



ASSEMBLEIA DA REPÚBLICA
COMISSÃO DE ASSUNTOS EUROPEUS

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(Check against delivery)

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***THE NEW MODEL FOR RELATIONSHIPS BETWEEN NATIONAL PARLIAMENTS AND THE EUROPEAN
PARLIAMENT AFTER THE ENTRY INTO FORCE OF THE LISBON TREATY***

1. Acknowledgements

Firstly, I would like to congratulate the Spanish Presidency of COSAC, in the person of the Chairman of the *Cortes Generales* Joint Committee for the European Union, Miguel Arias Cañete, for the excellent organisation of this COSAC and for the way in which he welcomed us in Madrid.

I would also take this opportunity to welcome the relevance of the theme chosen for our debate this morning and thank the Presidency for its kind invitation to deliver this speech. It is an honour for me to be part of this distinguished panel of speakers and to have the opportunity to address such a notable audience.

2. The powers provided for in the Treaty and the role of NPs

The reflection that brings us together today, on the model for the relationship between National Parliaments (NPs) and the European Parliament (EP) in view of the new responsibilities arising from the Treaty of Lisbon, is of the utmost importance for the EU's democratic life. However, before addressing this model, we should ponder a number of issues relating to the role itself that NPs can and should perform in the process of European construction.

The main argument in favour of the reinforcement of this role by the NPs stems, generally, from the notion of *democratic deficit*, which results from the transfer to the EU of powers traditionally conferred on Parliaments. If, on the one hand, NPs have “abdicated” of some of their legislative powers, on the other, these same legislative powers have not been undertaken by any other directly elected institution, but rather by national executives within the Council. In other words, what were prerogatives of the *legislative* have become powers of the *executive*.

In this light, when assigning NPs a set of effective powers which reinforce their relationship with their governments, the formulation of policies and decision-making at the European level become a two-way democratic process in which Parliaments are leading players:

- in the internal legal order, through scrutiny of the action of the government in the Council;
- and in the European legal order, through the mechanisms provided for in the Treaty of Lisbon and also within the process of political dialogue with the European Commission.



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From a conceptual point of view, we could consider this to encompass a *polycentric* vision of the European Union, in which, on the one hand, the role of NPs transcends the traditional limits of their national legal order, but which, nevertheless falls short of the prerogatives of a full length institution at the European level.

It is precisely within this framework that we should analyse the new powers conferred on NPs by the Treaty of Lisbon, such as the mechanisms for subsidiarity control provided for under Protocol 2, the possibility of veto with regard to the “*passerelle*” clauses or the right to monitor the work of Europol and Eurojust and to scrutinise developments in EU security and defence policy.

These powers, despite being symbolic from a legal point of view, are politically very relevant. Meaning: the legal consequences of those powers might not weight much, but its political potential might be far reaching in scope.

My point is: for instance, the Treaty establishes the thresholds of 1/3 and 1/4 so that National Parliaments’ position might mean something as far as subsidiarity checks are concerned. But even in those case where this thresholds are enhanced by a significative majority, it’s not legally foreseen that National Parliaments’ opinions are decisive, instead being very limited in terms of its value. Nevertheless, it seems to me that the political strenght of NPs opinions transcends their legal powers.

Therefore, NPs now have a european role to Play that can be more relevant than what the legal mechanisms envisaged in the Treaty foresee. The protection and reinforcement of European democracy were definitely written into their agendas.. NPs can and should contribute, actively and substantially, to a European Union resting on more solid, legitimate and democratic pillars.

What has been said for the enhancement of the role of NPs goes for COSAC as well – we should make the meetings under this Conference a central forum of European interparliamentary cooperation.

3. But how can NPs assert their role, enhancing the powers resulting from the Treaty?

We should be able to see further afield, and pose ourselves the following questions:

- *What meaning can NPs have in the European construction?*
- *How can NPs use these new powers to control with increased quality, not just the institutions, but also (and mostly) national governments?*

The Treaty of Lisbon itself enshrines a specific article on the role of NPs, in which it defines that “*National Parliaments actively contribute to the proper functioning of the Union*”.

However, the preamble to Protocol 1 recalls that “*the way in which national Parliaments scrutinise their governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State*”.



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This aspect contains a dimension which should warrant reflection and innovation for all of us: the (internal) organisational changes that NPs have made and must still make to meet their responsibilities, fulfilling the task of bringing European citizens closer to these issues.

The moment that we are living, therefore, demands that we are determined and creative in introducing the necessary adaptations.

For example, is today's most common system of scrutiny of European affairs (a Committee on European Affairs) the most appropriate? Or has the moment come to progress to a model in which "virtually" all Parliamentary Committees cover European Affairs? Or should CEAs even comprise representatives of the other Committees?

Similarly, we should also reflect on plenary debates and public hearings so that Parliaments become true mainstays for the internal debate on European Affairs.

Indeed, NPs are the principal forum for the political debate on these issues at the national level: it falls to them to bring citizens closer, to promote a participatory, informed and substantial discussion on the major options in European policy.

