



NEWSLETTER N° 3

OCTOBER 2005



« Un contrôle de subsidiarité sans attendre »

« Déjà, aujourd'hui, un certain nombre de parlements nationaux contrôlent la subsidiarité lorsqu'ils examinent les textes européens. Mais chaque parlement national le fait dans le cadre du contrôle des activités européennes de son gouvernement. Le traité constitutionnel apportait deux nouveautés. D'une part, il ouvrait la voie à un dialogue direct entre le parlement national et la Commission. D'autre part, il incitait à une coopération entre les parlements nationaux puisque la Commission était tenue de réexaminer un de ses textes dès lors qu'un tiers des parlements nationaux le lui demandaient.

Rien ne nous empêche de mettre en œuvre dès aujourd'hui ces deux améliorations. Il ne tient qu'à nous d'axer la coopération entre parlements nationaux sur la subsidiarité, de nous informer très rapidement les uns les autres de nos travaux, de tirer profit des réflexions des uns et des autres. (...)»

- *Entretien avec M. Hubert Haenel, page 4.*

Plan D

« On 20th of September 2005, the College of Commissioners met for a whole day seminar to discuss what the Commission can do to help shaping the political agenda in Europe during the period of reflection that was announced by the Heads of State and Government in the margins of the European Council last June: *"The period of reflection will be used to enable a broad debate to take place in each of our countries, involving citizens, civil society, social partners, national parliaments and political parties"*.

The primary response to this call rests with the Member States in accordance with their constitutional requirements, but as the Heads of State and Government also pointed out, the European Institutions should *"make their contribution, with the Commission playing a special role in this regard"*. (...)»



- *Plan D, page 7.*



Lire également « **Let's re-negotiate the Constitution** »

« **My preferred approach** is to decide in principle that we are going to have to re-negotiate the Constitution. We are going to try to improve it, to correct some of the flaws which we can see in it, and to address specifically the complaint of the French and Dutch citizens about social and economic matters. (...)»

- *Entretien avec M. Andrew Duff, page 10.*

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Comité de rédaction : Philippe GODTS, Bartłomiej GISZCZAK, Katarzyna STAWSKA

Sous la responsabilité de : Andrea PIERUCCI et Philippe GODTS

Le mot du coordinateur du Secrétariat Général

Les résultats des referenda en France et aux Pays-Bas ont changé la donne : pour l'Union, les Etats membres et les institutions. Le Conseil européen a décidé, en juin dernier, d'ouvrir une période de réflexion.

Notre éditorial se penche sur les vues de la Commission pour le plan D.
D comme démocratie, dialogue, débat.

Mais, déjà, des voix s'élèvent dans les Parlements nationaux afin d'organiser un contrôle de subsidiarité sur la base des traités existants.

Cette question est à l'ordre du jour de la prochaine réunion de la COSAC le 10 octobre.

Au Parlement européen, les rapporteurs de la commission des affaires constitutionnelles envisagent à plus long terme de renégocier la Constitution et placent la période de réflexion dans cette perspective.

Cette Newsletter jette un éclairage sur ces trois attentes : plus de démocratie grâce au plan D, un contrôle de subsidiarité sans attendre selon M. Haenel, une constitution à réécrire pour M. Duff.





Mais elle fait également le point sur la motivation du Nationalrat autrichien à désigner une représentante à Bruxelles de même qu'elle interroge le président sortant de la Sejm sur sa vision de la coopération interparlementaire.

Que tous ceux qui, par leur participation, ont rendu possible la publication de cette newsletter soient ici remerciés.

Le 4 octobre 2005

Philippe GODTS
Coordonnateur
Secrétariat général de la Commission

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President's & Commissioners' visits

Who	When	Where
 President BARROSO	30/06/2005	Dublin (IE) – « The EU Constitution – the Big Picture », National Forum on Europe, Plenary Session
 Vice-présidente WALLSTRÖM	18/07/2005	COSAC Chairpersons – London (UK)
	21/10/2005	visit to Saeima (LV)
 Commissioner ALMUNIA	19/05/2005	meeting with the Chairman and Members of the Finance Committee of the House of Representatives (CY)
 Commissioner FISCHER BOEL	29/06/2005	discours « Cadre financier et PAC » á l'Assemblée nationale (FR)
	06/10/2005	meeting with the Standing Committee on Agriculture, Nature and Food Quality of The House of Representatives of States-General (NL)
 Commissioner DIMAS	27/05/2005	parliamentary Speech on Environment (EL)
 Commissioner FRATTINI	19/09/2005	intervention á la réunion de l'assemblée parlementaire euro-méditerranéenne du Sénat italien (IT)
 Commissioner GRYBAUSKAITE	15/09/2005	et Commissioner KALLAS reçoivent une délégation de la commission des Finances du Parlement danois (DK)
 Commissioner KALLAS	15/09/2005	et Commissioner GRYBAUSKAITE reçoivent une délégation de la commission des Finances du Parlement danois (DK)
 Commissioner POTOČNIK	02/06/2005	participation á la réunion de la commission parlementaire « Recherche » Bundestag (DE)



