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# Thirteenth Bi-annual Report:

# Developments in European Union

# Procedures and Practices

# Relevant to Parliamentary Scrutiny

Prepared by the COSAC Secretariat and presented to:

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# BACKGROUND

This is the Thirteenth 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 ordinary meeting of the 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 COSAC Chairpersons, held on 5 February 2010 in Madrid.

As a general rule, the Report does not specify all Parliaments or Chambers whose case is relevant for each point. Instead, 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 combination 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, Romania and Spain each submitted a single set of replies to the questionnaire circulated by the COSAC Secretariat.

The COSAC Secretariat received replies from 39 national Parliaments or Chambers of 26 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: THE NEW POWERS OF NATIONAL PARLIAMENTS AFTER THE ENTRY INTO FORCE OF THE TREATY OF LISBON

After the entry into force of the Treaty of Lisbon on 1 December 2009, an overwhelming majority of Parliaments/Chambers has approved, or will approve in the near future, regulations to adjust their national systems to the new Treaty. A few Parliaments/Chambers have not proceeded to these reforms yet, without nevertheless ruling out the possibility of doing so in the near future.

The Constitution has already been modified in France and Germany, while constitutional reforms are expected to be initiated shortly in Slovakia and Austria.

Legal provisions have already been adapted to the Treaty of Lisbon in five Parliaments/Chambers, while nine of them have amended their Standing Orders. In both cases, the approach has been either broad, comprehending a broad range of changes derived from the Treaty of Lisbon; or more specific, focusing on particular issues. In this respect, special attention has been paid to checks on EU draft legislative acts' compliance with the principle of subsidiarity. Parliaments/Chambers that have not yet completed their reforms, both at the legislative and the parliamentary levels, are expected to proceed with the necessary amendments in the short or medium term.

Finally, three Parliaments/Chambers have decided to adopt special procedures at committee level, by the corresponding Committees on EU Affairs, in order to check the compliance of EU draft legislative acts with the principle of subsidiarity.

Article 12 of the Treaty on European Union mentions the monitoring of EU institutions as a mechanism through which national Parliaments participate in the good functioning of the European Union. In addition, Protocol 1 on the role of national Parliaments in the European Union as attached to the Treaty of Lisbon establishes the duty of the EU institutions to forward a number of documents to national Parliaments. Each Parliament/Chamber has set up its own monitoring proceedings.

As a general rule, Parliaments/Chambers monitor all types of activities and documents forwarded by the EU institutions. Due to the high amount of consultation documents, draft legislative acts and other documents, Parliaments/Chambers tend in general to focus on specific types of documents, especially legislative proposals.

The monitoring of the different activities and documents is usually comprehensive, although they are usually selected according to criteria of national interest, relevance of the issues, or even, the concerns of the regional entities represented in the Parliament/Chamber.

The parliamentary bodies in charge of selecting documents and of the subsequent monitoring procedure vary significantly in each Parliament/Chamber. They usually comprise the Committee on EU Affairs. It is not uncommon for specialised committees to be involved as well. The plenary may also have the final say in a number of proceedings.

In bicameral Parliaments, coordination and information exchange between both Chambers is ensured either through a joint parliamentary body or through informal contacts.

The Government is in almost all cases obliged to report to the Parliament/Chamber, either in compliance with the standard parliamentary rules or in compliance with a specific duty in relation to EU related proceedings.

The resources made available for the monitoring of EU matters vary considerably, as each Parliament/Chamber has its own unique administration. Most Parliaments/Chambers nevertheless pool their resources from the staff of the secretariat serving the Committee on EU Affairs or any other committee involved in the monitoring procedure. When there is no specific European Union Unit within the structure of the Parliamentary administration, the International Relations Department and the Library Service may also be involved.

It is difficult to discern a general trend in the way Parliaments/Chambers **ensure the compliance of EU draft legislative acts with the principle of subsidiarity**.

Indeed, the replies result in a multitude of different combinations of **actors and procedures**. As far as the actors are concerned, in about half of Parliaments/Chambers the respective Committees on EU Affairs play some role in the process. Regarding the level at which decisions are taken, it becomes clear that in about 65 % of Parliaments/Chambers the plenary is the “decision maker” albeit that in a quarter of these cases the plenary considers and decides only if the subordinate actor(s) believe(s) that the considered draft legislative acts is in breach of the principle of subsidiarity.

**Regional parliaments** only play a limited role in this process as they can take part in the formulation of an opinion in no more than a few Parliaments/Chambers.

**IPEX** has played a very important role in the COSAC-coordinated subsidiarity checks and an overwhelming majority of Parliaments/Chambers expects its use to increase in the future. This does not mean that the Parliaments/Chambers turn a blind eye to IPEX’ shortcomings. As a matter of fact, the system’s limited user-friendliness, its (lack of) language policy and the absence of a forum for unofficial information are the most frequently suggested improvements.

**Direct communication between Parliaments/Chambers and the EU institutions** is highly valued and, bearing this in mind, the suggestions to enhance the contacts with and the feedback from the EU institutions and their members may not come as a surprise.

Half of the respondents do not support the UK Government’s interpretation of the notion of “special legislative procedure” leading to a substantial **limitation of the matters falling under the remit of subsidiarity checks**, whereas about 20% do. The remaining Parliaments/Chambers are still awaiting further information.

In about two out of three Parliaments/Chambers, the Committee on EU Affairs plays some role in the **political monitoring of Europol**. Almost all the remaining Parliaments/Chambers reply that currently not to exercise any specific oversight on this institution. Regarding the oversight procedures, a significant majority of the respondents states that they either do not have any specific procedures or that they apply, whenever necessary, their standard procedures. Moreover, this monitoring takes place without any specific criteria. Finally, only a limited number of regional parliaments intervene in the oversight of Europol.

Answers regarding the **evaluation of the activities of Eurojust** may readily be considered identical to those regarding the political monitoring of Europol.

Most Parliaments/Chambers have adopted rules regarding their **participation in the procedures for simplified revision** of the Treaties (henceforth "*passerelles*"), although a large minority have not yet done so. Several out of those who do have rules on this matter have introduced a provision to the effect that the respective Government may not support a proposal at the Council to use a "*passerelle*" clause unless it has the prior consent of the Parliament/Chamber. Since this constitutes an *a priori* veto, many of them have not considered it necessary to introduce any particular procedures for a decision *ex post*. Others, where an opinions issued by the Parliament/Chamber before a decision is taken at the Council are not legally binding upon the respective Government, have introduced procedures for taking a decision within the stipulated six-month period.

Regardless of whether a Parliament/Chamber deals with the matter before or after a decision at the Council (or both), it is, with few exceptions, the plenary that decides on the basis of a report drafted by the Committee on EU Affairs. However, other relevant committees are or may be involved, depending on the nature of the proposal.

In almost all bicameral Parliaments, the Chambers decide independently, i.e. no formal procedure for reaching a joint position is needed. The involvement of regional parliaments is prescribed in a few Member States with a federal structure, at least in cases where the matter affects issues on which the regional parliaments are competent to decide.

As regards **actions for the annulment** before the Court of Justice of the European Union **on grounds of breach of the subsidiarity principle**, less than half of the Parliaments/Chambers have as yet adopted procedures for such action. Of those that have, it is in almost all cases the plenary of the Parliament/Chamber that would take the final decision. The plenary usually decides on the basis of an initiative and report submitted by the Committee on EU Affairs, although in this case a significant number of Parliaments/Chambers would instead decide on the basis of a report by the committee responsible for the specific issue. Most answers indicate that the Government cannot reject a request issued by its Parliament (or by one of the Chambers, when they have the competence to issue such a request separately) to take action before the Court of Justice of the European Union.

Concerning notifications on **applications for membership of the Union**, it appears that this new provision in the Treaties does not have many practical consequences in national Parliaments/Chambers, as accession treaties must, in any case, be approved by them before being ratified by the respective Member State. Many Parliaments/Chambers have the possibility of influencing their Government's position in membership negotiations. When an accession Treaty is put before the Parliament/Chamber it is usually the Committee on EU Affairs that produces a report for the plenary to decide upon, although the Committee on Foreign Affairs is often involved and in some cases is the lead committee.

Only in a couple of answers is it indicated that the European Parliament Resolution on the development of relations between the European Parliament and National Parliaments under the Treaty of Lisbon has been specifically debated at a national Parliament/Chamber, and in no case has a resolution or similar document been adopted (except, obviously, at the European Parliament itself). However, some respondents mention that the Resolution, or issues covered in it, has been debated in a broader context. Similarly, no Parliament/Chamber has held a debate specifically on the implementation of Article 9 of the Protocol on the role of national Parliaments in the European Union, but some point out that matters related to future interparliamentary cooperation within the EU has been debated. A few answers make reference to the ongoing discussions in the framework of the EU Speakers' Conference in this regard.

## CHAPTER 2: THE FUTURE ROLE OF COSAC

The **topics on the COSAC agenda** are not formally debated at most Parliaments/Chambers or by their Committees on EU Affairs. However, in most cases, the agenda is transmitted to the members of the Committee on EU Affairs, to the COSAC delegation and in some cases to specialised committees responsible for the subject-matter. Hardly any Parliaments/Chambers have regular procedures for preparing topics on the COSAC agenda, but most of them have an *ad hoc* procedure to inform Members and more specifically the members of their COSAC delegation.

