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Twelfth Bi-annual Report:
Developments in European Union
Procedures and Practices
Relevant to Parliamentary Scrutiny



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Background

This is the Twelfth Bi-annual Report from the COSAC Secretariat.

COSAC Bi-annual Reports

The XXX COSAC decided that the COSAC Secretariat should produce factual Bi-annual Reports, to be published ahead of each plenary conference. The purpose of the reports is to give an overview of the developments in procedures and practices in the European Union that are relevant to parliamentary scrutiny.

All the Bi-annual Reports are available on the COSAC website at: <http://www.cosac.eu/en/documents/biannual/>

The two chapters of this Bi-annual Report are based on information provided by national parliaments and the European Parliament.

Each chapter begins with the relevant part of the outline adopted by the Meeting of the COSAC Chairpersons, held on 6 July 2009 in Stockholm.

As a general rule, the Report does not specify all parliaments or chambers whose case is relevant for each point. Rather illustrative examples, introduced in the text as "*e.g.*", are used.

The COSAC Secretariat is grateful to the contributing parliaments for their cooperation.

Note on Numbers

Of the 27 Member States of the European Union, 14 have a unicameral parliament and 13 have a bicameral parliament. Due to this mixture of unicameral and bicameral systems, there are 40 national parliamentary chambers in the 27 Member States of the European Union.

Although they have bicameral systems, the national parliaments of Austria, Ireland, Italy, Romania and Spain each sent a single set of replies to the questionnaire drafted by the COSAC Secretariat.

The COSAC Secretariat received replies from 40 national parliaments or chambers of 27 Member States and the European Parliament. These replies are published in a separate annex to this Bi-annual Report which is also available on the COSAC website at:

<http://www.cosac.eu/en/documents/biannual/>

Abstract

CHAPTER 1: Transparency of the Parliamentary Scrutiny Process

Analysis of the replies of the parliaments/chambers has revealed **different degrees of transparency** of parliamentary EU scrutiny processes and **divergent parliamentary practices** in making information on EU matters accessible to the public.

A number of parliaments/chambers take active measures in making **public the documents of the EU institutions**, primarily received from the European Commission. On the other hand, more than half of parliaments/chambers **do not publish those documents** because they are produced by a third party or because they are already in the public domain.

As to the **documents received from governments**, the overwhelming majority of parliaments/chambers do not publish them, since they are either available to the public on the government's website or are considered non-public.

The vast majority of parliaments/chambers are **satisfied with the documents** received from their governments, which enable them to conduct transparent and effective parliamentary scrutiny of EU matters. However, several parliaments/chambers expressed **concerns** about **late deposit** of EU documents, **lack of information** about the government's evolving position, about first reading agreements, failure to deposit drafts of Council and European Council Conclusions and other EU documents marked as limited.

The overwhelming majority of **plenary debates**, including those on EU affairs, are open to the public. In addition, they are often broadcast on national and/or parliamentary television, on the radio and are web streamed.

In more than half of the parliaments/chambers, meetings of the Committees on EU Affairs are usually open to the public. In addition, selected meetings are web streamed and broadcast on national or parliamentary television.

Several parliaments/chambers have established their own **EU Information Offices** aimed at providing accessible information on EU matters to the general public, as well as to members of parliament and parliamentary staff. In most parliaments/chambers, however, no specific units providing information about the EU to the public have been created.

A number of parliaments/chambers have identified the **websites** and the information provided on them as a major channel for making the handling of EU matters more transparent to the general public. The need to **hold more debates on EU matters** is also an issue of concern among national parliaments. Several parliaments/chambers have also mentioned an ongoing internal debate on the need to **modify their procedures or administrative structures** in order to be able to handle EU information more transparently and to increase **publicity of their plenary sittings and meetings of the Committees on EU Affairs**.

CHAPTER 2: Parliamentary Scrutiny of the Stockholm Programme

Almost all parliaments/chambers foresee that they **will scrutinise the Stockholm Programme before it is adopted** by the Council in December 2009 and before any proposals for legislative acts based on the Programme are presented.

In most cases, it is the **Committee on EU Affairs** that **has the main responsibility for scrutinising** the Stockholm Programme, at least until proposals for legal acts are presented. In many cases it is the Commission's Communication that is the object of scrutiny, while in other cases it is the respective government's position on the Communication. There are also mixed forms of scrutiny.

In a majority of parliaments/chambers, **one or more specialised committees will be involved** in scrutinising the Stockholm Programme. As a general rule, their role is to participate in debates and/or to submit (written) opinions to the Committee on EU Affairs. In a few cases, however, a specialised committee is the main committee responsible.

In many parliaments/chambers a plenary debate on the Stockholm Programme is planned or likely to be held, given the importance of this EU policy document.

Procedures foreseen for the scrutiny of the Stockholm Programme are in most cases similar to those used for the scrutiny of all EU legislative proposals. In some parliaments/chambers they are based on the same principles applied for the scrutiny of the Tampere and Hague Programmes.