ENTRETIEN AVEC M. HUBERT HAENEL, PRÉSIDENT DE LA DÉLÉGATION DU SÉNAT FRANÇAIS POUR L'UE

Après les référendums négatifs en France et aux Pays-Bas, certains soulignent qu'il ne peut être question d'anticiper la mise en œuvre de tel ou tel aspect du traité constitutionnel. D'autres, au contraire, considèrent que ces votes négatifs incitent à l'action, et qu'une des pistes pour rendre l'Europe plus proche des citoyens est – comme le prévoyait le traité constitutionnel – de soumettre les propositions de la Commission aux instances parlementaires nationales, afin d'assurer un meilleur respect du principe de subsidiarité. Quelle est votre position à ce sujet ?

Le mot « subsidiarité » n'est pas toujours bien compris, mais j'ai tiré de ma campagne en faveur du traité constitutionnel la conclusion que, derrière ce mot, il y a une véritable aspiration des citoyens, même s'ils l'expriment autrement. Beaucoup de citoyens ont le sentiment que, dans certains domaines, l'Europe en fait trop, et que, dans d'autres, elle n'en fait pas assez. Un contrôle de subsidiarité doit conduire à ce que l'Europe se concentre sur les domaines où son intervention est vraiment nécessaire, ce qui favorisera l'adhésion des citoyens.

Mais le principe de subsidiarité figure déjà dans les traités. Quel serait l'apport d'une implication directe des parlements nationaux ?

Il a été reconnu, au sein du groupe de travail de la Convention, que le contrôle de subsidiarité ne pouvait généralement être effectué avec le recul et la vigilance nécessaires par les trois acteurs du « triangle institutionnel » : la Commission, le Parlement et le Conseil. Pourquoi cela ? Tout simplement parce que, lors des négociations entre ces trois acteurs, le débat sur le fond du texte l'emporte pratiquement toujours sur celui du meilleur niveau d'exercice des compétences, c'est-à-dire sur la subsidiarité. La subsidiarité est souvent la victime du compromis politique sur lequel ils dégagent un accord. Pour que la subsidiarité soit effectivement prise en compte, il faut donc un acteur qui soit extérieur au jeu communautaire et qui, en même temps, dispose d'une légitimité pour intervenir. Se tourner vers les parlements nationaux est alors naturel.

Mais peut-on envisager un contrôle de subsidiarité tel que le prévoyait le traité constitutionnel simplement sur la base des traités actuels ?

Le traité constitutionnel prévoyait un contrôle à deux étages : l'« alerte précoce » au début de la discussion du texte – ce qu'on appelait le « carton jaune » – et la possibilité de saisir la Cour de justice immédiatement après l'adoption du texte – ce qu'on appelait le « carton rouge ». Il est clair que le « carton rouge » est impossible sur la base des traités actuels. En revanche, le « carton jaune » pourrait, me semble-t-il, être mis en place de manière pragmatique sans contredire les traités en vigueur.

Comment pensez-vous qu'il serait possible de mettre en œuvre ce « carton jaune » ?

Déjà, aujourd'hui, un certain nombre de parlements nationaux contrôlent la subsidiarité lorsqu'ils examinent les textes européens. Mais chaque parlement national le fait dans le cadre du contrôle des activités européennes de son gouvernement. Le traité constitutionnel apportait deux nouveautés. D'une part, il ouvrait la voie à un dialogue direct entre le parlement national et la Commission. D'autre part, il incitait à une



coopération entre les parlements nationaux puisque la Commission était tenue de réexaminer un de ses textes dès lors qu'un tiers des parlements nationaux le lui demandaient.

Rien ne nous empêche de mettre en œuvre dès aujourd'hui ces deux améliorations. Il ne tient qu'à nous d'axer la coopération entre parlements nationaux sur la subsidiarité, de nous informer très rapidement les uns les autres de nos travaux, de tirer profit des réflexions des uns et des autres. Pour cela, nous avons un moyen de communication rapide, IPEX, et une instance, la COSAC. Dois-je rappeler que le protocole annexé au traité d'Amsterdam prévoit que la COSAC peut adresser au Parlement européen, au Conseil et à la Commission, des contributions sur l'application du principe de subsidiarité ?

Quant au dialogue avec la Commission, nous devons le mettre en place sur la base d'un accord informel. Je vois mal au nom de quel principe on pourrait s'opposer aujourd'hui à la mise en place d'un tel dialogue. Il faudrait donc que les parlements nationaux – peut-être par l'intermédiaire de la COSAC – demandent à la Commission de s'engager à examiner les avis portant sur la subsidiarité qui lui seraient adressées par des parlements nationaux dans un délai de six semaines après la présentation officielle d'une proposition. Il incomberait aux parlements nationaux de savoir tirer parti de cette possibilité d'un dialogue direct ; et je suis certain que la Commission ne manquerait pas de tenir compte des observations qui lui seraient adressées, dès lors qu'elles émaneraient d'un nombre significatif d'assemblées et seraient suffisamment étayées.



