmoins, ils ont souligné que le rôle des Parlements Natio-

B. *Tijdens de betogen besproken punten*

De parlementsvoorzitters hebben de volgende vraagstukken onder de aandacht gebracht.

1. Ze zijn het erover eens dat de Europese Unie zich op een kritiek keerpunt in haar geschiedenis bevindt ingevolge de internationale ontwikkelingen, waarvan de gevolgen zich doen gevoelen op Europese en mondiale schaal. Om de nieuw ontstane uitdagingen het hoofd te kunnen bieden, moet de Europese Unie haar structuren moderniseren en haar aanwezigheid op internationaal vlak versterken.

2. Zij hebben onderstreept dat de Europese Unie een essentiële rol te spelen heeft wat de internationale betrekkingen betreft. De Europese Conventie moet positieve voorstellen indienen teneinde de rol van de Europese Unie op het internationale toneel een andere invulling te geven, en haar invloed er op een meer dynamische wijze te laten gelden.

3. Zij hebben met een positieve instelling geconstateerd welke gigantische inspanningen de Europese Unie voor het eerst tegelijkertijd in meerdere opzichten heeft geleverd; zulks geschiedde enerzijds met het oog op de bijsturing van haar instanties (via de Conventie over de toekomst van Europa en via de Intergouvernementele Conferentie) en anderzijds door de integratie van een groot deel van het Europese continent in een samenhangend geheel (dankzij de toetreding van nieuwe landen uit Centraal-Europa en uit het Middellandse-Zeegebied). De parlementen hebben ten volle hun steun toegezegd aan dit veelomvattende initiatief en beklemtonen de noodzaak de voorstellen van de Europese Conventie voor te leggen aan de nationale parlementen en het Europees Parlement, en dit voor het begin van de Intergouvernementele Conferentie.

Zij verwachten ook dat alle kandidaat-lidstaten op gelijkwaardige basis kunnen deelnemen aan de Intergouvernementele Conferentie.

4. Zij hebben de fundamentele rol bevestigd die de parlementaire instanties spelen als het erom gaat de democratische dialoog op gang te brengen, en hebben nogmaals gewezen op de noodzaak het democratisch deficit binnen de Unie nog verder terug te dringen. Zij hebben een positieve houding aangenomen inzake het proces dat niet alleen op gang kwam ingevolge de verdragen van Maastricht en van Amsterdam, maar vooral

naux dans les événements européens doit être valorisé et renforcé. Cette tâche est confiée désormais à la Convention européenne et à la Conférence intergouvernementale.

En outre, ils ont exprimé leur volonté de renforcer la coopération dans le domaine de la politique européenne de sécurité et de défense.

5. Ils ont exprimé leur satisfaction à l'égard du parcours effectué par la Convention Européenne à ce jour ainsi que leur souhait de voir le même processus retenu à l'avenir. Ils se sont tout particulièrement prononcés favorablement sur les propositions soumises à la Convention, pour l'incorporation de la Charte des droits fondamentaux à l'UE, pour l'abolition des trois piliers, pour la simplification des procédures juridiques ainsi que pour le renforcement du rôle des parlements nationaux. Ils se sont montrés plutôt favorables à l'amélioration des procédures existantes qu'à la création de nouvelles institutions.

6. Ils ont considéré que les Protocoles proposés sur le rôle des parlements nationaux et sur la mise en oeuvre des principes de subsidiarité et de proportionnalité constituent un pas positif dans la bonne direction, en particulier en ce qui concerne la question d'un contrôle plus étroit des institutions européennes et la nécessité d'une information plus efficace des parlements nationaux par le Conseil et la Commission européenne. Néanmoins, ils ont noté que des idées audacieuses s'imposent pour valoriser comme il se doit le rôle des institutions représentatives.

7. Les Présidents des parlements ont pris connaissance de la proposition du Parlement suédois pour la création d'un Groupe de Travail, qui aura comme objectif de développer davantage la coopération entre les parlements de l'Union européenne.

Les Présidents se sont mis d'accord sur ladite proposition et ont confié au Parlement suédois, en collaboration avec la Présidence hellénique sortante et la Présidence néerlandaise imminente, ainsi qu'avec les quatre Assemblées parlementaires dont les délégués ont été rapporteurs à la Conférence (Parlement Européen, France, Italie, Hongrie) et tout autre Parlement qui souhaiterait participer à cette initiative, d'étudier la proposition en question et de présenter leur rapport à la prochaine Conférence ordinaire ou extraordinaire, pour qu'une décision y relative soit prise.

door de verklaringen van Nice en van Laken. Niettemin hebben zij beklemtoond dat de rol van de nationale parlementen in de Europese gebeurtenissen dient te worden gevaloriseerd en versterkt; zulks is voortaan een taak voor de Europese Conventie en voor de Intergouvernementele conferentie.

Voorts hebben zij zich bereid verklaard nauwer te gaan samenwerken inzake het Europees veiligheids- en defensiebeleid.

5. Zij hebben hun tevredenheid geuit over het tot dusver door de Europese Conventie geleverde werk, en te kennen gegeven dat zij dat proces in de toekomst wensen voort te zetten. Zij hebben inzonderheid hun instemming betuigd met de aan de Conventie voorgelegde voorstellen; deze strekken ertoe het Handvest van de grondrechten van de Europese Unie in een en ander op te nemen, de drie pijlers af te schaffen, de juridische procedures te vereenvoudigen en de nationale parlementen een belangrijkere rol toe te bedelen. Voorts hebben zij hun voorkeur uitgesproken voor een vereenvoudiging van de bestaande procedures in plaats van de oprichting van nieuwe instanties.

6. Zij beschouwen de voorgelegde protocollen inzake de rol van de nationale parlementen en inzake de tenuitvoerlegging van het subsidiariteits- en het proportionaliteitsbeginsel als een stap in de goede richting, inzonderheid met betrekking tot het vraagstuk betreffende een striktere controle op de Europese instellingen, alsook als het erom gaat te zorgen voor de noodzakelijke, meer efficiënte voorlichting van de nationale parlementen door de Raad en de Europese Commissie. Toch hebben zij opgemerkt dat gedurfde ideeën nodig zijn teneinde de rol van de representatieve instellingen naar behoren te kunnen valoriseren.

7. De parlementsvoorzitters hebben kennis genomen van het voorstel van het Zweedse parlement om een werkgroep op te richten die moet komen tot een nauwere onderlinge samenwerking tussen de parlementen van de Europese Unie.

De voorzitters hebben met dat voorstel ingestemd, en hebben het Zweedse parlement, het ontslagnemende Griekse en het toekomstige Nederlandse voorzitterschap, alsmede de vier parlementen waarvan de afgevaardigden rapporteur zijn geweest op de Conferentie (*in casu* het Europees Parlement, Frankrijk, Italië en Hongarije) en alle parlementen die eventueel aan dat initiatief willen meewerken, opgedragen het voorstel in kwestie te bestuderen en terzake hun verslag over te leggen op de volgende gewone of buitengewone Conferentie, zodat daarover een beslissing kan worden genomen.

La prochaine Conférence des Présidents des parlements de l'Union Européenne se tiendra aux Pays-Bas au mois de juillet 2004.

Herman DE CROO

De volgende Conferentie van voorzitters van de parlementen van de Europese Unie vindt in juli 2004 plaats in Nederland.

Herman DE CROO

IV. ANNEXES*A. Les Parlements européens et la Convention sur l'avenir de l'Europe*

1. Contribution de M. J.-L. Debré (en Français et en Anglais)
2. Contribution du Dr. Katalin Szili

B. Le rôle des Parlements européens dans une Europe élargie: la dimension politique et institutionnelle

1. Contribution de M. P. Cox
2. Contribution de M. P.-F. Casini

IV. BIJLAGEN*A. De Parlementen in Europa en de Conventie . . . over de Toekomst van Europa*

1. Bijdrage van de heer J.-L. Debré (in Frans en Engels)
2. Bijdrage van Dr. Katalin Szili

B. De Parlementen van Europa in een uitgebreid Europa – Politieke en institutionele dimensie

1. Bijdrage van de heer P. Cox
2. Bijdrage van de heer P.-F. Casini



ANNEXE A.1 - BIJLAGE A.1

**CONFÉRENCE DES PRÉSIDENTS
DES PARLEMENTS EUROPÉENS**

Athènes – 23 - 24 mai 2003

**LES PARLEMENTS NATIONAUX
ET L'ÉVOLUTION INSTITUTIONNELLE
DE L'EUROPE**

**RAPPORT PRÉSENTÉ PAR
M. JEAN-LOUIS DEBRÉ,**

PRÉSIDENT DE L'ASSEMBLÉE NATIONALE FRANÇAISE

SOMMAIRE

<i>Avant-propos</i>	19
Première partie :	
<i>La dimension interinstitutionnelle du rôle des Parlements nationaux au regard des travaux de la Convention</i>	20
I - Les Parlements nationaux et la Commission européenne	20
• Vers un accès direct des Parlements nationaux aux documents de la Commission	20
➤ L'état du droit existant	20
➤ La proposition de la Convention	20
• Une innovation institutionnelle : le droit d'alerte précoce	21
➤ La procédure envisagée pour le contrôle du principe de subsidiarité	21
➤ Une extension souhaitable du mécanisme d'alerte précoce aux droits fondamentaux	22
II - Les Parlements nationaux et le Conseil de l'Union européenne	22
• Les enjeux d'une plus grande transparence des travaux du Conseil	22
• L'élaboration d'un code de conduite	23
➤ Nature des informations transmises aux Parlements nationaux	23
➤ Délais d'examen des propositions	23
III - Les Parlements nationaux et le Parlement européen	24
• Une clarification des rôles : de la concurrence à la complémentarité	24
• La dimension interparlementaire de l'Union européenne	24
Deuxième Partie :	
<i>Le rôle collectif des Parlements nationaux demeure un sujet de division</i>	26
I - Le bilan décevant de la Conférence des organes spécialisés dans les affaires communautaires (COSAC)	26
• De la création à l'institutionnalisation de la COSAC	26
• La difficile évolution de la COSAC	26
II - L'absence de consensus sur les formes de représentation collective des Parlements nationaux	27
• Le rejet d'une seconde chambre	27
• Les incertitudes relatives à la création d'un « Congrès européen »	28
Troisième Partie :	
<i>Vers une redéfinition du rôle des Parlements nationaux dans une Europe élargie</i>	29
I - La dimension constitutionnelle du rôle des Parlements nationaux	29
• Les modalités d'une implication dans la révision du Traité constitutionnel	29
➤ Une participation des Parlements nationaux au stade de l'élaboration du projet de révision	29
➤ Une participation des Parlements nationaux à l'adoption de certaines dispositions constitutionnelles	29
• La participation des Parlements nationaux au processus d'élargissement	30
➤ L'information des Parlements nationaux sur le déroulement des négociations d'adhésion	30
➤ L'intervention des Parlements nationaux lors de la ratification des traités d'adhésion	30
II - L'intervention des Parlements nationaux dans la perspective de la suppression des piliers de l'Union européenne	30
• Les Parlements nationaux, l'Union économique et monétaire et le financement de l'Union européenne	30
➤ L'Union économique et monétaire	30
➤ Le financement de l'Union	31
• Les Parlements nationaux et la politique étrangère de sécurité commune et de défense	31
• Les Parlements nationaux et l'espace de liberté, de sécurité et de justice	31
➤ La simplification des instruments juridiques	32
➤ La reconnaissance à l'Union européenne de la personnalité juridique internationale	32
➤ Le contrôle politique d'Europol	32
<i>Conclusion :</i>	
<i>Sept recommandations pour le rôle des Parlements nationaux dans l'Europe élargie</i>	33

AVANT-PROPOS

L'avenir des Parlements nationaux dans l'Union européenne se joue aujourd'hui à la Convention. Largement majoritaires – ils constituent 56 des 105 membres de la Convention –, les députés des Parlements nationaux éprouvent pourtant des difficultés à s'exprimer d'une manière organisée, au sein d'une assemblée où les rapports de force sont complexes : « grands » pays et « petits » pays, « souverainistes » et « communautaristes », « supranationaux » et « intergouvernementaux », actuels pays membres et futurs pays membres, gouvernements et Parlements... Loin de privilégier une composante plutôt qu'une autre, ou de faire primer tel ou tel intérêt, il s'agit pourtant de progresser dans la voie d'objectifs clairs, au service d'un projet commun et de peuples rassemblés.

La Déclaration relative à l'avenir de l'Union, annexée au traité de Nice, mentionne le rôle des Parlements nationaux dans l'architecture européenne parmi les quatre questions importantes dans la perspective de l'élargissement et du renforcement démocratique de l'Europe réunifiée. La décision prise à Laeken, en décembre 2001, par les Chefs d'État et de gouvernement de convoquer une Convention chargée de proposer une réforme des institutions est un signal positif adressé aux Parlements de l'Union. Jamais auparavant la procédure de révision des traités n'avait été aussi transparente, aussi démocratique, aussi politique et par conséquent aussi... parlementarisée.

Les citoyens que nous représentons attendent beaucoup d'une Europe qu'ils ne comprennent pas toujours. Les parlementaires que nous sommes avons le devoir de renforcer l'implication quotidienne de nos assemblées dans les affaires européennes qui, chacun d'entre nous le sait, ne sont pas des affaires étrangères. L'association des Parlements nationaux à la construction européenne est un thème récurrent depuis l'élection en 1979 des députés européens au suffrage universel direct. En 1999, l'entrée en vigueur du protocole sur le rôle des Parlements nationaux annexé au traité d'Amsterdam a constitué la reconnaissance explicite de l'apport des Parlements à la construction de l'Europe. Alors que l'Union est critiquée pour son déficit démocratique, la Convention européenne a ouvert des perspectives nouvelles qu'il nous appartient de saisir. L'implication des Parlements nationaux constitue un élément clé de l'approfondissement de l'Union que nous appelons de nos vœux.

A travers les travaux qui se sont engagés il y a quinze mois, et qui devraient se conclure dans quelques semaines, la dimension parlementaire de l'Union s'est révélée à plusieurs reprises. Le rapport qui vous est présenté entend souligner l'enjeu que représentent les réformes envisagées par la Convention au regard du rôle futur des Parlements nationaux.

Qu'il s'agisse du contrôle des principes de subsidiarité et de proportionnalité, de la suppression des piliers et de ses conséquences sur les politiques de l'Union, de la promotion de la citoyenneté européenne et de la vie démocratique de l'Union, de la reconnaissance de la personnalité juridique internationale ou des procédures de révision des traités : tous ces sujets ont une dimension parlementaire que nous devons promouvoir. Dans un esprit d'échange et de dialogue interinstitutionnel, les Parlements nationaux peuvent jouer, individuellement, un rôle actif auprès de chacune des institutions du « triangle » communautaire. Collectivement, ils devront également à l'avenir imaginer des formes souples mais efficaces de coopération interparlementaire, qui participeront à la redéfinition de leur rôle dans une Europe élargie.

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PREMIÈRE PARTIE

LA DIMENSION INTERINSTITUTIONNELLE DU RÔLE DES PARLEMENTS NATIONAUX AU REGARD DES TRAVAUX DE LA CONVENTION

I – Les Parlements nationaux et la Commission européenne

Les Parlements nationaux n'ont jamais eu, dans l'histoire de la construction européenne, de relation directe avec les institutions communautaires¹. Ils ont toujours exprimé leurs positions à travers le prisme de leurs gouvernements respectifs agissant au sein du Conseil de l'Union européenne. Cet isolement organique a pu, dans une certaine mesure, placer les parlementaires nationaux à l'écart des grands enjeux politiques européens, provoquant une certaine méconnaissance du fonctionnement institutionnel de l'Union. Une innovation majeure proposée par la Convention consiste ainsi à organiser un dialogue institutionnel direct entre les Parlements nationaux et la Commission européenne.

- *Vers un accès direct des Parlements nationaux aux documents de la Commission*

- *L'état du droit existant*

L'entrée en vigueur en 1999 du Protocole sur le rôle des Parlements nationaux dans l'Union européenne, annexé au traité d'Amsterdam, a marqué une avancée importante dans les droits reconnus aux Parlements nationaux, en prévoyant que « *tous les documents de consultation de la Commission (livres verts, livres blancs et communications) sont transmis rapidement aux Parlements nationaux des États membres* ». S'agissant des « *propositions législatives* », leur communication doit intervenir « *suffisamment à temps pour que le gouvernement de chaque État membre puisse veiller à ce que le parlement national de son pays les reçoive comme il convient* ». En pratique, cela signifie que la Commission n'adresse jamais directement ses documents aux Parlements nationaux et que c'est par l'intermédiaire des gouvernements que les Parlements nationaux sont informés des activités législatives de l'Union.

- *La proposition de la Convention*

Le projet de protocole sur l'application des principes de subsidiarité et de proportionnalité, présenté par le Présidium de la Convention², prévoit dans son point 3 que « *la Commission envoie toutes ses propositions législatives ainsi que ses propositions modifiées aux Parlements nationaux des États membres en même temps qu'au législateur de l'Union* ». Quant au projet de protocole sur le rôle des Parlements nationaux, il prévoit que « *tous les documents de consultation de la Commission (livres verts, livres blancs et communications) sont transmis **directement** par la Commission aux Parlements nationaux des États membres* » et ajoute que « *la Commission envoie toutes ses propositions législatives directement aux Parlements nationaux des États membres **en même temps qu'au Parlement européen et au Conseil*** ». Cette rédaction reprend une recommandation formulée par le groupe de travail de la Convention « *Parlements nationaux* » présidé par Mme Gisela Stuart. Dans une contribution à ce groupe de travail³, le Commissaire Michel Barnier, membre de la Convention, précisait ainsi que « *la Commission n'aurait aucune difficulté à envisager une transmission directe si les États membres étaient de l'avis que cela ne remettrait pas en cause les relations constitutionnelles entre gouvernements et Parlements nationaux* ».

Le champ des documents soumis à transmission automatique pouvant apparaître restrictif, plusieurs amendements ont été déposés au sein de la Convention afin d'élargir les domaines couverts par le protocole⁴ : transmission de la stratégie pluriannuelle, rapport annuel du médiateur européen, conséquences financières et réglementaires des propositions législatives. Certains amendements suggèrent aussi que la Commission réponde sans délai aux demandes d'information ou de précisions émanant des Parlements nationaux. En effet, les documents officiels de

¹ Si jusqu'en 1979 les députés européens étaient certes des délégués des Parlements nationaux, l'Assemblée de Strasbourg n'avait qu'un rôle consultatif et ne disposait pas des pouvoirs qui lui sont reconnus aujourd'hui.

² CONV 579/03 (27 février 2003)

³ WG IV - WD 9 (15 juillet 2002)

⁴ CONV 610/03 (12 mars 2003)

l'Union européenne étant désormais accessibles sur Internet, les Parlements peuvent se les procurer directement et instantanément ; en revanche, un dialogue institutionnel avec la Commission pourrait apporter une valeur ajoutée substantielle en offrant aux Parlements nationaux les éclairages nécessaires à une analyse approfondie des textes sur lesquels ils sont appelés à se prononcer.

• *Une innovation institutionnelle : le droit d'alerte précoce*

➤ *La procédure envisagée pour le contrôle du principe de subsidiarité*

Le principe de subsidiarité, introduit par le traité de Maastricht, fait référence au niveau d'intervention le plus pertinent lorsqu'une compétence est partagée entre l'Union et les États membres. Dans ce cas de compétences « partagées » ou « concurrentes », une action européenne ne se justifie que si l'Union est réellement en mesure d'agir plus efficacement que les États membres individuellement.

L'application du principe de subsidiarité est l'un des quatre thèmes prioritaires qui figure dans la Déclaration sur l'avenir de l'Europe annexée au traité de Nice. C'est un sujet étroitement lié à celui du rôle des Parlements nationaux, tant l'absence d'un contrôle approprié du respect de la subsidiarité peut entraîner une dépossession du champ de compétence parlementaire.

Les recommandations du groupe de travail « *subsidiarité* » créé au sein de la Convention et présidé par M. Inigo Mendez de Vigo⁵, préconisent la reconnaissance aux Parlements nationaux d'un « droit d'alerte précoce » par lequel chaque Parlement national pourrait adresser à la Commission un avis motivé sur le non-respect supposé du principe de subsidiarité. L'alerte précoce vise ainsi à permettre aux Parlements nationaux d'exprimer leur position, individuellement et directement, au début de la procédure législative communautaire. Il s'agit là d'un contrôle politique *ex ante*, qui n'a pas vocation à faire intervenir les Parlements nationaux directement dans la procédure législative communautaire. Cela justifie que la Commission ne peut être juridiquement liée par les avis émis. Ainsi, le projet de protocole sur l'application des principes de subsidiarité et de proportionnalité précise que dans le cas où au moins un tiers des Parlements nationaux émettraient un avis motivé sur le non-respect par la proposition de la Commission du principe de subsidiarité, celle-ci serait tenue de réexaminer sa proposition. À l'issue de ce réexamen, la Commission pourrait décider, soit de maintenir sa proposition, soit de la modifier, soit de la retirer.

De nombreux amendements ont été déposés sur ce projet de protocole, visant à instaurer un « carton rouge » qui obligerait la Commission à retirer sa proposition dès lors que 2/3 des Parlements nationaux auraient émis un avis négatif. Les effets pervers d'une telle proposition ne doivent pas être sous-estimés ; en intervenant si brutalement dans la procédure législative, les Parlements prennent le risque d'apparaître comme une source de blocage de la construction européenne. Or il existe de nombreux autres moyens d'associer les Parlements nationaux que de les placer exclusivement en position d'opposition.

En tout état de cause, même si elle n'est pas juridiquement liée par les avis parlementaires, la Commission sera en pratique tenue par un rapport de force politique qui aura naturellement des conséquences sur le contenu de ses propositions législatives. L'histoire de la construction européenne est un jeu de négociations permanentes ; en ce sens, le droit d'alerte précoce s'inscrit pleinement dans la logique communautaire.

Le groupe de travail « *subsidiarité* » de la Convention avait également envisagé la possibilité pour les Parlements nationaux d'exercer un recours juridictionnel *ex post*, devant la Cour de justice de l'Union européenne, après l'entrée en vigueur des actes législatifs. Dans son projet de protocole sur l'application des principes de subsidiarité et de proportionnalité⁶, le Présidium de la Convention ne leur a toutefois reconnu un droit de recours que par le truchement de leurs gouvernements respectifs. La déception suscitée par cette interprétation restrictive a été forte dans la mesure où le projet du Présidium s'inscrit en retrait par rapport aux propositions du groupe de travail, lesquelles avaient pourtant fait l'objet d'un consensus lors de la session plénière de la Convention des 3 et 4 octobre 2002⁷. C'est pourquoi le texte du Présidium devrait être amélioré sur au moins deux points :

⁵ CONV 286/02 WG I 15 (23 septembre 2002)

⁶ CONV 579/03 (27 février 2003), précité.

⁷ CONV 331/02 (11 octobre 2002)

- d'une part, chaque parlement national devrait disposer de deux voix dans la mise en œuvre du droit d'alerte précoce, afin de tenir compte de la situation particulière dans laquelle se trouvent les Parlements bicaméraux ;
- d'autre part, chaque chambre devrait pouvoir saisir directement la Cour de justice de l'Union européenne, dans le cadre du recours juridictionnel *ex post* envisagé dans le projet de protocole.

➤ *Une extension souhaitable du mécanisme d'alerte précoce aux droits fondamentaux*

L'espace de sécurité, de liberté et de justice est au centre des compétences des Parlements nationaux et de la vie des citoyens européens. Les mesures adoptées dans ce domaine, en particulier en matière pénale, doivent faire l'objet d'un débat démocratique et transparent, aussi bien au niveau européen qu'à l'échelon national.

