

Options for the establishment of a COSAC secretariat

Introduction

All organisations with even a minimum of tasks have a secretariat to ensure the necessary continuity and coherence in their work. On an international level, this applies both to the Inter-Parliamentary Union (IPU) and to the inter-parliamentary assemblies of NATO, the WEU and the OSCE. None of these parliamentary assemblies would be able to cover their work without a secretariat.

This applies in equal measure to inter-parliamentary cooperation within COSAC with a host of concrete tasks requiring completion for COSAC to fulfil its role. This includes the creation of continuity and coherence in its work across 28 European countries and the European Parliament.

Consequently, the recommendation is for a *small* COSAC secretariat to be established.

I. Tasks, staffing and location

Tasks

Under the proposal, the primary tasks of the secretariat would be

- to assist the country holding the presidency with the preparation, convocation and organisation of COSAC meetings (both ordinary and extraordinary),
- to act as a secretariat to meetings of the Troika and of the chairpersons and to be in charge of the preparation, organisation and convocation of these meetings,
- to draw up draft "contributions" from COSAC, cf. the protocol on national parliaments,
- to be in charge of coordination and exchange of information between national parliaments, including benchmarking and designating "best practices",
- to draw up analyses and draft discussion papers,
- to draw up minutes of meetings within the framework of COSAC,
- to draw up draft budgets for COSAC,
- to act as a point of contact for EU institutions,
- to manage an official COSAC documentation archive

and

- to manage IT cooperation between parliaments, including running the COSAC website.

Further tasks might be added, inter alia those which might appear as a result of deliberations on COSAC reform in the COSAC working group.

Staffing

As part of the COSAC reform it has been proposed to establish a secretariat of 3 to 5 people headed by a secretary general.

On the basis of present tasks, a secretariat with 5 members is deemed necessary. With EU enlargement adding 10 new countries as from 1 May 2004 and with the possible addition to COSAC's activities of ad hoc inter-parliamentary conferences between the sectoral standing committees of the EU countries, a COSAC secretariat of less than 5 staff hardly seems realistic.

It is proposed to staff the five posts using the following model: 1 secretary general, 1 book-keeper/secretary and 3 graduate members of staff. It is proposed for consideration that staff be employed on 4 to 5 year contracts to allow for rotation of posts between parliaments.

The secretary general should be appointed by the COSAC assembly following nomination by the Troika or a meeting of the chairpersons. All parliaments may propose candidates.

Additional staff will be taken on by the secretary general following agreement with the meeting of the chairpersons.

Also to be considered is the setting up of a stagaire programme attaching 2 to 4 stagaires to the COSAC secretariat to assist in conducting studies or drawing up reports on subjects which COSAC might wish to examine in more detail.

Location

In order to ensure the necessary continuity in COSAC's work the secretariat must be permanently staffed at a fixed address. It is proposed to locate the COSAC secretariat in Brussels to situate it as close as possible to the EU institutions. Both the Belgian Parliament and the European Parliament have expressed an interest in housing a COSAC secretariat.

The Belgian Parliament has offered office space in close proximity to the European institutions and to have it ready in the very near future. The offices provide access to the library of the Belgian Parliament with its extensive European documentation and access to a meeting room equipped with interpreting facilities.

The European Parliament has not replied formally as regards the possibility of housing the secretariat in its buildings. In principle, Parliament Vice-President David Martin has said 'yes subject to reservations', as he does not know whether the European Parliament has any vacant office space.

There is a need for close cooperation between the secretariat and the permanent representatives of the national parliaments in Brussels, e.g. by locating the secretariat in the same place as the permanent representatives. Choosing the European Parliament would thus locate the COSAC secretariat in close proximity to the permanent representatives of the national parliaments who are presently housed in the European Parliament.

II. COSAC budget

What would be the cost of a COSAC secretariat?

Two crucial questions in connection with the establishment of a COSAC secretariat would be how much would it cost and how would the parliaments of the member countries finance it?

The size of the COSAC budget would obviously depend on the size of the secretariat and the tasks allocated to it. The estimated budget is based on a staff of 5 in the COSAC secretariat as proposed above.

Similarly, the size of the budget would depend on which proportion of the cost of the activities in COSAC should be paid by the parliament of the country holding the presidency and how much should be paid via a common budget. It is proposed here that only the costs in relation to the secretariat should be financed via COSAC's budget. All other activities in connection with the holding of meetings in the COSAC assembly should still be financed by the parliament of the country holding the presidency.