HUBERT HAENEL



Frau Heike MALICEK *Ständige Vertreterin des Österreichischen Parlaments*

AUSTRIA

Sie wurden vor kurzem zur Ständigen Vertreterin des Österreichischen Parlaments (in Brüssel) ernannt. Warum wurde diese Entscheidung getroffen? Was sind die wichtigsten Aspekte Ihrer Arbeit und Aufgabe?

Es gibt mehrere Gründe dafür, dass sich Österreich als 15. Land dazu entschieden hat, eine Vertreterin des nationalen Parlaments nach Brüssel zu entsenden. Eines der Motive war die stetig abnehmenden Beteiligung der österreichischen Bürger bei den Wahlen zum Europäischen Parlament (sie betrug 2004 nur 42,43 % und lag damit unter dem EU-Schnitt von 45,5 %). Im österreichischen Parlament wurden daher verstärkt Überlegungen angestellt, wie man Europa näher an das Volk bringen kann. Diese Überlegungen haben sich auch in Änderungen der Geschäftsordnung des Nationalrates niedergeschlagen (siehe unten). Meine Aufgabe wird in diesem Zusammenhang sein, spezifische Themen und Aspekte, die aus der Sicht des Parlaments von Interesse sein können, direkt vor Ort zu verfolgen, die Hintergründe von Entscheidungen näher zu beleuchten und Kenntnis über bevorstehende Entwicklungen in Erfahrung zu bringen.

Die Zeit der Entscheidung für die Errichtung einer Verbindungsstelle in Brüssel fiel auch mit den Entwicklungen im Europäischen Konvent zusammen. Obwohl der Ausgang des Ratifizierungsprozesses derzeit offen scheint, glaube ich, dass das vorgesehene Frühwarnsystem zu Subsidiarität und Verhältnismäßigkeit in absehbarer Zeit etabliert werden wird, vielleicht sogar außerhalb des Verfassungsvertrages. Aufgrund der darin vorgesehenen knappen Frist von 6 Wochen, in denen sich nationale Parlamente erstmals als Kollektiv zu einem geplanten Rechtssetzungsakt äußern können, ist auch hier die Information zum frühesten möglichen Zeitpunkt ausschlaggebend.

Schließlich ist das österreichische Parlament seit 1. Juli 2005 Mitglied der COSAC-Troika. Damit ist das

österreichische Parlament Teil des COSAC-Sekretariates, das ich im ersten Halbjahr 2006 leiten werde.

Neben den bereits genannten Aufgaben betreue ich österreichische Parlamentarier/innen, die an den Sitzungen der Fachausschüsse des Europäischen Parlaments in Brüssel teilnehmen, und erstatte im Anschluss danach Bericht.



Wie überwacht das Österreichische Parlament derzeit die EU-Gesetze (die EU-Gesetzgebung)? Welche Rolle spielen Nationalrat und Bundesrat? Sind bestimmte Ausschüsse der beiden Kammern betroffen?

- Die Mitwirkungsrechte von Nationalrat und Bundesrat an der Rechtsetzung auf Ebene der EU bestehen im Wesentlichen in Form eines Informations- und Stellungnahmerechts. Gemäß der Bundesverfassung hat das zuständige Mitglied der Bundesregierung Nationalrat und Bundesrat unverzüglich über alle Vorhaben im Rahmen der EU zu unterrichten und ihnen Gelegenheit zur Stellungnahme zu geben. Wird eine solche Stellungnahme vom Nationalrat beschlossen, so kann das Regierungsmitglied bei Verhandlungen und Abstimmungen in der EU davon nur – nach erneuter Befassung des Nationalrates - aus zwingenden außen- und integrationspolitischen Gründen abweichen. Widerspricht der Nationalrat einer solchen

beabsichtigten Abweichung, so ist diese unzulässig, wenn der in Vorbereitung befindliche Rechtsakt der EU geltendes Bundesverfassungsrecht ändern würde. Eine Bindungswirkung entfaltet auch eine Stellungnahme des Bundesrates, wenn das Vorhaben zwingend durch ein Bundesverfassungsgesetz umzusetzen ist, zu dem der Bundesrat ein Zustimmungsrecht hätte.