After COSAC meetings, a vast majority of Parliaments/Chambers hold no debate on the results of the meeting. In most cases, the conclusions/contribution, sometimes accompanied by a report on the meeting, are transmitted to the members of the Committee on EU Affairs and in some cases to other bodies of the Parliament/Chamber.

In most cases, topics debated at COSAC meetings and COSAC conclusions/contribution do have an effect on the work of Parliaments/Chambers. In some cases this results in bringing forward certain issues to be addressed by the Parliament/Chamber, in other cases, it provides a reference for issues under discussion. Generally, a large number of Parliaments/Chambers consider the debates at COSAC and the conclusions/contribution a useful source of information and best practice.

When asked about useful and less useful aspects of COSAC meetings, practically all Parliaments/Chambers highlighted more useful aspects then less relevant ones. The useful aspects mentioned most include the exchange of information and best practice, the COSAC-coordinated subsidiarity checks and the exchange of views with Members of the EU institutions, especially the European Commission and the Council of the European Union.

A number of Parliaments/Chambers do not identify any less relevant aspects of the COSAC meetings. However, some Parliaments/Chambers do mention such less useful aspects as general debates on non-legislative topics, on Bi-annual Reports, on the priorities of the Presidency, on technical and procedural issues.

Analysis of the replies regarding **regular items on the COSAC agenda** has revealed that a vast majority of Parliaments/Chambers expresses support for debates on COSAC Contribution and Conclusions, COSAC Bi-annual Reports, on the principle of subsidiarity, the Presidency programme and on the European Commission's Annual Policy Strategy or similar document. The remaining Parliaments/Chambers do not wish to keep these as regular items on the agenda.

A sizeable majority of Parliaments/Chambers consider it possible to add debates on the area of freedom, security and justice; on political monitoring of Europol and evaluation of Eurojust's activities; and on the European Commission's Annual Work and Legislative Programme as regular items on the COSAC agenda. A slightly smaller, but still large, majority expresses the same opinion as regards common foreign and security policy, including common security and defence policy. The remaining Parliaments/Chambers, about one forth of the total, take the opposite standpoint.

As to the time allocated for **future COSAC debates with the European Commission**, more than a half of Parliaments/Chambers have indicated that additional time would be very useful, while the same number of Parliaments/Chambers prefer not to extend the current timing arrangement with regard to debates with **the Council**.

Concerning the question of whether Parliaments/Chambers agree on COSAC **debating specific EU draft acts**, an overwhelming majority is in favour, although in most cases with certain reservations. Parliaments/Chambers often point out that such debates should take place in the framework of subsidiarity checks, or on a case by case basis. The majority considers that the **selection of proposals for debate** by COSAC should be made by the Presidency, in cooperation with the COSAC Presidential Troika and/or by national Parliaments. If eventually such debates are held, about half of Parliaments/Chambers are in favour of **basing them on a part of a COSAC Bi-Annual Report**. A vast majority is in favour of **participation in the debates of a Member of the European Commission, the European Parliament *rapporteur* and the Chairpersons of the competent committees at national Parliaments**. Approximately half the Parliaments/Chambers support the idea of the Members of Parliament who work on the subject joining their COSAC delegation, pointing out that it is a matter for each Parliament to decide. Concerning the issue of whether elements found during such debates should form a part of the Contribution of COSAC, an overwhelming majority is in favour. However, some Parliaments/Chambers add that it depends on the issue and/or on whether consensus is reached.

With **reference to EU draft acts that could eventually be debated** at the forthcoming ordinary meetings of COSAC, a vast majority has not submitted any proposals, mainly due to the fact that the European Commission's Work Programme for 2010 had not been published at the time of submitting their replies to the questionnaire on which this Report is based.

**There is no clear consensus on the continuation of the coordinated COSAC subsidiarity checks.**

A large majority of Parliaments/Chambers neither favours devoting more time to **deliberation within political groups** (European political families) during the ordinary meetings of COSAC nor holding political group meetings during the meetings of COSAC Chairpersons.

An analysis of the replies to the question on **possible improvements to the existing resources of COSAC**, especially the COSAC Secretariat, shows that a vast majority of Parliaments/Chambers is satisfied with the current state of affairs or has no comments on the matter. Specific suggestions regarding improvements to the existing resources available to COSAC mostly relate to COSAC's cooperation with the EU Speakers' Conference, the COSAC Bi-annual Reports, its website, the preparation of COSAC agendas and the COSAC Secretariat staff.

In view of **Article 10 of the Protocol on the role of national Parliaments in the European Union** as attached to the Treaty of Lisbon, which provides for the possibility for the Conference of Parliamentary Committees for Union Affairs, inter alia, to "promote the exchange of information and best practice between national Parliaments and the European Parliament, including their **special committees**" and to "**organise interparliamentary**

**conferences** on specific topics", the analysis shows that an overwhelming majority of Parliaments/Chambers sees no need to modify the current composition of COSAC.

As regards the current **acronym of the Conference 'COSAC'**, a large majority of Parliaments/Chambers has expressed their support for keeping it unchanged.

Apart from a few general observations, mostly related to the future role of COSAC, Parliaments/Chambers are almost unanimous in their opinion that **the current format of COSAC meetings is functioning well** and therefore it is not necessary to change it.

In regard to **the number of times** each Parliament/Chamber **can take the floor on each point on the COSAC agenda**, there is difference of opinions:

- the majority of Parliaments/Chambers state that it should not be limited;
- the majority of Parliaments/Chambers expresses the opinion that the number of times each Parliament/Chamber can take the floor on each point on the agenda should not be limited to once nor twice per Parliament/Chamber;
- for a sizeable group of Parliaments/Chambers, the number of times each Parliament / Chamber can take the floor on each point on the agenda should not be limited but second or third-time uses of the floor should only be granted after all national Parliaments have had their chance to speak; and
- most of the Parliaments/Chambers consider that concerning the number of times each Parliament/Chamber can take the floor on each point on the agenda, the Chairperson may adopt any one of these procedures based on the number of requests for the floor.

Some Parliaments/Chambers have made a number of suggestions, such as division and prioritization of the requests for taking the floor in questions and comments, coordination between delegations so as to ensure that both majority and the opposition will be heard, limitation on the number of agenda items etc.

For the majority of Parliaments/Chambers **speaking time should be limited to between 2 and 3 minutes** in order to ensure that the largest number of Parliaments/Chambers can take the floor.

# CHAPTER 1: THE NEW POWERS OF NATIONAL PARLIAMENTS AFTER THE ENTRY INTO FORCE OF THE TREATY OF LISBON

On 1st December 2009, the Treaty of Lisbon entered into force, introducing amendments to the Treaty on European Union and the Treaty establishing the European Community, which will henceforth be known as the Treaty on the Functioning of the European Union. In the amended Treaty on European Union, the new Article 12 acknowledges the role of national Parliaments in the European Union, listing a number of mechanisms through which national Parliaments are to "*contribute actively to the good functioning of the Union*". Further provisions of the Treaty on European Union (henceforth "TEU") and the Treaty on the Functioning of the European Union (henceforth "TFEU"), as well as of the first two Protocols to the Treaty of Lisbon, specify the scope of national Parliaments' participation in the European Union's decision-making processes.

These new mechanisms[1] are:

- Receipt of information and draft legislative acts from the EU institutions;
- Ensuring compliance with the principle of subsidiarity;
- Taking part in the evaluation mechanisms for the implementation of Union policies in the area of freedom, security and justice;
- Involvement in the political monitoring of Europol and the evaluation of activities of Eurojust;
- Taking part in the revision procedures of the Treaties;
- The participation in the request for filing an action for annulment before the Court of Justice of the European Union (henceforth "the Court of Justice") on grounds of a breach of the principle of subsidiarity;
- Receipt of notifications of applications for accession to the European Union;
- Participation in the interparliamentary cooperation between national Parliaments and with the European Parliament.

The first chapter of the Bi-annual Report concentrates on how these new mechanisms are being incorporated into the regulations and everyday procedures of the national Parliaments. Due to the limited time since the entry into force of the Treaty, the chapter focuses on the regulations that have been passed or are foreseen to be adopted in the near future.

After listing the new regulation, the chapter focuses on the different aspects (parliamentary bodies involved, procedures, effects, criteria, etc.) of these mechanisms as they are implemented in each national Parliament.

## 1.1. REVIEW OF REGULATIONS ADOPTED

Given the relevance of the new powers entrusted to national Parliaments by the Treaty of Lisbon, the vast majority of Member States (i.e. 35) have approved, since its entry into force on 1 December 2009, or will approve in the near future, different types of regulations to adjust their legal systems to the new Treaty.

[1] These mechanisms are described in detail in the Ninth COSAC Bi-annual Report (The Treaty of Lisbon - implementation and its consequences for the national Parliaments of the EU, May 2008).

However, a few Parliaments/Chambers (i.e. 5) have not yet proceeded to these reforms. This is the case of the Hungarian *Országgyűlés*, as it reports that "the existing constitutional and legal provisions enable the Hungarian National Assembly to exercise most of the powers granted by Article 12 of the TEU". In the Latvian *Saeima*, any regulation has been modified and it was agreed, in a meeting of chairpersons, deputy chairpersons of all the standing committees and heads of the parliamentary groups held on 3 December 2009 that "the *Saeima* Rules of Procedure need not to be amended". Finally, no reform of the regulations is deemed necessary at the *Vouli Ton Antiprosopon* of Cyprus and the Lithuanian *Seimas*. Nevertheless, all these Parliaments/Chambers do not rule out the possibility of adopting future regulations concerning the new powers of national Parliaments in the EU. In the Hungarian *Országgyűlés*, this possibility might be taken into consideration by the new Assembly due to be convened in May 2010, while in the Lithuanian *Seimas,* "relevant amendments will be drafted in a general package at a later stage in order to achieve optimal implementation of the new provisions".

