



Dr. Friedbert Pflüger

Mitglied des Deutschen Bundestages

Vorsitzender

des Ausschusses für die Angelegenheiten der Europäischen Union

Platz der Republik 1

11011 Berlin

☎ (030) 227 – 34896/35653

☎ (030) 227 – 30171

✉ europaausschuss@bundestag.de

To

Mr. Claus Larsen-Jensen

Chairman of the European Affairs Committee

Parliament of Denmark

Folketinget

Christiansborg

DK-1240 København

14. August 2002

Dear colleague,

thank you very much for your invitation to a meeting for the Chairmen of the European Affairs Committees of the Member States and the Troika on the 16th of September 2002.

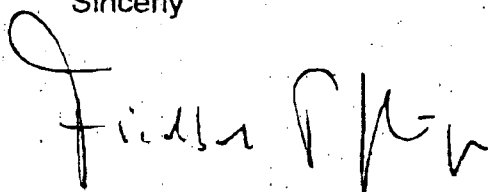
Due to our election campaign I am unfortunately not able to attend this important meeting. The same applies to our vice-chairman due to his obligations as member of the European Convention. However I am happy to inform you that we will be represented by Mr. Christian Sterzing, Spokesman of the Green Group in the Bundestag for European Affairs.

It is with great interest and respect that we took note of your paper which in our view represents the most comprehensive reform proposal seen to date and which undoubtedly will enrich our discussions.

We therefore call for your understanding that there are some reservations on our side keeping in mind the ongoing discussion in the European Convention and the fact that the national parliaments position in European affairs is a matter for domestic legislation and – last not least – keeping in mind the Bundestags perspective and position on the topics raised in your paper. The enclosed paper contains our position in more detail. I would be very grateful if you could provide for distribution of our paper among our Colleagues.

Hoping for your understanding and wishing you a successful meeting
I remain

Sincerely

A handwritten signature in black ink, appearing to read 'Friedbert Pflüger'. The signature is written in a cursive, flowing style with a large initial 'F'.

(Dr. Friedbert Pflüger, MdB)

Meeting of Chairpersons of the European Affairs Committees of the national Parliaments and the Presidential Troika in Copenhagen, 16 September 2002

Draft contribution from the Danish COSAC Chairmanship:

Proposal for enhancing the role of the national Parliaments in European politics and for the reform of COSAC into the Forum of the Parliaments

Reference text:

Letter from Mr Claus Larsen-Jensen, Chairman of the Committee on European Affairs of the Danish Parliament (Folketing), dated 22 July 2002]

In light of the debate in the European Convention about the role of the national Parliaments in the European architecture and the resolution adopted by the XXVIth COSAC in Madrid on 14 May 2002, and as part of the preparations for the XXVIIth COSAC in Copenhagen, the Danish Chairmanship has presented a comprehensive proposal for enhancing the role of the national Parliaments in European politics and for the reform of COSAC. This contribution will be discussed, and if necessary modified, by the Chairpersons of the European Affairs Committees at their meeting on 16 September 2002 and will also be tabled at the forthcoming COSAC in Copenhagen. The paper contains the most comprehensive **reform proposal** seen to date. From the German **Bundestag's perspective and position**, there are various **fundamental objections** to the proposal, which is **also open to criticism on points of detail**.

1. General remarks

a) Is there any need for reform?

The contribution by the Danish Chairmanship repeatedly points out (e.g. on pages 4 and 11) that the **existing Treaty already contains a number of possibilities for COSAC cooperation which have still not been utilised.**

This being the case one has to ask, why a reform is considered necessary at all.

Before commencing any amendment of hitherto underutilised provisions, it would seem sensible to identify the reasons why the options afforded by the Treaty have not yet been exploited, or utilised to an adequate extent, and devise practical remedies.

For these reasons alone, there would seem to be a **need for more substantial arguments in favour of amending** the current provisions.

b) Does reform really make sense?