- Die Zuständigkeiten des Nationalrates werden durch den Hauptausschuss wahrgenommen, seit 1999 existiert zusätzlich ein Ständiger Unterausschuss in Angelegenheiten der EU. Letzterer befasst sich mit allen Vorhaben der EU mit Ausnahme der Vorbereitung von Sitzungen des Europäischen Rates sowie der Beratung von Vorhaben der EU im Vorfeld von Regierungskonferenzen, die eine Änderung von Primärrecht zum Inhalt haben: Diese Kompetenz ist dem Hauptausschuss vorbehalten.
- Der Bundesrat nimmt seine Mitwirkungsrechte durch einen eigenen EU-Ausschuss wahr.
- Sowohl im National- als auch im Bundesrat kann jeweils das Plenum vom Hauptausschuss bzw. vom EU-Ausschuss befasst werden. Das Plenum des Bundesrates kann zusätzlich die Kompetenz zur Abgabe einer Stellungnahme an sich ziehen.
- Im Jahr 2005 erfuhr dieses System eine Reihe von Neuerungen:
 - So verfassen die zuständigen Bundesminister nunmehr jeweils zum Arbeitsprogramm der Kommission und zum operativen Jahresprogramm des Rates Berichte an das österreichische Parlament, in denen ausführlich zu den Auswirkungen auf die österreichische Rechtslage Stellung genommen wird. Diese

- Berichte werden im Ausschuss diskutiert und können im Ausschuss erledigt werden, oder sie werden an das Plenum weitergeleitet.
- Weiters sind nun Plenarsitzungen des Nationalrates zur ausschließlichen Erörterung von EU-Themen vorgesehen: Zu Beginn einer Präsidentschaft wird das jeweilige Arbeitsprogramm in einer eigenen Sitzung behandelt, darüber hinaus können alle Themen aus den aktuellen Arbeitsbereichen der Europäischen Union auf die Tagesordnung gesetzt werden.
- Im Bundesrat ist die Einführung einer aktuellen EU-Stunde im Plenum geplant. Darüber hinaus sollen EU-Schwerpunkte jeweils im Jänner und im September eines Jahres in Form von Enquêtes bzw. EU-Ausschusssitzungen stattfinden.
- Zur Unterstützung der mit der Ausübung der parlamentarischen Mitwirkungsrechte betrauten Ausschüsse sowie als Auskunftsstelle für Abgeordnete und Bundesräte in EU-Angelegenheiten wurde in der Parlamentsdirektion - neben der bereits bestehenden Abteilung für Europäische Beziehungen, die die Außenbeziehungen des Parlaments in EU-Angelegenheiten betreut - eine neue Abteilung „EU-

Koordination“ geschaffen.

Haben die Protokolle über die Rolle der nationalen Parlamente in der Europäischen Union und die Anwendung des Subsidiaritäts- sowie des Proportionalitätsprinzips im Anhang zum Verfassungsvertrag einen Einfluss auf die Debatte über die Ratifikation im Österreichischen Parlament gehabt?

In der öffentlichen Diskussion haben die Protokolle kaum eine Rolle gespielt, Nationalrat und Bundesrat haben den Verfassungsvertrag als Ganzes nahezu einstimmig verabschiedet, es fand keine Volksabstimmung statt.

Parlamentsintern wurden die Protokolle mit Interesse diskutiert, es gab auch schon Überlegungen zur konkreten Umsetzung des Subsidiaritätsprüfungsverfahrens im österreichischen Parlament. Österreich hat am von der COSAC initiierten Test zum Subsidiaritätsprüfungsverfahren im April dieses Jahres teilgenommen. Dem Präsidenten des Nationalrates ist es ein Anliegen, das in den Protokollen vorgesehene Verfahren zumindest teilweise auch ohne Inkrafttreten des Verfassungsvertrages in die Praxis umzusetzen.

Wie könnte das Österreichische Parlament in den bevorstehenden Dialog über den sogenannten "Plan D" eingebunden werden?

Der so genannte „Plan D“ - mit den zentralen Elementen von Dialog, Debatte und Demokratie – ist als Antwort auf die Kommunikationsdefizite der EU und die negativen Verfassungsreferenden in Frankreich und den Niederlanden konzipiert.

Jeder Beitrag des österreichischen Parlaments an diesem Prozess muss notwendiger Weise bei einer verstärkten Integration der einzelnen Parlamentarier in Angelegenheiten der EU ansetzen. Wichtige Schritte in diese Richtung wurden mit den genannten Neuerungen im österreichischen Parlament bereits gesetzt. Weiters werden insbesondere eine qualitativ verbesserte Kommunikation zwischen den europäischen Institutionen, speziell der Kommission, und den österreichischen Parlamentariern, aber auch eine bessere Erschließung des Spezialwissens von Ausschussmitgliedern des österreichischen Parlaments für Belange der EU, angestrebt.

Die genannten Geschäftsordnungsänderungen zielen insgesamt darauf ab, mehr Öffentlichkeit in die Debatte zu Europathemen in Österreich zu bringen. EU-Plenarsitzungen werden sicher mehr Niederschlag in der Medienberichterstattung finden als die Sitzungen der EU-Ausschüsse. Das Parlament wird so zum zentralen Ort des politischen Diskurses in EU-Fragen.