Les évolutions envisagées par la Convention dans le domaine de la justice et des affaires intérieures (JAI) touchent profondément aux compétences des Parlements nationaux, et devraient à ce titre s'accompagner d'un renforcement de leur rôle dans l'élaboration du droit de l'Union. La nature des compétences et des questions traitées par l'Union change en effet radicalement. Les politiques des États membres en matière criminelle, d'asile, et d'immigration se définissent, de plus en plus, à Bruxelles. Les questions qui sont abordées au cours de chaque session du Conseil « Justice et affaires intérieures » touchent ainsi au cœur des droits et de la vie de chaque citoyen et des compétences de leurs représentants.

Le groupe de travail créé par la Convention sur les questions de « *liberté, sécurité et justice* », présidé par M. John Bruton, a ainsi évoqué dans son rapport final⁸ la création – suggérée par plusieurs membres de la Convention – d'un mécanisme similaire d'alerte précoce pour les cas où certains Parlements nationaux estiment qu'une initiative – de la Commission ou d'un groupe d'États membres – irait à l'encontre d'aspects fondamentaux de leur droit pénal national. Il serait souhaitable qu'une telle possibilité soit prévue dans le Protocole sur le rôle des Parlements nationaux.

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II – Les Parlements nationaux et le Conseil de l'Union européenne

La relation entre les Parlements nationaux et le Conseil est complexe dans la mesure où les gouvernements nationaux détiennent à la fois un pouvoir législatif et des compétences exécutives au sein de l'Union européenne. L'Europe ne connaît en effet pas la séparation des pouvoirs qui caractérise la plupart des pays membres. En outre, si l'on considère que le Conseil est l'institution communautaire qui représente les intérêts des États, les Parlements nationaux devraient y avoir leur place, en tant que composante des États, auprès de leurs gouvernements respectifs. A cela, chacun s'accorde à considérer que la relation entre gouvernements et Parlements relève des pratiques constitutionnelles propres à chaque pays ; cela n'est toutefois pas exclusif de la formulation de propositions visant à mieux informer les parlementaires nationaux des travaux du Conseil de l'Union, en tant qu'institution communautaire. Dans ce cadre, la préoccupation majeure des Parlements nationaux est celle d'une plus grande transparence des travaux du Conseil, préalable indispensable à un meilleur accès à l'information communautaire.

• *Les enjeux d'une plus grande transparence des travaux du Conseil*

La Convention, suivant les conclusions du groupe de travail « *simplification des instruments et des procédures* » présidé par M. Giuliano Amato⁹, préconise une distinction plus nette entre les activités législatives d'une part, et exécutives, d'autre part, du Conseil de l'Union. Le projet d'article 36 du Traité constitutionnel prévoit ainsi que le Conseil siège en public lorsqu'il délibère sur une proposition législative. Cette proposition rompt avec la culture du secret des négociations intergouvernementales qui caractérise les travaux du Conseil. Elle est également cohérente avec le renforcement des pouvoirs du Parlement européen en tant que co-législateur de droit commun de l'Union, et dont les délibérations, elles, sont publiques. Dans cet esprit, le point 5 du projet de protocole sur le rôle des Parlements nationaux prévoit que « *les ordres du jour et les résultats des sessions du Conseil sont communiqués directement aux Parlements nationaux des États membres* ». Il s'agit là d'une garantie renforcée offerte aux Parlements nationaux.

⁸ CONV 426/02 WG X 14 (2 décembre 2002).

⁹ CONV 424/02 WG IX 13 (29 novembre 2002)

La transparence des travaux du Conseil législateur de l'Union permettra désormais aux Parlements nationaux d'être informés non pas seulement au début de la procédure législative, mais tout au long du processus communautaire. Cela est de nature à favoriser l'intensité et l'étendue du contrôle parlementaire.

• *L'élaboration d'un code de conduite*

Les relations entre gouvernements et Parlements nationaux relèvent des règles constitutionnelles propres à chaque État. Cependant, la pratique indique que certains systèmes nationaux sont plus favorables que d'autres au contrôle parlementaire, et qu'un recensement des meilleures pratiques observées dans l'Union européenne peut se révéler très utiles. Dans son rapport final, le groupe de travail « *Parlements nationaux* » de la Convention a ainsi estimé utile d'examiner les différents systèmes nationaux afin de définir des normes minimales. Deux aspects peuvent être distingués : la nature des informations transmises aux Parlements nationaux, et le respect de délais minimum d'examen.

➤ *Nature des informations transmises aux Parlements nationaux*

Le rapport du groupe de travail « *Parlements nationaux* » plaide en faveur d'auditions régulières des ministres, tant avant qu'après les sessions du Conseil.

De même, la COSAC a également formulé des normes minimales indicatives suivant les recommandations d'un groupe de travail créé en son sein en novembre 2002 sous présidence danoise de l'Union européenne¹⁰. Il ressort de ces « critères de Copenhague » adoptés en janvier 2003 lors de la XXVIIIe COSAC extraordinaire de Bruxelles que « *les Parlements nationaux doivent avoir, suffisamment à temps avant les réunions des institutions européennes, la possibilité d'avoir avec les ministres des réunions dans le cadre desquelles les gouvernements rendront compte de leurs positions sur les propositions émanant de l'Union européenne* ». Il est également demandé que « *les Parlements soient informés suffisamment à temps par les gouvernements de leurs pays respectifs des décisions prévues au niveau de l'Union européenne et des propositions de décision que les gouvernements comptent présenter aux réunions du Conseil, aux sommets et aux conférences intergouvernementales. En outre, les Parlements nationaux doivent être ensuite informés des décisions adoptées* ».

L'information n'est pas une donnée figée ; elle doit être transmise en flux continu pour que les Parlements nationaux puissent bénéficier d'une information à jour, actualisée selon l'évolution de la négociation communautaires. En outre, la transmission par chaque gouvernement d'une étude d'impact indiquant les dispositions du droit national susceptibles d'être modifiées par la législation européenne serait de nature à renforcer la pertinence du contrôle parlementaire.

➤ *Délais d'examen des propositions*

Actuellement, le protocole sur le rôle des Parlements nationaux annexé au traité d'Amsterdam prévoit que, sauf cas d'urgence, un délai de six semaines s'écoule entre le moment où la Commission transmet une proposition législative au Conseil et au Parlement européen, et l'inscription de cette proposition à l'ordre du jour du Conseil en vue d'une décision. Or des difficultés se posent lorsque, sans prendre une décision formelle, les ministres parviennent à un accord politique avant l'expiration du délai de six semaines. C'est pourquoi le groupe de travail de la Convention a recommandé que « *les groupes de travail du Conseil et le Coreper ne devraient pas reconnaître les accords préliminaires portant sur des propositions concernées par le délai de six semaines prévu dans le protocole sur les Parlements nationaux, annexé au traité d'Amsterdam, avant la fin de cette période, des exceptions étant possibles pour des raisons d'urgence, comme le prévoit le protocole* ». Or cette proposition n'a pas été reprise par le Présidium dans le nouveau projet de protocole soumis à la Convention.

Le rapport final du groupe de travail présidé par Mme Gisela Stuart recommandait également que « *le règlement intérieur du Conseil prévoit clairement qu'une semaine s'écoule avant qu'un texte législatif soit examiné par le Coreper et le Conseil* ». Il s'agit d'une disposition importante afin que les Parlements nationaux soient en mesure de faire valoir leur point de vue dès le début de la procédure. Or cette proposition non plus ne figure pas dans le projet présenté par le Présidium.

¹⁰ http://www.cosac.org/fr/precede/copenhague_2002/wgdec.htm

Le nouveau projet de protocole sur le rôle des Parlements nationaux s'inscrit donc en deçà des attentes des Parlements nationaux et n'apporte guère d'amélioration par rapport à la situation actuelle. Il y a pourtant là un enjeu majeur afin de permettre aux Parlements nationaux d'exercer une influence réelle sur la prise de décision européenne.

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III– Les Parlements nationaux et le Parlement européen

En 1979, l'élection des députés européens au suffrage universel direct a rompu le lien organique qui existait entre les Parlements nationaux et les institutions communautaires. En effet, jusqu'à cette date, chaque Parlement désignait en son sein des représentants pour siéger à l'Assemblée de Strasbourg. Mais le Parlement européen d'alors n'avait rien d'un Parlement comme les autres : le traité de Rome ne lui conférait pas de véritables pouvoirs puisque ne lui était reconnue que la faculté d'adresser des avis simples sur un nombre limité de textes. La réforme de 1979 fut donc essentielle pour faire du Parlement européen une institution réellement démocratique, en lui conférant, grâce au suffrage universel direct, une légitimité populaire incontestable.

Il serait vain d'opposer deux légitimités – l'une européenne, l'autre nationale – qui se complètent bien plus qu'elles ne s'opposent. L'Union européenne se fonde sur une double légitimité : celle des États et celle des peuples. En tant qu'ils sont directement élus par les citoyens, le Parlement européen et les Parlements nationaux représentent sur un pied d'égalité les peuples de l'Union européenne. C'est donc par un renforcement simultané de ces deux pôles de légitimité (Parlement européen et Parlements nationaux) que l'on renforcera la légitimité démocratique de l'Union.

• Une clarification des rôles : de la concurrence à la complémentarité

Marquant une étape fondamentale dans l'approfondissement de la construction européenne, le traité de Maastricht, entré en vigueur en 1993, a procédé à d'importants transferts de souveraineté des États vers l'Union européenne, dépossédant les Parlements nationaux de certaines de leurs compétences. Le traité sur l'Union européenne a également sensiblement renforcé les prérogatives du Parlement européen en étendant le champ d'application de la procédure de codécision dans le pilier communautaire.

L'architecture institutionnelle de l'Union repose en effet sur trois piliers, qui correspondent à des procédures de décision différentes. Alors que le premier pilier fait référence aux politiques communautaires qui reposent sur un droit d'initiative exclusif de la Commission européenne et un mécanisme d'adoption des textes fondé, pour l'essentiel, sur la procédure de codécision, les 2^e et 3^e piliers relèvent d'une logique intergouvernementale où prévaut le rôle des États. Les Parlements nationaux n'ont pas vocation à s'immiscer dans la procédure législative communautaire même si la compétence reconnue du Parlement européen ne saurait être exclusive d'un dialogue continu avec les Parlements nationaux. Mais le droit d'alerte précoce que la Convention envisage de leur conférer pour le contrôle de la subsidiarité indique clairement qu'ils n'ont vocation à intervenir que dans les cas où l'Union méconnaîtrait le périmètre de leurs compétences. Les relations entre Parlements nationaux et Parlement européen sont ainsi étroitement liées à la délimitation des compétences entre l'Union et les États membres. C'est donc notamment dans le domaine des compétences partagées que devrait s'ouvrir une réflexion approfondie sur les relations futures entre le Parlement européen et les Parlements nationaux. Il y a là une illustration de la dimension profondément interparlementaire de l'Union européenne.

• La dimension interparlementaire de l'Union européenne

On observe depuis plusieurs années une réelle intensification des relations entre les Parlements nationaux et le Parlement européen. Cette évolution est positive, et souligne la complémentarité qui existe entre deux légitimités.

La coopération entre le Parlement européen et les Parlements nationaux peut prendre des formes variées. Dans plusieurs pays de l'Union, on peut ainsi remarquer que les commissions parlementaires pour les affaires européennes sont ouvertes aux députés européens nationaux. Ainsi au Bundestag, les députés européens dont la participation est autorisée sont nommés par le président de la Chambre, sur proposition des groupes parlementaires auxquels ils appartiennent. Toutefois, s'ils peuvent prendre part aux débats, les élus européens ne bénéficient

généralement pas du droit de vote au sein de la commission parlementaire. Il faut également souligner que dans la majorité des pays de l'Union, les députés européens sont de plus en plus régulièrement invités à participer à des réunions conjointes dans le cadre du renforcement de la coopération interparlementaire.

De même, les parlementaires nationaux sont fréquemment invités à participer à des réunions des commissions du Parlement européen. Le règlement intérieur du Parlement européen¹¹ prévoit à cet effet que « *le Parlement tient les Parlements nationaux des États membres régulièrement informés de ses activités* » et que « *la Conférence des présidents peut donner mandat au Président de négocier des facilités pour les Parlements nationaux des États membres sur une base réciproque et de proposer toute autre mesure destinée à faciliter les contacts avec les Parlements nationaux* ».

Le rapport de M. Giorgio Napolitano, Président de la Commission pour les affaires constitutionnelles du Parlement européen, adopté le 23 janvier 2002 sur les relations entre le Parlement européen et les Parlements nationaux dans le cadre de la construction européenne¹², propose de développer et de systématiser la coopération interparlementaire, notamment dans les domaines de la politique étrangère et de sécurité commune, de l'Union économique et monétaire, de l'espace de liberté, de sécurité et de justice et des affaires constitutionnelles. A cet effet, le rapport suggère la formulation d'un « accord interparlementaire » qui pourrait inclure « *les engagements indicatifs réciproques en matière de programmes de rencontres multilatérales ou bilatérales sur les questions européennes d'intérêt commun, de nature générale ou sectorielle* » ainsi que « *l'échange d'informations et de documents*¹³ ».

Dans le même esprit, le groupe de travail créé au sein de la COSAC, préconise la conclusion d'un tel accord entre les Parlements nationaux et le Parlement européen, afin de systématiser les échanges. L'organisation régulière de réunions interparlementaires sectorielles permettrait de connaître le point de vue des parlementaires nationaux avant que le Parlement européen n'examine les propositions législatives en première lecture. Mais l'initiative de telles réunions ne devrait pas être exclusivement réservée au Parlement européen. Les échanges entre groupes et partis politiques européens devraient également s'intensifier pour qu'émerge un véritable débat démocratique sur le programme législatif de l'Union.

L'impulsion et le suivi de la coopération interparlementaire nécessite la mise en place de structures administratives appropriées. L'augmentation du nombre de fonctionnaires de liaison des Parlements nationaux dans les locaux du Parlement européen témoigne de la dimension concrète et quotidienne de la coopération interparlementaire. Une structure secrétariale d'appui pour la COSAC, constituée par exemple à partir de ce réseau des fonctionnaires de liaison, contribuerait également à renforcer une coopération très utile.

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¹¹ Article 55

¹² A5-0023/2002 (23 janvier 2002)

¹³ Un projet d'accord de coopération entre le Parlement européen et les Parlements des États membres a ainsi été élaboré par la Commission des affaires constitutionnelles du Parlement européen.

DEUXIÈME PARTIE :

LE RÔLE COLLECTIF DES PARLEMENTS NATIONAUX DEMEURE UN SUJET DE DIVISION

I – Le bilan décevant de la Conférence des organes spécialisés dans les affaires communautaires (COSAC)

• De la création à l'institutionnalisation de la COSAC

En mai 1989, les Présidents des Parlements des États membres de la Communauté européenne sont convenus, lors de leur conférence à Madrid, de renforcer le rôle des Parlements nationaux dans le processus communautaire en réunissant les différentes commissions parlementaires chargées des affaires européennes. La première réunion de la COSAC comme organisation interparlementaire informelle s'est tenue à Paris au mois de novembre 1989. Depuis cette date, la COSAC se réunit au moins deux fois par an dans le Parlement du pays qui assure la présidence de l'Union. Depuis 1994, les pays candidats sont associés aux travaux de la COSAC, avec le statut d'observateurs.

C'est en 1999, avec l'entrée en vigueur du traité d'Amsterdam, que la COSAC fut officiellement institutionnalisée, à travers le protocole sur le rôle des Parlements nationaux. La COSAC n'est pas pour autant devenue une nouvelle institution, mais reste une « Conférence interparlementaire » qui peut désormais soumettre toute contribution qu'elle juge appropriée à l'attention des institutions de l'Union. Le protocole sur les Parlements nationaux prévoit également que « la COSAC peut examiner toute proposition ou initiative d'acte législatif en relation avec la mise en place d'un espace de liberté, de sécurité et de justice et qui pourrait avoir une incidence directe sur les droits et les libertés des individus ».

Chaque réunion de la COSAC se conclut généralement par l'adoption d'une contribution, adoptée jusqu'à présent par consensus. On peut citer, à titre d'exemple, diverses déclarations sur le terrorisme (XXIIIe COSAC de Versailles, octobre 2000), sur « l'appel à voter pour les élections européennes » (XXe COSAC de Berlin, mai-juin 1999) ou encore sur « la transparence » (XVIe COSAC de LA Haye, juin 1997).

Ces déclarations n'expriment toutefois pas la position des Parlements nationaux, mais seulement celle de la COSAC. En effet, la COSAC représente davantage les commissions parlementaires pour les affaires européennes que les Parlements nationaux, ce qui signifie que les parlementaires qui y siègent ne sauraient engager leurs Parlements respectifs. La conférence interparlementaire ne dispose pas non plus d'un budget propre, les frais de fonctionnement étant à la charge du Parlement qui assure la présidence de l'Union.

On peut regretter que la COSAC n'ait pas, à ce jour, utilisé pleinement les prérogatives qui lui sont reconnues par le traité d'Amsterdam. Elle n'a en effet examiné aucune proposition législative de la Commission.

Afin d'améliorer le fonctionnement de la COSAC, un groupe de travail a été installé en novembre 2002 par la présidence danoise de l'Union. Ce groupe de travail a tenu trois réunions entre novembre 2002 et mars 2003, et a proposé une réforme du règlement intérieur de la COSAC. Les débats suscités par les travaux de ce groupe ont néanmoins révélé des approches divergentes quant au rôle futur de la COSAC et à une organisation collective des Parlements nationaux au sein de l'Union européenne.

• La difficile évolution de la COSAC

Le projet de réforme soumis le 27 janvier 2003 à l'examen de la COSAC extraordinaire de Bruxelles constituait déjà un compromis au regard du document initial présenté en novembre par la présidence danoise. Les principales propositions concernaient les points suivants :

– l'adoption d'un code de conduite parlementaire juridiquement non contraignant (« critères de Copenhague ») visant à améliorer le nombre et la qualité de l'information fournie aux Parlements nationaux. Ce code de conduite devrait respecter les règles constitutionnelles propres à chaque État membre ;

- une réforme des règles de vote, consistant à permettre l'adoption des contributions de la COSAC non plus à l'unanimité mais à la majorité qualifiée des $\frac{3}{4}$ correspondant à plus de 50% des votes. Toute modification du règlement intérieur resterait en revanche soumise à l'exigence d'un vote à l'unanimité ;
- l'éventualité de constituer un secrétariat permanent de la COSAC, selon des modalités qui restent à préciser ;
- le soutien, par la COSAC, d'une coopération accrue entre les commissions sectorielles des Parlements nationaux, sans pour autant faire de la COSAC un organe de coordination de ces réunions ;
- la tenue, chaque année, d'une présentation par la Commission européenne, de son programme législatif et la possibilité pour la COSAC d'offrir un soutien secretarial à la mise en œuvre du « mécanisme d'alerte précoce » en matière de contrôle du principe de subsidiarité ;
- la conclusion d'accords interinstitutionnels entre la COSAC et la Commission européenne, le Parlement européen et le Conseil de l'Union européenne.

La tonalité du débat qui s'est engagé sur les propositions du groupe de travail a révélé la crainte omniprésente qu'une réforme de la COSAC ne conduise inéluctablement à sa transformation en nouvelle institution. Tant le renoncement du vote à l'unanimité que l'éventualité de créer un secrétariat léger permettant d'assurer la continuité des travaux, a renforcé ce sentiment essentiellement au sein des délégations du Parlement européen, des Pays-Bas, de l'Allemagne et de l'Italie. Pourtant, du fait même de sa composition, la COSAC ne peut devenir une nouvelle institution puisqu'elle inclut déjà une institution communautaire, à savoir le Parlement européen.

La COSAC doit en revanche rester le lieu privilégié de la coopération interparlementaire et les relations entre Parlements nationaux et Parlement européen devraient s'en trouver ainsi apaisées. Pour autant, la COSAC est davantage qu'un forum informel depuis que son existence a été consacrée par le protocole sur le rôle des Parlements nationaux, annexé au traité d'Amsterdam.

Quoi qu'il en soit, la COSAC doit décider de son avenir au moment où la Convention dessine la future architecture institutionnelle de l'Union. Une COSAC réformée pourra-t-elle cependant à elle seule répondre aux préoccupations des Parlements nationaux ? Il semble nécessaire d'explorer d'autres voies, non exclusives d'un renforcement de la COSAC, mais probablement mieux perceptibles par le citoyen européen.

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II – L'absence de consensus sur les formes de représentation collective des Parlements nationaux

• *Le rejet d'une seconde chambre*

L'idée de créer une seconde Chambre européenne n'est pas nouvelle. Nombreux sont les dirigeants politiques et les institutions qui plaident en sa faveur. Pour autant, la physionomie de cette nouvelle institution varie sensiblement selon les propositions, et les opinions évoluent rapidement sur ce sujet politiquement sensible. Certains souhaitent la création d'une Chambre des États, composée de représentants des gouvernements et des Parlements nationaux, à côté d'une Chambre des peuples constituée par l'actuel Parlement européen. D'autres estiment nécessaire de constituer une seconde Chambre composée de représentants des Parlements nationaux mais dont la compétence, non législative, se limiterait à un contrôle politique sur les matières relevant des actuels deuxième et troisième piliers. L'Assemblée de l'Union de l'Europe occidentale (UEO) préconise ainsi la constitution d'une « deuxième Chambre » interparlementaire pour assurer le suivi et l'accompagnement des politiques restées principalement intergouvernementales et des domaines de compétences comme la politique étrangère et de sécurité commune ou la coopération policière et judiciaire en matière pénale¹⁴.

Il y a ceux, enfin, selon qui une seconde Chambre des Parlements nationaux devrait s'intégrer dans un nouveau Parlement européen devenu bicaméral et composé d'une Chambre haute et d'une Chambre basse (l'actuel Parlement européen).

¹⁴ Assemblée de l'Union de l'Europe occidentale / Assemblée européenne intérimaire de la sécurité et de la défense - Document A/1778 (4 juin 2002). « Le rôle des Parlements nationaux dans l'Union européenne et plus particulièrement dans la PESD – contribution de l'Assemblée à la Convention » - Rapport présenté au nom de la Commission politique par M. Eyskens, rapporteur.

Mais l'idée de seconde Chambre est loin de susciter un consensus. Un rapport de la Chambre des Lords, publié le 27 novembre 2001¹⁵, en souligne les inconvénients. En réalité, l'instauration d'une seconde Chambre risquerait de créer les conditions d'une relation conflictuelle avec le Parlement européen et serait un argument pour les gouvernements de moins informer leurs Parlements respectifs sur les affaires européennes. Enfin, une seconde Chambre pourrait cristalliser les impatiences et les mécontentements des électeurs auxquels elle serait bien en peine de répondre. L'impact de ses travaux auprès de l'opinion serait très faible, voire inexistant, tandis que le double mandat imposé à ses membres ne leur offrirait pas la disponibilité suffisante pour assurer un contrôle suivi des institutions européennes.

Pour ces raisons, notamment, il n'existe pas aujourd'hui d'accord sur l'opportunité de créer une seconde Chambre, et les débats de la Convention ne s'orientent pas dans cette direction. Cependant, chacun reconnaît la nécessité de trouver une formule à la fois visible et utile, qui permette d'impliquer les Parlements nationaux – et à travers eux les citoyens – à la construction européenne. C'est dans cet esprit que le Président de la Convention, M. Valéry Giscard d'Estaing, a émis l'idée d'un « Congrès européen ».

• *Les incertitudes relatives à la création d'un « Congrès européen »*

Un « Congrès européen », composé de représentants des Parlements nationaux et du Parlement européen, permettrait d'associer, dans une même structure, deux légitimités différentes mais non concurrentes. Le Président Valéry Giscard d'Estaing s'est ainsi prononcé, à titre personnel, en faveur d'un Congrès composé de 700 membres (un tiers de députés européens et deux tiers de parlementaires nationaux), qui débattrait une fois par an de « l'état de l'Union » et pourrait procéder à terme à l'élection du président de l'Europe.