In view of the debate taking place within the European Convention on the role of the national Parliaments in the European architecture, the question which arises is whether a reform promoted by COSAC really makes sense. The relationship between the debate in the Convention and the debate within COSAC is remarkable unclear.

In this context, the Danish Chairmanship's proposal merely states:

- that there has been a **tendency** to focus on the notion that these questions can solely be resolved by the **European Convention** (see page 8);
- that the Danish Chairmanship's proposal **will be discussed with the European Convention** (see page 6), and

- that the Convention's and COSAC's work should preferably move in tandem and close contact with the European Convention's working group on national Parliaments (see page 4).

Whether, under these circumstances, a separate COSAC contribution on the reform of COSAC really makes sense and must necessarily be developed during the Danish Presidency is also open to debate. Not least, as a prerequisite for such a contribution, it must genuinely be confined solely to a reform of COSAC, i.e. the Conference of European Affairs Committees, and should not culminate in a much larger project such as a "Forum of the Parliaments".

c) Is time really pressing?

The Danish Chairmanship's paper refers to the reported tendency to have all the questions raised in the paper resolved by the European Convention and the Intergovernmental Conference, and regretly adds that from this, it is concluded that a fundamental renewal would only be able to take place in 2004 and 2005. The national Parliaments however, as sovereign institutions, must be able to embark on reform prior to those dates.

In fact, however, it is questionable whether tasking COSAC with drafting and perhaps implementing a proposal which is not compatible with the Convention's position really makes sense, since the proposal could well be superseded by the Convention's conclusions soon afterwards. Indeed, it is in general **doubtful** whether this type of **transitional arrangement**, which would also have to be developed under great pressure of time, is in fact necessary at all.

It would seem preferable to wait for the consultations with the European Convention on this specific issue. It is also important to bear in mind in this context that the European Convention will be all the more likely to reject a COSAC proposal the further removed COSAC's position is from the current arrangements for the Conference of European Affairs Committees and the more it shifts towards a wider "Forum of the Parliaments".

2. Points of detail

a) Key criteria for the German Bundestag

Every reform relating to the participation of national Parliaments in European politics and any reform of COSAC must be evaluated on the basis of the **position adopted by the German Bundestag**. As before, a key document in this context is the decision adopted unanimously by the EU Committee, in place of a plenary decision, on 11 December 1996 (Bundestag Printed Paper 13/6891) which clearly states that:

- the **participation of the national Parliaments** in European affairs is primarily a **matter for domestic legislation**,
- the Committee on the Affairs of the European Union is particularly **opposed** - also in view of the European Parliament's special status - to the **creation of a new Institutionalised consultative body** comprising representatives of the national Parliaments, and
- it is also **opposed** to the **reorganisation of COSAC into a body which formally represents the national Parliaments** and is de facto elevated to the status of a decision-making body for specific policy areas at Community level.

Compared with this position, the following points should be noted in response to the proposals set out in the Danish Chairmanship's contribution:

b) Proposal for enhancing the role of national Parliaments in European politics in the Member States

It is **not clear what contribution COSAC or a "Forum of the Parliaments" could make to enhancing the role of the national Parliaments in European politics in the Member States**. The decision adopted by the EU Committee in place of a plenary decision during the last electoral term stated quite unambiguously that this is **a matter for the national Parliaments themselves**.

c) Proposal to organise the EU's law-making process in a way which involves the national Parliaments

COSAC or a "Forum of the Parliaments" does not need to be involved in implementing this proposal either. The way in which the national Parliaments involve themselves in the European legislative process within the Member States is solely a **matter for domestic legislation**, as stated quite clearly in the EU Committee's decision adopted in place of a plenary decision during the last electoral term.

d) Change of name to "Forum of the Parliaments"