Darüber hinaus werden jedoch auch Maßnahmen von Seiten der europäischen Institutionen erforderlich sein: So kritisieren österreichische Parlamentarier an der derzeitigen Situation, dass von Seiten der EU zu viele Informationen zu wenig gezielt übermittelt werden. Ein Vorschlag wäre, mit Informationsangeboten auf die jeweiligen Mitglieder der fachlich korrespondierenden Ausschüsse des österreichischen Parlaments abzielen.

Worin könnten die Auswirkungen des Protokolls über das Subsidiaritäts- und das Proportionalitätsprinzip auf die interparlamentarische Zusammenarbeit in der Union unabhängig vom Ratifikationsprozess bestehen?

Wie ich bereits ausgeführt habe, sieht das gegenständliche Protokoll zum Verfassungsvertrag erstmals ein kollektives Vorgehen der nationalen Parlamente vor. Die vorgesehene Frist von 6 Wochen zur Abgabe von Stellungnahmen ist kürzer, als es scheinen mag, vor allem dort, wo mehrere Ebenen eines Parlaments (Plenum, Europausschüsse, Fachausschüsse) eingebunden sein sollen. Wenn man davon ausgeht, dass erste offizielle Stellungnahmen erst mit Woche 3 bzw. 4 abgegeben werden, ist hier eine frühest mögliche Information über Absichten anderer Parlamente ausschlaggebend. Im Rahmen von IPEX sind die Arbeiten schon sehr weit fortgeschritten. Es handelt sich dabei um eine gemeinsame Homepage der Parlamente, die von jedem Parlament einzeln aktualisiert wird. Aufgrund dieser Entwicklungen werden die nationalen Parlamente erstmals operativ im EU-Rechtsetzungsverfahren zusammen arbeiten müssen. Eine sicherlich spannende Aufgabe, auch für die Verbindungsstelle des österreichischen Parlaments in Brüssel.

HEIKE MALICEK

Do you know it?



Toutes les assemblées nationales ont été informées par lettre du 24 mai 2005 que **M. Philippe GODTS** (Secrétariat général de la Commission) a été désigné fonctionnaire de liaison en charge des relations avec les Parlements nationaux.

On 20th of September 2005, the College of Commissioners met for a whole day seminar to discuss what the Commission can do to help shaping the political agenda in Europe during the period of reflection that was announced by the Heads of State and Government in the margins of the European Council last June: *“The period of reflection will be used to enable a broad debate to take place in each of our countries, involving citizens, civil society, social partners, national parliaments and political parties”*.

The primary response to this call rests with the Member States in accordance with their constitutional requirements, but as the Heads of State and Government also pointed out, the European Institutions should *“make their contribution, with the Commission playing a special role in this regard”*.

The Commission believes that the debate during the period of reflection is not primarily about the Constitution, but about the practical policies that affect the every day life of citizens, in short: what does Europe stand for?

This is the reason for the Plan D for Democracy, Dialogue and Debate: it is not a rescue operation for the Constitution, but the Commission’s input to stimulate a wider debate on the relationship between the EU’s democratic institutions and citizens.

Plan D can not be seen as limited in time or as a public relations exercise. The components of Plan D amount to an exercise that must run throughout the lifetime of this Commission, and beyond.

There is no standard model for the organisation of the national debates. The main responsibility lies with each Member State. The Commission believes that its role is to assist rather than replace Member States; to act as a facilitator and co-ordinator at Community level. The Commission’s Plan D gives the structure to ensure that the feedback can have a direct impact on the policy agenda of the European Union.

It is evident that the National Parliaments have a specific role to play in the organisation and promotion of the national debates. National Parliaments are the bridge to ensuring effective scrutiny of decisions taken by national Governments on European issues. The Commission is therefore keen to develop its co-operation with the National Parliaments beyond the targets for the Commission’s relations with the National Parliaments, which it started implementing in early 2005.

Before the end of October, the Commission will present a communication to the EU Institutions and bodies on the Commission’s contribution during the period of reflection and on Plan D for Democracy, Dialogue and Debate. The initiatives revolve around three main themes – re-launching the debate on the future of Europe, promoting citizens’ participation in the democratic process, generating a real dialogue on European policies – and include a range of actions, from visits by Commissioners to Member States and Commissioners availability to National Parliaments, to the use of new technology to increase voter participation and to actively debate and advocate policies in cyberspace.





Mr Włodzimierz CIMOSZEWICZ
outgoing Marshal of the Sejm
(lower house of the Polish parliament)

Interview with Mr Włodzimierz Cimoszewicz, taken on 18 May 2005

What is the ratification procedure of the Constitutional Treaty in Poland? What role can the level of turnout in the referendum play?