An overwhelming majority of parliaments/chambers are of the opinion that **interparliamentary meetings** as a means of direct exchange of experience among members is **a useful tool** in improving scrutiny in general and in the area of Justice and Home Affairs in particular. If such a meeting takes place before a decision in the Council is finalised, then it may bring added value for the efficiency of parliamentary scrutiny.

Chapter 1: Transparency of the Parliamentary Scrutiny Process

An open and transparent process is of paramount importance in order to allow citizens to follow the work of the European Union and to enhance their sense of participation. Transparency is therefore an ever-topical issue. Certain aspects of it have previously been dealt with by COSAC in the second Bi-annual Report (Transparency and traceability - Nov. 2004) and the fourth Bi-annual Report (Transparency in the Council - Oct. 2005).

The discussion on transparency often focuses on access to documents, however the interests of, and development towards, a more transparent European Union reach beyond this. One example is the increasing openness of deliberations on legislative matters in the Council. Of particular importance for citizens is access to information and opportunities to follow procedures during the parliamentary scrutiny processes of particular European issues.

The purpose of this chapter is to examine the transparency of the process in parliaments when conducting scrutiny at different stages of the decision-making process in the Union. The issue covers the accessibility of documents that parliaments receive from the EU institutions and governments in the course of negotiations. It also includes the openness of national parliaments and the European Parliament as regards information on the actual negotiations in the European Union, as well as on their own scrutiny procedures and positions. The chapter presents what information parliaments make available to the public as well as when and in which ways.

1.1 Publication by Parliaments of Documents on EU Matters

Analysis of the replies of the parliaments/chambers has revealed **different degrees of transparency** of parliamentary EU scrutiny processes and **divergent parliamentary practices** in making information on EU matters accessible to the public.

As to the **documents of the EU institutions**, primarily of the European Commission (henceforth “the Commission”) received under “the Barroso initiative”, a number of parliaments/chambers take active measures in making these documents accessible to the public. The Bulgarian *Narodno Sabranie*, the Danish *Folketing*, the French *Assemblée nationale* and the Lithuanian *Seimas*, for example, **publish these documents on their websites**.

Some parliaments/chambers only publish the documents of the EU institutions which the parliaments have decided to **scrutinise**. For instance, the French *Sénat* and the Czech *Senát* only publish the documents relating to the **initial stage** of the EU legislative process which are subject to parliamentary scrutiny.

A group of parliaments/chambers publish documents of the EU institutions only **under certain circumstances**. For instance, the Slovenian *Državni svet* makes EU documents accessible to the public when the **matter is put on the agenda** of the parliamentary sessions or of its working bodies. The Finnish *Eduskunta* makes documents and the position of the government accessible to the public **after the Grand Committee meetings** together with the minutes of the meetings. The German *Bundestag* publishes some EU documents after they have been **deliberated by the plenary**. The Maltese *Kamra tad-Deputati*, on the other hand, publishes

the entire file, including the government explanatory memorandum and relevant documents of the EU institutions once parliamentary **scrutiny of the dossier is complete**. All documents sent to the UK *House of Commons* by the EU institutions are available **on request** from the European Scrutiny Committee or the Library of the House.

On the other hand, more than half of parliaments/chambers **do not publish the documents of the EU institutions**. They base this decision on the fact that the documents are produced by a third party or because they are already in the public domain, *i.e.* accessible to the general public on the websites of the EU institutions, online databases and IPEX.

In the Czech *Poslanecká sněmovna*, the documents originating from the Commission are presented to the members of the Committee for European Affairs in the form of weekly annotated overviews prepared by the Parliamentary Institute¹ and published on the website of the Institute. The Cypriot *Vouli ton Antiprosopon*, on the other hand, makes such documents available to interested parties and NGOs whenever they are asked to express their views on a specific matter examined by the Parliamentary Committee on European Affairs. The Hungarian *Országgyűlés* ensures direct access to EU documents being scrutinised or put on the agenda of the Committee on European Affairs by putting a link to EU databases on the Committee's website. Instead of publishing EU documents, the European Union Directorate of the Bulgarian *Narodno Sabranie* publishes a weekly bulletin "Euronews" (in printed and electronic versions) which features a heading "News from European Institutions".

As to the **documents received from governments**, the overwhelming majority of parliaments/chambers **do not publish** them. In some cases, however, they are available to the public on the government's website and copies are available on request from the Committees on EU Affairs (*e.g.* the UK *House of Commons*). In the Netherlands, the documents that the *Tweede Kamer* receives from the government, EU legislative proposals that are subjected to the parliamentary subsidiarity check and those that need the approval of parliament before governmental approval in the JHA Council, are published by the State Printing Office.