Since the entry into force of the Treaty of Lisbon, several Parliaments/Chambers[2] (i.e. 9) report that they have concluded all the reforms required under their legal systems in order to adapt them to the new system enshrined in the Treaty of Lisbon.

Due to the limited time since the entry into force of the Treaty, many national Parliaments (i.e. 15) have not yet completed the reforms required by the Treaty of Lisbon. Nevertheless, they plan, in the short or medium term, to approve specific regulations to conclude their adaptation to the Treaty of Lisbon.

### 1.1.1. Constitutional Provisions

The Constitution has only been modified, in order to implement the Treaty of Lisbon, in France and Germany.

The German *Bundestag* and *Bundesrat* modified the following articles of the German Basic Law: Article 23 (with the aim of "enshrining the right of the *Bundestag* and the *Bundesrat* to initiate proceedings before the Court of Justice in cases of non-compliance with the principle of subsidiarity"), and Articles 45 and 93 (which contain the "details of procedure within the *Bundestag*")[3].

In France, the Constitution was adapted to new powers accorded by the Treaty of Lisbon to national Parliaments in 2008, before the ratification of the Treaty was completed, with the introduction of two new Articles, 88-6 and 88-7. Article 88-6 deals with the check on the compliance of EU draft legislative acts with the principle of subsidiarity and the possibility of bringing an action before the Court of Justice; while Article 88-7 focuses on the "rights accorded to national Parliaments regarding the use of "*passerelle* clauses" to initiate a simplified revision of the Treaties, and judicial cooperation in civil matters"[4].

Only two of the national Parliaments have reported they intend to amend the Constitution, in order to adjust it to the provisions of the Treaty of Lisbon. The Slovak *Národná rada* will

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[2] The Czech *Poslanecká sněmovna* and *Senát,* the Finnish *Eduskunta,* the French *Assemblée nationale,* the German *Bundesrat,* the Hellenic *Vouli ton Ellinon,* the Dutch *Eerste* and the *Tweede Kamer,* the Swedish *Riksdag,* the Slovenian *Državni zbor* and the UK *House of Lords.*

[3] The complete text of the mentioned Articles of the German Basic Law is included in the Annex to this Report.

[4] The text of the mentioned Articles of the French Constitution is included in the Annex to this Report.

initiate, in the short or medium term, the amendment of Constitutional Act 397/2004, on the cooperation between the *Národná rada* of the Slovak Republic and the Government of the Slovak Republic in matters concerning the European Union. In Austria, both the *Bundesrat* and the *Nationalrat*, are currently considering a draft accompanying law to the Treaty of Lisbon, *"Lissabon Begleitnovelle"*, which is intended to be passed within the next two or three months. The bill concerns "several changes to the Austrian Federal Constitutional Law, aiming at giving Parliament's two chambers the instruments to make use of the new competences of the Treaty of Lisbon".

The reforms accomplished regarding the *Riksdag Act* of the Swedish Parliament, which is semi constitutional and has thus to be reformed either following the constitutional revision procedures or through a special procedure involving a qualified majority[5], will be mentioned in sub-section 1.1.3 on Parliamentary Standing Orders.

### 1.1.2. Legal Provisions - Statutory Provisions

Most Member States have not yet enacted specific legal provisions in order to adapt their systems to the Treaty of Lisbon. Only national Parliaments of a limited number of Member States (i.e. 5) have done so: the German *Bundestag* and *Bundesrat*, the Spanish *Cortes Generales*, the Irish *Houses of the Oireachtas*, the Dutch *Eerste and* the *Tweede Kamer* and the UK *House of Commons* and *House of Lords*[6].

The scope of these legal provisions is ample in the case of Spain, where after the entry into force of the Treaty of Lisbon, Act 24/2009 was enacted in order to regulate the new powers of the *Cortes Generales*; and in the case of Ireland, where the European Union Act was passed in October 2009 to give legal effect to the enhanced powers of the *Houses of the Oireachtas*. This approach was also adopted by the United Kingdom, where the Treaty of Lisbon was incorporated into national law by an Act of Parliament, the "European Union (Amendment) Act 2008", which received Royal Assent on 19 June 2008. The Act gives the Treaty of Lisbon primacy over national law and lays down procedures for parliamentary approval of the ordinary and simplified revision procedures.

A more specific legal reform was carried out in Germany, where in June 2009 the German *Bundestag* and *Bundesrat,* as a result of the German Constitutional Court's ruling on the Treaty of Lisbon, revised the "Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union", and enacted the "Act on the Exercise by the Bundestag and by the Bundesrat of their Responsibility for Integration in Matters concerning the European Union (Responsibility for Integration Act)". A very specific reform was accomplished in the Dutch Parliament, where the Approval Bill of the Treaty of Lisbon codified the right to enforce a parliamentary reserve in the Council regarding new EU draft legislative acts.

Several Parliaments/Chambers (i.e. 6) are planning to amend some of their legal provisions, or to enact new laws, in order to complete their adaptation to the new system after the entry into force of the Treaty of Lisbon: the Belgian *Chambre des répresentants* and *Sénat;* the Italian

[5] The constitutional reform provisions in the Swedish legal system are foreseen in the Swedish *Instrument of Government,* Chapter 8, Articles 15 and 16.
[6] The texts of the mentioned Laws are included in the Annex to this Report.

*Camera dei Deputati;* the Polish *Sejm* and the *Senat;* the Portuguese *Assembleia da República* and the *Parlamentul României*.

At the Belgian *Chambre des représentants,* two bills are presently in the pipeline. The first one, will allow the seven Belgian parliamentary Assemblies "to conclude an agreement on how to execute the subsidiarity procedure", which is currently being renegotiated in the light of the Treaty of Lisbon; while the second one will allow the *Conseil d'État* to be "asked for advice with regard to the distribution of internal competences in a federal State regarding the legislative proposals of the EU".

In the case of the Italian *Camera dei Deputati,* four bills have been submitted, containing provisions for implementing some of the new powers, notably, "early warning mechanism, action for annulment before the Court of Justice for breach of the principle of subsidiarity, veto to general bridging clause and bridging clause in Family Law area". Also, a bill is expected to be submitted by the Government regarding these issues. Furthermore, the Draft Annual Community Act of 2009, now in its third reading by the *Camera dei Deputati,* contains "a specific provision concerning the information the Government must provide to the Chambers for the exercise of the subsidiarity check".

The same approach has been adopted by the *Parlamentul României*, where five drafts are being prepared, including all the necessary adaptations of the Romanian legal system to the Treaty of Lisbon. One of these drafts refers to a legal provision, the Law on Cooperation of the Parliament and the Government in European Affairs.

The Polish *Sejm,* through its Subcommittee of the EU Affairs Committee, is giving course to a draft text amending the current Act of 11 March 2004 on the Cooperation of the *Sejm* and *Senat* with the Government on EU Matters. This draft refers to all the new powers granted by the Treaty of Lisbon to national Parliaments. The Polish *Senat* reports that a bill on the cooperation of the Council of Ministers with the *Sejm* and the *Senat* in matters related to Poland's membership of the EU is due to replace the Cooperation Act of 11 March 2004.

In Portugal, even though the Constitution of the Portuguese Republic and the Law no. 43/2006 on Monitoring, assessment and pronouncement on the process of construction of the European Union provide the *Assembleia da República* with the necessary legal basis to put into practice the Treaty of Lisbon, an amendment to Law No. 43/2006 could be foreseen in the near future, "to enshrine some of the mechanisms introduced by the Treaty of Lisbon and to take up new procedures".

### 1.1.3. Parliamentary Standing Orders

A certain number of Parliaments/Chambers[7] (i.e. 9) have already revised their Rules of Procedure, Standing Orders, *Estatutes*, *Reglamentos*, etc. (henceforth "Standing Orders") in order to adapt them to the new powers that are entrusted to national Parliaments by the Treaty of Lisbon.

[7] The Belgian *Chambre des représentants,* the Czech *Poslanecká sněmovna,* the Finnish *Eduskunta,* the French *Assemblée nationale,* the Hellenic *Vouli ton Ellinon,* the Dutch *Eerste Kamer* and the *Tweede Kamer,* the Swedish *Riksdag* and the UK *House of Lords*.

The scope of the revisions of these parliamentary regulations is either broad, as in the cases of the Dutch *Staten-Generaal,* the UK *House of Lords* and the Swedish *Riksdag*; or narrowed to specific reforms, as in the cases of the Belgian Chambers and the Hellenic Parliament.

Amongst the broader revisions of Parliaments/Chambers' internal regulations, in the Dutch *Tweede Kamer,* during the 2009-2010 parliamentary year, a new procedure was adopted on the European policy and legislative process, including "comprehensive guidelines for the scrutiny of European legislative proposals". This Chamber has also recently adopted procedures for the use of a parliamentary reserve in relation to the Government's position before the Council. The Dutch *Eerste Kamer* has developed the previously mentioned "Approval Bill of the Treaty of Lisbon", into specific rules of procedure. At the same time, this Chamber had already established a special Subsidiarity Check Committee. The UK *House of Lords* agreed Procedure Committee 2nd and 3rd Report 2009-2010, on 16 March 2010, to adjust their Standing Orders to the new system enshrined in the Treaty of Lisbon. In the Swedish *Riksdag*, two amendments have been added to the *Riksdag Act,* which is semi-constitutional: firstly, new procedures with regard to checking the compliance with the principle of subsidiarity of new legislative acts; secondly, treaty amendments were also dealt with.

