



DCO Internationaal en Ruimtelijk Beleid
vaste commissie voor Europese Zaken

Mr. Anton Kokalj
Chairman of the Committee on EU affairs
National Assembly of the Republic of Slovenia

Mr. Vincenc Otoničar
Chairman of the International Relations and European
Affairs Commission
National Council of the Republic of Slovenia

Place and date: The Hague, 16 April 2008
Re: XXXIX COSAC, 7-8 May 2008
Our ref: 08-EU-O-002

Dear Mr. Otoničar, dear Mr. Kokalj,

As you know the Treaty of Lisbon will make the European Union more democratic and more effective, both at the level of the European Parliament and at the level of the national parliaments of the 27 Member States. For the first time in the history of European integration, the new Treaty establishes an explicit role for national parliaments in the checks and balances of EU decision-making. Protocol 2 stipulates a procedure for the involvement of national parliaments in considering legislative proposals through the so-called yellow and orange card procedure.

Considering the European Council's call for a swift completion of national ratification processes with a view to allowing entry into force of the Treaty on 1 January 2009 and noting the progress in ratification that is currently being made by individual Member States, we deem it expedient that COSAC discusses the modalities for the implementation of the yellow and orange card procedure at its next meeting in Brdo.

It is for this reason that I would like to request, on behalf of the standing committee on European affairs of the House of Representatives of the Netherlands, to put the implementation and application of Protocol 2 (the yellow and orange card) on the agenda of the Brdo COSAC meeting. Moreover, as it provides us with a unique opportunity to considerably strengthen the involvement of national parliaments in the process of EU-decision making, we consider it would merit a separate agenda item

As you may recall, I have already discussed this issue with you and other colleagues of COSAC in the margins of the COSAC chairperson's meeting, February last.

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der Staten-Generaal
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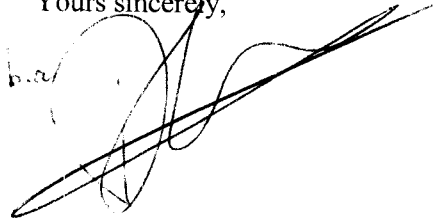
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At the next COSAC meeting in Brdo, the delegation of the standing committee for European Affairs of the Netherlands' House of Representatives intends to circulate a non-paper with some parameters on the basis of which a first discussion could be held. The aim of this non-paper is to give an impulse to the discussion in COSAC on the implementation of, and the modalities for the yellow and orange card procedure as envisaged in Protocol 2 to the Treaty of Lisbon.

With this in mind, I would like to ask you to favourably consider our request to put "*the modalities for implementing Protocol 2 of the Treaty of Lisbon: the application of the yellow and orange card*" as a separate item on the agenda of the COSAC meeting of 7-8 May 2008.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'H' and 'W' intertwined, with a long horizontal stroke extending to the right.

Harm Evert Waalkens
Chairman of the standing committee on European Affairs
House of Representatives of the States General
The Netherlands



**NON-PAPER
ON THE MODALITIES FOR IMPLEMENTING PROTOCOL 2
OF THE TREATY OF LISBON:
THE APPLICATION OF THE YELLOW AND ORANGE CARD**

**STANDING COMMITTEE FOR EUROPEAN AFFAIRS
OF THE HOUSE OF REPRESENTATIVES OF THE NETHERLANDS**

COSAC 7-8 May 2008

The Treaty of Lisbon will make the European Union more democratic and more effective, both at the level of the European Parliament and at the level of the national parliaments of the 27 Member States.

For the first time in the history of European integration, the new Treaty establishes a clear role for national parliaments in the checks and balances of EU decision-making. Protocol 2 stipulates a procedure for the involvement of national parliaments in considering legislative proposals through the so-called yellow and orange card procedure.

This Protocol is the next step in a process of growing involvement in EU decision-making, which started with the establishment of COSAC in the Treaty of Amsterdam (1997). It will assure the early involvement of national parliaments in the EU decision-making process.

The national parliaments are the prime forum for representation of the citizens of the 27 Member States. Within the scope of Article 12 as well as Protocol 2 of the Treaty of Lisbon, the principle of the check on subsidiarity should be incorporated more actively. This greater awareness of national parliaments will - as a twin track next to the European Parliament - strengthen the democratic control, legitimacy and acceptance of EU decisions from the point of view of our citizens.

Considering the European Council's call for a swift completion of national ratification processes with a view to allowing entry into force of the Treaty on 1 January 2009 and noting the progress in ratification that is currently being made by individual Member States, we deem it expedient that COSAC discusses the modalities for the implementation of the yellow and orange card procedure at its next meeting in Brdo.

The standing committee for European Affairs of the House of Representatives of the States General of The Netherlands has examined the practical consequences of the yellow/orange card procedure, as laid down in Protocol 2 to the Treaty of Lisbon: the Protocol on the application of the principles of subsidiarity and proportionality.



With this non-paper the standing committee for European Affairs of the Netherlands' House of Representatives aims to give an impulse to the discussion in COSAC on the implementation of, and the modalities for the yellow and orange card procedure as envisaged in Protocol 2 to the Treaty of Lisbon.

To that end, the following elements are suggested as guiding principles for this discussion:

- **COSAC** should continue to play a guiding role in the application of the principle of subsidiarity. In its meetings it should focus on the actual legislative agenda of the Commission and formulate a strategic approach regarding current and upcoming EU-proposals.
- Protocol 2 of the Treaty of Lisbon sets up an 8-week period for checking legislative proposals on the principles of subsidiarity. In order to properly and collectively monitor the examining of EU legislative proposals on the principles of subsidiarity and proportionality in the respective national parliaments of the 27 Member States a mechanism could be set up. It is suggested to set up a **sub-formation of COSAC** for this purpose in which each parliament of the EU Member States can participate on the basis of the modalities as foreseen in Protocol 2 of the Treaty of Lisbon. The frequency of these meetings should be at least once every two months. This sub-formation of COSAC should be supported by the **COSAC-secretariat**, which could serve as the preparatory body for its meetings.
- The **national parliaments' representatives in Brussels** could act as a platform for preliminary discussion on European proposals. They should monitor specific legislative proposals in the pre-legislation phase as well as in the negotiation phase in the Council and the European Parliament. The weekly held meetings of the parliamentary representatives could have a co-ordinating character. Furthermore, the parliamentary representatives could inform each other on the state of play in their own parliaments. They could also indicate possibilities for acting together with other parliaments on specific dossiers.
- The existing **IPEX-mechanism** could serve as a monitoring system for the application of the subsidiarity check by the national parliaments of the 27 Member States. A counting device should be added to the system to establish whether the necessary thresholds are being approached.
- The final decision whether the thresholds will be met, and whether subsequently the so-called yellow or orange card will be drawn, is a political matter that should be taken in the context of the **COSAC sub-formation on subsidiarity**.