On the other hand, in the Danish *Folketing*, **all documents** from the EU institutions, the government, NGOs, private persons *etc.* sent to the European Affairs Committee and/or specialised committees **are made automatically public** on the parliament's website if they are not marked as confidential or limited. All public documents are also published on the website of the EU Information Office of the *Folketing*. The Swedish *Riksdag* follows a similar practice as far as government documents are concerned.

The **European Parliament has its own public register of documents** and has been issuing annual reports on access to documents through it since 2001.² In 2007, a new feature was added to the European Parliament website, giving the public direct access to parliamentary committee documents by procedure, committee or document type. Moreover, the **European Parliament Legislative Observatory** (Oeil) provides access to summaries at every procedural stage in which the European Parliament is involved and links to the documents drawn up by the EU institutions.

¹ Information and research service for the members of parliament.

² Regulation 1049/2001 contain limitations on public access to documents whose disclosure could significantly undermine public security, monetary stability, defence and military matters or EU foreign policy interests, individual privacy and certain aspects of commercial secrecy that have to be balanced against private or public interest.

The Lithuanian *Seimas* has full access to the LINESIS³ database shared with the government. The database is accessible not only to the members of parliament and its civil servants dealing with EU matters, but also to pre-registered social-economic partners, NGOs and members of the European Parliament elected in Lithuania. The latter three categories have access to the so-called '**mirror**' version of the LINESIS, where they can track, *inter alia*, EU documents, parts of national positions and timetables for inter-institutional coordination. The Latvian Committee on European Affairs also has access to the government database ESDUS, which includes Council documents, internal reports, *etc.*

Two parliaments are **planning to make their EU scrutiny procedures more open** and transparent. The Portuguese *Assembleia da República* is testing a database which shows the progress of scrutiny of EU documents in parliament. This database will be accessible to the general public and will contain all EU documents received by the *Assembleia da República* (except for confidential government positions). Also, the Slovakian *Národná rada* plans to make its internal database of EU documents and related domestic documents available to the public, except for national positions on EU draft legislation.

Most of the parliaments/chambers make EU information available to the public only if it is available in the official language(s) of the Member State. However, the Dutch *Eerste Kamer* and the Swedish *Riksdag* make documents accessible in Dutch and in Swedish respectively, and, if not available, then in English.

1.2 Government Documents Necessary for Transparent and Effective Parliamentary Scrutiny of EU Matters

The vast majority of parliaments/chambers are **satisfied with the documents** received from their governments which enable them to conduct transparent and effective parliamentary scrutiny of EU matters.

Several parliaments have specified that their governments are under a **constitutional obligation** to provide parliaments with information on EU matters. Such provisions are enshrined *e.g.* in the Constitutions of Finland, France, Germany, the Netherlands and Lithuania.

However, several parliaments/chambers have expressed **concerns** about **late deposit** of EU documents by governments (the Slovakian *Národná rada*), **lack of information** about the government's evolving position (the Czech *Poslanecká sněmovna*), about first reading agreements at Coreper level (the Danish *Folketing*, the Hungarian *Országgyűlés*), **failure to deposit** documents of the Council working groups and documents on infringement procedure (the Italian Parliament), failure to deposit drafts of Council and European Council Conclusions (the UK *House of Commons*) and other EU documents marked as limited (the UK *House of Lords*). In its July 2009 Report on Codecision and National Parliamentary Scrutiny⁴ the European Union Committee of the UK *House of Lords* concluded that "**there are occasions where Parliament is not provided with the right documents to enable it to scrutinise EU legislative proposals effectively**". The report also concluded that there is nothing in the Council's rules of procedure to prevent these being provided to national parliaments. In this

³ Information System for Lithuanian Membership of the EU.

⁴ http://www.parliament.uk/parliamentary_committees/lords_eu_select_committee.cfm

context it is worth mentioning that, in the Netherlands, a special procedure has been devised to provide the Dutch Parliament with those EU documents that are classified "restraint" or higher. From some replies it can also be inferred that the governments provide certain EU related information only **upon parliament's/chamber's request** (e.g. the Cypriot *Vouli ton Antiprosopon*, the Polish *Senat*, the Romanian Parliament) and that in some cases it is left to the discretion of the government whether to provide the requested information (e.g. the French Parliament).

1.3 Public Accessibility to Parliamentary Documents on EU Matters

When it comes to the possibility for the public to access documents produced by the Committees on EU Affairs, the majority of parliaments/chambers take active measures in making these documents public. In principle, **almost all parliaments make their own documents**, such as reports, minutes, resolutions, standpoints, opinions *etc.*, available on parliamentary websites and in some cases publish them in **paper versions**. Parliaments which make their documents accessible to the public in paper versions include, e.g. the Belgian *Sénat*, the Czech Parliament, the German *Bundesrat* and the Lithuanian *Seimas*. Others publish all public documents on their websites and selected documents in paper versions, e.g. the Irish *Houses of the Oireachtas*. Documents produced by the Hungarian *Országgyűlés* in the course of the scrutiny procedure are not accessible to the public, since both the government position and the standpoint of the parliament are classified as non-public, although the opinions of specialised committees and verbatim of all public committee meetings are published.