[According to our Constitution we can ratify the Constitutional Treaty in two ways. International treaty like the Constitutional Treaty can be ratified by Parliament or by decision of the people taken in referendum. Vast majority of Polish political parties support the idea of a referendum. So politically the fact has been decided. However, from the legal point of view decision still is to be taken. In the near future after official announcement of all changes of the text caused by some Polish protests concerning translation, our Parliament will have to come to a decision which procedure is to be used. This decision probably will be taken at the beginning of June. If this is the case, then Parliament itself can decide about calling for a referendum or it can be done by the President of the State. I personally believe that in our practical situation that will be the President who is going to call for a referendum. If so and if we decide to organize it this year, which has a lot of sense, it is possible that the Constitutional referendum will be combined with presidential elections which will take place either at the end of September or at the beginning of October. The idea to combine the referendum with presidential elections is based on assumption that presidential elections guarantee enough turnout. According to our Constitution we need a turnout of at least fifty per cent to have binding decision taken by such a referendum. Otherwise there will be no decision at all. So this is the situation from the legal point of view. As I said a lot of decisions are still ahead of us. Probably before that interview is published some of them will be taken]*

** As the June European Council called for a period of reflection, Poland as other Member States decided to postpone its plans for holding a referendum on the Constitutional Treaty. The parliamentary elections in Poland took place on 25 September and the first round of presidential elections will be held on 9 October. [editorial team]*

Would the protocols on the role of national Parliaments in the European Union and on the application of the principles of subsidiarity and proportionality increase the significance of national Parliaments in the Union?

I believe so. What is interesting in this, still not fundamental but important, reform of the EU mechanism is the fact that we manage to strengthen all of the Union's institutions and also to strengthen position of national Parliaments, which is in fact logical, if we treat seriously the principle of subsidiarity of the European Union. Now, those protocols are defining procedures in which national Parliaments can control if especially new activities of the Union are acceptable from the point of view of subsidiary role of the Union. Those procedures create a very practical possibility to control the Union at least to some extent by national Parliaments. I think that, of course, we will have to check in practice if it is working but I strongly believe that the idea is right. It may help to convince the people that despite all of

the existing stereotypes or prejudices, the European Union is not a monster dominating over Member States and national institutions, but is a supporter, is a friendly institution that fills that space which cannot be filled in traditional way by national institutions, by national States. So I hope that also the fact that there are such provisions like those included in the protocols will play a positive role in convincing ordinary citizens but also political elites in sense of supporting the Treaty.



Could the procedure of subsidiarity check make the national Parliaments try to or actually place themselves in opposition to the EU institutions?

I believe that it will always depend on the position of the political majority in particular moment in time, in particular country. It may happen as we know from the Polish practice that also in the country which is a member of the European Union there might be a parliamentary political majority contesting that membership or being rather skeptical. We cannot exclude that kind of possibility and of course in such a case what we should expect is a kind of conflict or potential conflict between a national Parliament and European institutions including the Commission. However, I do not think that we should see that possibility as concerning many national Parliaments or concerning real threat or danger.

What is the added value of the Conference of Speakers of the EU Parliaments?

I think that it may be a body offering a chance not only to exchange opinions or information about say practical problems faced by particular national Parliaments but it can be a place where some new ideas are tested by representatives of Parliaments. Then they can be presented to national governments and thus to the European Council. So I see chance, however, I would not overestimate role played by such a body. Only with positive practice the role of such gathering can be strengthened.

What are your views on co-operation between the European Parliament and the national Parliaments?

Of course, it is needed because we cannot continue that practice that in home affairs many politicians accuse the European Union and its institutions of being responsible for everything people do not like. And there is a kind of unavoidable conflict between national institutions and especially national Parliaments and the European institutions.

That is also true that the activity of the European Parliament is not as broadly covered by national media as the activities of national Parliaments. So there are problems concerning communication between European institutions, the European Parliament in particular, and people in Member States. Closer cooperation between the European Parliament and the national Parliaments may give a chance to have more understanding in national politics and of what is going on in the European Union institutions but also may help MEPs to understand better what are the present problems being discussed in national Parliaments. I have an impression – however, it is probably still too early to

make any final judgements – that MEPs, because of their very intensive occupation in the European institutions, are not in a close touch with national reality, with national politics. And there is a risk that, on the one hand, they may be forgotten by the majority of the people, so not treated as representatives of a particular nation, somewhere in Brussels or in Strasbourg and, on the other hand, they may lose feeling of what is going on at home. That is why closer cooperation between the European Parliament and national Parliaments may be a kind of remedy for them.

WŁODZIMIERZ CIMOSZEWICZ

FLASH NOTES



Réunions avec les représentants permanents des Parlements nationaux

La Commission a pris part à des réunions d'information avec les représentants permanents des Parlements nationaux :

<i>Date</i>	<i>Sujet</i>	<i>En présence notamment de :</i>
✓ le 13 juin 2005	The Hague Program and the Action Plan for Freedom, Justice and Security	Ms ADAMO (DG JLS)
✓ le 20 juin 2005	7 Research Framework Program	Ms DE LA TORRE (DG RTD)
✓ le 11 juillet 2005	Communication strategy	Mr KOPPELBERG (DG PRESS)
✓ le 12 septembre 2005	Passenger car related taxes	Mr WIEDOW (DG TAXUD)



IPEX

M.M. WILLANDSEN, MODART et GODTS (Secrétariat général de la Commission), ont participé à une réunion IPEX, au niveau technique, le 30 juin dernier.