Amongst the more specific revisions of Standing Orders, some had been intended to implement the subsidiarity procedure, as was the case in the Belgian *Chambre des représentants,* in Article 37 bis of the Standing Orders of the House. The same aim inspired the French *Assemblée nationale* reform of its Rules of Procedure on 27 May 2009, after the institutional reform accomplished in 2008. New Articles 151-9 to 151-11 of this text refer to the procedures for verifying the principle of subsidiarity. In other cases, as for instance the Hellenic *Vouli ton Ellinon*, the revision of the Standing Orders aimed to create a new structure within the parliamentary administration. The General Directorate for Foreign Affairs and Communication now comprises "the competent units for interparliamentary cooperation and for support of parliamentary committees when monitoring the EU institutions or scrutinizing European legislation".

Parliamentary regulations are expected to be revised, in the short or medium term, in several Parliaments/Chambers (i.e. 12)[8]. The revision of the Rules of Procedure of the German *Bundestag* will concern "competences/responsibilities of the EU Committee and specialised committees for coordination in subsidiarity objections and proceedings". The *Parlamentul României* faces the amendments of the Standing Orders of the *Camera Deputaților*, the Standing Orders of the *Senatul*, the Rules of Procedure of the Committee on European Affairs and the Rules of Procedure of the *Parlamentul României* for the subsidiarity control.

### 1.1.4. Other

Given the relevance of the scrutiny of EU initiatives by national Parliaments, some of the reforms accomplished by the Parliaments/Chambers relate in particular to this topic. In this respect, in Portugal, according to the existing legal basis (the Portuguese Constitution and Law no. 43/2006) the Committee on European Affairs approved a new procedure for scrutiny of EU initiatives on 20 January 2010. In Denmark, the *Folketing* Committee on European Affairs and

[8] The Belgian *Sénat,* the Cypriot *Vouli Ton Antiprosopon,* the Estonian *Riigikogu,* the French *Sénat,* the German *Bundestag,* the Irish *Houses of the Oireachtas,* the Italian *Senato della Republica,* the Luxembourg *Chambre des Deputés,* the Polish *Senat,* the *Parlamentul României,* the Spanish *Cortes Generales* and the UK *House of Commons.*

the Government reached an agreement on how to monitor the principle of subsidiarity on 26 March 2010. In the Austrian Parliament, the parliamentary practice established during the subsidiarity tests is intended to be followed on a provisional basis for the transitional period.

A broader approach was adopted by the Irish *Houses of the Oireachtas,* whose Joint Committees on European Scrutiny and European Affairs agreed on a joint report on "Implementation of the Lisbon Treaty: Interim arrangements on the enhanced role of the *Houses of the Oireachtas*", on 8 December 2009. On 10 December 2009, both Houses of the *Oireachtas* passed a Resolution which implemented the recommendations of the report and provided for the implementation of Section 7 of the European Union Act 2009 (Role of *Houses of the Oireachtas*).

## 1.2. THE NEW POWERS OF THE NATIONAL PARLIAMENTS IN THE EU DECISION MAKING PROCESS

The following questions focus on each of the different mechanisms through which the national Parliaments are called to participate in the EU framework. The questions relate to the main elements of the proceedings whereby, according to the national regulations that have been passed or that are foreseen to be adopted soon, will implement in each national Parliament the mechanisms established in the Treaties.

### 1.2.1. Monitoring the Activities of the EU Institutions

The first mechanism through which national Parliaments contribute actively to the good functioning of the Union, according to Article 12 of the Treaty on European Union is by "*being informed by the institutions of the Union and having draft legislative acts of the Union forwarded to them in accordance with the protocol on the role of national parliaments in the European Union*" (henceforth "Protocol 1").

Furthermore, Protocol 1 establishes that the European Commission (henceforth "the Commission") consultation documents, its annual legislative programme as well as any other instrument of legislative planning or policy (Article 1), draft legislative acts (Article 2), the agendas and outcomes of meetings of the Council, including the minutes of meetings where the Council is deliberating on draft legislative acts (Article 5) initiatives of the European Council when it intends to make use of the first or second subparagraphs of Article 48(7) (Article 6) and the annual report of the Court of Auditors (Article 7) shall all be forwarded by the competent EU institutions to national Parliaments. These provisions allow national Parliament to monitor the activities of the EU institutions, which are implemented in very different ways in each Member State.

In order to facilitate the comparison between the different procedures for monitoring, this Report will focus on the following items: (1) the different activities that are monitored; (2) the selection process of monitored activities; (3) the parliamentary bodies involved in the selection process; (4) the Government's role in the monitoring procedure; and (5) the resources at the disposal of each Parliament/Chamber for this purpose.

#### Monitored Activities

As a general rule, most Parliaments/Chambers monitor all types of activities and documents forwarded to them by the EU institutions.

As an exception to this general rule, the Belgian *Sénat* only monitors three EU institutions: the Commission, the Council and the Court of Justice; while the Luxembourg *Chambre des Deputés* limits its monitoring to the Commission and certain documents submitted by the Council. The UK *House of Commons* expressly excludes the Council and the European Council conclusions, and the German *Bundesrat* does not monitor activities regarding common foreign and security policy.

Nevertheless, and due to the amount of communications, proposals and documents forwarded by the different EU institutions, Parliaments/Chambers tend in general to focus on specific types of documents, especially draft legislative acts. This is the case of the French *Sénat*, the Hungarian *Országgyűlés*, the Slovakian *Národná rada*, the Czech *Poslanecká sněmovna* and the Dutch *Eerste Kamer*. Furthermore, in this respect it must be said that the following parliaments/Chambers use the Commission's Legislative and Work Programme to pinpoint their priorities: the Latvian *Saeima*, the Slovakian *Národná rada*, the Lithuanian *Seimas*, the Hellenic *Vouli ton Ellinon*, the Portuguese *Assembleia da República*, the Polish *Senat* and the Dutch *Eerste Kamer*. The Hungarian *Országgyűlés* also focuses on the position of its Government in different formations of the Council concerning given legislative proposals.

The Belgian *Chambre des représentants* focuses on documents from the Commission, the Council and the European Council, while the Dutch *Tweede Kamer* focuses on Council meetings and Commission proposals. In the Danish *Folketing,* in practise most interest is concentrated on the "agenda of the Council, plus the work of the Commission, the European Parliament and the Court of Justice".

**Selection of Documents**

Monitoring of the different activities and documents is usually comprehensive, although a number of criteria are used to select the initiatives that the Parliament/Chamber wishes to give a certain priority to. The criteria for the prioritisation are as follows:

(i) **National interest**, for example in the case in the Bulgarian *Narodno Sabranie*, the *Vouli Ton Antiprosopon* of Cyprus, the Hungarian *Országgyűlés*, the Irish *Houses of the Oireachtas*, the Luxembourg *Chambre des Deputés,* the Polish *Senat*, the *Parlamentul României* and the Belgian *Sénat*;

(ii) **Relevance of the issues**, as mentioned, for instance, by the Lithuanian *Seimas,* the Danish *Folketing* and the UK *House of Lords*, which expressly mentions that the "national interest" is not necessarily a deciding factor for selection;

(iii) **The interest of the *Länder***, as established by the German *Bundesrat*.

The parliamentary body that is entitled to select the documents that are to be monitored, according to the above mentioned criteria, does vary in each Parliament/Chamber:

(i) **The Committee on EU Affairs** at the Hellenic *Vouli ton Ellinon*, the French *Assemblée nationale*, the Polish *Sejm*, the Portuguese *Assembleia da República*, the Czech *Sénat*, the Slovakian *Národná rada*, the Latvian *Saeima* and the Slovenian *Državni zbor*, the UK *House of Commons*;

(ii) **Competent specialised committees** draw up their lists of priorities in a significant number of Parliaments/Chambers, as the Portuguese *Assembleia da República* in the "enhanced" monitoring procedure, the Dutch *Eerste Kamer* and the Bulgarian *Narodno Sabranie*;

(iii) **The Committee on EU Affairs and the Foreign Affairs Committee** at the Lithuanian *Seimas* and the Czech *Senát*;
(iv) **The European Unit** within the International Relations Department at the Luxembourg *Chambre des Deputés*;
(v) **The Bureau and the Spokespersons of the Joint Committee on EU Affairs** at the Spanish *Cortes Generales*, on the proposals of the parliamentary groups;
(vi) **The Chairperson of the European Affairs Committee** of the UK *House of Lords* or the Chairperson of the *Sénat's* delegation to the Federal Advisory Committee on European Affairs in the case of the Belgian *Sénat*;
(vii) **The leaders of the political groups together with the Chairpersons of Committees** at the Slovenian *Državni svet*;
(viii) **The Speaker** of the Polish *Senát*;
(ix) **The EU Affairs Department** at the Belgian *Chambre des représentants*;
(x) **The officers of the EU Affairs Service and Members of Parliament** may identify the relevant proposals at the *Vouli Ton Antiprosopon* of Cyprus.