A few parliaments do not currently publish these documents, but are planning to do so in the near future.

1.4 Informing the Public about the State of Play of Ongoing EU Negotiations

Most national parliaments have stated in their replies that they inform the public about ongoing EU negotiations, although in almost all parliaments/chambers the **information is made available indirectly**, *i.e.* through documents, press releases, records of hearings, minutes, *etc.* Only a few parliaments/chambers have responded that they do not inform the public about ongoing EU negotiations, e.g. the Belgian *Sénat*, the Maltese *Kamra tad-Deputati* and the Spanish *Cortes Generales*. In Spain, the government is empowered by the Constitution to conduct all international and European negotiations and the *Cortes* does not take part in these negotiations. Also, the Hungarian *Országgyűlés* has mentioned that informing the public on EU negotiations is the responsibility of the government.

In a number of parliaments/chambers, the public is informed about the state of negotiations **on request**, e.g. the Austrian Parliament, the Greek *Vouli ton Ellinon* and the Latvian *Saeima*. For instance, if the UK *House of Commons* receives a request from the public it provides as much information as is available to the Committee, but also advises the enquirer to contact the Government Department.

Several parliaments/chambers inform the public about the state of play of ongoing EU negotiations by **opening to the public ordinary parliamentary activities**. For instance, the Bulgarian *Narodna Sabranie* provides EU information by holding public committee hearings with the participation of government representatives; the Czech *Senát* - by holding public plenary and committee debates; the Finish *Eduskunta* - by publishing documents, including the positions, which are the result of the Finish Government reporting to the Grand Committee; the Italian Parliament - through a public database of relevant documents, including records, verbatim and minutes and public government information.

1.5 Openness and Transparency of the Parliamentary EU Scrutiny Process

The overview of the openness of the parliamentary scrutiny deliberations on EU matters has revealed diverse practices depending on whether the deliberations take place in the plenary or in parliamentary committees, Committees on EU Affairs being a separate category.

The overwhelming majority of **plenary debates**, including those on EU affairs, are open to the public. In addition, they are broadcast live on national television (e.g. the debates in the German Parliament, the Hungarian *Országgyűlés*, the Dutch *Tweede Kamer*), or retransmitted (e.g. Czech *Senát*, the Latvian *Saeima*). Worthy of noting is the fact that the Italian, French, Greek, Luxembourg, Portuguese, Romanian and Slovenian Parliaments broadcast parliamentary debates on their **own parliamentary television channels**. By the end of 2009, the Danish *Folketing* will also launch its own TV station where both meetings of the Committee on European Affairs and the plenary will be broadcast.

Plenary debates are also **broadcast on radio**. For instance, entire plenary sittings of the Hungarian *Országgyűlés* are broadcast live on the radio. Occasionally, plenary debates are broadcast on the radio from the European Parliament, the Latvian *Saeima* and the German *Bundesrat*. Recently, the Greek *Vouli ton Ellinon* launched its **own radio station** (as a pilot project) for broadcasting plenary and committee debates.

Aiming at broadest possible transparency, debates in a number of parliaments/chambers are **web streamed** (e.g. Austrian *Nationalrat*, the Belgian, the Czech and the Polish Parliaments, the European Parliament, the Finnish *Eduskunta*, the Lithuanian *Seimas*, the Spanish *Congreso de los Diputados* and the UK *House of Lords*).

All committee meetings, with rare exceptions, are **open to public** in a number of parliaments/chambers, e.g. in the Belgian *Sénat*, the Czech Parliament, the Dutch *Tweede Kamer*, the European Parliament, the Polish Parliament, the Slovakian *Národná rada* and the Slovenian *Državni svet*. Committee meetings are held behind closed doors only "if the specific nature of the matters being debated so justify" (the Portuguese *Assembleia da República*)

In more than half of the parliaments/chambers, **meetings of the Committees on EU Affairs are usually open to the public** (e.g. the Austrian Parliament, the Belgian *Chambre des Représentants*, the Danish *Folketing*, the Irish *Houses of the Oireachtas* (including pre-GAERC briefings by the Minister of Foreign Affairs), the Maltese *Kamra tad-Deputati*, the Polish Parliament and the Romanian Parliament). Exceptionally, *in camera* meetings are held, e.g. when the Committee or the government wishes to have a confidential discussion or when deliberating classified documents or information. For instance, the Committees on EU Affairs of the UK Parliament hold public meetings when taking oral evidence, but not when deliberating EU matters.