Andrew DUFF

Member of the Group of the Alliance of Liberals and Democrats for Europe European Parliament

Interview taken on 13 September 2005

Let's re-negotiate the Constitution

You have been appointed by the Constitutional Affairs Committee of the European Parliament as co-rapporteur with M.R Voggenhuber on the "options for the period of reflection"

How do you consider the manner in which this period has been decided?

The period of reflection was imposed on everyone by the European Council which itself was in something of a panic; it was in shock and of course the period of reflection was not defined. We were not told what it was for or what we had to reflect on. So I do think it is up to the Commission to do something. I would greatly appreciate a strong orientation, a steer from the Commission to provide a focus and a target for this period of reflection. If we just have a period of reflection that is not focused upon a target, it will be like all those other debates we have had in the past - a lot of platitudes - speeches about transparency and how necessary it is to get close to the citizens. Well we are close to the citizens. We have never been closer to the citizens than we were during the French referendum - and it is also quite clear to me that the citizen is not so interested in the Constitution. Personally, I have also been strongly opposed to having referenda on constitutions, which are inherently complex and sophisticated package deals: it is not fair to oblige the citizens to think about that. There is a place for plebiscites, however. I think if you ask people if they want to be inside the EU or not, that's a good decision which you can feel the answer to in your stomach - you don't have to give it too much thought in your head. That's an appropriate decision for a referendum but not 'do you agree with all this that you haven't read and even if you were to read, you wouldn't understand?'. So we have to provide the people with a story, a political story so that they can reflect more politically about the future of the EU. It is clear we can't now retreat from referendums - they are here to stay. We can't say, well we will decide by parliaments in the future because you got the answer wrong. So, in the absence of any political choice from the Commission, I think it's a great opportunity for the European Parliament to fill some political space.

Could you comment on the different options you are envisaging in your report?

I think our report has two parts, the first part is this, more or less, that we consider the options in front of the Union, the alternative scenarios about the Constitution. One option is to scrap the whole thing altogether, to say OK, the Conservative Party in Britain is right, Jean-Marie Le Pen is right, the sovereignists everywhere are right: we don't have a Constitution, we abandon it. **That's the first option.**

The second is to oblige the countries that have refused it to have a second attempt at the same text. You could glue on a declaration or something to that end, as we did with the Irish and Danish after Maastricht and Nice. But I don't think that that is a viable option in the foreseeable political circumstance in either

France or the Netherlands, or for all that matter in Great Britain. Britain will only have one chance, one small chance, for accepting this Constitution, which is that if it's at the end of the line. If 24 others have agreed with it with strong majorities and wholehearted enthusiasm, there is just a chance that Britain might say 'OK, well, we'll have to do it'. But anything other than that, and Britain certainly won't agree and I don't see that President Sarkozy or indeed De Villepin or Balkenende's successor, whoever that is, having the courage to try to put the same text on the table. So I don't think that option is open.



The third option is to see if we can bring in some desirable reforms without changing the Treaty. Changing the rules of procedures, changing inter-institutional agreements and perhaps even creating structures outside the EU in security and defence policy for example - we could do that. But my first reaction is that I think that there aren't a lot of things you could do like that. I mean, you could try to introduce transparency in the Council, but there would be a huge amount of opposition to that in the Council, because the agreement to make the Council transparent was part of the package deal and if you pull one element out, everything falls apart.

That's the same for the national parliaments.

It's the same for the national parliaments. Honestly, there isn't a lot in the third option that could work and that would be safe to avoid a challenge in the Courts. There is a lot of jurisprudence about not seeking to stretch the Treaty beyond endurance, or even seeking to go outside the Treaty. The Court has always regarded this with great displeasure. So I don't think there is much chance of getting very far with option three.

The fourth option is of course a very attractive one and is a simple one which is to change Article 48 of the existing Treaty in order to lower the threshold of ratification. We tried this in the Convention; we proposed this in the Convention and that was strongly opposed by a majority of the Member States. And if it was opposed at that stage, I think it would be opposed even more so now that it's clear that two or three Member States have refused the Constitution. Such a change would in any case require some more referendums because it's a very big constitutional change and I can't see it getting accepted. So that is that one.