Any organisational or structural changes we can put forward must respond to the four major challenges that Parliaments face in their European role:

- a) access to information, reducing the existing asymmetry between the information available to governments and institutions throughout the negotiating process and that which is made available to Parliaments (e.g. first reading agreements, outcomes of trilogues, etc.);
- b) the ability of NPs to inter-liaise for the timely exchange of information on the political scrutiny work that they are conducting;
- c) an effective ability to influence the formulation of policies and decision-making at European level, giving contributions from the perspective of the substance of the proposals, both through scrutiny of national governments, and through direct dialogue with European institutions, and not just from the point of view of the veto in terms of subsidiarity;
- d) the ability to bring European issues closer to the national political debate with citizens.

Following the interesting discussions we had in our COSAC Chairpersons' meeting last February, I conveyed to the Presidency a number of suggestions for this debate, in particular:

- i. we should carefully analyse the letter that the President of the European Commission addressed to NPs on 1 December, in which NPs are encouraged to formulate their opinions, not only on subsidiarity but also with regard to the content of proposals, their legal basis or the observance of the proportionality principle;
- ii. This should occur within the political dialogue between the European Commission and NPs, which will be maintained and taken further, without prejudice to the powers



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provided for under the Lisbon Treaty. COSAC should equally debate the arrangements for deepening the joint work that we developed in this process in a coordinated and efficient way;

- iii. COSAC should also bear in mind the following: how will NPs exercise their powers and influence with regard to government bills presented by institutions other than the European Commission, as has already happened with initiatives from Member State groups?

None of these issues can be dissociated from the theme of this debate, because the way in which NPs are projected in COSAC, how they influence the course of this Conference, as well as how they relate to the EP and take this relationship further, also depend on answers we find to them.

- For example, it is very interesting that competences on subsidiarity control are the object of coordination mechanisms under COSAC. Allow me to defend the reinforcement of this practice, even acknowledging there might be some doubts or the opposition of some Parliaments.

These subsidiarity checks began to be organised under COSAC with a view to preparing Parliaments to implement the mechanisms provided for under the Constitutional Treaty, first, and then the Treaty of Lisbon.

The ability of the various Parliaments to meet the challenges that these procedures posed was quite diverse, ranging from Parliaments with systematised scrutiny routines and those that were taking their first steps in this field. Thus, the practice of conducting one or two joint subsidiarity checks every year, where all Parliaments were working at the same time on the same proposals, enabled procedures to be fine-tuned, good practices to be shared, information to be exchanged and vulnerabilities and potential to be identified.

I believe that these exercises had a very positive effect, allowing the outcomes of this work to be reflected in COSAC, with an impact on the quality and depth of the debates. As such, we should maintain this practice, perhaps with each Presidency suggesting joint subsidiarity tests on certain proposals.

This would allow Parliaments a certain degree of planning and anticipation, internalising these tests in their scrutiny methodologies, and gauging in practice what added value is to be had from the exchange of information and good practices, with the Treaty in force.

4. NPs and the European Parliament

In this context, the relationships between NPs and the EP gain an unprecedented significance. As directly elected institutions, they have increased responsibilities in the EU democratic challenge.

However, even if this source of legitimacy is the same (the European people), the focus of their actions is different, albeit necessarily complementary.



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The relationships between NPs and the EP have developed intensely over the last few years, both from the quantitative (e.g. in 1998, 10 interparliamentary meetings were held between the EP and NPs, whereas the current average is 15/annum), and qualitative points of view.

With the entry into force of the Treaty of Lisbon, the relationships between NPs and the EP must be streamlined, seeking a balance between these two dimensions: qualitative and quantitative.

Above all, future interparliamentary meetings should focus on concrete legislative proposals of mutual interest rather than on generic topics, whose usefulness and relevance to the activity of scrutiny are difficult to envisage.

The criterion to jointly decide which themes to debate in these meetings should be the effective capacity that Parliaments have to influence the process. The aim of NPs in this cooperation is not to become hurdles, but rather to participate in decisions in areas in which they have special competences and to possibly influence their governments. In this way, the adoption of European legislation will be truly invested with a two-fold, complementary legitimacy.

Additionally, permanent networks of national counterpart committees could be developed, so as to establish channels of communication enabling information on certain government bills that are deemed relevant to be exchanged between NPs and the EP at the earliest possible stage of the European decision-making process. A political dialogue could be thus established between NPs and the EP, particularly with regard to subsidiarity.

Some of these issues were even addressed in the resolution that the EP passed on 7 May 2009, on the development of relationships with NPs under the Lisbon Treaty, but whose debate is still underway in the EP, particularly through a Steering Group exclusively devoted to the study of relationships with NPs.

5. *Conclusions*

What the Union is about is finding practical, efficient solutions for tackling common problems. The success of its institutions is measured, therefore, by their ability to help overcome the problems facing citizens on a daily basis.

The Union rests on a model of inter-institutional political decision-making, in which citizens, States and the Union are represented and take part in the decision-making process. A model, of course, in permanent evolution.

And, in this context, NPs are not part of the problem. On the contrary, the Europeanization of NPs is precisely intended to make them part of the solution, for a more democratic and more legitimate Europe, closer to the citizens.