In addition, a number of parliaments **web stream** at least some of the **meetings of their Committees on EU Affairs** (e.g. the Danish *Folketing*, the Maltese *Kamra tad-Deputati*, the UK *House of Lords* (where formal evidence is taken) and the Estonian *Riigikogu* (mandating before the European Council meetings). The meetings of the Committee on EU Affairs of the Swedish *Riksdag* are web streamed and broadcast on national television when the Prime Minister consults on issues to be dealt with in the European Council. Some parliaments/chambers, like the Irish *Houses of the Oireachtas* and the Dutch *Eerste Kamer*, are currently considering web streaming selected Committee proceedings. It is worth noting that

all meetings of the Sub-Committee on Ireland's future in the European Union were webcast live. In some cases, meetings of the Committees on EU Affairs are also broadcast on national or parliamentary television.

However, there are a number of Committees on EU Affairs which, **as a rule, hold *in camera* meetings** (e.g. the Dutch *Eerste Kamer*, the Estonian *Riigikogu*, the Lithuanian *Seimas* (in practice increasingly more public meetings), the Finnish *Eduskunta*, the Slovenian *Državni zbor*, and both Chambers of the German, Italian and French Parliaments). However, there are cases when these meetings are open to the press (e.g. the Hungarian *Országgyűlés*, the French *Sénat* and the Cypriot *Vouli ton Antiprosopon*).

As to meetings of **specialised committees**, the practice also varies widely. For instance, specialised committees of the Lithuanian *Seimas* hold public meetings on EU proposals, but meetings are closed for the public when a national position is deliberated. On the other hand, meetings of the specialised committees of the Austrian *Nationalrat* are mostly *in camera*, except when reports of members of the Government are deliberated on behalf of the plenary.

As to making **information on EU scrutiny deliberations and their outcome** accessible to the public, parliaments/chambers use a number of **tools including the publication of:**

- announcements in newspapers on planned plenary debates (e.g. the Swedish *Riksdag*);
- agendas of parliamentary meetings (e.g. the Lithuanian *Seimas*);
- summaries of individual items of plenary agenda (e.g. the German *Bundesrat*);
- committee reports (e.g. the French *Assemblée nationale*, the UK Parliament);
- minutes (a complete version) (e.g. the Portuguese *Assembleia da República*);
- stenographic records of plenary meetings (e.g. the Polish *Senat*);
- press releases (e.g. the Finnish *Eduskunta*, the European Parliament);
- newsletters, memoranda of each meeting of the Committee on EU Affairs with direct links to EU documents (e.g. the Polish *Sejm*, the Hungarian *Országgyűlés*);
- weekly reports on scrutiny of EU documents (the UK *House of Commons*);
- monthly newsletters on reports and future debates (the UK *House of Lords*);
- parliamentary decisions in brief (e.g. the Swedish *Riksdag*);
- press conferences (e.g. the Bulgarian *Narodno Sabranie*, the European Parliament);
- a free popular magazine on parliamentary debates (e.g. the Czech *Senát*);
- "Facebook" (the EU Affairs Committee of the Estonian *Riigikogu*).

1.6 Parliamentary EU Information Offices/Units

Several parliaments/chambers have **established their own EU Information Offices** providing accessible information on EU matters to the general public, as well as to Members of Parliament and parliamentary staff. These are: the Danish *Folketing*; the Dutch *Tweede Kamer* and the *Eerste Kamer*, the Latvian *Saeima*, the Lithuanian *Seimas*, the Polish *Sejm* and the Swedish *Riksdag*; It is also worth noting that the Library of the Hungarian *Országgyűlés* operates a deposit Library of the European Union where documents and information concerning the EU is made available to the general public.

In most parliaments/chambers, however, no specific EU Information Offices have been created and therefore information on EU matters is made available through the **usual channels**. In some cases, **only one department is involved**, although, more often than not, **the handling of EU information to the general public falls within the scope of several departments**. The

departments that are usually involved, either alone or in combination with others, according to administrative structures of each parliament/chamber, are: the EU Affairs Department, the EU Affairs Committee, the Public Relations and Media Department, the Visitor's Information Centre and the Research Department.

Finally, some parliaments/chambers **do not have a specific unit** which provides information about the EU to the public, as is the case in the UK *House of Lords*, the German *Bundesrat*, the Maltese *Kamra tad-Deputati*, the Austrian Parliament and the Spanish *Cortes Generales*. Although the Irish *Houses of the Oireachtas* currently do not have an EU Information Office, the Joint Committee on European Scrutiny and the Sub-Committee on Ireland's future in the EU have recommended its creation. For its part, the Greek *Vouli ton Ellinon* intends to create in the near future an office with the aim of providing reliable information on the EU to the general public, pooling the expertise of up to five existing administrative departments.

1.7 Plans to Increase Transparency when Dealing with EU Matters

The present survey has considered the need to identify ongoing debates and any future plans discussed by the national parliaments. These debates will undoubtedly be influenced, on the one hand, by the possible entry into force of the Treaty of Lisbon, as was mentioned by the Belgian *Chambre de Représentants*, and, on a more sombre note, by the shortage of resources due to the current economic crisis, as pointed out by the Latvian *Saeima*.