Cette proposition n'a jusqu'à présent pas été accueillie favorablement au sein de la Convention, notamment par les délégués du Parlement européen qui s'y sont majoritairement déclarés opposés, au moins en l'état actuel de la proposition. Il est vrai que de nombreux malentendus se sont formés sur ce Congrès que certains perçoivent – à tort – comme une nouvelle institution communautaire. Or, le Congrès serait bien davantage une réunion, occasionnelle et non permanente, ne disposant d'aucune compétence législative. Il s'agirait d'une enceinte politique de débat sur les grandes orientations de l'Union. Le Congrès pourrait également servir de collège électoral pour participer à la procédure de nomination aux plus hautes fonctions de l'Union. Il pourrait enfin être compétent pour réviser, à la majorité qualifiée, certaines dispositions des traités européens. Dans ce cas précis, le Congrès représente une alternative viable à l'impasse que signifierait le maintien de la règle de l'unanimité dans une Europe élargie à 25 pays ou plus.

Mais la Convention n'est pas encore parvenue à un accord sur ce sujet, ce qui explique qu'une réflexion active se poursuive actuellement sur d'autres formes possibles d'association des Parlements nationaux et de renforcement de la coopération interparlementaire. Ces propositions n'excluraient pas la création d'un Congrès.

Une idée progresse : celle de conventions spécialisées ou de conférences interparlementaires *ad hoc*, que suggèrent les conclusions du groupe de travail sur le rôle des Parlements nationaux. L'exemple de la Convention sur la Charte communautaire des droits fondamentaux a démontré l'efficacité de la méthode conventionnelle qui pourrait être dupliquée à des sujets sur lesquels des blocages politiques se manifestent. Pourquoi alors ne pas imaginer, notamment dans les matières relevant de l'actuel troisième pilier, que le Conseil européen donne mandat à une Convention spécialisée, réunie pour une durée limitée, pour formuler des propositions de réforme ? De telles conférences devraient être ouvertes à l'ensemble des acteurs concernés et leurs délibérations régies selon le principe de publicité. C'est la condition pour associer les citoyens et plus largement la société civile aux enjeux d'une construction européenne qui mérite d'être plus médiatisée pour être mieux comprise.

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¹⁵ 7e rapport (session 2001-2002) "A second parliamentary Chamber for Europe : an unreal solution to some real problems".

TROISIÈME PARTIE :

VERS UNE REDÉFINITION DU RÔLE DES PARLEMENTS NATIONAUX DANS UNE EUROPE ÉLARGIE

I – La dimension constitutionnelle du rôle des Parlements nationaux

• *Les modalités d'une implication dans la révision du Traité constitutionnel*

Actuellement, l'article 48 du traité sur l'Union européenne prévoit que les modifications apportées aux traités ne peuvent entrer en vigueur qu'après avoir été ratifiées par tous les États membres, conformément à leurs règles constitutionnelles respectives. Les Parlements nationaux participent ainsi à l'élaboration du droit primaire de l'Union, mais seulement au stade de la ratification, la rédaction du projet de révision étant le fait d'une Conférence intergouvernementale (CIG).

➤ Une participation des Parlements nationaux au stade de l'élaboration du projet de révision

A l'avenir, les Parlements nationaux pourraient être davantage associés à la procédure de révision du Traité constitutionnel par un recours plus fréquent – voire systématique – à la méthode conventionnelle. Il faut en effet rappeler que c'est le succès de la Convention sur la Charte des droits fondamentaux qui a conduit les Chefs d'État et de gouvernement européens à convoquer une nouvelle Convention chargée de leur soumettre une proposition de réforme institutionnelle dans la perspective proche d'un élargissement historique de l'Union. En associant des légitimités différentes, la Convention est un instrument original qui permet à la fois de renforcer le dialogue interinstitutionnel et de rendre le débat constitutionnel plus transparent à l'égard des citoyens européens.

Une association des Parlements nationaux à la procédure de révision des traités est également indispensable afin de permettre aux élus nationaux de jouer pleinement leur rôle de relais auprès des opinions publiques. C'est pourquoi, le projet de dispositions relatives aux modalités de révision du Traité constitutionnel¹⁶ devrait prévoir la possibilité de recourir à des conventions afin de préparer les révisions constitutionnelles. De très nombreux amendements, émanant de membres issus de l'ensemble des composantes représentées à la présente Convention sur l'avenir de l'Europe, ont été déposés dans ce sens. Les futures conventions ne seraient toutefois appelées qu'à formuler des recommandations, le pouvoir d'arbitrage relevant d'une Conférence intergouvernementale, puis lors de la ratification, aux États membres selon leurs règles constitutionnelles respectives.

➤ *Une participation des Parlements nationaux à l'adoption de certaines dispositions constitutionnelles*

Dans une Europe élargie à 25 ou 30 membres, l'exigence de l'unanimité pour l'entrée en vigueur des révisions apportées au Traité constitutionnel risque de conduire à la paralysie. Alors que la Convention entend distinguer deux parties dans le futur Traité constitutionnel (la première partie sur l'architecture institutionnelle, la seconde sur les politiques), il pourrait être envisagé de confier à un « Congrès » le pouvoir d'adopter des modifications à la seconde partie. Ces dispositions auraient la même valeur juridique que celles de la première partie, mais pourraient entrer en vigueur dès lors qu'elles seraient approuvées par une majorité « super qualifiée » des membres de ce Congrès, composé de représentants des Parlements nationaux, du Parlement européen et éventuellement de représentants d'autres institutions de l'Union.

Au sein du Congrès, les Parlements nationaux seraient représentés proportionnellement à la population de leur pays, comme c'est le cas pour le calcul des députés qui siègent au Parlement européen. Cette solution présenterait ainsi l'avantage d'associer directement les Parlements nationaux aux réformes constitutionnelles de l'Union, tout en préservant un équilibre nécessaire entre les logiques communautaire et intergouvernementale.

¹⁶ CONV 647/03 (2 avril 2003)

- La participation des Parlements nationaux au processus d'élargissement

- *L'information des Parlements nationaux sur le déroulement des négociations d'adhésion*

Les négociations d'adhésion s'inscrivent dans un processus d'élargissement qui ne peut négliger la dimension parlementaire. Les Parlements nationaux doivent être régulièrement informés de l'état d'avancement des négociations d'adhésion. C'est ainsi, par exemple, que la Délégation de l'Assemblée nationale française pour l'Union européenne a publié de nombreux rapports, pays par pays, sur l'élargissement de l'Union, conformément à sa mission d'information de la représentation nationale.

L'information suppose également le développement des relations interparlementaires entre pays candidats et pays membres. Les commissions parlementaires pour l'intégration européenne ont joué un rôle important dans le processus de Copenhague, qui a ouvert la voie à la réunification du continent européen. Les relations entre Parlements des pays candidats et Parlements de l'Union se sont intensifiées ces dernières années et plusieurs réunions conjointes se sont tenues entre les commissions pour les affaires européennes des pays membres et des pays candidats. Par ailleurs, la participation des représentants des pays candidats à la COSAC, avec le statut d'observateur, a contribué à développer des échanges réguliers. Les futurs pays membres participent également à part entière aux travaux de la Convention.

- *L'intervention des Parlements nationaux lors de la ratification des traités d'adhésion*

Le projet d'article 44 du Traité constitutionnel tel que présenté par le Présidium de la Convention, confirme la soumission des accords d'adhésion des nouveaux États membres à l'Union, à la procédure de ratification par chacun des États contractants, conformément à leurs règles constitutionnelles respectives. Sauf pratique référendaire, l'approbation des Parlements nationaux restera requise.

Cette disposition, qui fait intervenir les Parlements nationaux, correspond à celle prévue actuellement à l'article 49 du traité sur l'Union européenne. Mais le projet d'article 44 introduit une nouvelle disposition selon laquelle le Parlement européen et les Parlements nationaux sont informés en même temps de toute demande d'adhésion aussitôt qu'elle parvient au Conseil.

Les parlementaires nationaux peuvent aussi jouer un rôle de relais d'information auprès des citoyens sur les enjeux de l'élargissement, alors que les enquêtes « Eurobaromètre » témoignent d'un déficit d'information de l'opinion. L'organisation plus fréquente de débats parlementaires sur ce sujet permettrait ainsi de donner une visibilité politique et médiatique plus forte à un sujet qui concerne chaque européen.

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II – L'intervention des Parlements nationaux dans la perspective de la suppression des piliers de l'Union européenne

Par souci de simplification et de cohérence, la Convention européenne envisage de procéder à la suppression des trois piliers de l'Union européenne, tels qu'ils existent depuis l'entrée en vigueur du traité de Maastricht, il y a dix ans. Cependant, la suppression des piliers ne doit pas s'opérer au détriment de l'influence des Parlements nationaux. Dans trois domaines en particulier, une association des Parlements nationaux est nécessaire afin d'assurer un contrôle parlementaire : il s'agit de l'Union économique et monétaire, de la politique européenne de sécurité et de défense, et de l'espace de liberté, de sécurité et de justice.

- *Les Parlements nationaux, l'Union économique et monétaire et le financement de l'Union*

- *L'Union économique et monétaire*

L'avènement de l'euro a conduit à une gestion de la politique monétaire sur le mode fédéral, sous l'autorité de la Banque centrale européenne ; mais le volet économique demeure pour sa part de la compétence des États membres. Chacun admet néanmoins la nécessité de renforcer la convergence des politiques économiques au sein de l'Union, dans le cadre d'instruments juridiques souples.

La « méthode ouverte de coordination », qui occupe une place intermédiaire entre la coopération intergouvernementale et la démarche communautaire, pourrait ainsi offrir un moyen pertinent d'association des Parlements nationaux au processus de convergence des politiques économiques. Elle ne devrait plus reposer exclusivement sur le Conseil et la Commission, mais également impliquer les Parlements nationaux qui pourraient se prononcer sur la définition des objectifs et assurer, conformément aux règles constitutionnelles nationales, un contrôle politique sur la mise en œuvre de cette coordination économique.

Il serait également souhaitable que les Parlements nationaux soient consultés sur l'élaboration des « grandes orientations de politique économiques » définies par la Commission.

➤ *Le financement de l'Union*

Actuellement, l'article 269 du traité instituant la Communauté européenne dispose que « *le Conseil, statuant à l'unanimité sur proposition de la Commission et après consultation du Parlement européen, arrête les dispositions relatives au système des ressources propres de la Communauté dont il recommande l'adoption par les États membres, conformément à leurs règles constitutionnelles respectives* ». La logique constitutionnelle est-elle compatible avec la procédure intergouvernementale actuelle qui prévoit l'adoption de la décision « ressources propres » à l'unanimité avec ratification des Parlements nationaux ? Un « cercle de réflexion » a été constitué au sein de la Convention, afin d'éclairer le Présidium sur les voies de réformes possibles en matière de financement de l'Union.

Les débats du cercle ont souligné qu'en réalité, la majorité des ressources de l'Union ne sont pas de véritables ressources propres mais bien des contributions des budgets nationaux. Cela justifie l'intervention des Parlements nationaux, qui constitue aujourd'hui le moyen d'établir un lien entre le financement de l'Union et le citoyen. Un renforcement de l'intégration européenne passerait par la création d'un impôt européen ; il faudrait alors veiller à ce que les Parlements nationaux conservent une prérogative essentielle.

• *Les Parlements nationaux et la politique étrangère de sécurité commune et de défense*

La méthode intergouvernementale s'applique actuellement aux domaines relevant du Titre V du traité sur l'Union européenne, qui concerne la politique étrangère et de sécurité commune (PESC) et la politique de sécurité et de défense (PESD). A l'avenir, l'action de l'Union européenne dans ces domaines pourrait se développer dans le cadre de coopérations renforcées. Mais des sujets aussi sensibles politiquement que l'action extérieure ou la défense nécessitent une légitimité démocratique renforcée. A travers l'expérience de l'Assemblée de l'Union de l'Europe occidentale, il est nécessaire d'approfondir un modèle européen de contrôle parlementaire adapté aux nouvelles missions de l'Union. Que cela soit dans le cadre d'une COSAC réformée, d'un Congrès ou de Conventions spécialisées, le développement de la politique européenne de sécurité et de défense rend nécessaire de trouver des mécanismes appropriés pour l'examen parlementaire. Les Parlements nationaux ne sauraient être tenus à l'écart de la politique européenne de défense.

Le Traité constitutionnel pourrait ainsi prévoir la possibilité de convoquer chaque année une conférence interparlementaire *ad hoc* réunissant des représentants des commissions nationales et du Parlement européen compétentes en matière de PESC et de PESD. Cette conférence se prononcerait sur le rapport annuel sur la politique étrangère de sécurité commune et de défense qui lui serait adressé, et débattrait du programme stratégique pluriannuel défini par le Conseil.

• *Les Parlements nationaux et l'espace de liberté, de sécurité et de justice*

L'espace de sécurité, de liberté et de justice se situe au centre des compétences des Parlements nationaux et de la vie des citoyens européens. Les mesures adoptées dans ce domaine, en particulier en matière pénale, doivent faire l'objet d'un débat démocratique et transparent, aussi bien au niveau européen - les compétences du Parlement européen seront renforcées à cet effet - que national.

Dans ce secteur, des changements importants, aux conséquences majeures pour les Parlements nationaux, sont envisagés au sein de la Convention européenne :

➤ *La simplification des instruments juridiques*

Les conventions de l'actuel « troisième pilier » de l'Union européenne, couvrant la coopération judiciaire pénale et policière, vont être remplacées par des instruments de droit communautaire classique, non soumis à ratification ; quant aux actuelles décisions-cadres et décisions, dépourvues d'effet direct, elles devraient être remplacées par les futures lois-cadres et lois, dotées d'effet direct dès leur entrée en vigueur ou à l'expiration de leur délai de transposition, sans qu'une intervention des Parlements nationaux ne soit nécessaire. Ces évolutions appellent à un renforcement des procédures de contrôle parlementaire ; c'est dans cette perspective qu'il faut soutenir la reconnaissance d'un droit d'alerte précoce, à l'initiative des Parlements nationaux, au cas où une proposition législative – émanant de la Commission européenne ou d'un groupe d'États membres – irait à l'encontre « d'aspects fondamentaux » du droit pénal national.

➤ *La reconnaissance à l'Union européenne de la personnalité juridique internationale*

Il est pratiquement acquis que l'Union européenne sera dotée de la personnalité juridique internationale. De ce fait, les accords négociés avec des pays tiers en matière pénale (extradition et entraide judiciaire) ou policière ne feront plus nécessairement l'objet d'une autorisation parlementaire nationale avant d'être ratifiés. Une telle réforme, si elle apparaît souhaitable, ne saurait priver les Parlements nationaux du pouvoir de ratification des accords internationaux que leur reconnaissent les constitutions nationales. La reconnaissance de la personnalité juridique internationale de l'Union serait de nature à remettre en cause une prérogative essentielle des Parlements nationaux : un grand nombre de traités (notamment ceux conclus en matière pénale) ne seraient plus nécessairement soumis à l'approbation parlementaire. Il est dès lors indispensable de définir de nouvelles modalités d'association prévoyant notamment une transmission systématique des projets d'accords aux Parlements nationaux.

➤ *Le contrôle politique d'Europol*

Il est nécessaire de soumettre Europol à un véritable contrôle politique en soumettant cet organisme au contrôle d'une commission parlementaire mixte (Parlement européen et Parlements nationaux) conformément à la proposition figurant dans la communication de la Commission sur le contrôle démocratique d'Europol.¹⁷ La création de cette commission mixte, initialement suggérée par la Conférence interparlementaire de La Haye des 7 et 8 juin 2001, a été évoquée à de nombreuses reprises au cours des travaux de la Convention européenne.

Les questions qui sont abordées au cours de chaque session du Conseil « Justice et affaires intérieures » touchent ainsi au cœur des droits et de la vie de chaque citoyen et des compétences de leurs représentants. Les évolutions envisagées dans le domaine de l'espace de liberté, de justice et de sécurité devront donc nécessairement s'accompagner de réformes appropriées afin de garantir un contrôle parlementaire efficace, car les politiques des États membres en matière criminelle, d'asile, et d'immigration se définissent, de plus en plus, à Bruxelles.

¹⁷ (COM (2002) 95 final).

CONCLUSION

SEPT RECOMMANDATIONS POUR LE RÔLE DES PARLEMENTS NATIONAUX DANS L'EUROPE ÉLARGIE

Les travaux de la Convention européenne touchent à leur fin. Les Parlements nationaux auront leur part – importante – de responsabilité dans les choix qui seront finalement opérés par la Conférence intergouvernementale. La remise à plat du projet européen a permis de surmonter des clivages institutionnels qui n'ont jamais pu apporter les réponses concrètes et ambitieuses qu'attendent les citoyens. Car c'est, *in fine*, aux peuples d'Europe qu'il appartiendra de se prononcer sur le projet et les institutions que leurs dirigeants leur soumettront. Chacune à leur place, les institutions communautaires et nationales devront ainsi œuvrer à rendre notre Europe plus cohérente et plus démocratique.

C'est dans cet esprit que nous pourrions nous rassembler autour des sept recommandations suivantes :

1 – La Conférence des Présidents des Parlements européens salue l'entrée dans l'Union européenne de dix nouveaux pays et se félicite de l'instauration dans ces États de mécanismes appropriés de contrôle parlementaire sur les affaires européennes.

2 – La méthode conventionnelle est une méthode originale qui permet un débat démocratique sur les enjeux essentiels de la construction européenne, en associant pleinement les Parlements nationaux. Le recours aux conventions devrait ainsi être privilégié pour les révisions futures du Traité constitutionnel.

3 – Le Traité constitutionnel devrait comporter la possibilité d'accords interinstitutionnels organisant les relations entre les Parlements nationaux et les institutions communautaires, dans le respect des règles constitutionnelles de chaque État membre.

4 – La coopération interparlementaire entre le Parlement européen et les Parlements nationaux devrait être renforcée et pérennisée, selon des modalités souples et adaptées en fonction des sujets traités.

5 – Le droit d'alerte doit permettre aux Parlements nationaux de préserver leurs compétences dans le cadre du principe de subsidiarité. Il pourrait utilement être transposé au contrôle parlementaire du respect des droits fondamentaux de la personne définis par la Charte européenne.

6 – La suppression envisagée des piliers de l'Union européenne ne doit pas s'opérer au détriment des prérogatives reconnues aux Parlements nationaux dans le cadre des actuels deuxième et troisième piliers. Le Traité constitutionnel devrait, pour ces matières, prévoir les modalités d'un contrôle parlementaire national, y compris dans le cadre d'éventuelles coopérations renforcées.

7 – Les Parlements nationaux et le Parlement européen devront être informés régulièrement de l'état d'avancement des travaux de la Conférence intergouvernementale qui suivra la Convention afin d'être en mesure de débattre et d'exprimer leurs positions en temps utile.

**CONFERENCE OF SPEAKERS
OF THE EUROPEAN UNION PARLIAMENTS**

Athens – 23 - 24 May 2003

NATIONAL PARLIAMENTS AND THE INSTITUTIONAL EVOLUTION OF EUROPE

*Report presented by Mr. Jean-Louis Debré,
President of the French National Assembly*

May 14th 2003

SUMMARY

<i>Foreword</i>	37
First part:	
<i>Interinstitutional dimension of national parliaments with respect to the work of the Convention on the Future of Europe</i>	37
I – National parliaments and the European Commission	38
• Towards direct access to Commission documents by national parliaments	38
➤ Existing state of the law	38
➤ The Convention's proposal	39
• An institutional innovation: the early warning right	40
➤ Procedure envisaged for monitoring the subsidiarity principle	40
➤ A desirable extension of the early warning mechanism to fundamental rights	41
II – National parliaments and the Council of the European Union	41
• Challenges of a greater transparency of Council work	41
• Elaboration of a code of conduct	42
➤ Nature of information communicated to national parliaments	42
➤ Timeframes for assessing proposals	42
III – National parliaments and the European Parliament	42
• Clarification of roles: from competition to complementarity	42
• Interparliamentary dimension of the European Union	42
Second Part:	
<i>The collective role of national parliaments remains a divisive subject</i>	44
I – Disappointing results of the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC)	44
• From the creation to the institutionalisation of COSAC	44
• COSAC's difficult evolution	44
II – Absence of consensus on the forms of collective representation of national parliaments	45
• Rejection of a second chamber	45
• Uncertainties regarding the creation of a 'European Congress'	46
Third Part:	
<i>Towards a redefinition of the role of national parliaments in an enlarged Europe</i>	47
I – Constitutional dimension of the role of national parliaments	47
• Procedures for involvement in the revision of the Constitutional Treaty	47
➤ Participation of national parliaments at the stage of the drafting of the draft revision	47
➤ Participation of national parliaments in adopting certain constitutional provisions	47
• Participation of national parliaments in the enlargement process	47
➤ Information of national parliaments on the progression of membership negotiations	47
➤ Intervention of national parliaments at the ratification of membership treaties	48
II - Intervention of national parliaments as regards the suppression of the European Union pillars	48
• National parliaments, Economic and Monetary Union and funding of the European Union	48
➤ Economic and Monetary Union	48
➤ Funding of the Union	49
• National parliaments and the common foreign, security and defence policy	49
• National parliaments and the area of freedom, security and justice	49
➤ Simplification of legal instruments	49
➤ Recognition of the European Union's international legal personality	50
➤ Political scrutiny over Europol	50
<i>Conclusion:</i>	
Seven recommendations for the role of national parliaments in the enlarged Europe	51

FOREWORD

The future of national parliaments in the European Union is unfurling today at the Convention. Largely in the majority - they form 56 of the 105 members of the Convention on the Future of Europe - the delegates of national parliaments are nevertheless experiencing difficulties in expressing themselves in an organised manner within an assembly where divides are complex: 'big' countries and 'small' countries, 'sovereignists' and 'communitarists', 'supranationalists' and 'intergovernmentalists', current member countries and future member countries, governments and parliaments... Far from favouring one component rather than another or giving greater importance to such or such an interest, the aim is to make headway towards clear objectives serving a joint project and a community of peoples.

The Declaration on the Future of the Union, appended to the Nice Treaty, mentions the role of national parliaments in the European architecture among the four important questions with a view to the enlargement and democratic strengthening of reunified Europe. The decision, taken at Laeken in December 2001 by the Heads of State and Government, to convene a Convention tasked with proposing a reform of the institutions is a positive signal sent to national parliaments. Never before had the revision procedure of the Treaties been so transparent, so democratic, so political and consequently so ... parliamentarised.

The citizens we represent place high expectations in Europe which they don't always understand. As parliamentarians it is our duty to strengthen the daily involvement of our assemblies in European affairs which, we all know, are not foreign affairs. The engagement of national parliaments in European construction has been a recurrent topic since the election in 1979 of European deputies by direct universal suffrage. In 1999, the entry into force of the protocol on the role of national parliaments, appended to the Amsterdam Treaty, amounted to explicit recognition of the contribution of parliaments to European construction. Whereas the Union is criticised for its democratic deficit, the European Convention has opened new prospects which we must seize. The involvement of national parliaments forms a key factor in the deepening of the Union which we so fervently desire.

The work started fifteen months ago, and which should be concluded in a few weeks time, has shown on several occasions the parliamentary dimension of the Union. The present report intends to underscore the challenge of the reforms envisaged by the Convention regarding the future role of national parliaments.

Whether it is a matter of the monitoring of the subsidiarity and proportionality principles, suppression of the pillars and its consequences on the Union's policies, promotion of European citizenship and the Union's democratic life, recognition of international legal personality or the revision procedure of the treaties, all these subjects have a parliamentary dimension which we should promote. In a spirit of interinstitutional exchange and dialogue, national parliaments can play, each for its part, an active role with each of the institutions of the Community 'triangle'. Collectively, they will also have to imagine in the future flexible but efficient forms of interparliamentary cooperation, which will participate in redefining their role in an enlarged Europe.