The most significant part of the budget would be salaries to staff. The total cost of basic salaries would amount to EUR 400-420,000 annually if choosing to employ staff on terms equal to those of the Inter-Parliamentary Union (IPU) or EU officials¹. However, more accurate staff cost estimates would depend on how members of staff are employed. Which pay grades should apply to them? Can it be done with full tax exemption, e.g. as in the IPU? Or will salaries be taxed by the Belgian authorities as in the case of NGOs in Belgium and employees of the

¹ Calculating COSAC's basic salary costs on the basis of the 2003 IPU level of costs gives a total cost of approximately EUR 400,000. The IPU employs a staff of 34 at a cost of approximately EUR 2.7 million in basic salaries equating to salary costs of EUR 399,409 for a COSAC secretariat of 5. However, if the cost of salaries is based on employing the COSAC secretariat staff as EU officials, basic salary costs would amount to EUR 419,712 annually. However, being subject to EU taxation, a proportion of the cost would return to the EU budget. The calculations are based on the secretary general being employed as an A2, (4), 2 members of staff being employed at grade A5, (5), 1 member of staff at Grade A8, (4) and 1 at Grade C3, (4).

parliamentary assembly of NATO if employees are Belgian citizens or if they have been domiciled in Belgium for more than a year prior to being employed².

The remaining part of the budget must cover the costs of:

- various types of allowances, social and health insurance, other insurance, travel costs, language courses, postage, telephone/fax/e-mail, acquisition and maintenance of computers and other office equipment, newspaper and periodical subscriptions, entertainment costs.

The total cost of a COSAC secretariat would probably amount to some EUR 600,000 annually. This does not include the cost of rent, deposit, building maintenance, cleaning etc., the aim being for the COSAC secretariat to have office space put at its disposal either in the European Parliament or the Belgian Parliament. However, it cannot be taken for granted that this will be possible at no cost.

Financing the COSAC secretariat and distribution of costs

Basically, there seem to be two options for financing a COSAC secretariat:

1. through contributions from member states as in the parliamentary assembly of NATO, the IPU and Europol
2. via the Community budget as in the case of the EU institutions and bodies.

Both in the parliamentary assembly of NATO, the IPU and Europol the size of member states' contributions are weighted according to their GNP³. The question is whether COSAC should use a similar weighted distribution of costs or whether to share costs equally between parliaments. Speaking in favour of an equal distribution of costs is the fact that, with six members each, all parliaments have equal representation in COSAC and enjoy the same rights and obligations.

If it is decided to finance COSAC via member state contributions and that member states should pay the same amount towards the budget, it would mean a total annual cost per member state of approximately EUR 40,000 in the case of 15 member states and the European Parliament contributing. With 25 parliaments and the European Parliament sharing the costs, the contribution per parliament falls to EUR 24,000.

COSAC might also be financed via the Community budget. However, this would mean that, as the budgetary authority of the EU, the Council and the European

² The total 2003 NATO/PA budget is EUR 3.142.794, of which personnel costs constitute EUR 2,066,602 for a staff of approximately 30 at the NATO/PA. In addition to salaries, the cost include payments towards pensions and various allowances. e.g. language courses and health insurance.

³ The NATO/PA is financed via contributions from member states' national parliaments and the share of costs apportioned on the basis of an old scale taken over from NATO. The share of costs is apportioned on the basis of NATO-countries' GNP in the early 50'ies. Thus the USA pays 22,41%, the UK 17,25% while Germany pays 15,54% and Italy 5,75%.

Parliament would determine the COSAC budget. On the face of it, this financing model does not trigger payments from individual national parliaments and, in principle, only a minor extra payment from the EU member states. Here, payments would depend on countries' GNP.

In view of the secretariat being established on the initiative of the national parliaments and aimed at serving their interests and in view of the insignificant cost it seems more appropriate for national parliaments to cover the costs themselves.

The recommendation is for costs to be financed by direct contributions from the parliaments. The costs should be shared equally between the parliaments wishing to participate in the financing of COSAC.

III. How should the COSAC secretariat be established?

The last important question is how to establish a COSAC secretariat. Should it be done by establishing an independent organisation incorporated under Belgian law or should it become part of a Community framework? If established as an independent organisation, COSAC would need to assume the form of a legal entity to allow it to enter into agreements and contracts, inter alia regarding employment under Belgian law.

If COSAC were to fall under a Community framework, a number of other questions arise.

Corporate body or international organisation

If COSAC is established as an independent body under Belgian law, it would be obvious to look to the model used for the NATO parliamentary assembly (NATO/PA). NATO/PA is domiciled in Brussels in Belgium and, like COSAC, constitutes a forum for cooperation between national MPs.