The case of Denmark stands out in this point, as it is the Government's responsibility to filter the Commission's proposals and decide which matters fall within the category of "major significance" or "considerable importance", in order to be scrutinised by the *Folketing* European Affairs Committee.

**Parliamentary Bodies Involved in the Monitoring Procedure**

Once the relevant documents have been selected, the Committee on EU Affairs is usually in charge of the monitoring procedure.

In some Parliaments/Chambers, the competent specialised committees may also have an important role to play:

(i) In a number of cases, the **specialised committees** have the exclusive mandate for monitoring the activities of the EU institutions, as in the Belgian *Sénat* and the *Chambre des représentants*, the French *Assemblée nationale*, the German *Bundestag*, the Dutch *Eerste Kamer* and the Slovakian *Národná rada*.
(ii) In other cases, the opinion of the specialised committees may be sought by the **Committee on EU Affairs**. This is the case of the Austrian *Nationalrat* and the *Bundesrat*, the Danish *Folketing*, the Portuguese *Assembleia da República* in the "normal" monitoring process, the Czech *Poslanecká sněmovna* and the *Senát* and the Polish *Senat*.
(iii) In a number of parliamentary systems, although the Committee on EU Affairs plays the leading role, **the specialised committees may also participate** in the procedure, either together with the lead Committee on EU Affairs or instead of the lead committee. This is the case of the French *Sénat*, the Hellenic *Vouli ton Ellinon*, the Italian *Senato della Repubblica* and the *Camera dei Deputati*, the Luxembourg *Chambre des Deputés*, the Slovenian *Državni svet*, the Irish *Houses of the Oireachtas*, the Portuguese *Assembleia da República* in the case of the "enhanced" monitoring process, the Swedish *Riksdag* and the Hungarian *Országgyűlés*.
(iv) In the case of the UK *House of Commons*, the documents are examined either by a Subcommittee of the Committee on EU Affairs or by the European Committee itself.

The plenary of the Parliament/Chamber is also involved in the monitoring procedure:

(i) **On an optional basis,** the French *Sénat* and the *Assemblée nationale*, the Belgian *Chambre des représentants*, the Polish *Senat*, the Slovenian *Državni svet*, the Dutch *Eerste Kamer*, the Czech *Poslanecká sněmovna* and the *Senát*, the UK *House of Commons* and both Chambers of the Spanish *Cortes Generales*;

(ii) **On a mandatory basis**, unless otherwise stated, an opinion must be adopted by the plenary of the German *Bundesrat* and the Belgian *Sénat*;

(iii) The final decision regarding certain issues is to be adopted by **the plenary** of both Chambers of the *Parlamentul României.*

In bicameral Parliaments, coordination and information exchange between both Chambers may be provided through a variety of mechanisms:

(i) **Through a Joint Committee** in charge of monitoring with Members of both Chambers, as it is the case with the Spanish *Cortes Generales*, the Irish *Houses of the Oireachtas* and the *Parlamentul României*. In the case of the Belgian Parliament, the Federal Advisory Committee is a joint body that also provides a similar coordination mechanism, although in an advisory capacity.

(ii) **Through a common administration** for both Chambers, as is the case of the Austrian Parliament.

(iii) **Through informal contacts** between the relevant committees at political and administrative levels, as is the case of the UK, Czech, German, Italian and Slovenian Parliaments. In the case of the Dutch Parliament, the specialised committees coordinate informally. In the case of the Czech Parliament, the Constitution allows for the creation of a joint parliamentary body.

The Chambers of the Polish Parliament do not exchange information, formally or informally.

**The Role of the Government in the Monitoring Procedure**

During the monitoring procedure, the relevant regulation usually provides for a specific duty of the Government to report to the Parliament/Chamber.

In some cases, there is no specific regulation regarding the Government's duty to report, and therefore the general regulations regarding the relations between the Government and the Parliament apply. This is the case of the Belgian *Sénat* and *Chambre des représentants*, the French *Assemblée nationale* and the Hellenic *Vouli ton Ellinon.*

In the UK *House of Lords*, although there is no obligation to report, the Government has the practice of forwarding memoranda and statements before and after each Council meeting.

Some regulations do not establish the duty to report. This is the case of the French *Sénat*, the Slovenian *Državni svet* and the *Vouli Ton Antiprosopon* of Cyprus. The absence of an obligation to report is due, in the Cypriot case, to the presidential nature of their system of Government, although the Executive is always willing to be represented at parliamentary committee meetings.

**Available Resources**

Among the resources available for monitoring, most Parliaments/Chambers mention the staff on the secretariat of the Committee on EU Affairs, which in the case of the Belgian Chambers is the Federal Advisory Committee on European Affairs. In the case of the Lithuanian *Seimas* and the Slovenian *Državni zbor*, the staff of the Committee on Foreign Affairs is also taken into consideration, as this committee also deals with EU issues.

Furthermore, a number of Parliaments/Chambers also take into account the staff at the secretariats of the specialised committees which may deal with EU issues related to their specific terms of mandate. This is the case of the Belgian *Chambre des représentants* and the *Sénat*, the Dutch *Eerste Kamer*, the Luxembourg *Chambre des Deputés*, the Portuguese *Assembleia da República* and the Swedish *Riksdag*.

Some Parliamentary administrations also have a specific European Unit, with a variety of names: the task force for the analysis of EU documents of the Belgian *Chambre des représentants*, the European Law Department of the Bulgarian *Narodno Sabranie*, the European Affairs Officers of the *Vouli Ton Antiprosopon* of Cyprus, the EU Unit of the Parliamentary Institute of the Czech Parliament, the EU-advisory Unit in the Danish *Folketing,* the Europe Division of the German *Bundestag*, the Department for relations with the EU of the Italian *Camera dei Deputati*, the European Unit within the International Relations Directorate of the Luxembourg *Chambre des Deputés,* the EU Unit of the Polish *Senát*, the European Affairs Directorate of the Romanian *Senatul*, the European Union Department of the Hellenic *Vouli ton Ellinon* and the EU Coordination Unit of the Swedish *Riksdag*.

In the Spanish *Cortes Generales* and the Hungarian *Országgyűlés*, the Foreign Affairs Department also pools resources for certain activities concerning the monitoring of EU activities.

The Library Services as well as the Research facilities are also made available for this purpose in the case of the Spanish *Cortes Generales* and the Irish *Houses of the Oireachtas*. The UK *House of Commons*, the Irish *Houses of the Oireachtas* and the Slovenian *Državni zbor* and the *Državni svet* also mention the legal Counsel or legal advisor. A large number of Parliaments/Chambers also include their representatives in Brussels as part of the available staff that may be involved in the monitoring proceedings.

### 1.2.2. Ensuring Compliance with the Principle of Subsidiarity

Out of the 39 Parliaments/Chambers that reply to the question regarding **the parliamentary bodies in charge of ensuring compliance with the principle of subsidiarity**, 5 have not yet specified the actors which will eventually be in charge. (i.e. the Austrian *Nationalrat* and the *Bundesrat*, the French *Sénat* and the Spanish *Cortes Generales*).

From the analysis of the remaining 34 replies, which results in no less than 21 different combinations of actors involved, it is difficult to discern a general trend.

This situation becomes clearer, however, when the participation of the Committee on EU Affairs in those 34 Parliaments/Chambers is taken into account. Indeed:

- in 19 of them, the Committee on EU Affairs scrutinizes the principle of subsidiarity in combination with one or several specialised committees and (optionally) with the plenary. At the Czech *Poslanecká sněmovna*, for instance, the Committee on European Affairs may pass draft acts of the European Union to other specialised committees or to the plenary whereas at the Czech *Senát* the resolutions of the Committee on EU Affairs have to be confirmed by the plenary;

- on 8 more occasions, the Committee on EU Affairs is the only committee of the Parliament/Chamber concerned, albeit that in 4 of these (the Irish *Houses of the Oireachtas* and the UK *House of Lords* and the *House of Commons*), the plenary always participates whereas in another 3 (the Hungarian *Országgyülès*, the Italian C*amera dei Diputati* and the Polish *Sejm*) the plenary is only an optional co-actor. This leaves the Latvian *Saeima* as the only Parliament where this committee "bears the sole responsibility for assessing the compliance of new EU legislation with the principles of subsidiarity and proportionality"; and
- in 7 Parliaments/Chambers, the Committee on EU Affairs plays no role in this matter.

Out of the 39 Parliaments/Chambers having answered the question on **the procedures involved**, 6 have not yet taken a decision regarding the specific procedures to be followed (i.e. the Austrian *Nationalrat* and the *Bundesrat*, the French *Sénat*, the Slovakian *Národná rada,* the Slovenian *Državni zbor* and the Estonian *Riigikogu*).

The analysis of the remaining 33 cases reveals no less than 27 different procedures by which the compliance with the principle of subsidiarity is ensured, making it very difficult to conclude on a general trend. Yet, the number of these procedures can be narrowed down considerably by taking into account the level at which the decision is made.