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FIRST PART

INTERINSTITUTIONAL DIMENSION OF THE ROLE OF NATIONAL PARLIAMENTS WITH RESPECT TO THE WORK OF THE CONVENTION ON THE FUTURE OF EUROPE

I – National parliaments and the European Commission

Never in the history of European construction have national parliaments had direct relations with Community institutions¹⁸. They have always made their views known through their respective governments acting within the Council of the European Union. This organic isolation has, to a certain extent, set national parliamentarians aside from the major European political challenges, causing a certain ignorance of the Union's institutional operation. A major innovation examined by the Convention consists therefore in organising direct institutional dialogue between national parliaments and the European Commission.

- *Towards direct access to Commission documents by national parliaments*

- *Existing state of law*

The entry into force in 1999 of the protocol on the role of national parliaments in the European Union, appended to the Amsterdam Treaty, marked an important step forward in the recognised rights of national parliaments, by setting forth that *'all Commission consultation documents (green and white papers and communications) shall be promptly forwarded to the national parliaments of the Member States.'* Referring to *'proposals for legislation'*, *'they shall be made available in good time so that the government of each Member State may ensure that its own national parliament receives them as appropriate.'* In practice this means that the Commission never sends its documents directly to national parliaments and the latter are informed of Union legislative activities through their governments.

- *The Convention's proposal*

The draft protocol on the application of the principles of subsidiarity and proportionality, presented by the Convention Praesidium¹⁹, sets forth in its point 3 that *'the Commission shall send all its legislative proposals and its amended proposals to the national parliaments of the Member States at the same time as to the Union legislator.'* As for the draft protocol on the role of national parliaments, it sets forth that *'all Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to Member States' national parliaments'* and adds that *'the Commission shall send all its proposals for legislation directly to Member States' national parliaments at the same time as to the European Parliament and to the Council.'* This drafting takes up a recommendation made by the Convention *'National parliaments'* working group chaired by Mrs Gisela Stuart. In a contribution to this working group²⁰, Commissioner Michel Barnier, a member of the Convention, therefore specified that *'the Commission would not have any difficulty in envisaging direct transmission if the Member States felt that this would not jeopardise constitutional relations between national governments and national parliaments.'*

As the scope of documents subject to automatic transmission may appear restrictive, several amendments have been filed within the Convention in order to broaden the fields covered by the protocol²¹: transmission of the multiannual strategy, annual report of the European mediator, financial and regulatory consequence of legislative proposals. Some amendments also suggest that the Commission should promptly answer requests for information or clarifications on the part of national parliaments. In effect, while European Union official documents can now be accessed on Internet, and parliaments can obtain them directly and instantaneously, institutional dialogue with the Commission could contribute substantial added value by supplying national parliaments with the necessary explanations to analyse thoroughly the texts on which they are required to vote.

¹⁸ While, until 1979, the members of the Strasbourg Assembly were indeed delegates of national parliaments, the Assembly had merely a consultative role and did not have the powers it has today.

¹⁹ CONV 579/03 (27 February 2003)

²⁰ WG IV - WD 9 (15 July 2002)

²¹ CONV 610/03 (12 March 2003)

- *An institutional innovation: the early warning right*

- *Procedure envisaged for monitoring the subsidiarity principle*

The subsidiarity principle, introduced by the Maastricht Treaty, refers to the most appropriate level of intervention when a competence is shared between the Union and the Member States. In the event of 'shared' or 'competing' competences, European action is justified only if the Union is really in a position to act more effectively than Member States individually.

Application of the subsidiarity principle is one of the four priority topics appearing in the Declaration on the Future of Europe appended to the Nice Treaty. This is a subject closely related to that of the role of national parliaments because the absence of appropriate monitoring of compliance with subsidiarity may well lead to parliamentary competence being lost.

The recommendations of the Convention 'Subsidiarity' working group, chaired by Mr Inigo Mendez de Vigo²², advocate the recognition of an 'early warning right' for national parliaments by which each national parliament could send the Commission a reasoned opinion on the supposed infringement of the subsidiarity principle. Early warning is therefore aimed at allowing national parliaments to express their position individually and directly at the beginning of the Community legislative procedure. It is a matter of *ex ante* monitoring that does not set out to allow national parliaments to intervene directly in the Community legislative procedure. This justifies the fact that the Commission cannot be legally bound by the opinions given. Consequently, the draft protocol on the application of the subsidiarity and proportionality principles specifies that in the event where at least one third of national parliaments would give a justified opinion on infringement of the subsidiarity principle by the Commission's proposal, the Commission would be obliged to reconsider its proposal. Following this reconsideration, the Commission could decide either to maintain its proposal, or amend or withdraw it.

Many amendments have been filed on this draft protocol aimed at introducing a 'red card' which would oblige the Commission to withdraw its proposal whenever two-thirds of national parliaments would give a negative opinion. The perverse effects of such a proposal should not be underestimated; by intervening so brutally in the legislative procedure, parliaments run the risk of appearing as a source of blockage of European construction. However there are many other means of involving national parliaments than placing them exclusively in a position of opposition.

In any case, even if it is not legally bound by parliamentary opinions, the Commission will in practice receive a political signal which will naturally have consequences on the content of its legislative proposals. The history of European construction is a process of permanent negotiations; in this respect, the early warning right fits fully into Community logic.

The Convention '*Subsidiarity*' working group had also envisaged the possibility for national parliaments to exercise an *ex post* right to bring actions before the European Union Court of Justice after entry into force of legislative acts. In its draft protocol on the application of the principles of subsidiarity and proportionality²³, the Convention Praesidium recognised a right of appeal for national parliaments only via their respective governments. This restrictive interpretation caused disappointment since the working group proposals had nevertheless achieved consensus at the Convention plenary session of 3 and 4 October 2002²⁴. That's why the Praesidium could be led to proposing improvements on at least two points:

- First, each national parliament should have two votes in implementing the early warning right, in order to take into account the specific situation of bicameral parliaments;
- Second, each chamber should be able to bring an action directly before the European Union Court of Justice, within the framework of *ex post* actions envisaged in the draft protocol.

²² CONV 286/02 WG I 15 (23 September 2002)

²³ CONV 579/03 (27 February 2003), mentioned above.

²⁴ CONV 331/02 (11 October 2002)

➤ *A desirable extension of the early warning mechanism to fundamental rights*

The area of security, freedom and justice is at the centre of the competences of national parliaments and of the life of European citizens. The measures adopted in this field, particularly in penal matters, should be the subject of a democratic and transparent debate both at European and at national level..

The evolutions contemplated by the Convention in the justice and home affairs (JHA) field deeply affect the competences of national parliaments, and should in this respect be combined with a strengthening of their role in elaborating Union law. The nature of the competences and of the issues addressed by the Union is indeed changing radically. Member States' policies in criminal, asylum and immigration matters are being increasingly defined in Brussels. The issues addressed at each session of the 'Justice and Home Affairs' Council therefore concern the central aspects of the rights and of the life of each citizen and of the competences of their representatives.

The Convention '*Freedom, security and justice*' working group chaired by Mr John Bruton therefore mentioned in its final report²⁵ the creation – suggested by several Convention members – of a similar early warning mechanism for the cases where national parliaments feel that an initiative – of the Commission or of a group of Member States – would go against fundamental aspects of their national penal law. It would be advisable for such a possibility to be planned in the protocol on the role of national parliaments.

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II – National parliaments and the Council of the European Union

The relationship between national parliaments and the Council is complex as the Council, made up of representatives of governments, holds both legislative power and executive competences within the European Union. Europe indeed does not have the same type of separation of powers characterising the member countries. Further, if one considers that the Council is the Community institution representing the interests of States, national parliaments could have their place there, as a component of States, alongside their respective governments. In this respect everyone agrees in considering that the relationship between governments and parliaments is a matter for the specific constitutional practices of each country; this however does not exclude the formulation of proposals aimed at better informing national parliamentarians of the work of the Council of the European Union. In this framework, the major concern of national parliaments is that of a greater transparency of Council work, the prerequisite for a better access to Community information.

- *Challenges of a greater transparency of Council work*

The Convention, in keeping with the conclusions of the '*Simplification of Instruments and Procedures*' working group chaired by Mr Giuliano Amato²⁶, recommends a clearer distinction between the legislative and executive activities of the Council of the European Union. Draft Article 36 of the Constitutional Treaty therefore sets forth that the legislative debates of the Council in its legislative form shall be public. This proposal breaks with the confidentiality of negotiations which characterises the Council's work. It is also consistent with the strengthening of the powers of the European Parliament as the ordinary law co-legislator of the Union and whose proceedings, as far as they are concerned, are public. In this spirit, point 5 of the draft protocol on the role of national parliaments sets forth that '*the agendas for and the outcome of Council meetings shall be transmitted directly to Member States' national parliaments.*' This is a strengthened guarantee offered to national parliaments.

Transparency of work by the Council in its legislative form will now allow national parliaments to be informed not only at the beginning of the legislative procedure but throughout the Community process. This will promote the intensity and scope of parliamentary scrutiny.

²⁵ CONV 426/02 WG X 14 (2 December 2002).

²⁶ CONV 424/02 WG IX 13 (29 November 2002)

- *Elaboration of a code of conduct*

The relations between governments and national parliaments are a matter for the specific constitutional requirements of each State. However, practice shows that some national systems are more supportive of parliamentary scrutiny than others, and that it can be very useful to list the best practices seen in the European Union. In its final report, the Convention '*National parliaments*' working group therefore felt it was useful to analyse the various national systems in order to define minimum standards. Two aspects can be distinguished: the nature of information sent to national parliaments and compliance with minimum timeframes for assessing proposals.

- *Nature of information communicated to national parliaments*

The report by the '*National parliaments*' working group argues for regular hearings of ministers, both before and after Council sessions.

COSAC has also elaborated instructive minimum standards in accordance with the recommendations of a working group created within it in November 2002 during the Danish chair of the European Union²⁷. These '*Copenhagen guidelines*', adopted in January 2003 during the XXVIIIrd extraordinary COSAC in Brussels, state that: 'Opportunities should be provided for meetings with ministers in the national parliaments well in advance of Community meetings. The government should give an account of its attitude to Community proposals at such meetings.' Furthermore 'The national parliament should be informed by the government well in advance as regards decisions to be made in the European Union and concerning the government's proposals regarding decisions. This concerns ordinary meetings of the Council, summit meetings, and inter-governmental conferences. The national parliaments should also subsequently be informed of the decisions taken.'

Information is constantly evolving; it must be transmitted in a continuous flow so that national parliaments can enjoy information updated as Community negotiations actually take place. Further, the transmission by each government of an impact study stating the provisions of national law that may be modified by European legislation would strengthen the relevance of parliamentary scrutiny.

- *Timeframes for assessing proposals*

Currently, the protocol on the role of national parliaments, appended to the Amsterdam Treaty, sets forth that, subject to exceptions on the ground of urgency, a period of six weeks shall elapse between the time when the Commission transmits a legislative proposal to the Council and to the European Parliament, and the inclusion of this proposal on the Council agenda with a view to a decision. However difficulties arise when, without formally adopting an Act, ministers reach a political agreement before the six week period elapses. That is why the Convention working group recommended that '*Council working groups and Coreper should not acknowledge preliminary agreements on proposals concerned by the six-week period set forth in the protocol on national parliaments, appended to the Amsterdam Treaty, before the end of said six-week period, exceptions being allowed for on the ground of urgency – as laid down in the protocol.*' However this proposal was not adopted by the Praesidium in the new draft protocol submitted to the Convention.

The final report of the working group chaired by Mrs Gisela Stuart also recommended that '*the Council's rules of procedure provide for a clear week to elapse between a legislative item being considered at Coreper and the Council.*' This is an important provision so that national parliaments can assert their viewpoint from the beginning of the procedure. However neither does this proposal appear in the draft presented by the Praesidium.

The new draft protocol on the role of national parliaments therefore falls short of the expectations of national parliaments and scarcely makes any improvement with respect to the present situation. This is nevertheless a major challenge so that national parliaments can exercise real influence on European decision-taking.

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²⁷ http://www.cosac.org/fr/precede/copenhagen_2002/wgdec.htm

III – National parliaments and the European Parliament

In 1979 the election of European deputies by direct universal suffrage broke the organic tie that existed between national parliaments and Community institutions. In effect, until then, each parliament appointed within itself representatives to sit at the Strasbourg Assembly. But the European Parliament of the time had none of the powers of a parliament like any other: the Rome Treaty did not grant it real decisional powers since it was merely empowered to formulate simple opinions on a limited number of texts. The 1979 reform was therefore essential to make the European Parliament a really democratic institution, by granting it undeniable popular legitimacy through direct universal suffrage.

There is no point in opposing two legitimacies – one European, and the other national – which complete each other far more than they oppose one another. The European Union is based on a double legitimacy: that of States and that of peoples. As they are directly elected by citizens, the European Parliament and national parliaments represent the peoples of European Union Member States. The Union's democratic legitimacy will therefore be strengthened by simultaneously strengthening these two poles of legitimacy (European Parliament and national parliaments).

- *Clarification of roles: from competition to complementarity*

Marking a fundamental step in the deepening of European construction, the Maastricht Treaty, which came into force in 1993, has transferred huge swaths of sovereignty from States to the European Union, dispossessing national parliaments of some of their competences. The Treaty on European Union has also considerably strengthened the prerogatives of the European Parliament by extending the scope of the co-decision procedure in the Community pillar.

The Union's institutional architecture is indeed based on three pillars which correspond to different decision procedures. Whereas the first pillar refers to Community policies which are based on the exclusive right of initiative of the European Commission and a mechanism for adopting texts based mostly on the co-decision procedure, the second and third pillars are a product of intergovernmental logic where the role of States is preponderant. It is not the role of national parliaments to interfere in the Community legislative procedure even if the recognised competence of the European Parliament cannot exclude continuous dialogue with national parliaments. But the early warning right, which the Convention envisages to grant them to monitor subsidiarity, clearly shows that they should intervene only if the Union ignores the scope of their competences. Relations between national parliaments and the European Parliament are therefore closely related to the delimitation of competences between the Union and Member States. It is therefore particularly in the field of shared competences that thorough analysis should commence on the future relations between the European Parliament and national parliaments. This illustrates the deeply interparliamentary dimension in the European Union.

- *Interparliamentary dimension in the European Union*

A real intensification in the relations between national parliaments and the European Parliament has been seen for several years. This is a positive evolution and emphasises the complementarity between these two legitimacies.

Cooperation between the European Parliament and national parliaments can assume various forms. In several Union countries, it can therefore be observed that European affairs committees of parliaments are open to the national European deputies. For instance at the Bundestag, European deputies, allowed to participate in the work of the European affairs committee, are appointed by the Speaker on proposal by the parliamentary groups. However, while they can take part in the debates, European deputies are not generally entitled to vote within the parliamentary committee. It should also be emphasised that, in the majority of Union countries, European deputies are increasingly regularly invited to participate in joint meetings as part of the strengthening of interparliamentary cooperation.

Similarly, national parliamentarians are frequently invited to participate in European Parliament committee meetings. The rules of procedure of the European Parliament²⁸ indeed set forth that *'Parliament shall keep the national parliaments of the Member States regularly informed of its activities. The Conference of Presidents may give a mandate to the President to negotiate facilities for the national parliaments of the Member States, on a reciprocal basis, and to propose any other measures to facilitate contacts with the national parliaments.'*

²⁸ Article 55

The report by Mr Giorgio Napolitano, Chairman of the European Parliament Committee on Constitutional Affairs, adopted on 23 January 2002 on relations between the European Parliament and the national parliaments in European integration²⁹, proposes to develop and place on a systematic footing interparliamentary cooperation, particularly in the areas of the common foreign and security policy, Economic and Monetary Union, the area of freedom, security and justice and constitutional affairs. In this respect, the report suggests the formulation of an 'interparliamentary agreement' which might include '*outline reciprocal commitments with regard to programmes of multilateral or bilateral meetings on European issues of common interest or of a general or sectoral nature*,' as well as '*the exchange of information and documents*'.³⁰

In the same spirit, the working group created within COSAC recommends the conclusion of such an agreement between national parliaments and the European Parliament in order to place exchanges on a systematic footing. The regular organisation of sectoral interparliamentary meetings would help to know the viewpoint of national parliamentarians before the European Parliament examines legislative proposals at first hearing. But the initiative of such meetings should not be exclusively reserved for the European Parliament. Exchanges between European political groups and parties should also intensify to develop and broaden a genuine democratic debate on the Union's legislative programme.

The impetus for and the follow-up of interparliamentary cooperation requires the setting in place of appropriate administrative structures. The increase in the number of liaison officials from national parliaments at the European Parliament bears witness to the concrete and daily dimension of interparliamentary cooperation. A supportive secretarial structure for COSAC, formed for instance from this network of liaison officials, would also contribute very usefully to strengthening this cooperation.

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²⁹ A5-0023/2002 (23 January 2002)

³⁰ A draft cooperation agreement between the European Parliament and the Member States was therefore elaborated by the European Parliament Committee on Constitutional Affairs.

SECOND PART:

THE COLLECTIVE ROLE OF NATIONAL PARLIAMENTS REMAINS A DIVISIVE SUBJECT

I – Disappointing results of the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC)

- *From the creation to the institutionalisation of COSAC*

In May 1989 the speakers of the parliaments of the European Community Member States agreed at their Madrid conference to strengthen the role of national parliaments in the Community process by bringing together the various European affairs committees of parliaments. The first meeting of the COSAC as an informal interparliamentary organisation was held in Paris in the month of November 1989. Since then, COSAC meets at least twice a year in the parliament of the country chairing the Union. Since 1994 the candidate countries have been involved in COSAC work with observer status.

It was in 1999, with the entry into force of the Amsterdam Treaty, that COSAC was officially institutionalised, through the protocol on the role of national parliaments. Yet COSAC has not become a new institution, but remains an 'interparliamentary conference' which can now submit any contribution it deems appropriate to the Union institutions. The protocol on the role of national parliaments also sets forth that '*COSAC may examine any legislative proposal or initiative in relation to the establishment of an area of freedom, security and justice which might have a direct bearing on the rights and freedoms of individuals.*'

Each COSAC meeting generally ends with the adoption of a contribution - to date by consensus. Mention can be made, for example, of the declaration on terrorism (XXIIIrd COSAC, Versailles, October 2000), the appeal to voters in the European elections (XXth COSAC, Berlin, May-June 1999) or else the declaration on transparency (XVIth COSAC, The Hague, June 1997).

These declarations do not however express the position of national parliaments but only that of COSAC. In effect, COSAC represents European affairs committees of parliaments more than national parliaments, which means that the parliamentarians sitting in COSAC cannot commit their respective parliaments. Nor does the interparliamentary conference have its own budget, operating costs being borne by the parliament of the country chairing the Union.

It can be regretted that COSAC has not to date fully used its prerogatives recognised under the Amsterdam Treaty, not having examined any Commission legislative proposal.

In order to improve COSAC's operation, a working group was set up in November 2002 by the Danish chair of the Union. This working group held three meetings between November 2002 and March 2003, and has proposed a reform of COSAC's rules of procedure. The debates raised by the work of this group have nevertheless revealed divergent approaches regarding COSAC's future role and a collective organisation of national parliaments within the European Union.

- *COSAC's difficult evolution*

The draft reform submitted on 27 January 2003 to the examination of the extraordinary COSAC, Brussels, already formed a compromise with respect to the initial document presented in November by the Danish chair. The main proposals concern the following points:

- The adoption of a parliamentary code of conduct that is not legally binding ('Copenhagen guidelines') aimed at improving the quantity and quality of information supplied to national parliaments. This code of conduct should respect the constitutional requirements specific to each Member State;
- A reform of the voting rules, consisting in allowing the adoption of COSAC contributions no longer by unanimity but by a qualified majority of $\frac{3}{4}$ of the members voting thereon, which corresponds to more than 50% of the voting rights. However, in amending the rules of procedure the principle of unanimity among the delegations present at the meeting is maintained;

- The possibility of setting up a permanent COSAC secretariat in accordance with procedures to be defined;
- Support by COSAC for greater cooperation between the sectoral committees of national parliaments, yet without making COSAC the coordinating body of these meetings;
- The holding, each year, of a presentation by the European Commission of its legislative programme and the possibility for COSAC to offer sectoral support for implementing the ‘early warning mechanism’ as regards monitoring of the subsidiary principle;
- The conclusion of interinstitutional agreements between COSAC and the European Commission, the European Parliament and the Council of the European Union.

The tone of the debate which has started on the working group proposals has revealed the omnipresent fear that a reform of COSAC will inevitably lead to its transformation into a new institution. Both the renouncement of voting by unanimity and the possibility of creating a light secretariat helping to ensure continuity of work, has strengthened this sentiment, especially among the delegations of the European Parliament, the Netherlands, Germany and Italy. Yet, owing to its very composition, COSAC cannot become a new institution since it already includes a Community institution, namely the European Parliament.

COSAC should on the other hand remain the focal point of interparliamentary cooperation and relations between national parliaments and the European Parliament should thereby be calmed. Yet COSAC has been more than an informal forum ever since its existence was enshrined in the protocol on the role of national parliaments, appended to the Amsterdam Treaty.

In any event, COSAC must decide on its future now that the Convention is drawing the Union’s future institutional architecture. Will a reformed COSAC on its own, however, be able to meet the concerns of national parliaments? It appears necessary to explore other pathways, not excluding a strengthening of COSAC but probably more visible to the European citizen.

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II – Absence of consensus on the forms of collective representation of national parliaments

• *Rejection of a second chamber*

The idea of creating a second European chamber is not new. Many political leaders and institutions argue for its creation. Yet the physiognomy of this new institution varies considerably depending on the proposals, and opinions are evolving rapidly on this politically sensitive subject. Some desire the creation of a Chamber of States composed of representatives of governments and national parliaments, alongside a Chamber of Peoples made up of the present European Parliament. Others feel it is necessary to form a second chamber composed of representatives of national parliaments but whose competence – non-legislative – would be limited to political scrutiny of matters coming under the present second and third pillars. The Assembly of the Western European Union (WEU) for instance recommends the establishment of an interparliamentary ‘second chamber’ to follow-up and accompany policies having remained mainly intergovernmental and fields of competence like the common foreign and security policy or police and judicial cooperation in penal matters³¹.

There are those, lastly, according to whom a second chamber of national parliaments should fit into a new European Parliament having become bicameral and composed of an upper chamber and a lower chamber (the current European Parliament).

But the idea of a second chamber is far from achieving consensus. A report by the House of Lords, published on 27 November 2001³², underscores the disadvantages. The setting up of a second chamber would in fact be likely to create the conditions of a conflictual relationship with the European Parliament and would be an argument used by governments to inform their respective parliaments less about European affairs. Lastly, a second chamber could

³¹ Assembly of the Western European Union / Interim European Security and Defence Assembly - Document A/1778 (4 June 2002). ‘The role of national parliaments in the European Union and more specifically in ESDP – a contribution from the Assembly to the Convention’ – Presentation of the report tabled on behalf of the Political Committee by Mr Eyskens, rapporteur.

³² 7th report (session 2001-2002) ‘A second parliamentary chamber for Europe: an unreal solution to some real problems’.

exacerbate voter impatience and discontent to which it would have a very hard time responding. The impact of its work on opinion would be very low, even non-existent, while the dual mandate imposed on its members would not allow them to be sufficiently available to scrutinise European institutions on a continuous basis.

For these reasons, in particular, there is no agreement today on the opportuneness of creating a second chamber, and the Convention debates are not heading in that direction. However, everyone acknowledges the need to find a both visible and useful formula which will involve national parliaments – and through them citizens – in European construction. In this spirit the President of the Convention, Mr Valéry Giscard d'Estaing, put forward the idea of a 'European Congress.'

• *Uncertainties regarding the creation of a 'European Congress'*

A 'European Congress', composed of representatives of national parliaments and of the European Parliament, would make it possible to bring together in the same structure two distinct but non-competing legitimacies. President Valéry Giscard d'Estaing therefore spoke personally in favour of a Congress composed of 700 members (one third of European deputies and two thirds of national parliamentarians), which would debate once a year on the 'state of the Union' and could ultimately elect a president of Europe.