Via a statute of 14 August 1974 the Belgian authorities have recognised the NATO/PA as a legal entity with "corporate body" status under Belgian law. Belgium has thus not been prepared to grant the NATO/PA the status of an international organisation, unlike the Swiss authorities in the case of the Inter-Parliamentary Union (IPU)⁴ which, like the NATO/PA, is a forum for international cooperation between parliaments⁵ In real terms, however, it is a sort of semi-international organisation, as the Belgian authorities have granted the NATO/PA a number of the immunities and privileges normally enjoyed by international organisations.

⁴ In the IPU immunities and privileges are granted via a 1971 agreement between the Swiss authorities and the IPU. Under this agreement employees are exempt from tax and duties and granted diplomatic status.

⁵ The IPU is not an international organisation based on treaties between governments. The IPU is a "free association of individual countries' parliaments or in some cases "parliamentary groups" appointed by the parliaments and has been recognised by Switzerland as an international organisation.

The NATO/PA secretariat is the subject of a particular "personnel statute" laid down by the so-called NATO/PA "standing committee"⁶ and recognised by the Belgian Foreign Office and the Ministry of Employment. Under this model, COSAC would require a similar statute.

The Belgian statute stipulates that the secretary general represents the NATO/PA under Belgian law. Furthermore, the statute states explicitly that the NATO/PA is entitled to enter into agreements and contracts, acquire property, goods and other assets and has access to the courts.

As a general rule, the secretary general and the staff of the NATO assembly secretariat are exempt from Belgian income tax and certain other types of duty which normally apply to employees of international organisations. However, this does not apply to employees who are Belgian citizens or who have been domiciled in Belgium for over a year. They are subject to normal Belgian taxation.

Budget control

If COSAC is set up in accordance with the above model, it will be necessary to establish effective procedures for internal and external control of the implementation of the COSAC budget.

In this context one model could be for final discharge of the COSAC annual budget and accounts to be granted at a meeting of the chairpersons once a year, making the secretary general responsible for day-to-day management. However, there should also be a link between the COSAC meeting of the chairpersons and the secretary general in the shape of a "standing committee" consisting of the Troika. Such a standing committee should be responsible for conducting the necessary control of accounts and auditors reports before the meeting of the chairpersons grant final discharge. Equally, the standing committee should monitor whether COSAC's financial matters were conducted in accordance with the budget and a "financial regulation" adopted to this end.

In connection with the deliberations on the rules governing the COSAC budget, account must be taken of the involvement of the Conference of Speakers of the European Parliaments and in this context particularly the role which the Conference of Speakers is encouraged to play in connection with approval of COSAC's budget, cf. the draft declaration about this.

⁶ The NATO/PA standing committee consists of a representative from each NATO member country.

Financing via the EU budget

Another option is to look into the possibility of employing the COSAC secretariat staff as EU officials. This will hardly be possible in the short term as it would probably require treaty changes.

In order for the COSAC secretariat staff to enjoy the privileges and immunities applicable to EU officials, cf. "8 April 1965 Protocol on the Privileges and Immunities of the European Communities" a change in the protocol or the introduction of a special legal basis in the Treaty would be required. The latter would correspond to what was done for the EU Ombudsman with the adoption of a special statute which, by referring to the 1965 protocol, ensures that the employees of the Ombudsman institution enjoy the same immunities and privileges as other EU officials.

This protocol ensures, inter alia, the exemption of EU officials from taxation by the Belgian authorities of their salaries received from the Community budget. Instead, they pay a lower rate of Community tax.

Under the Community financed model COSAC will not adopt its own budget; this will be done by the European Parliament and the Council of Ministers. As COSAC will not be an independent institution, under this model it will probably have to become part of the administrative budget of one of the EU institutions. The most obvious solution would be to become part of the European Parliament budget as was the case with the budget for the European Ombudsman.

Budget control

The Community financed model does not require the setting up of special budget control procedures. Both the external and internal control of the implementation of the budget will follow the general EU budget control procedures whereby the European Parliament grants discharge and the Court of Auditors conducts the audit.

It is recommended that the legal aspects etc. concerning the establishment of the COSAC secretariat be considered specifically at a later stage.

IV. Rules of good administrative practice for the COSAC secretariat

Right from the start, the COSAC secretariat should have clear and high standards for good and open administrative practice and budget management. It is therefore proposed that, from the very beginning, COSAC adopts a code of conduct for "good administrative practice" and a "financial regulation" to ensure transparent and responsible management of the COSAC budget.