In doing so, the number of Parliaments/Chambers in which the plenary plays a role is overwhelming. Indeed:

- 13 Parliaments/Chambers (e.g. the Dutch *Tweede Kamer*, where the "draft opinion is endorsed by the plenary" and the Finnish Eduskunta, where the "final decision is made in the plenary by a simple majority vote") report that every subsidiarity procedure is concluded by a decision in the plenary regardless if a subordinate level believes there is a breach of the subsidiarity principle or not;
- in 7 other cases (e.g. in the Polish *Senat* which, if the specialised committee or the Committee on EU Affairs states that the draft in question does not comply with the principle of subsidiarity, "might submit a reasoned opinion to the EU institutions" and the Lithuanian *Seimas,* where "upon deciding that the proposal to adopt a legal act of the European Union may not be in conformity with the principle of subsidiarity, the conclusions of the Committee on European Affairs or the Committee on Foreign Affairs are referred for debate in the *Seimas* plenary") the plenary only steps in when a subordinate level believes that a draft legislative act is in breach of the subsidiarity principle; and
- in 5 more cases the plenary acts on an optional basis (e.g. in the Spanish *Cortes Generales* where "if the plenary of either Chamber decides to recall the final vote, the reasoned opinion of the Joint Committee will be debated and put to a vote in both Plenaries" and in the Belgian *Chambre des représentants* where a specialised committee may call in the plenary whenever this is deemed necessary.

In 5 Parliaments/Chambers (i.e. the Bulgarian *Narodno Sabranie*, the Cypriot *Vouli ton Antiprosopon*, the Italian *Camera dei Deputati*, the Latvian *Saeima* and the Danish *Folketing*) the decision on a subsidiarity issue is taken by the Committees on EU Affairs although, in the case of the *Vouli ton Antiprosopon*, the executive and interested parties are also invited to participate.

This leaves 3 Parliaments/Chambers (i.e. the Italian *Senato della Repubblica*, the Greek *Vouli ton Ellinon* and the Portuguese *Assembleia da República*) with "particular" procedures. For details on these procedures, we refer to the Annex to this Report.

The question on **the participation of regional parliaments** is answered by 15 Parliaments/Chambers. In 4 of those (the Austrian *Bundesrat*, the Italian *Camera dei Deputati*, the Portuguese *Assembleia da República* and the UK *House of Lords*) the regional parliaments are consulted by the federal Parliaments/Chambers: the Austrian *Bundesrat* will even be obliged to inform all the *Landtage* on the draft legislative acts whereas the Italian *Camera dei Deputati* and the Portuguese *Assembleia da República*, will only do so when necessary and the UK *House of Lords* intends to "contact them informally" where it thinks it appropriate.

In 4 more Parliaments/Chambers (the Italian *Senato della Repubblica*, the Spanish *Cortes Generales* and the UK *House of Commons*) the opinions sent to them by the regional parliaments are examined. In the case of the *Cortes Generales*, these opinions will not be binding, but if their Joint EU Committee "approves a reasoned opinion on the same draft act, the list of opinions of the regional parliaments will be attached to the *Cortes'* opinion, together with the relevant references to facilitate their consultation". The UK *House of Commons* states that its European Scrutiny Committee "should place the onus on the regional parliaments to obtain draft EU legislation, vet it and tell the ESC as quickly as possible if they have objections".

In 3 cases (the Belgian *Chambre des représentants* and the *Sénat* and the German *Bundesrat*) the regional parliaments can actively take part in the formulation of the opinion if the matter under consideration falls within their remits. The remaining 4 Parliaments/Chambers (the Dutch *Tweede Kamer*, the Irish *Houses of the Oireachtas* and the Finnish *Eduskunta*) report rather singular procedures which can be consulted in the Annex.

Out of the 35 Parliaments/Chambers which answer the question on the use they made of **IPEX during the COSAC-coordinated subsidiarity checks**:

- 33 state that they used this tool on these occasions. Several amongst them even declare having made use of it outside the framework of these checks;
- 2 Parliaments/Chambers (the Finnish *Eduskunta* and the UK *House of Lords*) mention not having used the IPEX platform very extensively. Indeed, the former finds IPEX "not immediately useful for subsidiarity matters" and the latter considers it "often a less helpful experience than we would wish".

Of the 26 national Parliaments/Chambers having replied to the question on **the future use of IPEX**, 25 believe it will increase although only very few provide any explanation as to the reasons why they think so. Amongst those that do explain their opinion, the Polish *Sejm* expects the use of IPEX to increase "due to conducted subsidiarity checks", the Lithuanian *Seimas* states that "considering the fact that with the enforcement of the Treaty of Lisbon the significance of exchange of information between parliaments is increasing" and the Estonian *Riigikogu* is of the opinion that "the frequency of the usage will depend on content and language, needs and availability of other resources". Only the UK *House of Commons* foresees no change.

The following outline holds the most frequently advanced suggestions on **possible improvements to IPEX** in order to support real-time information exchange between Parliaments:

- the system's **user-friendliness** (e.g. its limited speed, the number of manipulations required, etc.) should be increased (10 Parliaments/Chambers);
- **a forum for unofficial information** ought to be developed (9 Parliaments/Chambers);
- there ought to be a **firm language policy** (9 Parliaments/Chambers). In this context, the Dutch *Eerste Kamer* speaks for courtesy translations in English or French, the French *Assemblée nationale* and the Greek *Vouli ton Ellinon* want the documents to be available in English or French, the Portuguese *Assembleia da República* would like a summary in English or French stating the related procedure and final result of the scrutiny on EU proposals and the UK *House of Commons* and the *House of Lords* want the data to be uploaded "*in a commonly understandable language*";
- a specific **section** should be foreseen for **subsidiarity issues** (6 Parliaments/Chambers);
- data are to be **uploaded timely and correctly** (5 Parliaments/Chambers);
- **summaries** of the EU documents and of the Parliaments' reactions to them should be provided (4 Parliaments/Chambers).

An overwhelming majority of the Parliaments/Chambers (i.e. 30 out of the 31 having answered this question) plans its **forthcoming communication with the EU institutions** through the existing channels such as the representatives based in Brussels (e.g. the UK *House of Commons* and the *House of Lords* and the Portuguese *Assembleia da República*), the so-called Barroso initiative (e.g. the Belgian *Chambre des représentants* and the Portuguese *Assembleia da República*), thematic meetings with delegates from the EU institutions (e.g. the *Parlamentul României*). Only the Finnish *Eduskunta* "does not see direct interaction with the EU institutions as particularly desirable" as, "normally, it instructs the government to negotiate on behalf of the Republic of Finland".

The most frequently suggested **improvement of the communication with the EU institutions** (mentioned by 11 out of the 15 Parliaments/Chambers having suggested any) concerns enhanced (personal) contacts with and feedback from the EU institutions and their members. Of these Parliaments/Chambers 4 (i.e. the Bulgarian *Narodno Sabranie*, the Irish *Houses of the Oireachtas* and the French *Assemblée nationale*) suggest videoconferences as the tool *par excellence* to that end. Other, more specific suggestions are:

- enhancing the contacts with the respective COREPER (the Greek *Vouli ton Ellinon*);
- developing the political contacts with other national Parliaments (the Portuguese *Assembleia da República*);
- a special e-mail-link for documents from the EU Court of Auditors (the Latvian *Saeima*).

Out of the 35 Parliaments/Chambers having replied to the **question raised by the UK House of Commons regarding a possible limitation of the new powers given to national Parliaments** under Protocol 1 and Protocol 2 on the application of the principles of subsidiarity and proportionality (henceforth "Protocol 2") of the Treaty of Lisbon, as outlined in the Note circulated at the Madrid COSAC Chairpersons' meeting

- 18 Parliaments/Chambers are of the opinion that the definition of a "special legislative procedure" and therefore a "legal act" under Article 289[9] of TFEU **does not limit their**

[9] Article 289 TFEU:
"*1. The ordinary legislative procedure shall consist in the joint adoption by the European Parliament and the Council of a regulation, directive or decision on a proposal from the Commission. This procedure is defined in Article 294.*

**new powers**. Amongst those, the Austrian *Nationalrat* and the *Bundesrat* are of the opinion that "according to the opinion of the legal service of the Austrian Foreign Affairs Ministry the evolution of Art. 289 leaves no space for a loophole", the Belgian *Chambre des représentants* states that "a political reflex should prevail over a purely legislative approach", the Cypriot *Vouli ton Antiprosopon* writes that "a broader interpretation should be given to the definition of "legal act" so that the new powers given to national Parliaments are not limited", the *Parlamentul României* does not share the concerns expressed by the delegation of the European Scrutiny Committee of the UK *House of Commons* as it thinks that "the Treaty provisions on draft legislative acts subject to full (including the possibility to issue a reasoned opinion) subsidiarity control, according to Article 2, Protocol 1 and Article 3, Protocol 2, are clear", the Slovenian *Državni zbor* believes that "the legal nature of an act will be judged according to its content and its legal consequences, not its form" and the Spanish *Cortes Generales* reason that "only draft legislative acts are to be the object of reasoned opinions regarding the compliance with the principle of subsidiarity. Non legislative acts, as defined by the Treaties, are therefore not meant to be the object of the said procedure";

- 11 Parliaments/Chambers **have not yet reached a final opinion** on the matter: some are still awaiting further information either from their own departments (e.g. the Dutch *Eerste Kamer* which has referred the matter to the Dutch Ministry of Foreign Affairs) or from the EU institutions (e.g. the Irish *Houses of the Oireachtas*) or they have not yet addressed the matter (e.g. the Swedish *Riksdag*) or they have not yet reached an official position (e.g. the Hungarian *Országgyülès*);
- 6 Parliaments/Chambers (the Dutch *Tweede Kamer*, the Finnish *Eduskunta*), stating that "the powers of national parliaments in ensuring compliance with the principle of subsidiarity concern only proposals within the "normal legislative procedure" regulated in Article 289.1.", the Latvian *Saeima*, the Slovakian *Národná rada*, the UK *House of Lords* and the Danish *Folketing*) **agree with the UK Government's point of view**.