This proposal has not to date been welcomed in the Convention. European Parliament delegates in particular have mostly declared themselves opposed to it, at least in its present state. Admittedly many misunderstandings have arisen on this Congress, which some wrongly perceive as a new Community institution. However the Congress would be far more of an occasional, non-permanent meeting, without any legislative competence. It would be a political arena for debate on the Union's major orientations. The Congress could also serve as an electoral college participating in the appointment procedure of the highest officials in the Union. Lastly it could be competent to revise, by a qualified majority, some provisions of European treaties. In this precise case, the Congress represents an alternative to the impasse that would be created by maintaining the unanimity rule in a Europe enlarged to 25 countries or more.

But the Convention has not yet reached an agreement on this subject, which explains the ongoing vibrant discussions on other possible forms of involving national parliaments and strengthening interparliamentary cooperation. These proposals would not exclude the creation of a Congress.

An idea is gaining ground: that of specialised conventions or of *ad hoc* interparliamentary conferences, as suggested by the conclusions of the working group on the role of national parliaments. The example of the Convention on the charter of fundamental rights of the European Union has shown the efficacy of the convention 'method' which could be transposed to other subjects where political impasses occur. Why then not imagine, particularly in matters coming under the present-day third pillar, the European Council giving a mandate to a specialised convention, meeting for a limited period, to formulate reform proposals? Such conferences should be open to all the stakeholders concerned and their proceedings should be governed by the principle of disclosure. This is the prerequisite to involve citizens and, more widely, civil society in the challenges of European construction, which should attract more media attention to be better understood.

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THIRD PART

TOWARDS A REDEFINITION OF THE ROLE OF NATIONAL PARLIAMENTS IN AN ENLARGED EUROPE

I – Constitutional dimension of the role of national parliaments

• *Procedures for involvement in the revision of the Constitutional Treaty*

Currently, Article 48 of the Treaty on European Union sets forth that amendments to the treaties cannot enter into force until they have been ratified by all the Member States in accordance with their respective constitutional requirements. National parliaments therefore participate in elaborating Union primary law, but only at the ratification stage, the drafting of the draft revision being the work of an intergovernmental conference (IGC).

➤ Participation of national parliaments at the stage of the drafting of the draft revision

In the future, national parliaments could be more involved in the revision procedure of the Constitutional Treaty by more frequent – nay systematic – recourse to the convention method. It should indeed be recalled that it is the success of the Convention on the charter of fundamental rights which led European Heads of State and Government to convene a new convention tasked with submitting to them a proposal for an institutional reform with a view to the close historic enlargement of the Union. By combining various legitimacies, the Convention is an original instrument making it possible to strengthen interinstitutional dialogue and also to make the constitutional debate more transparent for European citizens.

The involvement of national parliaments in the revision procedure of the treaties is also necessary to allow national elected representatives to fully play their role in providing an information link with public opinion. Therefore the draft provisions on the revision procedures of the Constitutional Treaty³³ should provide for the possibility of using conventions to prepare constitutional revisions. Very many amendments, made by members from all the components represented at the present Convention on the Future of Europe, have been filed in this respect. Future conventions would however be required to formulate only recommendations. Decisional power would be a matter for an intergovernmental conference, and then, at ratification stage, for Member States in accordance with their respective constitutional requirements.

➤ *Participation of national parliaments in adopting certain constitutional provisions*

In a Europe enlarged to 25 or 30 members, the requirement of unanimity for revisions to the Constitutional Treaty to come into force is likely to lead to paralysis. While the Convention intends to distinguish two parts in the future Constitutional Treaty (the first part on institutional architecture, the second on policies), it could be envisaged to entrust to a 'Congress' the power of adopting amendments to the second part. These provisions would have the same legal values as those of the first part, but could come into force as soon as they are approved by a 'super-qualified' majority of members of said Congress.

At the Congress, national parliaments would be represented in proportion to the population of their country, as is the case with the number of European Parliament deputies. This solution would therefore present the advantage of involving national parliaments directly in Union constitutional reforms.

• Participation of national parliaments in the enlargement process

➤ Information of national parliaments on the progression of membership negotiations

The membership negotiations fit into an enlargement process that cannot neglect the parliamentary dimension. National parliaments must be regularly informed of the progression of membership negotiations. In this manner, for example, the National Assembly Delegation for the European Union has published many reports, country per country, on the enlargement of the Union, in accordance with its task of keeping parliament informed.

³³ CONV 647/03 (2 April 2003)

Information also supposes the development of interparliamentary relations between candidate countries and member countries. Parliamentary committees for European integration have played an important role in the Copenhagen process which has paved the way for reunification of the European continent. Relations between the parliaments of candidate countries and parliaments of the Union have intensified in recent years and several joint meetings have been held between the European affairs committees of the Member States and of the candidate countries. Also, the participation of candidate country representatives at COSAC, with observer status, has contributed to developing regular exchanges. The future member countries also participate fully in the Convention work.

➤ Intervention of national parliaments at the ratification of membership treaties

Draft Article 44 of the Constitutional Treaty, as presented by the Convention Praesidium, confirms that the membership agreements of new European Union Member States are subject to the ratification procedure by each of the contracting States, in accordance with their respective constitutional requirements. Unless referendums are held, the approval of national parliaments will remain required.

This provision, making national parliaments intervene, corresponds to that set forth currently in Article 49 of the Treaty on European Union. But draft Article 44 introduces a new provision according to which the European Parliament and national parliaments are informed at the same time of any membership application as soon as it arrives at the Council.

National parliamentarians can also play a role in passing on information to citizens on the challenges of enlargement, the 'Eurobarometer' surveys pointing to an information deficit of opinion. More frequent organisation of parliamentary debates on this subject would therefore help to give greater political and media visibility to a subject of concern to each European.

* *

II – Intervention of national parliaments as regards the suppression of the European Union pillars

With a view to simplification and coherence, the European Convention is contemplating suppressing the three pillars of the European Union such as they have existed since the entry into force of the Maastricht Treaty ten years ago. However, the suppression of the pillars must not take place to the detriment of the influence of national parliaments. In three fields, in particular, the involvement of national parliaments is necessary in order to ensure parliamentary scrutiny: Economic and Monetary Union, the European security and defence policy, and the area of freedom, security and justice.

• *National parliaments, Economic and Monetary Union and funding of the Union*

➤ *Economic and Monetary Union*

The advent of the euro has led to a management of monetary policy along federal lines, under the authority of the European Central Bank; but the economic aspect remains, for its part, within the competence of the Member States. Everyone nevertheless admits the need to strengthen the convergence of economic policies within the Union, within the framework of flexible legal instruments.

The 'open coordination method', which occupies an intermediary place between intergovernmental cooperation and the Community approach, could therefore offer a relevant means of involving national parliaments in the convergence process of economic policies. The method should no longer be based exclusively on the Council and the Commission, but should also involve national parliaments which could state their views on the definition of aims and ensure, in accordance with national constitutional requirements, political scrutiny over the implementation of this economic coordination.

It would also be advisable for national parliaments to be consulted on the elaboration of the 'major economic policy guidelines' defined by the Commission.

➤ *Funding of the Union*

Currently, Article 269 of the Treaty establishing the European Community sets forth that 'The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall lay down provisions relating to the system of own resources of the Community, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.' Would the present intergovernmental procedure, which lays down the adoption of the 'own resources' decision unanimously, with ratification by national parliaments, remain compatible with a European constitutional logic? A 'discussion circle' has been set up at the Convention to enlighten the Praesidium on possible reform pathways as regards the funding of the Union.

The circle debates have emphasised in fact that the majority of the Union's resources are not genuine own resource but indeed contributions from national budgets. This justifies the intervention of national parliaments, which today forms the means of establishing a link between the funding of the Union and its citizens.

A strengthening of European integration would require the creation of a European tax: how can it then be ensured that national parliaments keep an essential prerogative?

- *National parliaments and the common foreign, security and defence policy*

The intergovernmental method applies currently to the fields coming under Title V of the Treaty on European Union, which concerns the common foreign and security policy (CFSP) and security and defence policy (ESDP). In the future, the European Union's action in these fields could develop within the framework of strengthened cooperations. But subjects as politically sensitive as foreign policy or defence require strengthened democratic legitimacy. The experience of the Assembly of the Western European Union shows that a European model of parliamentary scrutiny adapted to the Union's new missions should be deepened. Whether that is in the framework of a reformed COSAC, a Congress or specialised conventions, the development of the European security and defence policy makes it necessary to find appropriate mechanisms for parliamentary scrutiny. National parliaments cannot be kept apart from the European defence policy.

The Constitutional Treaty could therefore set forth the possibility of convening each year an *ad hoc* interparliamentary conference bringing together representatives of the national and of the European Parliament committees with competence in the field of CFSP and ESDP. This conference would express its views on the annual report on the common foreign, security and defence policy that would be sent to it, and would debate on the multiannual strategic programme defined by the Council.

- *National parliaments and the area of freedom, security and justice*

The area of freedom, security and justice is situated at the centre of the competences of national parliaments and of the life of European citizens. The measures adopted in this field, particularly in penal matters, must be the subject of a democratic and transparent debate, both at European level – the competences of the European Parliament will be strengthened in this respect – and national level.

In this sector, major changes, with far-reaching consequences for national parliaments, are contemplated at the European Convention:

➤ *Simplification of legal instruments*

The present 'third pillar' conventions of the European Union, covering penal and police judicial cooperation, will probably be replaced by Community legal instruments not subject to ratification; as for the present outline decisions and the present decisions, lacking direct effect, they should be replaced by the future European framework Acts and European Acts, having direct effect once they come into force or on the expiry of their transposition deadline, without intervention by national parliaments always being necessary. These evolutions require a strengthening of parliamentary scrutiny procedures, which is why it is necessary to support the early warning right, on the initiative of national parliaments, in case a legislative proposal – from the European Commission or a group of Member States – would be inconsistent with '*fundamental aspects*' of national penal law.

➤ *Recognition of the European Union's international legal personality*

It is virtually taken for granted that the European Union will be granted international legal personality. Agreements negotiated with third countries in penal (extradition and judicial assistance) or police matters will then no longer necessarily be the subject of a national parliamentary authorisation before being ratified. While such a reform appears desirable, it cannot deprive national parliaments of their power, under national constitutions, to ratify international agreements. Recognition of the Union's international legal personality would be likely to challenge an essential prerogative of national parliaments: a large number of treaties (especially those on penal matters) would no longer necessarily be subject to parliamentary approval. Therefore new parliamentary involvement procedures must be defined, setting forth in particular a systematic transmission of draft agreements to national parliaments.

➤ *Political scrutiny over Europol*

Europol should be submitted to full political scrutiny applied by a joint parliamentary committee (European Parliament and national parliaments) in accordance with the proposal appearing in the Commission communication on democratic control over Europol.³⁴ The creation of this joint committee, initially suggested by the interparliamentary conference of The Hague on 7 and 8 June 2001, has been aired on many occasions during the work by the European Convention.

The issues addressed during each session of the 'Justice and Home Affairs' session of the Council therefore go to the very core of the rights and of the life of each citizen and of the competences of their representatives. The changes contemplated in the area of freedom, justice and security must therefore be combined with appropriate reforms in order to guarantee effective parliamentary scrutiny, because Member States' policies in criminal, asylum and immigration matters are being increasingly defined in Brussels.

³⁴ (COM (2002) 95 final). The European Parliament dialogues directly with the Parliamentary Assembly of the Council of Europe.

CONCLUSION

SEVEN RECOMMENDATIONS FOR THE ROLE OF NATIONAL PARLIAMENTS IN THE ENLARGED EUROPE

The work by the European Convention is drawing to its end. National parliaments will have their share of responsibility – and a large one – in the choices finally made by the intergovernmental conference. The rethinking of the European project has enabled overcoming institutional divides which have never permitted the concrete and ambitious answers expected by citizens. For, when all is said and done, it will be up to the peoples of Europe to express their views on the project and the institutions submitted to them by their leaders. Each in its place, Community and national institutions will therefore have to work on making our Europe more coherent and more democratic.

In this spirit we could find common ground in the seven following recommendations:

1 – The Conference of Speakers of the European Union Parliaments welcomes the entry into the European Union of ten new countries and the setting up in these States of appropriate mechanisms of parliamentary scrutiny over European affairs.

2 – The convention method is an original method allowing a democratic debate on the major challenges of European construction by fully involving national parliaments. The use of conventions should therefore be favoured for future revisions of the Constitutional Treaty.

3 – The Constitutional Treaty should include the possibility of inter-institutional agreements organising relations between national parliaments and Community institutions, while complying with the constitutional requirements of each Member State.

4 – Interparliamentary cooperation between the European Parliament and national parliaments should be strengthened and made permanent, in accordance with flexible and adapted mechanisms on the basis of the subjects addressed.

5 – The warning right should allow national parliaments to preserve their competences within the framework of the subsidiarity principle. This right could be usefully transposed to the monitoring of compliance with fundamental human rights defined by the European Charter.

6 – The contemplated suppression of the European Union pillars should not be made to the detriment of the prerogatives of national parliaments recognised under the present second and third pillars. The Constitutional Treaty should, for these matters, set forth national parliamentary scrutiny mechanisms, including within the framework of possible strengthened cooperations.

7 – National parliaments and the European Parliament shall be regularly informed of the progression of work by the intergovernmental conference, which will follow the convention, in order to be in a position to debate and express their positions in due time.

ANNEXE A.2 — BIJLAGE A.2

THE EUROPEAN PARLIAMENTS AND THE CONVENTION ON THE FUTURE OF EUROPE

*Report prepared by Dr. Katalin Szili President of the Hungarian National Assembly
for the conference of the Presidents of European Parliaments*

Athens, 23-24 May 2003

INTRODUCTION

One year ago in Madrid, we reviewed the role of national parliaments in relation to the future of Europe. The Convention had been underway only for a few months then, and two working groups of the Convention particularly important from the aspect of the national parliaments, namely, the Working Group on the role of national parliaments and the Working Group on the principle of subsidiarity had just started to operate. One year has passed since our meeting in Madrid; a year when perhaps the most thorough deliberation was devoted to the place and tasks of national parliaments within the European institutional system in the history of European integration. So many ideas and proposals have never been put forward for enhancing the efficiency of the role assumed by parliaments as in this one year. One year after Madrid, we are now only a few weeks from the closing of the Convention on the future of Europe. The Convention has less than a month for adopting and submitting its proposal for the EU's new Constitutional Treaty to the Inter-governmental Conference, in which it must also make a proposal for the operation of the parliamentary dimension of the European Union. The hour has come for finally synthesizing the proposals and initiatives formulated during the work of the Convention.

The Laeken Declaration had formulated the questions that have oriented the work concerning the role of national parliaments in the Convention. The Laeken Declaration reflected the consensus that it was necessary to reconsider and reinforce the role of national parliaments in order to make the European Union more democratic, more transparent, and more efficient. Based on this consideration and following Laeken, the Convention has to furnish an answer to the following questions:

- Should the national parliaments be represented in a new institution alongside the Council and the European Parliament?
- Should they have a role in areas of European action in which the European Parliament has no competence?
- Should they focus on the division of competence between Union and Member States, for example through preliminary checking of compliance with the principle of subsidiarity?

These questions have been discussed thoroughly in the Convention last year. The Working Groups on the role of national parliaments and the principle of subsidiarity reviewed the relevant problems and proposals in detail, pointed out the issues where there is indeed a great need for change, and reflected them also in the final reports of the working groups. The plenary session of the Convention has also discussed the reports and added further useful thoughts to the statements included in them. Based on the results of the working groups, the Presidium of the Convention could submit to the Convention the two draft protocols concerning national parliaments, and the discussion of these drafts has taken place at the meeting of the Convention in March. The role of national parliaments is also concerned by the fact that the debate of institutional questions has started in the Convention. Profound thinking concerning the role of national parliaments has also started outside the Convention. On the one hand, detailed discussion has started and was completed on this in individual national parliaments, what resulted also in the adoption of official positions and resolutions in certain cases. On the other hand, a comprehensive exchange of

views on this subject has taken place among national parliaments, particularly in COSAC. Tangible results have been achieved in this latter forum in January in Copenhagen with the adoption of the Copenhagen Parliamentary Guidelines, and then with the modification of the rules of procedure of COSAC in Athens in May.

So a number of proposals have been devised in answer to the questions of Laeken last year, what allows the Convention to come to the conclusion that it should be possible to realise the basic objective enjoying everyone's support: that is, to increase the democratic legitimacy of the Union by involving national parliaments more intensively, and to make the Union more transparent and more understandable for our citizens.

As a result of the Convention, we may pronounce that we have explored the questions we must answer. We know the questions we shall decide upon. For the most part, we are also familiar with each others' proposals and ideas. Now we are only facing the most difficult task: for each question, we must select the resolution concept that is acceptable for all of us, and which meets the emerging challenge.

Based on the above, in my report, I wish to sum up the proposals that we have before us, and I wish to point out in which direction we could still move forward in my view, and how we could arrive at specific decisions from the proposals we are considering.

But before analysing the specific points, I consider it very important to draw attention to the fact that the Constitutional Treaty to be elaborated by the Convention and to be adopted at the Inter-governmental Conference will be able to provide an answer for only a part of the measures to be taken concerning the role of national parliaments. The Constitutional Treaty will be able to decide upon only a part of the tasks to be executed. In order that national parliaments can assume a more efficient role, individual Member States shall resolve a number of questions themselves on national level in areas and in institutional and procedural questions where the EU, and thus the Constitutional Treaty can have no competence. Here I allude basically to the relations of national parliaments and their governments, which is a question where we may – or even must – adopt principles on the level of EU even as part of the Constitutional Treaty, but the development of the national models will remain a national competence.

Does the establishment of new institutions provide a solution?

In this respect, we came to the following conclusion in the chairman's summary adopted at our Madrid meeting last year:

«With a view to strengthening European democracy, the Presidents deemed it important to strengthen the participation of national Parliament, rather than by the creation of new bodies, by means of new procedures. In spite of the fact that some of the Presidents do not totally reject the possibility of a second Chamber in the European Parliament, most of the participants prefer to avoid complicating the European Union institutional structure.».

Considering the debate going on in the Convention, I believe that our conclusion drawn in Madrid has remained in effect up to this day. The majority of those who took the floor in the Convention rejected the necessity of establishing a new institution, although some still advocate the creation of a body called Congress or Congress of the Peoples of Europe (even this standpoint is reflected also in the proposal submitted by the Presidium of the Convention) that would consist of members of national parliaments and the European Parliament and would convene at least once a year. However, on account of the debates held on the subject we may as well state that according to the majority, the establishment of such a body would be no remedy to our main problem, namely that our citizens should see the European Union as being more transparent, more democratic and having greater legitimacy. The criterion of transparency cannot be ensured by a body meeting once a year, moreover, this principle would rather be infringed by the creation of another institution; this would make the institutional system that has not been too simple already, even more complicated. The new body would not involve greater democracy either, since it would not be vested with decision-making competence, thus, it would not represent a greater counterpoise against the influence of institutions not elected directly. Legitimacy would not be enhanced either, as another institution of indirect constitution would be created, although the direct election of the European Parliament was introduced almost 25 years ago with the purpose of reducing the number of such institutions. Altogether, I believe that it is incorrect to think that the establishment of an institution regrouping national parliaments would provide an answer to the problem of democratic deficit. It is incorrect, because the problems of insufficient democracy and transparency do not emerge on Union level basically. On the level of the Union, I can see a significant problem of transparency only at one point: in the

Council, because being a legislative body, its meeting are not public. However, this problem is easy to resolve; and the Member States have already given evidence of their intention to make significant progress at the Seville Summit in this respect. In my view, the Constitutional Treaty may express that in its capacity of legislative body the Council should act in public. With this, I believe, the requirements of transparency could be satisfied on the level of the Union, as the other legislative body, the European Parliament acts in public yet, and official documents are available to anyone.

In my opinion, the democratic deficit appears rather on national level, and the establishment of new institutions does not provide an answer to that. The main challenge is that while citizens have increasing expectations towards the European Union, in the meantime their trust in the institutions of the Union decreases, because citizens are unclear as to which decisions are the responsibility of the European Union, which results can be attributed to Europe, and what the responsibilities of the specific institutions are at all. Identification with the EU is impeded by the fact that citizens are generally unclear as to the division of competence between Member States and the institutions of the Union, what the governments of Member States regularly use to blame Brussels for less popular decisions. The democratic deficit comes primarily from the fact that decision-making is concentrated in the hands of Community institutions on a supranational level, while political debate still takes place on national or local level (and I think that for a good while this cannot be changed or perhaps it is not worth changing it). Decisions are increasingly made on Community level, while communication and social debates concerning the decisions take place on national level, and electors continue to turn to their local representatives with their questions. So, the questions of power and legitimacy are separated to a certain degree. This can be altered only by conducting the debates on European decision-making concerning the society or its certain groups on the scene of the social debate, that is, in the national political arena, in its primary forums, in the national parliaments. We have to discuss on national level among others the challenges facing the Union, the political and legislative programmes for the next period (e.g. the programme of the Council Presidency and the Commission's legislative programme), we must pay increased attention to the questions of Community legislation concerning our citizens, we have to review the various interests, and we have to visualize the national and Community standpoints. This is how we can give perhaps the best answer to resolve the issue of democratic deficit. This is proven by the positive practices characteristic to certain Member States. The problem of democratic deficit can be heard less often where the national debates on the main European decision-making issues are conducted in public in the parliament. So the answer should be sought for the most part in the national procedures. Therefore, the establishment of a new institution is not expected to reduce democratic deficit and reinforce legitimacy.

Moreover, a new institution created from representatives of the national parliaments would, to a certain degree, reinforce the misconception that the European Parliament and the national parliaments are rivals somehow. It would be a mistake to provide a breeding-ground for this idea. We must emphasise that national parliaments and the European Parliament do not develop to each other's detriment. The reinforcement of the parliaments is not a zero-sum game. The role of national parliaments in the EU diminished so far not because the European Parliament gained strength by receiving authorities of co-legislator. National parliaments became weaker versus their own governments, as the Council is the main legislative body in Community legislation. And the Council consists of the national governments. One of the most important questions of power related to the EU membership is that the previously sovereign legislating national parliaments cede some of the legislation to the Community of the Member States where individual countries are represented by their national governments. A shift in sovereignty takes place with the national parliaments being the institutional losers and the governments being the winners of the change. The powers shifted away from national parliaments do not end up primarily at the European Parliament. The reinforcement of the EP is rather compensation in terms of democratic legitimacy in this regard. The reinforcement of the powers of the European Parliament does not take any power away from national parliaments or even from the national governments sitting in the Council, since by virtue of the co-legislative role of the European Parliament, it appears as a decision-maker beside the governments of the Member States, as an institution having the right of veto, and that needs to be consulted, but that acts as a co-decision-maker. The increasing influence of the European Parliament brings about the reinforcement of parliamentary type control altogether. The European Parliament and the national parliaments may therefore gain strength side by side, thus ensuring greater legitimacy to the Union. But while in the case of former amendments of the Treaty – primarily with the introduction and roll-out of the co-decision procedure – great emphasis was laid on the reinforcement by the European Parliament, and less attention was given to national parliaments. With the adoption of the Constitutional Treaty now we have an opportunity for reinforcing the parliamentary dimension of the EU in parallel, on the one hand by making the co-legislator role of the EP, that is, the

co-decision procedure general (which is an extremely important step in my view), and on the other hand by introducing new procedures affecting the relations of the institutions of the Union and the national parliaments, and of the national parliaments and their governments (see under next point) ensuring that national parliaments providing the primary grounds for national debates receive a greater opportunity to expound and enforce their standpoints. To achieve this, national parliaments must gain strength primarily as opposed to their governments, exercising stricter control over the position represented by their governments in the Council.