The fifth one is to drop the constitutional mantle altogether and say we go back to pre-Laeken and have a Treaty of somewhere

Let's re-negotiate the Constitution – *suite*

else that would supplement Maastricht, Amsterdam and Nice and try to do the same sort of thing - which is to change the QMV threshold, change the balance of power between institutions, alter the size and shape of the Commission, change the size and shape of the European Parliament, and so on. Firstly, I think it would be very difficult to achieve that with 25 Member States. Heavens above, it was quite hard with 15; in fact it was almost impossible with 15 let alone 25. Secondly, I think that the citizens would be extremely cynical of a Treaty which just tinkered with the power relationships between Member States and between the different institutions if it failed to do anything substantive to make the EU more effective in global affairs, and failed to increase the powers of the Parliament very much, and would certainly have problems in making the Charter binding. I think that such a Treaty would not be agreed, although some elements of it could be thought about as a prelude to a re-negotiation of the Constitution.

My preferred approach is to decide in principle that we are going to have to re-negotiate the Constitution. We are going to try to improve it, to correct some of the flaws which we can see in it, and to address specifically the complaint of the French and Dutch citizens about social and economic matters. In other words, we need to talk about the European social model fluently so people understand what it is, and to strengthen the governance of the eurozone so that more discipline is asserted over the political guidelines.

This all concerns Part III of the Constitution effectively. We should also install in the Constitution the precise criteria for membership of the European Union to show how hard it is for a candidate country to actually join the Union. If you look at the present Constitution, the Copenhagen criteria are not clear, nor, of course, are the strengthened process with respect to both Croatia and Turkey that was agreed in December of last year. What one has to do is to provide people with a sense of security about their identity. We can't, of course, inscribe in the Constitution the boundaries of the Union in terms of geography or culture or history. But we are able to show more starkly what is involved in the coming exercise. So there are certain things one could do in a careful re-negotiation and I want to use the period of reflection to prepare for such a re-negotiation. At the end of the period of reflection we will have to agree on a fresh mandate.

Yes, and after that, the Convention?

And after that, the Convention.

And another IGC or not?

Yes, you have to have an IGC but you can have the IGC in parallel to the Convention. So you do not close the Convention after it has published its brand new draft; you keep it in being so that there can be a sort of co-decisional process between it and the IGC. Texts can shuttle between the one and the other.

And then, concerning the process of bringing the new treaty into constitutional force is that on the European Parliamentary elections day in June 2009 you have a consultative vote throughout the EU. But one ought not to describe this as a referendum because it is only consultative and in some states referenda are not permitted. So it would be a formal agreement that there should be this consultative ballot in all Member States on the same day in the same period to advise the institutions and the Member States about whether or not the Constitution should be brought into force.

So I think that is where we are going and now with regard to the process, we will also look at the business of the dialogue, the public debate and ways to bring in national parliaments.

During the last meeting of the COSAC in London in July 2005, the Presidents of the delegations were more or less unanimous in saying that they have to do something directly without waiting for the Constitution

Well, it is already open to national parliaments to do a lot more than they are doing to scrutinise EU affairs, but one should ask oneself why they haven't. If we have the Constitution in force they will be obliged to do so, but if they are not obliged to work hard, then the majority of them will not. I shall be at the next COSAC meeting in October. I am pretty sceptical about the subsidiarity early warning mechanism anyway. I think its primary purpose is to signal that the national parliaments ought to be more interested in what is going on here. I do not think it will be actually exploited frequently. I believe to get a third of the national parliaments to agree on the same objective is very difficult. I can easily see a draft directive which the Italian parliament complains does not go sufficiently far enough in integrating Europe and the British parliament says goes too far. But that does not help to add up to a third. I would be very pleased if parliaments could do more but it does depend on the political parties. Transparency in the Council, that helps. At the end of the day, it comes down to how democratic our political parties are and if they were truly democratic and had the representative capacity to speak for the citizen. Then the French referendum would not have been lost because the pro-Europeans would have been able to have fought it more effectively against the anti-Europeans who were spreading all sorts of poison (these are the Fabiusiens, not the souverainists). I disagree with the souverainists but one can respect and understand what they are. But it is those people who pretend to be pro-EU but in fact try to defeat the project that have to be combatted.

If political parties were working democratically then we would have discovered that the consensus that we had created in the Convention and the IGC was not, in fact, sufficiently democratic. The consensus must now go deeper into political society. The task, if you like, of the period of reflection is to find forms of dialogue that have sinews going strongly into society. The Commission's White Paper on Communicating Europe should help in some respects and I am looking forward to seeing that. I shall certainly be speaking to Margot WALLSTRÖM to see that we are working along the same lines, that the political decisions about the period of reflection can complement and coincide with the more technical issues which she will be looking at. I certainly stress the importance of a strong Commission/Parliament partnership in order to make the Union work, because the Council we can rule out – the Council is hopeless at the moment; it's paralyzed.

– So that's a kind of message for the next COSAC?

Yes. We need a tripartite combination to be constructed between the two parliamentary levels and the Commission, because the Council as an intermediary with public opinion is fairly useless.



ANDREW DUFF