Regarding the issues that are currently being debated, a number of parliaments/chambers have identified the **websites** and the information provided in them as a major channel in making the handling of EU matters more transparent to the general public. The need to **hold more debates on EU matters** is also an issue of concern among national parliaments. A number of parliaments/chambers have also mentioned an ongoing internal debate on the need to **modify their procedures or administrative structures** in order to be able to handle EU information more transparently. **The publicity of plenary sittings and meetings of the Committees on EU Affairs** is also an issue for some parliaments/chambers, either because they plan to broadcast some proceedings or because there is a debate on the opening to the public of the meetings of the Committee on EU Affairs that are currently held *in camera*.

The European Parliament is currently participating in an inter-institutional pilot project **TRANS-JAI: Transparency in the area of Freedom, Security and Justice**. The project aims at increasing transparency of the EU law-making process in this area by providing immediate online access to a full range of public documents of the Council, European Parliament, Commission and the Publication Office of the EU as soon as the owner of the document introduces it into the system. The project should be operational in March 2010.

Other **plans** that are being currently debated in the parliaments/chambers include increased involvement of the general public in the meetings of the Committees on EU Affairs, improvement of supply of information to students and schoolchildren, and production and display of leaflets on the EU institutions and parliaments.

Chapter 2: Parliamentary Scrutiny of the Stockholm Programme

Negotiations on the next five-year programme concerning cooperation on Justice and Home Affairs are scheduled to begin during the Swedish Presidency of the Council. Following on from the Tampere and Hague Programmes⁵, a new Stockholm Programme would set the framework for cooperation during the years 2010-2014 in this field, which includes, *inter alia*, police and customs cooperation, criminal and civil law cooperation as well as asylum, migration and visa policies. It is thus a broad political programme covering issues at the core of parliaments' responsibilities, issues which are also of fundamental importance to European citizens. This Programme may concern both Committees on EU Affairs and specialised committees in EU parliaments.

It is evident that the individual legislative proposals to be introduced in different policy areas covered by the Programme will be subject to scrutiny and control. Given the importance of the Programme to citizens, and in order to ensure effective influence, a strong case may also be made for parliamentary scrutiny of policy decisions on the Programme as such, and its development into action plans and specific measures.

This chapter examines how acceptance of this kind of multi-annual political programme can be ensured in parliaments, by describing how parliaments foresee that the Stockholm Programme and its different elements will be scrutinised, when this scrutiny will be conducted and by which parliamentary bodies.

2.1 Introduction

After preliminary discussions in the Council and in working groups since 2007, the Commission presented a **Communication⁶ on 10 June 2009** on the future Stockholm Programme (henceforth “the Communication”). The Council is expected to continue working on this matter, with a view to adopting the Programme in early December and presenting it to the European Council on 10-11 December 2009. At a later stage, action plans will be elaborated, and will in turn form the basis for individual legislative proposals and other specific measures. Below, when reference is made to the “Stockholm Programme”, all of these (and any other) stages are meant.

It is clear from the answers to the questionnaire that **almost all** parliaments/chambers have decided, or foresee, that they **will scrutinise the issue before the programme as such is adopted**, and before any proposals for legislative acts based on the Stockholm Programme are presented.

In a few cases, scrutiny commenced before the publication of the Communication. The Grand Committee of the Finnish *Eduskunta* was informed about the work in progress by government ministers in as early as 2007. In the autumn of 2008, the French *Assemblée Nationale* as well as the Italian *Camera dei Deputati* adopted texts expressing their respective views on the future work in the field of Justice and Home Affairs (henceforth “JHA”). During the spring of 2009,

⁵ The two last five-year JHA programmes: from 1999 to 2004 (the Tampere Programme) and from 2005 to 2009 (the Hague Programme).

⁶ Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen, COM (2009)262 final.

the EU Affairs Committees of the Hungarian *Országgyűlés*, the French *Sénat* and the German *Bundestag* have heard reports from their responsible minister(s), and in the two latter cases also from the Vice President of the Commission in charge of Justice, Freedom and Security, Mr Jacques BARROT. In a number of parliaments, future developments in the field of JHA have been discussed on a more or less regular basis, without specifically linking the debates to the Stockholm Programme.

Many respondents mention that their **scrutiny of the Stockholm Programme will follow normal procedures**, and in none of the answers is it indicated that some new structures or procedures will be put in place. This seems to mean that parliaments/chambers already have the procedures they deem appropriate in order to be able to scrutinise the preparation, in the EU institutions, of multiannual large-scale policy documents such as the Stockholm Programme.

Of course, the **procedures used differ between parliaments/chambers**. This is true for the scrutiny conducted by their respective EU Affairs Committees as well as for the involvement of specialised committees or other parliamentary bodies.