The inclusion of national parliaments and the European Parliament in one body might disrupt the logical unity which ensures a fine balance of interests in the European Union today, an institutional balance between the Commission representing the Community, the Council acting for the states and the European Parliament standing for the citizens. In today's system, clear and separable roles have evolved based on this fundamental assumption. If we accept that the European Union is a system *sui generis* (and we do not want to compare it to states or international organisations at any price), then it is easier to adopt the fact that national parliaments and the European Parliament have different roles and responsibilities within this institutional balance. The responsibility of the European Parliament is to provide on the level of the Union an opportunity for the interests of the citizens to connect directly into Community decision-making. On the other hand, the responsibility of national parliaments is to provide legitimacy for the national positions represented by their governments whereby the decision of the Council is made. Therefore, the EP and the national parliaments fulfil different legitimacy tasks that should not be confused, as these are complementary roles reinforcing each other. Consequently, in my opinion not a common institution, just more efficient and ongoing consultation is required between the European Parliament and the national parliaments.

The only benefit of establishing a Congress would be that it would create closer relations between members of the European Parliament and members of the national parliaments. However, that can be realised in a different way, namely by reforming, expanding and reinforcing COSAC, which process has already started and is simply waiting for being accelerated and for greater impetus. Moreover, with COSAC, a regularly meeting, much more living organisation could be created, which would ensure a forum necessary for the exchange of views between parliaments.

At the same time, significant need may arise in terms of the institutional involvement of national parliaments for the establishment of a single body not operating constantly, and that, in relation to the development of the Union. The establishment of the Convention lived up to the expectations, and allowed preparatory work related to the transformation of the Union to be done in a much wider, more democratic framework. Therefore it seems to be wise to consider that the "Convention model" should be included in the Constitutional Treaty. This would mean that in the future the Constitutional Treaty could be amended only after having the proposal of an ad hoc committee to be set up by the European Council and consisting of members of national parliaments and members of the European Parliament, delegates of the governments of the Member States and representatives of the European Commission.

New procedures instead of new institutions

Under the previous point I intended to point out that it is probably not the establishment of new institutions that is an answer to our main problems, but new procedures are rather required between the institutions of the Union and the national parliaments, and on the other hand between the national parliaments and their governments. In this regard, I feel that the work completed in the Convention brought about very significant progress, and many questions could be clarified in detail. Two Working Groups of the Convention, the Working Group on the role of national parliaments and the Working Group on the principle of subsidiarity have investigated the problem thoroughly, and the proposals submitted by the Presidium of the Convention also seek an answer to the main questions in the right direction. In the remaining month, we should endeavour to supplement and modify these proposals to provide an appropriate basis in the long term for a more efficient involvement of and more intensive role played by national parliaments. We must consider two important aspects in this regard. First, proposals enjoying comprehensive consensus have been developed outside the Convention, primarily in the scope of COSAC, which should be reflected in the Constitutional Treaty. On the other hand, we must keep in mind that it is not sufficient simply to create a good framework in the Constitutional Treaty; national procedures must be developed likewise, so that they serve our common interests and are consistent with the spirit of the principles to be set forth in the Constitutional Treaty.

On the basis of the work completed so far it can be stated that smoothly working procedural systems must be developed in three areas whereby we can meet our objective, namely that national parliaments should ensure improved transparency, greater legitimacy and more democracy in the decision-making process of the Union. We need new procedures first in the relations of the institutions of the Union and the national parliaments, second in the relations of national parliaments and their governments, and third in inter-parliamentary cooperation. I intend to summarise these items below.

a) Procedures regulating the relations of the institutions of the Union and national parliaments

Under this point, I will review the relations of national parliaments and the institutions of the Union, except for the direct connections with the European Parliament which will be dealt with under inter-parliamentary cooperation.

We are talking about two practical procedures in this regard. One of them must provide information for the national parliaments and ensure that they are supplied with the information necessary for their more efficient participation in the decision-making process, while the other must ensure that national parliaments be able to exercise the highest control over the enforcement of the principle of subsidiarity.

As regards the supply of parliaments with information, I believe that the Working Group of the Convention on the role of national parliaments completed a very thorough work to investigate the main questions. The Draft Protocol on the role of national parliaments submitted by the Presidium of the Convention reflected these proposals under a number of points. I think that we can agree with all the points of the draft protocol concerning the obligation to provide information and the operating procedures of the Council, the Commission, and the Court of Auditor. However further specification may be required. For instance, certain proposals of Working Group IV of the Convention have been omitted from the draft, and a number of other amendments would be worth including in the protocol. So my opinion is that the protocol should be made more accurate, should be supplemented and extended with the following points:

- Council agendas and outcomes should be communicated to national parliaments upon their establishment.
- Records of Council proceedings (or official record of the legislative proceedings) should be sent within 10 days to the European Parliament and the national parliaments, parallel to the transmission to governments.
- Council Working Groups and Coreper should not acknowledge preliminary agreements on proposals covered by the six-week period, with exceptions on the grounds of urgency as set out in the Protocol.
- The Council's rules of procedure should provide for a clear week to elapse between a legislative item being considered at Coreper and the Council.
- A debate should be held simultaneously in all the national parliaments regarding the Commission's annual work programme.

In addition, I would consider it important to express in some section of the Constitutional Treaty (of course, not in the protocol on national parliaments) that the Council should act in public in all cases where it exercises its legislative functions.

Of the procedures regulating the relations of the institutions of the Union and national parliaments, the other extremely important question is that of the parliamentary control of the enforcement of subsidiarity. In this respect, the early warning system developed by the Convention's Working Group on the principle of subsidiarity would represent significant steps forward for the national parliaments. Therefore, national parliaments shall support the Draft Protocol on the application of the principle of subsidiarity and proportionality submitted by the Presidium of the Convention. The draft is well-balanced and provides a good synthesis of the positions expounded in the Convention. At the same time, there are still a few points that are subject to debate, but a solution is being outlined for them as well. Several of these concern national parliaments, such as the concept of national parliaments with regard to bicameral parliaments, the threshold for early warning, and the right to turn to the European Court of Justice.

It seems that the proposal that enjoyed the support of the majority at the plenary meeting of the Convention in March would provide a good solution for managing the concept of national parliaments and the problem of bicameral parliaments. Under that proposal when the threshold was calculated, reasoned opinions expressed by unicameral parliaments would be given two votes as opposed to one for opinions issued by each chamber of a bicameral parliament.

As far as the threshold is concerned, one third is an acceptable proportion in my view, as in fact, it can be considered a compromise, as there are some who want a higher, while others a lower proportion. There is a further question related to the threshold whereby some suggest that, beside the former warning called yellow card, another threshold, a kind of a red card be introduced, which would force the Commission's initiative to halt under a majority of two-thirds. However, I think that it is unnecessary to determine such a threshold explicitly, since if the Commission indeed received a negative feedback from two-thirds of the national parliaments, it is guaranteed that it would modify its proposal without such a red card.

It is also an important question how national parliaments are allowed to turn to the European Court of Justice. According to the protocol, Member States are allowed to do that where appropriate at the request of their national parliaments in accordance with their respective constitutional rules. Some challenge this and say that national parliaments should be allowed to turn directly to the Court of Justice. I believe, however, that in practice this could not be accomplished in the case of a number of parliaments, therefore national constitutional provisions should rather be clarified to specify in which form national parliaments would appear on behalf of the Member States in such cases.

Furthermore, it is a matter of principle from the aspect of the national parliaments that the Commission should send the annual report scrutinizing the application of Article 7(3) of the Constitution, to be prepared by the Commission, as mentioned in point 9 of the Draft Protocol on subsidiarity, directly to the national parliaments as well (simultaneously with sending it to the European Council, the Council, and the European Parliament).

b) Procedures regulating the relations of national parliaments and their governments

This point covers in essence the process of scrutiny, the procedure of the national parliaments to check and influence the standpoint and negotiating position of their respective governments in the Council, the preliminary control of Community legislation. As a matter of course, the elaboration of this procedure is the internal affair of each Member State. But, as I already pointed out, since we are talking about perhaps the most important question concerning the reduction of the democratic deficit – what is decisive from the point of view of the operation and legitimacy of the Union and its acceptance by the citizens – in my view it is necessary to formulate certain minimum requirements, principles on the level of the Union. Practically, this was accomplished with the adoption of the Copenhagen Parliamentary Guidelines, at the same time it is worth considering that, giving greater weight to these guidelines, reference should be made to them in the Protocol on the national parliaments to be attached to the Constitutional Treaty. I do not necessarily think that these guidelines should be included in the protocol. That would not be expedient if only because we could consider them principles which can be adapted constantly to the practice and experiences or even modified from time to time. At the same time, it could be a solution to pronounce in the protocol – we would thereby give greater legitimacy to the guidelines – that national parliaments would jointly adopt a code of conduct or guidelines to regulate the relations between governments and parliaments regarding EU affairs.

In my opinion, the Copenhagen Guidelines adopted by the COSAC can be valued as very important steps made towards our parliaments fulfilling an increasingly efficient and, for our citizens, more transparent role in making Community decision-making clearer. I would find it important to make some kind of a reference to these in the Constitutional Treaty because in effect this would provide clearer guidance also to the governments as to the observance of the guidelines. I have to add that the guidelines will have any worth if the commitment to apply them exists on the national level. Of course, the models to be developed on national level shall in any case be aligned to the national constitutional framework and the domestic practice. At the same time, it is necessary that national parliaments regularly exchange their views (primarily on the level of COSAC and the Presidents' Conference) on the operation and results of the various national models, thus contributing to the improvement of these models and of the guidelines developed jointly. Therefore I suggest that we exchange our views regularly in the future concerning our practices, potentially even by reviewing the national implementation of a specific guideline on each occasion, thus sharing our experiences.

c) The issues of inter-parliamentary cooperation

As I already pointed out, the majority of those who took the floor in the Convention rejected the necessity of establishing new institutions; I myself also adopt the standpoint that in the current situation it is probably not the establishment of new institutions that is an answer to our problems. I think that this is also true for inter-parliamentary cooperation. I believe that the forms of cooperation established still have a lot of reserves for us for exchanging our views concerning Community decision-making, discussing our experiences, and for improving coordination between our parliaments. Instead of elaborating new forms, we rather need to use existing ones more efficiently, transform them according to our purposes, and we need to define our objectives with realism in this respect. We have to consider structures of cooperation that we will be able to operate and fill with content. Members of both the national parliaments and the European Parliament are busy, their travel and meeting plans can hardly be extended, therefore we must plan our cooperation rationally, as it is impossible to increase the number of meetings and sessions beyond a certain point. Considering the above, I will examine the following three questions in more detail in my report in connection with the cooperation between parliaments: the transformation of existing institutions, relations between members of national parliaments and of the European Parliament, and certain administrative issues.

Of existing institutions, we usually speak the most about COSAC. I agree with the finding of the Working Group IV of the Convention that it is necessary to clarify the mandate of COSAC making its activity more efficient and more focused and reinforcing its inter-parliamentary consultative mechanisms. I think that very important steps have been taken with the modification of the rules of procedure of COSAC in Athens, thus with the adoption of decision-making by majority and the establishment of a permanent secretariat. This will assist the body in remaining operational even with 25 Member States. It will be possible to ensure continuity through the permanent secretariat.

In my view, COSAC could be extended with members from parliamentary committees other than the committees on European affairs. Some of the other specialised committees have also been holding meetings lately, for instance several such meetings will take place in this half-year on the initiative of the Greek Parliament. These could be integrated into COSAC, and the permanent secretariat could organise these meetings more easily. A priori more technical policy questions could be included in the agenda of the COSAC (e.g. CAP reform), and it would be good if the representatives of both the responsible specialised committees and the committees on European affairs were present at these meetings. We should consider holding two COSAC meetings each half-year (or more as required) longer than they are now (of even 3 whole days), with one of them focusing on the main policy questions of the half-year, while the other on the major strategic issues of the half-year, and in this manner a definite number of representatives of the specialised committees concerned would be invited to them. Of course, ad-hoc inter-parliamentary conferences could be held on specific topics as required, but the parallel treatment of topics could be more easily avoided in this manner. Beside specialised committees, the presidents of parliaments could also be involved in the work of COSAC, so presidents of parliaments could attend meetings dealing with strategic policy questions, and in such cases, they may even preside over these meetings. Of course, in this case there would be no need for a separate meeting for the presidents. In the context of these changes I would also agree to changing the name of COSAC; it could be renamed for instance to 'Conference of National Parliaments' expressing its more comprehensive nature, while the name conference would still reflect its character of informal, non-institutionalized discussion forum. Consequently, COSAC would obviously be a coordination forum of the national parliaments, but of course, the European Parliament would continue to take part in all aspects of its work, with consultative rights. The reinforced role of COSAC should also be reflected in the Protocol on National Parliaments attached to the Constitutional Treaty. In my view, this could pronounce that the European Parliament, the Council, and the Commission shall be informed of COSAC contributions and that they shall respond within three months. In addition, the protocol should also be supplemented with a paragraph expressing that COSAC may promote exchange of information and best practice.

As far as the development of relations between members of the national parliaments and members of the European Parliament is concerned, in my view the main task is that we should provide an increasing amount of information for each other on our activities and ideas. To this end, the most important is to exploit the procedural possibilities available to us. The practice existing in some Member States whereby Members of the European Parliament may attend and speak at committee meetings of the national parliaments, especially the committees on European affairs, should be propagated widely. The European Parliament could mutually ensure that a definite number of representatives from each national parliament, let us say, two representatives from each parliamentary committee, would be allowed

to attend and, if required, speak at meetings of the counterpart committees of the European Parliament. We may even introduce a system whereby two MPs (1 from the government and 1 from opposition side) would be appointed from each parliamentary committee of every Member State, who would be permanently in charge of liaising with the EP and between the committees. All this would result also that integration affairs would not be dealt with exclusively by a limited number of representatives sitting in the committees on European affairs, but – through the involvement of the specialised committees – members of parliaments would be involved more deeply and more widely in Community decision-making what would also improve the publicity of Community affairs.

From the aspect of parliamentary cooperation, it is an important technical question that it is very difficult to find dates for the various meetings and sessions that are suitable for all parliaments as the system of our sessions vary greatly. We often have to face that our representatives cannot attend important European meetings because of their obligations to vote at home. Although I can see little chance of transforming our traditional order of sessions; however, I suggest that we consider reserving fixed dates – days or weeks – every half-year for the meetings of national parliaments, when we could also hold the meetings of COSAC, which could in this way always be attended by everyone.

As far as administrative questions are concerned, there are a couple questions that have been on the agenda for a longer while and which are particularly in the focus of attention now that the role of national parliaments is transferred on a new basis. I would like to highlight two points out of them. One is the question of establishing a permanent representation, and the other is the operation of electronic exchange of information.

Having studied the operation of a number of Member States, I think that we can affirm that it is of great avail to the parliaments if they have an independent source of information in Brussels gathering the necessary information based on the specific needs of the parliaments and providing information for the MPs on a regular basis. Such offices allow the parliaments to use their own channels in addition to the channels of other institutions including government bodies and EU institutions. The fact that the European Parliament provides premises for this in its own building is a very good opportunity. It would therefore seem expedient if it became a general practice among parliaments to have such an office in Brussels. In the Hungarian National Assembly, we have decided that we intend to establish a permanent representation in the building of the European Parliament to assist our parliament in getting first hand information.

As regards the electronic exchange of information, I wish to point out that the hour has come for us to establish an information network truly useful in everyday work. We have already taken the first steps to this end, and since we could create an enormous amount of energy in other areas by establishing fast information flow, I think that we must pay greater attention to informing each other in this way.

CONCLUDING REMARKS

The Nice Declaration and the Laeken Declaration pointed out that it was necessary to reconsider and reinforce the role of national parliaments in order to make the European Union more democratic, more transparent, and more efficient. In connection with the work of the Convention, the greatest attention ever has been paid to the role played by national parliaments in the decision-making of the European Union. A number of proposals have been devised as a result of the deliberation started concerning the role of parliaments, what allows the Convention to come a conclusion completing the objective enjoying everyone's support: that is, to increase the democratic legitimacy of the Union by involving national parliaments more intensively, and to make the Union more transparent and more understandable for our citizens.

In my report, I pointed out that as a result of the discussions held in the Convention it can be affirmed that probably not the establishment of new institutions, but the development of new procedures and the transformation of existing procedures would offer the best solution for reinforcing the role of national parliaments. The current balance of institutions should not be disrupted, but needs rather to be operated more efficiently, and the current institutional system holds significant reserves for this. It is partly the responsibility of the Convention and the Intergovernmental Conference to develop these procedures and insert them in the Constitutional Treaty. The Constitutional Treaty must ensure the procedures, primarily in the context of the relations between the EU institutions and the national parliaments,

which provide the preconditions for national parliaments to be able to influence and shape decisions of the Union. At the same time, there are several issues where the solution is independent of the Constitutional Treaty and its implementation is a question of political intention. Some of them relate to the national models regulating the relations of national parliaments and their governments, while others to the interparliamentary relations. At the same time, it must be underlined that the nature of the national models is of key importance to reduce the democratic deficit. The problem of democratic deficit can be heard less often where the debates on the main European decision-making issues are conducted in public in the national parliament. Therefore, we have to keep in mind increasingly that although the framework ensuring the involvement of national parliaments must be expected from the Constitutional Treaty, the actual role that we can secure for our parliaments by this framework depends basically on us; it is a function of a national decision. My report summarises the procedural issues and the most important proposals and tasks formulated in connection with them so far, that we shall resolve either within or independent of the Constitutional Treaty.

Based on the work of the Convention we may as well state that after the closing of the Convention and the Intergovernmental Conference, as a consequence of the adoption of the Constitutional Treaty, national parliaments will be given a greater than ever opportunity to participate in the development of EU decisions. Not only the influence exercised over Community legislation by national parliaments through their governments will increase, but being the main guardians of the prevalence of the principle of subsidiarity, they will also have a direct say in the control of this principle. It has a symbolic importance that these two roles of the national parliaments should appear not only in the two protocols attached, but also in the Constitutional Treaty. The Constitutional Treaty should include an article on the role of national parliaments and another on the control of the principle of subsidiarity, while the two protocols should include the specific procedural questions related to them in detail.

The Convention is expected to complete work in June and draft the Constitutional Treaty. Then the Intergovernmental Conference is expected to begin in the second half of the year. In this respect, I consider it very important that the latter should start only after the referenda on accession have been completed in the accession countries. Thus, IGC could begin in October at the earliest. This would also ensure a reflection period when the national parliaments could discuss the results of the Convention, thus the governments could represent their countries at the Intergovernmental Conference knowing the refined position of their parliament. It would be difficult to set a deadline for closing the IGC now. Naturally, it would be ideal if the Convention could resolve the most possible points of issue, and few questions would remain for the IGC. One thing is certain, however, namely that old and new Member States shall be equal in every respect at the Intergovernmental Conference. Since all the 25 Member States shall ratify the Constitutional Treaty to put it in force, the ten accession countries shall have the same rights – including the voting right – as the Fifteen. An important condition of equality taken in the legal sense is that, irrespective of when we will close the Intergovernmental Conference (in the optimum case this may happen quickly), the Constitutional Treaty shall be signed with the participation of all the 25 countries after 1 May 2004. Consequently, the decision on the final approval shall also be made with the participation of 25 equal states. After it is signed, the national parliaments shall make every effort so that ratification is completed in a short time and the Constitutional Treaty of the 25-force Union comes into force as soon as possible.

ANNEXE B.1 — BIJLAGE B.1

**EUROPEAN PARLIAMENTS IN AN ENLARGED EUROPE:
THE POLITICAL AND INSTITUTIONAL DIMENSION**

*Report by Mr Pat COX,
President of the European Parliament*

For the Conference of the Presidents of the Parliaments
of the European Union

(Athens, 22-24 May 2003)

CONTENTS

I.	INTRODUCTION	65
II.	AN ENLARGED EUROPE: WHAT ROLE CAN PARLIAMENTS PLAY IN THE SYSTEM OF EUROPEAN GOVERNANCE?	65
III.	A POSSIBILITY TO UPGRADE AND BETTER STRUCTURE COOPERATION BETWEEN THE EUROPEAN PARLIAMENTS AND THENATIONAL PARLIAMENTS	67
IV.	AN ENLARGED EUROPE: WHAT ROLE CAN EUROPEAN PARLIAMENTS PLAY IN THE SYSTEM OF WORLD GOVERNANCE?	68
V.	CONCLUSION	69

I. INTRODUCTION

Our meeting in Athens is particularly significant, because it will consider two issues of vital importance to our institutions: their role in the Convention which is now laying the constitutional foundations for the Europe of tomorrow, and their political and institutional role in the enlarged Europe which will come into being in less than one year's time.

The last few weeks have seen a number of major events: on 9 April the European Parliament gave its consent, by a very large majority, to the Accession Treaty for the 10 new Member States, clearing the way for the formal signing of that Treaty in Athens on 16 April and sending out a strong signal reaffirming our commitment to the reunification of Europe. In that context, as from 1 May representatives of the countries joining the Union have taken up their duties as observers in the European Parliament with a view to gaining an insight into its *modus operandi*.

At the end of last month, in Brussels, I met the Presidents of parliaments of the applicant countries, a meeting which underlined that, for the first time in its history, Europe has an opportunity to build a political order without being compelled to do so by force or an external threat. It can do so by drawing its strength, its resources, its creativity and its dynamism from its internal balance and from the diversity of its peoples and nations.

Against that background, I believe we all feel that the European integration process has reached a decisive turning point. After more than one year of debate in the Convention on the Future of Europe, we are approaching the final stages of a 'constitutional' recasting of the European Union intended to enable us to modernise our joint institutions, with a view to making them more effective, to bring Europe closer to its citizens, and to integrate the applicant countries successfully into the Union.

At the end of the day, public opinion will pass judgement on the outcome of the Convention. Our citizens are scarcely bothered with institutional theory. The mechanisms for decision-making, the nomination procedures, the institutions and their interplay fail to excite. Citizens will judge the final report of this Convention on the basis of very simple questions. Will it work? Will it improve our capacity to deliver? Will it promote prosperity? Will it enhance security? Will it increase our influence in the world? Is it efficient? Is it comprehensible? And, above all, as a Parliamentarian, I am sure citizens will ask: Does it place democracy, legitimacy and transparency at the heart of the European construct?

II. AN ENLARGED EUROPE: WHAT ROLE CAN PARLIAMENTS PLAY IN THE SYSTEM OF EUROPEAN GOVERNANCE?

Views and judgements differ on the future of the European project. However, to my mind there is one aim which we all share, that of strengthening the '*parliamentarianism*' of political life in the European Union as a vital contribution to the democratic legitimacy of our joint project.

I am also convinced that we all recognise the crucial roles both national parliaments and the European Parliament have in monitoring governments and EU institutions respectively. This complementarity is very useful, because the right cooperation on our part could lead to elimination of the democratic deficit. Together we represent an unbroken chain of democratic scrutiny and accountability.

Obviously, it is up to each Member State to organise relations between its government and parliament. What works in Athens may not work in Dublin; what works in Warsaw may not work in Tallinn, etc, but an increased exchange of best practice between parliamentarians may be useful, and I applaud the efforts made by the COSAC in this respect, as well as work done by the Convention - which by the way in itself was initiated by the European Parliament as an important means of enhancing parliamentarism.

No new institutions are needed to enhance the role of parliaments and improve democratic scrutiny. We must build on existing structures and strengthen our cooperation, inter alia through rapid and reciprocal information exchange, better joint planning and best practice.

There are also a few policy areas to which we could usefully devote more of our attention in the future. Let me make a few suggestions as to ways of strengthening the democratic scrutiny of Union policy in the following specific areas.

In what areas can cooperation between the national parliaments and the European Parliament as regards the democratic scrutiny of European policy be strengthened?

- Scrutiny of implementation of the Community budget is vital if compliance with the principle of responsibility vis-à-vis the public is to be guaranteed in the European Union.

More than 80% of Union budget expenditure – expenditure earmarked to finance the Common Agricultural Policy and the Structural Funds – is in fact administered by the national and regional authorities of the Member States.