Out of the 22 Parliaments/Chambers having replied, 16 did not seek their **Government's view on this matter** whereas the Austrian *Nationalrat* and *Bundesrat*, the Dutch *Eerste Kamer*, the Finnish *Eduskunta*, the Lithuanian *Seimas* and the UK *House of Lords* declare having consulted their Governments before reaching their conclusions.

### 1.2.3. Political Monitoring of Europol

In 11 of the 38 Parliaments/Chambers which answer the question regarding **the parliamentary bodies in charge**, there is no specific political monitoring of Europol (e.g. in the Belgian *Sénat*, the French *Assemblée nationale* and the *Sénat*, the Italian *Camera dei Deputati* and the Slovakian *Národná rada*) as in most cases this monitoring occurs in the framework of the standing procedures regarding the scrutiny of EU proposals.

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*2. In the specific cases provided for by the Treaties, the adoption of a regulation, directive or decision by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament, shall constitute a special legislative procedure.*
*3. Legal acts adopted by legislative procedure shall constitute legislative acts.*
*4. In the specific cases provided for by the Treaties, legislative acts may be adopted on the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank*".

In 23 Parliaments/Chambers, the Committee on EU Affairs takes part in the monitoring of Europol:

- in 13 of these, this happens in combination with specialised committees (e.g. in the Hungarian *Országgyülès*);
- in 8 more cases, not only one or more specialised committees but also the plenary plays a role. This is the case, for example, in the Austrian *Nationalrat* and the *Bundesrat* where the respective Committees on Home Affairs and the plenary are competent and in the Portuguese *Assembleia da República* where this task falls within the remits of the Committee on Constitutional Affairs, Rights, Freedoms and Guarantees and the plenary;
- in 2 Parliaments/Chambers (the Czech *Senát* and the Latvian *Saeima*) the Committee on EU Affairs is the sole actor.

In the 4 remaining Parliaments/Chambers, i.e. the Belgian *Chambre des représentants*, the Dutch *Tweede Kamer*, the German *Bundestag* and the Luxembourg *Chambre des Députés*, the Committee on EU Affairs does not take part in the monitoring of Europol. In the Belgian *Chambre des représentants*, this task is carried out by the competent specialised committee together with the plenary, in the German *Bundestag* by the Committee on Internal Affairs and the plenary and in the Dutch *Tweede Kamer* only by the Standing Committee on Justice and the Committee on EU Affairs.

Out of the 39 Parliaments/Chambers that answer the question on **the procedures involved**, 19 and the European Parliament state that they do not have a systematic procedure to monitor Europol and 8 (e.g. the Belgian *Chambre des représentants* and the Bulgarian *Narodno Sabranie)* claim to use the standing parliamentary oversight tools already at their disposal.

In 5 cases (the French *Assemblée nationale*, the German *Bundestag* and the *Bundesrat* and the *Parlamentul României*), decisions are made at the level of the plenary, in combination with the Committee on EU Affairs and/or any of the specialised committees.

In 4 more Parliaments/Chambers, this procedure only involves the Committee on EU Affairs and one or more specialised committees (such as the Committees on Security and on Constitutional and Legal Affairs at the Czech *Poslanecká sněmovna*, the Committee on Justice at the Swedish *Riksdag*, the Defence, Internal Affairs and Corruption Prevention Committee at the Latvian *Saeima* and the Committees on Legal Affairs and on National Security and Defence at the Lithuanian *Seimas*). Moreover, at the Latvian *Saeima*, "once a year a representative from Latvia to Europol is invited to attend the joint meeting of the European Affairs Committee and the Defence, Internal Affairs and Corruption Prevention Committee during which the annual report of Europol is presented" and the Lithuanian *Seimas* is entitled to invite the national representatives from Europol and responsible persons from executive bodies they are subordinate to, and to make inquiries to them.

In 2 Parliaments/Chambers (i.e. the Czech *Senát* and the Polish *Sejm*) the Committee on EU Affairs is solely responsible for the political monitoring of Europol. Moreover, the Czech *Senát* reports that "discussions with Czech liaison officers at Europol to inquire on current Europol topics take place before the Committee on EU Affairs on an irregular basis". Finally, the Danish *Folketing* states that "due to Denmark's opt-out on JHA the Government only presents the above mentioned proposals to the European Affairs Committee for information".

The question regarding **the participation of regional parliaments** only applies to 3 out of the 39 Parliaments/Chambers having answered it as either there are no regional parliaments or the political monitoring of Europol does not fall within their remits. In this context, the Portuguese *Assembleia da República* and the Austrian *Bundesrat* state that their respective regional parliaments are consulted whenever they are competent for the matter at hand. The German *Bundesrat* answers that the "Landtage (parliaments of the federal states) <are involved> in the decision-making process in keeping with Land-specific procedures".

The 33 national Parliaments/Chambers that reply to the question regarding **the possible specific criteria regarding the exercise of the political monitoring of Europol** unanimously state that their regulations do not provide any such criteria.

### 1.2.4. Evaluation of Activities of Eurojust

At 14 of the 39 Parliaments/Chambers that answer the question on **the parliamentary bodies in charge** of exercising such evaluation, there is no specific evaluation of Eurojust.

In 21 other Parliaments/Chambers, the Committee on EU Affairs takes part in the evaluation of Eurojust:

- at 11 of which this happens in combination with a specialised committee;
- in 8 more cases, this combination is extended by the plenary; and
- at 2 Parliaments/Chambers (i.e. the Czech *Senát* and the Latvian *Saeima*) the Committee on EU Affairs is the sole actor.

At the 4 remaining national Parliaments/Chambers (i.e. the Belgian *Chambre des représentants*, the Dutch *Tweede Kamer*, the German *Bundestag* and the Luxembourg *Chambre des Députés*), the Committee on EU Affairs does not take part in the monitoring of Eurojust. In the *Chambre des représentants*, this task is carried out by the competent specialised committee together with the plenary, in the German *Bundestag* by the Committee on Legal Affairs and the plenary.

Out of the 39 Parliaments/Chambers having replied to the question regarding **the procedures involved,** 18 state not having a systematic procedure to evaluate Eurojust and 10 claim to use the standing parliamentary oversight tools already at their disposal.

In 5 other Parliaments/Chambers (the French *Assemblée nationale*, the German *Bundestag* and the *Bundesrat* and the *Parlamentul României*), decisions are made at the level of the plenary, in combination with the Committee on EU Affairs and/or any of the specialised committees.

In 4 more Parliaments/Chambers, this procedure only involves the Committee on EU Affairs and one or more specialised committees (such as the Committees on Security and on Constitutional and Legal Affairs at the Czech *Poslanecká sněmovna*, the Committee on Justice at the Swedish *Riksdag*, the Defence, Internal Affairs and Corruption Prevention Committee at the Latvian *Saeima* and the Committee on Legal Affairs at the Lithuanian *Seimas*).

At the Czech *Senát* the Committee on EU Affairs is solely responsible for the evaluation of activities of Eurojust. Moreover, this Chamber reports that already for the third time, hearings of the Czech Member of Eurojust are held by the Committee on EU Affairs. Finally, the Danish *Folketing* states that "due to Denmark's opt-out at JHA the Government only presents the above mentioned proposals to the European Affairs Committee for information".

The question on **the participation of regional parliaments** only applies to 2 out of the 39 Parliaments/Chambers having replied to it as either there are no regional parliaments or the evaluation of Eurojust does not fall within their remits. The Portuguese *Assembleia da República* states that the regional parliaments are consulted whenever they are competent for the matter at hand and the German *Bundesrat* answers that the "Landtage (parliaments of the federal states) <are involved> in the decision-making process in keeping with Land-specific procedures".

The 34 national Parliaments/Chambers that answer the question regarding **the possible specific criteria regarding the exercise of the evaluation of Eurojust** unanimously state that their regulations do not provide any specific criteria regarding the exercise of the evaluation of Eurojust.

### 1.2.5. Participation in the Simplified Revision of the Treaties (*Passarelle* Clause)

A majority of the EU Parliaments/Chambers have regulations in place, specifying how they will act in connection with their participation in the "Simplified revision procedures". However, there are many of them that have not yet defined the modalities for their participation in such procedures.

Some of those that have regulations note that there is a difference between revisions based on Article 48.6 of the TEU, compared to Article 48.7 of the TEU. In the former case the amendment shall not enter into force "until it is approved by the Member States in accordance with their respective constitutional requirements", i.e. the procedure from a Parliament's point of view does not differ from an ordinary revision of the Treaties. The procedure foreseen in Article 48.7, on the other hand, normally requires a Parliament/Chamber to take an initiative of its own, in case it opposes a decision to be taken by the European Council.

Therefore, some Parliaments/Chambers (e.g. the Finnish *Eduskunta* and the Irish *Houses of the Oireachtas*) state that they have special procedures only for revisions based on Article 48.7, while cases based on Article 48.6 would be dealt with in the same manner as for instance an "ordinary revision", or any other international agreement requiring ratification.