2.2 Scrutiny by the Committees on EU Affairs

As far as the Committees on EU Affairs are concerned, the main dividing line is, as usually, between document-based and procedure-based (“mandating”) systems. **In many parliaments/chambers, the Communication is the object of scrutiny** in their Committees on EU Affairs. Some have started - or even finalised - this work before the summer break. There are also many - the Cypriot *Vouli ton Antiprosopon*, the Danish *Folketing*, the Latvian *Saeima*, the Slovakian *Národná rada* and **others**, who **scrutinise their respective government's position** on the Communication, or on the corresponding item on the Council agenda. For obvious reasons, their scrutiny starts somewhat later, *i.e.* when the government has presented its standpoint or proposal. None of the answers indicate that a government has presented a position regarding the Communication in time for scrutiny to commence on that basis before the summer break.

There are also **mixed forms of scrutiny**. Some Committees on EU Affairs, such as those of the Greek *Vouli ton Ellinon*, the Lithuanian *Seimas* and the UK *House of Commons*, scrutinise the document as well as, later on, the government's position, receiving written and/or oral reports from the government on negotiations in the Council. In the Swedish *Riksdag*, specialised committees have scrutinised the Communication, while the Committee on EU Affairs will be “mandating” the government in advance of Council meetings.

Concerning the stages following the adoption of the Stockholm Programme, only the Czech *Senát* and the Slovakian *Národná rada* explicitly mention that **action plans etc.**, based on the programme, will also be scrutinised. However, it is implicit in many of the answers that such will be the case. Subsequent **proposals for legislative acts** are mentioned by many, and it is apparent that such proposals will be **scrutinised in practically all parliaments/chambers**, although in some cases a selection will be made, either on a case by case basis, or according to certain criteria, in accordance with the normal procedures of the respective parliament/chamber.

2.3 Involvement of Specialised Committees

In a **majority of the parliaments/chambers, one or more specialised committees will be involved** in scrutinising the Stockholm Programme. Only the Polish *Sejm* indicates that this is not foreseen (but possible). The UK *House of Lords* is a case in between, in that its European Union Committee has a number of sub-committees which, in a sense, function as specialised committees in relation to the Select Committee on EU Affairs. Similarly, the Committee on Foreign and European Affairs of the Maltese *Kamra tad-Deputati* have working groups in charge of different policy areas.

The number of committees involved, and the nature of their involvement varies - between parliaments/chambers as well as between the different stages foreseen.

In a few parliaments/chambers, a specialised committee is responsible either for adopting the final opinion of the parliament/chamber on the Stockholm Programme, for submitting a proposal to the chamber for final decision, or for general scrutiny in the field of JHA. This is the case in the German *Bundestag*, the Dutch Parliament, the Swedish *Riksdag* and obviously in the *Chambre des Députés* of Luxemburg, where no committee is charged exclusively with European Affairs. Those committees **may ask other relevant committees for opinions**. In the Czech *Senát*, the Committee on Foreign Affairs, Defence and Security is responsible for second and third pillar issues, and will therefore, in later phases, be responsible for the scrutiny of corresponding parts of the Stockholm Programme.

In the Italian Parliament, the scrutiny of the Stockholm Programme will be carried out jointly by the Constitutional Affairs and Justice Committees of the respective Houses, on the basis of an opinion of the EU Policy Committee. In the *Senato della Repubblica*, the Committee on Foreign Affairs has also been asked for an opinion.

However, **the usual case is that the Committee on EU Affairs has the main responsibility** for scrutinising the Stockholm Programme, at least until proposals for legal acts are presented. If so, the role of **specialised committees is normally to participate in debates and/or to submit (written) opinions**. In some cases, the Committee on EU Affairs can request such opinions from the relevant specialised committees; in other cases it can give them the possibility to submit their opinions.

In some parliaments/chambers, **joint meetings** of the Committee on EU Affairs and one or more specialised committees, in the form of hearings, round-tables or discussions with responsible ministers, are foreseen as part of the scrutiny procedure. In other parliaments/chambers such meetings are arranged by the Committee on EU Affairs on its own. Another possibility, used for instance by the French *Sénat* and the UK *House of Commons*, is that the Committee on EU Affairs can organise debates in which all Members of the House may take the floor, and which are open to the public.

Later on, **during the legislative phase, the role of specialised committees often becomes more important** than when general policy documents are scrutinised. For instance, in the Polish *Senat* scrutiny of legislative proposals will be conducted by the relevant specialised committee, while the Committee on EU Affairs may be asked for its opinion. A number of parliaments/chambers mention explicitly that their specialised committees are involved in the implementation of new EU legislation.

2.4 Involvement of Other Bodies

As for other parliamentary bodies (other than the Committees on EU Affairs or specialised committees), many respondents mention that a **plenary debate** on the Stockholm Programme **is planned or likely** to be held. A few parliaments indicate that they do not foresee any such debate. Obviously, in the implementation phase, JHA issues will have to be dealt with by the parliament/chamber whenever law-making is needed in order to transpose new EU legislation into national law.