If these policies are implemented by means of a partnership between the Commission and the Member States, the European Parliament and the national parliaments should work together closely to strengthen democratic scrutiny of the transparent and effective use of Community budget resources and the fight against fraud and practices damaging to the financial interests of the European Communities.

The decentralised implementation of the Union budget which is now being advocated should go hand in hand with a strengthening of the procedures for cooperation between the EP's Committee on Budgetary Control and its counterpart committees in the national parliaments – a genuine qualitative step forward.

* *

- European Security and Defence is another area where co-operation could be stepped up to the mutual benefit of all parties. Security and defence issues will in all likelihood continue to be basically intergovernmental affairs, but combined with certain competencies for the community. We could all benefit from being better informed about each others' thinking in this area, which has evolved significantly over the last decade or two, with a new concept of "security". This trend can be expected to continue in the foreseeable future.

* *

The public must be at the heart of the debate on the development of an area of internal justice and security in Europe.

By placing greater emphasis on fundamental rights and laying down an objective designed to act as a catalyst for the decision-making process (establishment of an area of freedom, security and justice), the Treaty of Amsterdam also pointed the way towards more structured cooperation between the European Parliament and the national parliaments as regards democratic scrutiny of the implementation of that policy.

In that connection, the Protocol to the Treaty of Amsterdam on the national parliaments stipulates that a minimum of six weeks must elapse between the submission of a proposal in all the languages and its inclusion, for adoption, on a Council agenda.

In addition, as a result of the pressure exerted by some national parliaments, in its new Rules of Procedure the Council of Ministers has made a move towards greater openness vis-à-vis those parliaments. The Council Presidency *'will endeavour to ensure that, in principle, the provisional agenda for each meeting of the JHA (Justice and Home Affairs) Council and any documents relating to the items involved reach members of the Council at least 21 days before the beginning of the meeting'*.

This provision should ensure that the national parliaments are properly informed, not only about the basic proposal (which is often overtaken by the negotiations), but also about the definitive texts put to the vote.

Ensuring that this Council undertaking is honoured is an objective shared by the national parliaments and the European Parliament, in an area that is partly intergovernmental and partly a community competence. It should enable us to reduce the 'democratic deficit' which is all the more serious in a field fundamental to the protection of citizens' rights and to the fight against terrorism, illegal immigration and organised crime.

* *

A final, very significant example of an area, which is not subject to adequate democratic scrutiny is that of Economic and Monetary Union.

The Treaty on European Union lays down specific rules governing dialogue between the European Central Bank and the European Parliament with a view to the democratic scrutiny of Union monetary policy. The European Parliament therefore holds regular hearings with the European Central Bank and monetary policy debates in which all its Members, and not only those from countries which have introduced the single currency, take part and vote.

The European Parliament also has a duty to scrutinise the far-reaching economic management powers which the Treaty grants to the Council of Finance Ministers.

The Treaty provisions are, however, much less clear when it comes to scrutiny of the coordination of economic policies.

The EU would benefit from a regular and real dialogue on economic policy guidelines, with involvement by all institutions. Such arrangements would also offer broad scope for deepened co-operation with national parliaments. Input from national parliaments would be essential to inform the European Parliament's position.

III. A POSSIBILITY TO UPGRADE AND BETTER STRUCTURE COOPERATION BETWEEN THE EUROPEAN PARLIAMENT AND THE NATIONAL PARLIAMENTS

Cooperation between the national parliaments and the European Parliament has developed quite naturally since the entry into force of the Treaty of Amsterdam. Meetings between European Parliament committees and their counterpart committees from the national parliaments of the Member States have increased fourfold, rising from 10 in 1998 to 40 in 2001 and a similar number in 2002.

Although this cooperation has been welcomed in overall terms, many national parliaments find that the format of these meetings could usefully be revised in certain respects with a view to increasing their effectiveness.

The need for more effective coordination and joint scheduling of meetings, the identification of more specific discussion topics linked to the legislative programme, and arrangements whereby other institutions can take account of conclusions drawn up at the end of a meeting, are all areas where progress could be made to improve the quality of our cooperation. Perhaps we could also seek to ensure better facilities for exchanges between national parliaments and the European Parliament at political group level.

Should we continue to build our cooperation on a practical, pragmatic basis? Or would it be helpful to have a guideline setting certain objectives for this cooperation in some areas? Any guideline should serve a useful purpose, not be a binding, heavy-handed straitjacket for our relations, which are inevitably evolving, but indicate a useful means of deepening our relations. Such a guideline could cover the cooperation between our parliamentary committees, indicating certain subjects, which could be of a priority nature. It could pave the way for a more systematic exchange of information and documentation. It could secure access to each other's libraries and information centres. It could, in particular, cover relations between our respective administrations in the area of interparliamentary cooperation.

Our Constitutional Affairs Committee has put forward some suggestions in the form of a draft interparliamentary cooperation agreement. I know that the general idea was welcomed at the COSAC plenary meeting in Brussels on 27 January of this year.

It might be appropriate for this Conference of Speakers to ask a small group of our Parliaments to work on a possible code or agreement covering these areas of practical cooperation, which could be submitted to our Parliaments for agreement in the near future.

IV. AN ENLARGED EUROPE: WHAT ROLE CAN EUROPEAN PARLIAMENTS PLAY IN THE SYSTEM OF WORLD GOVERNANCE?

Let me first of all emphasise an idea fundamental to the European integration process: membership of the Union necessarily implies the transfer of some aspects of national sovereignty. There is no contradiction between the preservation of national identity and the implementation of a joint project.

The Community method has proved its worth, providing a means of developing a 'European project', whilst safeguarding the diversity of States, peoples and cultures.

The key to the success of that model has been the willingness to pool sovereignty with a view to exerting political influence in a more effective way and resolving shared problems, the implications of which extend beyond the frontiers of individual Member States.

Such shared sovereignty is reflected in new responsibilities for the national parliaments in terms of the exercise of democratic scrutiny and an additional area for cooperation between the national parliaments and the European Parliament. I should like our discussions to embrace this aspect of the enlargement process.

Another urgent topic is how the parliaments of the Union can work actively to bring about globalisation with a human face.

Trade issues are too important to leave to government negotiators alone. Demonstrations and critical voices in recent years show that not enough has been done to respond to people's anxieties. We need a thorough discussion in the public domain. There is a gap between what goes on at WTO level and the wider public. That is why active involvement of parliamentarians is crucial. The debate needs to be repossessed by parliamentarians and held in public. Parliamentarians could help spread understanding of the trade agenda and its implications and increase the legitimacy of the international trading system.

In the long run, political systems function best when they are open and transparent, and politics are carried out under the public eye, encouraging the widest possible participation by people involved in policy-making and its implementation. When forming policies at a global level, the task of connecting with the people is particularly challenging, but no less important.

Nowadays, trade is about much more than exports and imports. It is about development, food safety, consumer protection, the environment and economic and social policies. People are affected by these issues in their daily lives, which makes it even more crucial to associate parliamentarians.

In February last, the European Parliament organised a conference, together with the IPU, on the parliamentary dimension of the WTO in Geneva. I know that several parliamentarians from current and future EU Member States took part in that conference. The next opportunity to make further progress will be at Cancùn in Mexico on 9 September this year. I hope many parliamentarians will engage in this meeting, which will take place just before the ministerial conference begins.

The United States' delegation normally includes a substantial contingent of legislators. We in Europe should endeavour to match our most important trading partner by engaging parliamentarians to an equivalent degree.

In view of the importance of these matters for the daily lives of our citizens, for our economies and for our global partners, I feel we need to cooperate more closely in setting priorities in the external arena.

I urge you, therefore, to include this issue on the agenda for our discussions, with a view to encouraging an exchange of views on best practice in this area and preparing institutional proposals.

The parliamentary dimension will also play an increased role in the Euro-Mediterranean partnership (conversion of the current Forum into a parliamentary assembly), the Stability Pact for the Balkans and the parliamentary institutions of regional groupings, such as the Parliamentary Assembly for Black Sea Economic Cooperation (PABSEC) and the Parliamentary Assembly of the Commonwealth of Independent States.

By fostering the development of a parliamentary dimension to the regional integration processes under way in the Balkans and the Mediterranean, our parliaments will also contribute to the successful integration of these countries/regions into the world economy, thereby helping to reduce the poverty gap, and, ultimately, supporting a globalisation process based on solidarity and open to all.

The forthcoming enlargement will raise the profile of, and increase the influence exerted by, the European Union – and, hence, the ‘parliamentary component’ – in multilateral and regional international organisations. This calls for greater efforts on the part of the national parliaments and the European Parliament, in order to provide parliamentary representation commensurate with the Union’s international role.

I do not suggest that we should act as a bloc. I do however believe that all sides could benefit from increased coordination and regular investigation of whether there is a basis for enhanced co-operation on a case to case basis.

As regards multilateral parliamentary assemblies, the parliaments of the Union – national parliaments and the European Parliament – will be able to exert greater influence in:

- the Parliamentary Assembly of the Council of Europe – 25 countries out of a total of 43 will be EU Member States;
- the Interparliamentary Union (IPU)
- the ‘*Group of Twelve Plus*’ (which brings together the national parliaments of the Council of Europe, plus New Zealand, Canada, the United States and Australia);
- the possible future parliamentary institutions of the WTO (World Trade Organisation) and UNCTAD (United Nations Conference on Trade and Development).

V. CONCLUSION

The quality of relations between national parliaments and the European Parliament is of importance for the democratic life of the Union as a whole. We have our distinctive roles, but there are overlapping interests and gains to be made from enhanced co-operation. Together we can strengthen the democratic scrutiny, increase transparency and close the gap between the EU and its citizens.

A year has elapsed since the last time we met as a group. In that time considerable progress has been made in increasing the effectiveness of our co-operation within the current institutional framework, i.e. through COSAC. In this respect I would like to pay tribute to the Danish and the Greek Presidencies, which successfully have brought to closure a number of significant reform proposals, notably the new rules of procedure and the decision to set up a COSAC secretariat. I welcome these decisions and can re-confirm that the European Parliament would be ready to host this secretariat on its premises, if the national parliaments should find such a solution helpful.

This report contains a few practical proposals concerning ways to strengthen our cooperation on democratic scrutiny of European as well as world governance. I hope they will provoke some discussion on how we might move forward together.

ANNEXE B.2 — BIJLAGE B.2

THE CONFERENCE OF THE EUROPEAN UNION SPEAKERS

Athens, 22-24 May 2003

“The role of the European Parliaments in an enlarged Europe: Institutional and political dimensions”

*Report by the President of the Italian Chamber of Deputies
Pier Ferdinando Casini*

CONTENTS

1. The importance of Inter-parliamentary cooperation and the role of the Conference of EU Speakers.....	73
2. The main dimensions of the external relations of the European Union Parliaments	74
The “Greater Europe” of human rights	75
The Euro-Mediterranean Partnership	76
South-eastern Europe	77
The Russian Federation and the Newly Independent States	77
The Northern European Dimension	78
The Trans-Atlantic Dimension	78
Latin America	79
Africa	80
Asia	80
The international organisations with a global vocation	81
3. Conclusions	82

1. *The importance of inter-parliamentary co-operation and the role of the Conference of EU Speakers*

The reunification of the European Union is placing a huge burden of responsibility on our Parliaments. Precisely because the Union does not merge states but unites peoples, as Jean Monnet famously stated, it is primarily the crucial task of representative assemblies to involve the public in every member state in this great undertaking. Furthermore, it is also their task also to be performed through effective links between the national Parliaments and the European Parliament to fashion a European public opinion that is aware of the common identity of our continent and of the great project which we are implementing.

Reunification is not only bringing about internal changes to the Union, making reform absolutely indispensable, but it is also changing its external positioning. It is moving not only its physical borders, but above all its geopolitical borders. This is making it even more necessary to create a Union that is capable of acting as a unitary player on the world stage, particularly in the areas that adjoin it.

Inside and outside the Union, co-operation between Parliaments has an essential part to play in this phase.

In general terms, co-operation can strengthen the role of Parliaments by offering them independent tools for fact-finding and appraisal in addition to those provided by their own governments. This can help enable representative assemblies, and through them the public opinion, to become more familiar with and better understand each other's positions and to develop shared policies.

If co-operation is to achieve these results effectively, it must be properly co-ordinated, carefully prepared and targeted at specific objectives.

Co-operation directly involves the Conference of the European Union Speakers, which is charged with acting as a forum for "the exchange of experiences, as well as for the promotion of common action on topics related to the role of Parliaments and the organisation of parliamentary functions, also with respect to the forms and tools of inter-parliamentary co-operation."

The Conference could therefore be responsible for defining a framework for the co-ordination of inter-parliamentary co-operation within the European Union and in limited areas of co-operation outside the Union, solely for those aspects of common interest to the EU Parliaments. The Conference would thereby perform a great service to our Parliaments, helping to enhance the effectiveness of inter-parliamentary meetings and contacts between parliamentary administrations and to rationalise the use of the invaluable parliamentary time devoted to this activity.

At the European Union level, the Presiding Officers of national Parliaments and of the European Parliament could also promote other types of joint initiatives by co-ordinating certain events on their parliamentary calendars. I am thinking in particular of the possibility of organising simultaneous debates in all our national parliamentary assemblies and in the European Parliament on the Union's action programmes and on the major issues on the European agenda. This would enhance the role of each and every Parliament, giving particular force to their ideas and contributing greatly to bring public opinion closer to European Union in every country. Every year, or every six months if deemed appropriate, the Conference could identify issues and establish a timetable for these debates.

To this end it would be useful to take up the proposal made by the European Parliament on various occasions to produce an "inter-parliamentary agreement", which could be the most appropriate instrument to create a framework for co-ordinating forms of co-operation and the *fora* for them.

The Conference of the European Union Speakers could in this way operate more effectively as the organising centre of the network of Parliaments and their joint activities within the Union. This inalienable and, in my view, essential role should also be explicitly recognised in the draft Constitutional Treaty, which rightly refers to the promotion of co-operation between the European Parliament and the national Parliaments.

Against this background, the ideas that I would like to address in this paper for the Athens Conference of EU Speakers refer to the action that the Parliaments of the reunified Europe might perform in relation to the external

areas of the Union and the role that the EU Speakers Conference can play to ensure its effectiveness. The reasoning behind what I shall be saying is based on a number of things that, I believe, may be agreed by my colleagues:

- the importance of inter-parliamentary cooperation and the tasks of the Conference of EU Speakers, in the direction I have just mentioned;
- the fact that every Parliament acts and will continue to act in this field, exercising their full autonomy;
- the need for the Presiding Officers of the members of the Union, and those that will be acceding to it in a few months' time, to carefully examine any possible form of coordination and any possible joint initiatives we might undertake in our external parliamentary relations.

In this report I shall try to reconstruct a framework of the external relations of the European Union's Parliaments, in general terms and without attempting to be exhaustive, finally offering a few general remarks to my colleagues.

2. The main dimensions of the external relations of the European Union Parliaments

The development of European integration, which is now culminating on the constitutional plane, has never been based on the blind defence of positions but rather on dialogue and co-operation. The Parliaments of the European Union are the most immediate and incisive interpreters of this approach, to which they contribute the democratic legitimacy of direct representation of their peoples. Parliamentary diplomacy is emerging as the most flexible instrument for fostering political dialogue between political leaders and civil societies in an international context characterised by the end of the division of the world into two opposing blocs, the explosion of globalisation and pervasive migratory flows that are altering the demographic balance of the planet.

European reunification is forcing our countries to make an even greater commitment to external relations, for two reasons. First, a larger Europe will have to perform fully its role on the world stage; second, it is important to not erect new barriers in place of the Iron Curtain and to forge deeper relations with the Union's new neighbours to both the East and the South.

This sensibility is perhaps most acute in Parliaments, and can therefore best foster reciprocal understanding and the identification of solutions to our shared problems. The parliamentary approach makes it possible to integrate the three main components that have traditionally marked the Union's external relations: the political dimension, development aid and trade policy.

The framework of inter-parliamentary relations is highly varied and complex in terms of the institutional fora in which co-operation unfolds, often in tandem with similar inter-governmental initiatives. An initial examination enables us to identify a number of main types:

- a) the activities in which all the Parliaments of the Union participate, as such (for example Euro-Mediterranean parliamentary cooperation);
- b) the activities in which all the Parliaments of the Union participate individually (for example the International Parliamentary Assemblies);
- c) the activities in which some of the Union's Parliaments participate because of their membership of a particular regional area (such as the Nordic Council or the Adriatic-Ionian Initiative, the Black Sea Cooperation, etc.);
- d) bilateral activities in which individual Parliaments of the Union pursue relations with one or more third Parliaments.

From the point of view of the contents of these activities and of the goals, five main areas can be detected:

- partnership, or strategic rapprochement;
- promoting international security, conflict prevention, and supporting peace-making;
- strengthening democracy and raising the threshold of human rights protection;
- assisting the parliamentary institutions and civil society;
- combating poverty and underdevelopment, in terms of what is now known as “ownership”.

But even these brief references to the issues show that inter-parliamentary cooperation by the Parliaments of the Union has already been extremely profitable and active for a long time, and it would be absolutely pointless to try to bureaucratically standardise it to some form of unity; it is precisely from the independence of each Assembly that it acquires the necessary flexibility for dealing and dialoguing with extremely widely differing situations.

However, there is the scope for an exchange of experience and for linkages, as it can be seen from the following short reconstruction of the external relations of the Parliaments of the European Union, to have some indication at least of the many collective fora in which these relations are conducted. The section provides an overview in terms of geographic area, and is offered *purely by way of example*, without any pretence at being exhaustive. It is obviously just a first approach, *work in progress*, open to all contributions to flesh it out or correct it where necessary. But I felt it would be appropriate to contextualise the issue and the possible future prospects.

The “Greater Europe” of human rights

With reference to the issue of human rights, the work of the Parliaments of every European Union country, acting individually, is very significant, within the context of the deliberations of the Council of Europe Parliamentary Assembly.³⁵

This organisation, which was instituted as long ago as 1949, now comprises all the countries of the European continent following the recent accessions of Bosnia and Serbia and Montenegro, with the only major exception of Belarus. The Assembly plays an important part in the work of the Council of Europe, particularly by electing the judges to the Court of Human Rights and the members of the Committee for the Abolition of Torture, providing prior opinions on all international Conventions, and closely monitoring all commitments and obligations in relation to the defence of human rights, democracy and the rule of law, with which all member countries undertake to comply upon accession. One particularly important aspect of its work has been to secure the abolition of the death penalty throughout the continent of Europe. The parliamentarians play an important part in this work both as national delegations and through their membership of various political groupings (along the lines of the main European political groups, also in the European Parliament).

For the ten European Union countries which are already part of the Western European Union, the same parliamentarians who are members of the Council of Europe Assembly are also members of the WEU Assembly, an organisation concerned with defence and security issues, which is currently going through a period of transition in order to transfer its activities to the European Union itself.

Lastly, but not in terms of its importance, is the fact that the Council of Europe regularly convenes Conferences of the Speakers of the European Assemblies, alternating between Strasbourg and one of the Council of Europe member countries. The most recent of these Conference was in Zagreb on 10 and 11 May 2002, and its agenda included the question of parliamentary cooperation on specific Council of Europe issues. There is no doubt that the reunification of the Union will help to make the work of the Parliamentary Assembly of the Council of Europe more effective by strengthening links between the member States.

³⁵ The present 44 member States of the Council of Europe are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Croatia, Denmark, Estonia, Finland, France, Germany, Greece, Georgia, Hungary, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, the Former Yugoslav Republic of Macedonia, Malta, Moldova, Norway, Netherlands, Poland, Portugal, Czech Republic, Romania, Russia, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, and the United Kingdom. The Parliamentary Assembly is the consultative body of the Council of Europe, whose statute was signed in London on 5 May 1949. (The current 44 member States of the Council of Europe are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Croatia, Denmark, Estonia, Finland, France, Germany, Greece, Georgia, Hungary, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, the Former Yugoslav Republic of Macedonia, Malta, Moldova, Norway, Netherlands, Poland, Portugal, Czech Republic, Romania, Russia, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, and the United Kingdom. The Parliamentary Assembly is the consultative body of the Council of Europe, whose statute was signed in London on 5 May 1949.

The Euro-Mediterranean dimension

The Euro-Mediterranean Dimension is perhaps the geopolitical framework for the Union's external relations where parliamentary cooperation has become the most highly structured in recent years, starting with the Barcelona Declaration of 1995.³⁶ Parliamentary dialogue is the most appropriate place for expressing the novelty of the Euro-Mediterranean Partnership whose purpose was to reach out to civil society and work towards establishing a common approach to joint development.

Parliamentary cooperation between both shores of the Mediterranean takes place in three different fora:

- a) the Conference of Speakers of the Euro-Mediterranean Parliaments, which was envisaged in 1996 and became institutionalised at Palma de Majorca in 1999, representing the highest level of political authority;
- b) the Euro-Mediterranean Parliamentary Forum, which met for the first time in 1998 and has just held its 5th session, representing the national delegations of the 27 Partnership member countries, plus the European Parliament;
- c) the Euro-Mediterranean Forum of Women Parliamentarians, which was established in Naples in 2000 and meets annually alternating between an EU country and a partner country.

The mature stage that this cooperation has already reached is evidenced from the fact that the Forum has now been transformed into a fully-fledged Euro-Mediterranean Parliamentary Assembly, which will have its Parliamentary Committees and become a fully-fledged institution of the Partnership, whose progress can be monitored in terms of the implementation of the association agreements. Decisions still have to be taken, however, on the criterion for its composition, because notwithstanding the fact that there is equality between both sides of the Mediterranean, the European component has to decide the proportion of European Parliamentary representation and the representation of the national Parliaments, which will soon rise from 15 to 25. Furthermore, reunification offers the Euro-Mediterranean Partnership a new perspective, because it also relates the countries of Central Eastern Europe to the southern shore of the Mediterranean, which have so far been less involved but which could provide great opportunities for debate. The accession of Cyprus and Malta to the Union, and also the fact that Turkey has been given the status of a candidate, even though the date for commencing negotiations has not yet been set, significantly exemplify the ongoing evolutionary process.

In the Euro-Mediterranean context, particular attention has also been paid to the Middle East, in order to foster the emergence of a parliamentary dimension to the peace process. The Conference of Speakers Liaison Group has held two meetings on this issue: the first in Rome in November 1999, and the second in Cairo in April 2002. But there have also been other opportunities for dialogue between the Israeli *Knesset* and the Palestinian Legislative Council, fostered by European mediation. Unfortunately, the results have not come up to expectations, and it is to be hoped that the initiative will be revived in the new international context, also to sustain the role of the European Union within the so-called "Quartet".

Lastly, another initiative deserving of mention, although limited, forms part of the cultural cooperation typifying the Euro-Mediterranean Partnership: the Parliamentary Dialogue on ancient civilisations which two Union Parliaments (Greece and Italy) have been holding with two Parliaments of Islamic countries (Egypt and Iran), in search of their common historical roots, to form the basis for the endorsement of democratic values, tolerance and respect for diversity. The first phase of the initiative was completed last year in Athens after a series of seminars in which the parliamentarians of the countries involved brought up in open debate both the points of agreement and the divergences.

³⁶ The members of the Euro-Mediterranean Partnership are the 15 Member States of the European Union, plus the 12 Mediterranean Basin countries (Algeria, Palestinian National Authority, Cyprus, Egypt, Jordan, Israel, Lebanon, Malta, Morocco, Syria, Tunisia and Turkey).

South-eastern Europe

The broadest cooperation in this area has been in relation to the implementation of the Stability Pact for South-eastern Europe,³⁷ at the initiative of the so-called parliamentary *Troika*, made up of the European Parliament, the Council of Europe Parliamentary Assembly and the OSCE Assembly. The *Troika* is chaired on a six-monthly rotating basis by each participating Assembly, which takes responsibility for organising a conference to which all interested Parliaments are invited (which therefore includes all the Parliaments of the Union on an individual basis). The initiative is nevertheless linked to the Conference of Speakers, and the Institutions who are parties to the Stability Pact, which was convened in September 1999 by the Croatian *Sabor*.

