

Introductory note to the Biannual Report

A mandate to prepare the Biannual Report

COSAC Chairmen at their meeting on the 19th. February provided the Secretariat with guidelines for the preparation of the Biannual Report. The mandate, established by the XXX COSAC, is to compile a factual report on developments in EU procedures and practices relevant to parliamentary scrutiny every six months in order to provide the basis for debate in COSAC.

One aim of the present report is to update and enhance the national parliaments' working knowledge and understanding of the EU's decision-making process with a view to increasing the influence of national parliaments in shaping Community policies. This compliments the important task of continuously updating and exchanging information on scrutiny procedures.

The report is published on the occasion of the largest enlargement in the history of the European project and on the eve of adaptation of a Constitutional Treaty. It records the panorama of events, which over the past few years, establishes the framework within which national parliaments will make their contribution to the evolving political architecture of Europe. Among these is the work flowing from the Laeken Declaration, the Seville European Council, and the European Convention. Simultaneously the European Commission, the Council of Ministers and the European Parliament worked to improve European governance and better lawmaking.

The emerging European Union policy cycle

During this period a new cycle in European Union policy making has emerged providing an impetus to both the European Commission and the Council of Ministers to clearly set out their respective policy and legislative ambitions. Each of the institutions has developed annual statements of policy intent. The Commission publishes in February its Annual Policy Strategy for the following year and follows this up with bilateral dialogues with both the European parliament and the Council of Ministers. Later in autumn the Commission publishes its Legislative and Work Programme for the next year. The Council has just begun publishing an annual programme, which combines the intentions of the two rotating presidencies for the current year. These exercises provide national parliaments with important information pertinent to their scrutiny obligations.

COSAC may wish to consider whether when fixing the dates of its spring and autumn meetings it would be appropriate to do so at times allowing a timely dialogue with the Commission on both the Strategy and Legislative Programme.

The importance of Impact Assessment

The Commission as part of its Good Governance initiative has been developing its practice of providing impact assessment for significant policy initiatives. This has important practical consequences for national parliaments in both their routine scrutiny and in anticipation of their responsibilities when the draft Constitutional Treaty is adopted and in particular in respect to the Protocol on Subsidiarity and Proportionality.

Where the co-decision procedure applies the European Parliament and Council may, on the basis of jointly defined criteria and procedures, have impact assessments carried out prior to the adoption of any substantive amendment, either at first reading or at the conciliation stage. The three Institutions will carry out an assessment of their respective experiences and will consider the possibility of establishing a common methodology.

COSAC may wish the Secretariat to monitor the application of impact assessments by the Institutions and to report on the quality, appropriateness and frequency of their use.

Subsidiarity and Proportionality

Monitoring subsidiarity and proportionality is one of major responsibilities of national parliaments. They are among the main organising principles of the Union. The European Parliament and the Council have to verify that the Commission proposals and the amendments they envisage making are consistent with the principles of subsidiarity and proportionality. The current system puts the burden of proof on the institutions involved in the Union's legislative process.

The draft Constitutional Treaty strengthens the role for national parliaments and when adopted provides that they "shall ensure compliance with that principle" (subsidiary).

COSAC may wish the Secretariat to support its political reflections by preparing particular supporting analysis.

Monitoring legislative procedures

The report describes evolving EU legislative procedures. This information together with the extensive information provided by the new members on recent developments in scrutiny procedures and practices provides a valuable updating of scrutiny practices in operation. The Secretariat will regularly report on future developments as they occur.

Towards a new Constitutional Treaty

The report concludes with information relevant to national parliaments in the draft Constitutional Treaty and supplemented by the proposals tabled in the Post Naples report. As the Intergovernmental Conference is not scheduled to complete its work before the COSAC meeting the secretariat may be requested to incorporate an analysis of the adopted text in the next Biannual Report to facilitate a debate in COSAC.