In the Hungarian *Országgyűlés*, its Consultation Meeting (which provides the possibility for consultations with the Prime Minister and the Minister for Foreign Affairs prior to meetings of the European Council) could deal with the Stockholm Programme as part of the European Council's agenda.

Some parliaments/chambers mention that expert bodies or administrative bodies, apart from the staff of the respective committees, have a role to play.

2.5 Specific Measures to Ensure Coordination during the Scrutiny

Many parliaments/chambers limit themselves to the statement that there are **no specific measures** to ensure coordination between the various parliamentary bodies involved in scrutiny. Therefore they will make use of the provisions foreseen by their Rules of Procedure. However, some parliaments/chambers pointed out measures that could be used to make scrutiny of the Stockholm Programme more effective.

Quite a number of parliaments/chambers mention, for example, the possibility of convening a **joint meeting of different committees** (the Greek *Vouli ton Ellinon*, the German *Bundestag*, the *Chambre des Députés of Luxembourg*, the Slovenian *Državni zbor*, the Portuguese *Assembleia da República* and the Belgian *Sénat*). In this respect to ensure coordination, the French *Sénat* and the Swedish *Riksdag* have referred to the specific composition of their Committees on EU Affairs; Members of the Committees on EU Affairs are also members of a specialised committee. This assures a personal interconnection between the Committee on EU Affairs and the other specialised committees concerned.

Several parliaments/chambers underline a **privileged position of their Committees on EU Affairs** with an eventual coordinating role before issuing the final opinion (*e.g.* the Latvian *Seimas*, the Portuguese *Assembleia da República*, the Slovenian *Državni zbor* or the Czech *Poslanecká sněmovna*). The Danish *Folketing* states that their European Affairs Committee does not coordinate the different bodies involved in scrutiny, although it recommends the specialised committees to communicate their opinion to the European Affairs Committee if more specialised committees are involved in scrutinising the same matter. Some parliaments/chambers point out the **coordinating role of the Secretariat** of the Committee on EU Affairs (the Romanian Parliament and the Belgian *Chambre des Députés*).

2.6 Experience Gained when Scrutinising the Tampere and/or Hague Programmes

Some parliaments/chambers refer to their useful experiences, which they will make use of when scrutinising the Stockholm Programme.

Among parliaments/chambers that are not using or not planning to use experiences gained when scrutinising the Tampere and/or Hague Programmes are, *e.g.* those which were not EU

Member States when these programmes were scrutinised and those which have made changes in their Rules of Procedures and/or practices since the Tampere or Hague Programme.

2.7 Interparliamentary Cooperation in Scrutinising the Stockholm Programme

Parliaments/chambers are **almost unanimous** in their opinion **that interparliamentary cooperation is a valuable contribution** to making the scrutiny of the Stockholm Programme more efficient. However, there have been some sceptical or negative replies from a few parliaments/chambers, mostly focusing on mandating their governments, which find interparliamentary exchange of little relevance in this regard (the Finnish *Eduskunta*, the Danish *Folketing*, the Estonian *Riigikogu*, the Hungarian *Országgyűlés* and the UK *House of Commons*).

Most parliaments/chambers perceive the **greatest added value in direct meetings among members** (or more specifically rapporteurs or chairpersons) be it across the EU, bilateral or within specific regional cooperation formats. Frequently stated reasons of why these meetings are highly appreciated is that they offer an opportunity for inspiring and enriching each other by sharing best practices, and by exchanging experience and information on substance as well as procedures. Interparliamentary meetings can also play the role of **alerting to possible problems** and in general are appreciated as an opportunity for broadening the national perspective on a given issue. The European Parliament and the Czech *Senát* express an ambition to establish closer relations among parliaments in evaluating JHA policies, building on the provisions of the Treaty of Lisbon.

In the specific context of scrutinising the Stockholm Programme, some parliaments point out the usefulness of organising a Joint Parliamentary Meeting in the European Parliament and the XLII COSAC meeting in Stockholm both dedicated to the topic. It has been stressed that the **timing of these meetings** in particular and any such meeting in general **is important**, *i.e.* that it takes place before a relevant Council decision is made. A few parliaments/chambers (the Czech *Poslanecká Sněmovna*, the French *Sénat*, the Luxembourg *Chambre des Députés*) stress, however, that no new forms of interparliamentary meetings should be developed whereas one Chamber (the Slovenian *Državni zbor*) suggests that, particularly for the area of JHA, the Swedish Presidency could bring forward new forms of cooperation to make the scrutiny of these matters more efficient and transparent.

In addition, a number of parliaments mention IPEX as a useful tool for exchange of information and others highlight the role of national parliaments' representatives in Brussels in this regard.