In the region there are also other important parliamentary cooperation fora, which refer to similar governmental initiatives, particularly those initiated by Italy and Greece, the two member States of the Union most directly involved. Regular meetings are therefore held on specific issues by the Parliaments of South-eastern Europe, the Black Sea Economic Cooperation,³⁸ the Adriatic-Ionian Initiative,³⁹ the two Quadrilateral Initiatives⁴⁰ in which particular emphasis is placed on implementing the Pan-European Corridors 5 and 8 projects. The Central European Initiative Assembly is also interested in part of this. Members include both Italy and Austria, and the main commitment has been to fostering the reunification of the Union to the CEECs, but which is certainly going to develop further today, particularly in relation to the demand for Europe which is emerging in this region, exploiting its nature as a multi-lateral forum.⁴¹

As far as bilateral cooperation is concerned, I shall merely mention the assistance provided to the Kosovo Assembly, to whose management an official of the French National Assembly has been seconded. Many other Parliaments of the Union are also committed individually to supporting a particular branch of activity of that Assembly.

The Russian Federation and the Newly Independent States

The broadest framework within which parliamentary relations are being developed between the EU countries and the former USSR countries is certainly the OSCE Assembly (which all the Parliaments of the Union attend *on an individual basis*),⁴² because this Organisation specialises in providing assistance for the transition towards democracy.

³⁷ The Stability Pact, which was a European Union initiative, was approved at Cologne in 1999 with the ultimate aim of fostering the integration of the countries in the region into Europe. The partner countries under the Pact are the countries in the region (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Moldova, Romania, and Serbia and Montenegro); the 15 member States of the European Union and the European Commission, the non-EU members of the G8 (USA, Canada, Japan and Russia); several other countries (Czech Republic, Hungary, Norway, Poland, Slovakia, Slovenia, Switzerland and Turkey); international organisations (the United Nations, the OSCE, the Council of Europe, UNHCR, NATO and the OECD); the IFIs (World Bank, IMF, EBRD, EIB, and the Council of Europe Development Bank). In addition to these are a number of regional initiatives, such as the Black Sea Economic Cooperation (BSEC), the Central European Initiative (CEI), the South-eastern European Cooperation Initiative, and the South-eastern Europe Cooperation Process.

³⁸ The member countries of the Black Sea Economic Cooperation are: Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Turkey and Ukraine. The parliamentary Assembly of the BSEC, of which the representatives of national Parliaments are members, has a consultative role.

³⁹ 7 countries belong to the Adriatic-Ionian Initiative: Italy, Albania, Bosnia and Herzegovina, Croatia, Greece, Serbia-Montenegro, Slovenia. The following also attend the meeting of the IAI Presiding Officers as observers/special guests: the President of the European Parliament, the President of the Baltic Sea Parliamentary Conference, and the President of the Conference of the BSEC.

⁴⁰ The "High" Quadrilateral Initiative comprises Italy, Croatia, Slovenia and Hungary and refers to Pan-European Corridor 5, Trieste-Ljubljana-Budapest-Kiev. The Parliamentary Dimension of the "High" Quadrilateral joins the Governmental Dimension and is based on the Joint Declaration of Intent concluded at Ljubljana (7 April 1999) and Rome (28 June 2000).

The "Low" Quadrilateral Initiative comprises Italy, Albania, Bulgaria and Macedonia, and refers to Pan-European Corridor 8, an intermodal transport corridor which should link the Italian Adriatic Coast to Albania, and subsequently run through Macedonia and Bulgaria as far as the Black Sea. The Parliamentary Dimension of the "Low" Quadrilateral originated in the Joint Declaration of Intent signed on 2 May 1999 at Skopje by the Speakers of the Chamber of Deputies, the People's Assembly of Albania, the Bulgarian National Assembly, and the Assembly of the Republic of Macedonia.

⁴¹ The Central European Initiative (CEI) comprises 17 countries: Albania, Austria, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Italy, Serbia e Macedonia, Montenegro, Moldova, Poland, Romania, Czech Republic, Slovakia, Slovenia, Ukraine, Hungary. As an integral part of the process of European integration, the CEI cooperates with the main European organisations and institutions, including the European Union in particular.

⁴² The 55 member countries of the OSCE are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kirghizstan, Latvia, Liechtenstein, Lithuania, Luxembourg, the Former Yugoslav Republic of Macedonia, Malta, Moldova, Monaco, Norway, Netherlands, Poland, Portugal, Romania, Republic Slovakia, the Russian Federation, San Marino, Slovenia, Spain, United Kingdom, United States, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, Uzbekistan Federal Republic of Yugoslavia.

The parliamentarians are therefore involved in such useful initiatives as electoral monitoring, visiting field missions, enhancing their sensitivities to the issue of human rights, but in particular with relation to such issues as the freedom of the mass media, the protection of national minorities and equal opportunities.

The main area in this geographic initiative is bilateral relations with the Russian Federal Assembly, in which all the Parliaments of the Union are individually involved. France and Italy have institutionalised their relations by initialling a protocol and setting up a Grand Commission which meets yearly and deals with foreign policy issues and domestic legislation, also in reference to economic cooperation and foreign investment in Russia.

Lastly, it is worth mentioning Russia's wish to step up cooperation with all the countries of the Union as the parliamentary side of the strategic partnership. There is no need for me to emphasise the significance of promoting such a relationship in the light of the new common borders that the Union now shares following reunification and the strategy of more integrated relations with neighbouring States.

The Northern European Dimension

The Nordic member States of the Union are strongly committed to promoting forms of regional parliamentary cooperation in their area in order to dialogue both with countries that are traditionally linked, but have opted to remain outside the Union (Iceland and Norway), as well as the United States and Russia. The Nordic Council has existed for 50 years, and comprises the five Nordic countries and three autonomous territories (Greenland, the Faeroes and Åland),⁴³ but it was also recently linked to the Parliamentary Conference of the Baltic Sea which held its 11th session in 2002.⁴⁴ Baltic cooperation is particularly important because it involves the Russian Federation together with the three Baltic States, over which, as we all know, there exists a post-Soviet dispute. Because of the participation of the German Regional Assemblies, there is another interesting possibility for cooperation that could usefully be further explored, between these parliamentary authorities at different levels.

The Conference of Parliaments from the Arctic Region is quite recent. It met for the first time at Reykjavik in 1993. The EU countries belong to it (Finland, Sweden and Denmark) with the other two Nordic countries (Iceland and Norway), as well as the United States and the Russian Federation. However it is significant that the European Parliament also takes part as a full member, and five other EU countries are observers (France, Germany, Netherlands, Poland, and United Kingdom).

From the point of view of the European Union, quite apart from matters of specific interest to them (environmental protection, social development, clearly linked to the geographical considerations) it is particularly important that integration should be developed with countries such as Iceland and Norway that have so far decided not to join any Community institutions, even though they take part regularly in the life of the Union, in the European Economic Area, in the Schengen Agreement and also take up the common stances adopted in terms of European foreign and security policies.

The Trans-Atlantic Dimension

The broadest framework for parliamentary relations with the other side of the Atlantic is certainly the NATO Assembly, to which all the Parliaments of the Union belong (the non-member countries of the Union have associate *status*) including the European Parliament.⁴⁵

⁴³ The Nordic Council represents the Parliamentary Dimension of Nordic regional cooperation which, at the intergovernmental level, is run by the Nordic Council of Ministers. The Nordic Council is composed of 87 parliamentarians, representing Parliaments of the 5 member countries (Denmark, Finland, Iceland, Norway e Sweden) e the 3 autonomous territories (the Faeroes Islands, Åland e Greenland). The Council works closely, inter alia, with the Baltic Assembly, the Arctic Council and the European Parliament.

⁴⁴ The Parliamentary Assemblies invited to the Baltic Sea Parliamentary Conference, under the 1999 regulations were the Parliaments of: Denmark, Estonia, Faeroes, Finland, Germany, Greenland, Iceland, Latvia, Lithuania, Norway, Poland, Russia e Sweden; the Baltic Assembly, the Nordic Council, the Council of Europe and OSCE Assemblies, the Parliament of Åland, the city of Bremen, the city of Hamburg, the region of Kaliningrad, the Republic of Karelia, the region of Leningrad, Meklenburg-Western Pomerania, the Federal City of St Petersburg, and Schleswig-Holstein.

⁴⁵ The 19 member States of the Atlantic Alliance are: Belgium, Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Italy, Luxembourg, Netherlands, Poland, Norway, Portugal, Spain, Turkey, United Kingdom, and United States. Since 1989 the representatives of 20 European countries have been taking part, with associate member status: Albania, Armenia, Azerbaijan, Austria, Bulgaria, Croatia, Estonia, Finland, Georgia, Latvia, Lithuania, Former Yugoslav Republic of Macedonia, Moldova, Romania, Russian Federation, Slovakia, Slovenia, Sweden, Switzerland, Ukraine, (Belarus formerly had associate status, but it was suspended in 1997). Invitees to the Assembly meetings include: the European Parliament, 7 countries with parliamentary observer status - Australia, Bosnia and Herzegovina, Egypt, Japan, Israel, Morocco, Sweden and Tunisia - and the Parliamentary Assemblies of the OSCE and the WEU.

This is the natural place to seek a political agreement on NATO-ESDP relations, and also a deepening of trans-Atlantic relations, not only on the political and military plane, but also in economic and social terms. During the past two years, the Assembly has been organising a Trans-Atlantic Parliamentary Forum in Washington, precisely to bring out this aspect of its work.

The 1990 Trans-Atlantic Declaration reiterated that as far as institutional relations were concerned, the United States was the Union's main partner and that it had a privileged relationship with Canada. Never before, however, has the need been so strongly felt for close political dialogue to be pursued through the parliamentary channel. This is particularly indispensable in the wake of reunification, namely, the reunification of a continent sharing the same historical and cultural background.

Obviously there are intense bilateral relations between the EU Parliaments and the US Congress. For example, the European Parliament has structured a regular and interesting methodology for consultation through its *Trans-Atlantic Legislators' Dialogue*, which was created in 1999 within the framework of the commitments entered into by the European Union and the United States under the 1995 *New Trans-Atlantic Agenda*. The German Bundestag has long been engaged in fruitful exchanges. The Italian Chamber of Deputies signed a cooperation protocol last December. Obviously, cooperation with the British Parliament is firmly rooted. But there are certainly many areas in which these relations can be enhanced, perhaps seeking a Euro-US approach in overall terms by promoting bilateral relations between the Parliaments of the European Union and the United States Congress.

Latin America

Even though in 1999 the European Union held the very first Summit of Heads of State and Government with all the countries of Latin America, the closest relations exist with Mercosur,⁴⁶ also by virtue of the fact that the organisation is modelled on the blueprint of the European Community (one only has to recall that it has its own parliamentary Commission, which corresponds to the European Parliament, but it is still a second tier institution).

The Conference of the European Union Speakers has therefore invited the Presiding Officers of the Parliaments of the MERCOSUR countries to attend meetings on several occasions. They came for the first time to the Rome Conference in September 2000 and submitted a common declaration of intent to put this cooperation on a permanent basis.

EU-Mercosur parliamentary cooperation can do a great deal to address the main problem, which is to create a free trade area, and hence commercial relations on which tariff barriers still weigh heavily. The development not only of the Mercosur countries, but the whole of Latin America (there is also Colombia, which is trying to find credible economic alternatives to cultivating drugs) largely depends on opening up the markets. This can be done by a general political assessment which obviously has to be carried out by each Parliament.

Some countries of the Union, for historical reasons, set great store by their relations with Latin America, and this also has effects in terms of parliamentary cooperation. Spain and Portugal, for example, promoted the Conference of the Spanish-American Democratic Speakers, in which parliamentary democracy has proven to be a useful instrument for improving parliamentary work, bringing politics closer to the citizens, and heightening transparency and democratic participation.

Lastly, in 2000 Italy set up a network of Parliamentarians of Italian origin abroad, of which the Latin American component is certainly the largest.

⁴⁶ The South American Common Market (MERCOSUR) was instituted on 26 March 1991 with the signing of the Treaty of Asunción, by Argentina, Brazil, Paraguay and Uruguay. Bolivia and Chile subsequently signed association agreements.

Africa

The broadest form of parliamentary cooperation between Europe and Africa is the ACP-EU Joint Assembly, to which a delegation of the European Parliament and national delegations of the countries signatories to the Cotonou Agreements (2000) belong, and which also includes the countries of the Caribbean and the Pacific.⁴⁷ The Assembly meets twice a year, alternating between a European country and a non-European country. This procedure is certainly valuable, because it makes it possible to address all the issues relating to those Agreements. Perhaps, today, innovations could be introduced, with the participation of the national Parliaments of the member States of the Union in light of the integrated and cooperative approach which today characterises the development of the European parliamentary system.

Euro-African parliamentary dialogue is more than ever before the key to consolidating the democratic institutions in the ongoing process of defining State identities in Africa, training capable and honest leaders, and establishing a virtuous circle between political democracy and free market economy, and the definition by African peoples of their own development model.

There is therefore a great deal of space for cooperation at the bilateral and multilateral levels to strengthen the role of the African Parliaments in their societies within the framework of relations between the European Union and the nascent African Union (which has since replaced the OAU). It is crucial here to guarantee assistance for the structuring of the parliamentary services, including training the administrative staff, circulating sources of documentation and applying new technologies, with a view to promoting the participation of their citizens in public life.

Some European Parliaments, including the British and French, have long been working in this direction through the large parliamentary cooperation networks of the Commonwealth and Francophonie communities. More recently, the Bundestag embarked on an intense training programme for African parliamentarians and administrative staff. The Italian Chamber of Deputies organised the first Italy-Africa Parliamentary Day for Presiding Officers in May 2002, which was also attended by the President of the European Parliament. This was followed by the drafting of a cooperation plan for the benefit of certain pilot countries, particularly in relation to parliamentary computerisation and budgetary procedures for scrutinising the Executive.

Asia

The multilateral framework within which all the Union Parliaments participate as such is the parliamentary dimension of ASEM, in which the Union and its member States have relations with 10 Asian countries (Brunei, China, Indonesia, Japan, South Korea, Malaysia, Philippines, Singapore, Thailand and Viet Nam). ASEP, the Asia-Europe Parliamentary Partnership, is its parliamentary dimension. Their biennial meetings are attended by parliamentarians from the partner countries representing their respective Parliaments, and the European Parliament. The Asia-Europe Foundation (ASEF) also works in this sphere, specialising above all in fostering opportunities for young parliamentarians to meet and debate. The most recent meeting was in Venice in October 2002, on international migration.

Important bilateral parliamentary relations obviously exist with the main Asian countries, such as China, Japan and India. The most recent opportunity for dialogue was provided by the celebrations of the 50th anniversary of the Indian Parliament, for which an Inter-parliamentary Conference on Globalisation and Combating Terrorism was convened in New Delhi in January 2003.

Assistance to Afghanistan and Iraq - for the restoration of democracy there - should at all events be viewed as a priority objective not only of individual Parliaments, but also of a collective effort which will be all the more productive if it is carried forward on a joint and agreed basis.

⁴⁷ The ACP (Africa, Caribbean and Pacific) members of the ACP-EU Joint Assembly are: Angola, Antigua and Barbuda, Bahamas, Barbados, Belize, Benin, Botswana, Burkina Faso, Burundi, Cape Verde, Cameroon, The Comoros, Congo, Cook Islands, Côte d'Ivoire, Djibouti, Dominica, Eritrea, Ethiopia, Fiji, Gabon, The Gambia, Ghana, Grenada, Guinea, Equatorial Guinea, Guinea-Bissau, Guyana, Haiti, Jamaica, Kenya, Kiribati, Lesotho, Liberia, Madagascar, Malawi, Mali, Marshall Islands, Mauritania, Mauritius, Micronesia, Mozambique, Namibia, Nauru, Niger, Nigeria, Niue, Palau, Papua New Guinea, Dominican Republic, Central African Republic, Democratic Republic of Congo, Rwanda, Kitts and Nevis, Santa Lucia, St Vincent and the Grenadines, Samoa, Sao Tomé, Senegal, Seychelles, Sierra Leone, Solomon, Somalia, South Africa, Sudan, Suriname, Swaziland, Tanzania, Chad, Togo, Tonga, Trinidad e Tobago, Tuvalu, Uganda, Vanuatu, Zambia e Zimbabwe. The assembly is attended by 77 representatives of the ACP Parliaments and 77 members of the European Parliament.

The international organisations with a global vocation

The need to deal with globalisation issues has led to the establishment of a parliamentary dimension in the leading international organisations, to provide representatives of countries, who directly express the sovereignty of the people, with a possibility to interact by participating in the multilateral decision-making bodies.

The development of the Inter-parliamentary Union (IPU) as the parliamentary dimension of the United Nations is an example of this: the idea was first broached at the Conference of Speakers in New York in August-September 2000, which adopted a declaration to this effect. All the Parliaments of the Union are obviously members of the IPU and take part in all its activities, coming together as members of the regional group known as "12+". The European Parliament is also a member of the IPU, with a special status. It is therefore perfectly natural and consistent with its objectives, for the IPU to be committed to linking the parliamentary presence both with the United Nations General Assembly and the various international conferences that are held under the aegis of the United Nations (on climate change, sustainable development, the protection of children, etc.). Perhaps it might be appropriate in this regard to promote a European-level linkage as a preliminary step, and possibly make provision for joint representation, and even specialisation by certain Parliaments on specific issues.

The Parliaments of the Union have also been focusing recently on promoting a parliamentary dimension for the World Trade Organisation (WTO), on the understanding that this is a key institution for the governance of globalisation. This is a telling example in which individual national Parliaments have joined with the European Parliament (remembering the Community competence over trade) and have also been lobbying the Inter-parliamentary Union.⁴⁸

The Parliamentary Network of the World Bank (PNoWB) is another particularly interesting initiative. It was created as a priority by a number of European Union Parliaments for the World Bank. Based in Paris, this network is becoming one of the most active fora for discussing North-South divide-related issues, combating poverty and overcoming economic and social imbalances worldwide. The parliamentary network organises an annual conference⁴⁹ and a series of thematic seminars. In conjunction with the World Bank it organises missions to various countries to monitor Bank-financed projects.

There are other important cooperation networks involving Europe's parliamentarians, for example to activate the International Criminal Court (ICC) or for combating corruption, organised crime and drug trafficking.

In 2002, there were two important parliamentary events relating to the institution of the International Criminal Court (ICC) which came into force on 1 July 2002: the first one was organised by the Spanish Senate in June 2002, and the second by the PGA (Parliamentarians for Global Action) in Ottawa in November that year. The Ottawa Conference adopted a Plan of Action to promote initiatives requesting the institution of a parliamentary dimension of the ICC, and a second session of the Conference has been convened for 2003.

The Global Organisation of Parliaments Against Corruption (GOPAC) aims to build up a parliamentarians' network, structured by areas or on a national basis, with a global outreach, to coordinate the work of Parliaments and to help fight corruption. Its main purpose is to lay the foundations for a fruitful exchange of technical and legislative information, and to coordinate the work of GOPAC with initiatives by other international organisations pursuing the same aims. The Conference instituting GOPAC was held in Ottawa on 13-16 October 2002. In the final Declaration the participants undertook to set up local networks to foster debate on issues relating to combating corruption in their respective Parliaments.

⁴⁸ The IPU and the European Parliament recently organised the Inter-Parliamentary Conference on the WTO in Geneva on 17-18 February 2003. Its final Declaration reiterated the need for a stable parliamentary dimension to be created within the organisation at its annual meeting and Ministerial Conferences, beginning with the one that is scheduled to be convened at Cancún (Mexico) in September 2003.

⁴⁹ The PNoWB 4th Annual Conference was held in Athens on 8-10 March 2003.

3. CONCLUSIONS

The overview of the fora and forms of the external relations of the Union's Parliaments albeit not complete clearly shows the breadth and complexity of these links and their development. The new needs of the very process of European integration are driving in this direction, as is the new reality of reunification and repositioning that this involves at the international level.

The Conference of EU Speakers - exercising its own specific functions - could *embark on a joint debate to identify possible means of rationalising and coordinating the International cooperation from the point of view of the Parliaments of the European Union, and the areas in which it would be appropriate to improve the linkage of their external activities and the ways of doing so.*

The considerations which I believe should be our starting point, and which I wish to draw to the attention of the Conference of EU Speakers may be summarised briefly as follows:

I. *It is precisely because of the weight and role of a reunified Europe in the world that our Parliaments' relations outside the Union, in all of their varied forms, must multiply and deepen; they will be able to do so only if there is effective co-ordination of the fora and manner in which they are conducted. The very expansion of co-operation increases the risk of duplication and irrational use of parliamentary resources.*

II. It is therefore important for relations between Parliaments to be conducted as a rule through their Presiding Officers, facilitating coordination. Generally speaking, where the conditions exist, the most useful method that could be used as a benchmark for developing forms of systematic parliamentary cooperation could be to begin by defining *programmes of meetings and discussions on specific issues between the parliamentary organs having competence by subject-matter, from time to time, by agreement with the external authorities involved, on a case-by-case basis.* Such programmes might integrate or even replace some existing relations.

III. *We must make a joint response to the growing demand for Europe on the international stage, and that includes in the inter-parliamentary sphere.* A common foreign action of the reunified Europe is what the people of Europe consider to be most necessary with respect to the reform of the Union, a priority that has not been changed by the recent difficulties linked to the conflict in Iraq. The Convention is taking major, realistic steps in this direction, above all with regard to the Union's single external representation. Parliaments will have to take account of this as well: a unitary, or at least co-ordinated, approach to external relations on the part of the Union's Parliaments adds political legitimacy, especially in broader inter-parliamentary organisations (for example, the Inter-parliamentary Union or the possible parliamentary dimension of the World Trade Organisation, which could grow into an even more important role).

IV. This is the only approach that can also create the will between Parliaments to cooperate, fostering regional integration and staving off any nationalism or isolationism.

V. The fields and the methods for establishing linkage between the Parliaments of the Union in their international relations could, in my opinion, be identified in terms of *general indications set out by the Conference of EU Speakers, to be applied with the greatest flexibility depending on the fora it is deemed appropriate to involve.* These indications could be set out in the *"Inter-parliamentary agreement" that has been proposed by the European Parliament, which would appear to be the most appropriate instrument for laying down common criteria for this and for other areas of common interest in the organisation of parliamentary functions.*

VI. The external relations of the Union's Parliaments must certainly continue to cover all geographical and political areas, but at the same time they must take account of priorities determined by this stage of European history. It could be useful for the EU Speakers Conference to systematically identify common areas of priority interest on the basis of the positions of their parliamentary assemblies, without prejudice to their attention to other regions and, obviously, the full independence of each Parliament in its own initiatives.

VII. In this phase, two dimensions appear to call for priority attention on the part of our Parliaments:

i. *neighbouring areas*, namely *the Balkans*, with a view to accession to the Union, *the Mediterranean*, so crucial to the Union's present and future, and our new neighbours *Russia and the Independent States*. It is important that the recent Commission proposal and the draft Constitutional Treaty should frame relations with these areas in terms of a new strategy, with the aim of achieving a new level of integration. It is a further example of the Union's ability to identify new and flexible forms of interaction and government of globalisation. These objectives, and the gradual approximation of legislation that they entail, underscore the major contribution that inter-parliamentary co-operation can make. An essential component of this framework is the creation of the Euro-Mediterranean Parliamentary Assembly;

transatlantic relations. Today, in my view, a specific commitment is needed to promote systematic bilateral *inter-parliamentary cooperation between the EU (that is to say, the European Parliament and the national Parliaments) and the USA, in all the many areas of common interest*. That could make a powerful contribution to strengthening the Euro-Atlantic linkage. Never before has there been such a need for greater understanding between our political classes and for deeper political dialogue, which the parliamentary channel itself could help lead to a shared vision of international issues and a renewed awareness that we all belong to a single community of shared values.