- In principle, there is **no objection to a name-change**, since COSAC is an acronym which does not convey very much to people. However, the new name must continue to reflect its clearly defined role and identity and should not exceed COSAC's regulatory competence.
- In this respect, the name **"Forum of the Parliaments"** is also **open to criticism**. Another name should be selected instead, in order to signal that the **only purpose** is a **representation of the national Parliaments**, not the regional or communal assemblies. Names such as "European Forum of Parliaments", "Forum of European Parliaments", or even "Forum of the Parliaments of Europe" should also be rejected, since the same problems would arise. Options for consideration might include "Forum of the Parliaments of the Member States and the European Parliament" or **"Forum of the national Parliaments and the European Parliament"**.
- Before any **name-change** (in contrast to the views expressed in the Danish Chairman's contribution, p. 9), the **Treaty must be amended**. However, this is the **responsibility of the European Convention and the subsequent Intergovernmental Conference**, not COSAC's task.
- A **Treaty amendment** is also and **primarily required** because the proposed **"Forum of the Parliaments"** is **no longer remotely comparable, in qualitative terms, with COSAC** in its current form. A "Forum of the Parliaments" is different

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from, and has greater scope than, a Conference of European Affairs Committees. COSAC has no authority to undertake this amendment. COSAC's mandate does not extend to Treaty amendments. The mentioned proposal would clearly exceed COSAC's competences. It is incumbent on the national Parliaments, not COSAC, to decide on the reform of a "Conference of European Affairs Committees" into a "Forum of the Parliaments". Contrary to the Danish Chairmanship's assumptions (p. 12), the membership of the new body could not be maintained as at present. A "Forum of the Parliaments" would lack any direct link to the national Parliaments' European Affairs committees. It would thus be impossible to prevent the national Parliaments' delegations to the "Forum of the Parliaments" from including members of other committees as well. The European Affairs Committees would no longer be responsible for deciding on the composition of the delegations, as is currently the case. Instead, this task would fall to Parliament as a whole. Yet if members of other committees were represented in the "Forum of the Parliaments" as well as members of the European Affairs Committees, the Forum's designated task of promoting exchange and cooperation between the national Parliaments and the European Parliament would be redundant.

Finally, a further key point which must not be overlooked is that a "Forum of the Parliaments" with a comprehensive mandate might open the way for the establishment, through the **back door**, of a **second chamber** which is rejected in the Danish Chairmanship's contribution (p. 7).

e) Proposals relating to the tasks of the new "Forum of the Parliaments"

According to the Danish Chairmanship's paper, the new "Forum of the Parliaments" will be tasked with:

- **Enhancing the role of the national Parliaments in European politics through exchange of experiences, benchmarking and cooperation between the Parliaments**

Here, an explanation is required as to why the role of national Parliaments (e.g. vis-à-vis their own governments) can be enhanced through an exchange of information

between national Parliaments in the proposed Forum. Anything which cannot be achieved or enforced by a national Parliament vis-à-vis its own government at national level is highly unlikely to be achieved via COSAC or a Forum of the Parliaments.

- **Enhancing parliamentary cooperation between the national Parliaments and the European Parliament**

This proposal is clearly **directed against the European Parliament** and may serve to **weaken the EP**. Until now, cooperation between the national Parliaments and the European Parliament has primarily taken place via the European Parliament, which not only invites the national Parliaments to attend its committee meetings but is interested in promoting cooperation with the national Parliaments' specialised committees. Recently, the European Parliament (Napolitano) put forward more wide-ranging proposals in this area. It is not clear how this task could be performed better or more efficiently by a "Forum of the Parliaments". In a worst-case scenario, duplication of work would be the most likely outcome.

- **Contact and cooperation with the European institutions**

This would mean that **COSAC, rather than the national Parliaments, would take action vis-à-vis the European institutions**. This **contradicts** the clear position set forth in the decision adopted by the **German Bundestag**, which state that control of European politics shall be exercised primarily through control of the national government's action in the Councils.

3. Summary

While generally recognising the need for a reform of the name "COSAC", the following points are made in response to the Danish proposals:

- they are **premature**, and are **predicated on a need for action which does not exist** in reality,
- they risk being **redundant or conflicting** with the Convention's proposals,

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- they exceed COSAC's regulatory competences,
- they require a Treaty amendment,
- and they conflict with the position of the German Bundestag.

(Dr. Fuchs)