In several Member States, the Government is not authorized to accept a decision in the Council concerning a "simplified revision" unless it has the prior consent of the Parliament to do so (e.g. the Austrian *Nationalrat* and the *Bundesrat*, the Danish *Folketing*, the Latvian *Saeima*, the Slovakian *Národná Rada*, the *UK House of Commons* and the *House of Lords*).

Where prior consent is required, some have not considered it necessary to provide for any particular procedures *ex post*, i.e. after a decision on the use of "simplified revision" has been taken by the Council. Others, in particular where the mandate is politically rather than legally binding (e.g. the Polish *Senat*, the Swedish *Riksdag*) also have, or foresee, procedures whereby a final decision can be taken by the Parliament/Chamber within the six months limit provided for in the Treaties. Such procedures are generally foreseen or put in place in Member States where Governments can act at the Council without a mandate from their Parliament (e.g. in the Irish *Houses of the Oireachtas*, the Slovenian *Državni zbor* and the *Državni svet*, the Spanish *Cortes Generales*).

Most bicameral Parliaments (e.g. the Belgian, Czech and Irish and UK Parliaments) indicate that both Chambers separately have the right to “veto” an amendment by “simplified revision”. In France and Spain, on the contrary, unless both Chambers oppose an initiative, it is considered that the Parliament does not oppose it. In some other bicameral Parliaments (e.g. the Parliament of Slovenia) the role of the upper Chamber is advisory, meaning that if the two Chambers are of different opinions it is the opinion of the lower Chamber that prevails. Therefore, in none of these cases the Parliaments have any need for rules on how to establish a joint position. However, in the Irish, Dutch, and Spanish Parliaments the two Chambers have a joint Committee for EU Affairs, giving the same recommendation to both Chambers. This in effect constitutes a mechanism to at least promote a joint position, although the Chambers formally decide independently of each other. Only in the case of the Romanian Parliament - which also has a Joint European Affairs Committee - does the answer indicate that a decision on the use of a “*passerelle*” would be taken in a joint session of the *Camera Deputaților* and the *Senatul.*

Regardless of which provisions apply, the parliamentary bodies involved are usually the Committee on EU Affairs and the plenary/-ies. In many Parliaments/Chambers, (e.g. the Finnish *Eduskunta*, the French *Assemblée nationale*, the *Parlamentul României*) the relevant specialised committee(s) are also involved, depending on the nature of the proposed amendment. (In the particular case of a revision on the basis of Article 81 of the TEU the Committee responsible for Civil Law is mentioned.) In almost all cases where the respective answer clarifies this point, it is the Committee on EU Affairs that is the lead committee, the only exception being the Swedish *Riksdag*, where it is the specialized committee responsible for the matter the revision concerns.

A notification of a decision under Article 48.7 would, as indicated above, be dealt with by one or more committees. In case the responsible committee opposes the decision, it submits a report to the Parliament/Chamber(s) recommending the adoption of a resolution or a similar decision to that effect, to be forwarded to the President of the European Council. If, on the other hand, the committee does not oppose the revision proposed, the plenary would not, in most cases, take any decision on the matter.

However, in a few Parliaments/Chambers not only committees can make proposals for decisions in plenary. In the Spanish *Cortes Generales* one or two party groups or a fifth of the Members of any of the two Chambers can also do so. In the Estonian *Riigikogu* the political groups also have that right. In the UK *House of Commons* and the *House of Lords* no involvement of a committee is obligatory, although committees may submit a report for the information of Members before a vote. Instead, a Government minister would move a motion for the respective House to approve the Government's intention to support the draft Council decision.

The involvement of regional parliaments is prescribed in a few Member States with a federal structure (such as Austria and Belgium) at least in case the matter affects issues on which the regional parliaments are competent to decide. In the case of Belgium each one of the regional parliaments/assemblies – in addition to the Chambers of the national Parliament – has the right to “veto” a revision. In other cases (the Portuguese *Assembleia da República*) regional parliaments/assemblies shall be consulted, or have the right to present their opinions, while the final decision is taken solely by the national Parliament in question.

### 1.2.6. Actions for Annulment before the Court of Justice of the European Union on Grounds of a Breach of the Principle of Subsidiarity

More than half of the respondents state that procedures are under discussion, not yet decided upon, etc. A few of these can, based on their constitutional principles or draft acts, give an indication of what might reasonably be expected. Nevertheless, it is difficult to draw general conclusions from the answers concerning what type of procedures Parliaments/Chambers will be using for initiating actions for annulment.

In all but two cases where procedures are put in place, a decision to take action for annulment can be taken only by the Parliament/Chamber as such. The French *Assemblée nationale* as well as the *Sénat*, mention that that the French Constitution foresees, as an alternative, that if an initiative for action is supported by a minimum of sixty Members of the *Assemblée nationale* or sixty Senators, it would be submitted to the Government on behalf of the respective Chamber. The other exception is the *Chambre des Deputés* of Luxemburg, where, if no plenary is held within the time limit given, the decision to submit the initiative can be taken by the Conference of Presidents.

A decision to take such an action would be taken on the basis of an initiative and report by a committee – sometimes the committee responsible for the specific issue (e.g. the Austrian *Nationalrat*, the Luxemburg *Chambre des Deputés*, the Swedish *Riksdag*), but more often by the Committee on EU Affairs (e.g. the Danish *Folketing*, the Irish *Houses of the Oireachtas*, the Lithuanian *Seimas*, the Polish *Senat,* the Spanish *Congreso de los Diputados* and *Senado*). Similarly to the situation as regards use of a "*passerelle*", in some cases (e.g. the Czech *Poslanecká sněmovna* and the *Senat*, the Spanish *Congreso de los Diputados* and the *Senado*) a certain number of Members can also submit a proposal to the plenary, and in the UK *House of Lords* an individual Member may move a motion for such a decision by the House.

A few answers mention that the Government shall have the possibility – or obligation – to present its view when a draft decision to take action for annulment is debated. Presumably, in most cases the Government's general point of view is informally known anyway, since it will have participated in the decision-making in the Council concerning the legislative act in question.

In most answers (e.g. the Austrian *Nationalrat*, the Czech *Poslanecká sněmovna* and the *Senát*, the Irish *Houses of the Oireachtas,* the Polish *Sejm and the Senat*) it is indicated that the Government can not reject a request to take action, if such a request is issued by its Parliament (or by one of the Chambers, when they have the competence to issue such a request separately). In other cases (e.g. the Dutch *Eerste Kamer* and the *Tweede Kamer*, the Spanish *Cortes Generales*, the Swedish *Riksdag*) a request by Parliament would be politically binding on the Government. However, there is ultimately no other "sanction" available to Parliament than a vote of no confidence in case the Government should refuse to take action.

### 1.2.7. Applications for Accession to the European Union

The Treaty of Lisbon lays down that national Parliaments shall be notified of applications for accession to the Union. Although some respondents indicate that the matter is currently being discussed, it appears that most Parliaments/Chambers have not considered it necessary to introduce any major changes in their rules as a consequence of this provision. In practice, the corresponding information has been provided earlier, often by Governments on the basis of a general duty to inform Parliament about important matters related to the EU. Therefore the new Treaty does not *per se* necessitate any change of procedures.

The parliamentary bodies involved are usually the Committee(s) on EU Affairs and the plenary/-ies. In many cases (e.g. the Czech *Poslanecká sněmovna* and the *Senát*, the Cypriot *Vouli ton Antiprosopron*, the Lithuanian *Seimas*) the Committee on Foreign Affairs is also involved. Specialised committees may be involved in an advisory capacity. In a few Parliaments/Chambers (e.g. the Belgian *Chambre des représentants* and the *Sénat*, the Swedish *Riksdag*) the plenary decides on the basis of a report by the Committee on Foreign Affairs, i.e. the Committee on EU Affairs does not have any formal role in the Parliament's decision on approval of an accession treaty (but may follow the negotiations). Similarly, in the case of the Austrian *Nationalrat* and the *Bundesrat*, it is usually their Committees on Constitutional Affairs that submit the reports to the plenary.

The French *Assemblée nationale* points out that the Constitution of France was amended in 2008, so that in principle the decision to ratify an accession treaty should be taken by referendum. However, if both Chambers decide by a majority of three fifths of their respective Members, the matter can instead be decided by a qualified majority at the *Congrès*, comprising all Members of the two Chambers.

The Committee(s) involved, as well as the plenary/-ies, often have the possibility to pass resolutions during the course of negotiations, or to voice their opinions less formally in discussions with the Government. Those that can "instruct" or "mandate" their Government on how to act in the Council (e.g. the Finnish *Eduskunta*) can generally give binding instructions also in the case of membership negotiations – by resolutions or otherwise – while in other cases (e.g. the Dutch *Eerste Kamer* and the *Tweede Kamer*) the Government takes resolutions etc. into account as they find appropriate. In the latter cases, a Government that does not pay sufficient attention to the express opinion of a Parliament/Chamber can ultimately risk a vote of no confidence. Apparently this follows the general pattern of how EU affairs are handled in the respective Member States, except that in the case of accession treaties it is the Parliaments that have the final say.

Accession treaties constitute, as is pointed out in some answers, a change of EU Primary Law, and Member States are therefore required to ratify them "in accordance with their respective constitutional requirements", which in this case means that the new Treaty must be approved by the respective Parliaments. Parliaments/Chambers then follow their standard procedures for the "ordinary revision procedure" of the Treaties.

### 1.2.8. Participation in the Interparliamentary Cooperation between National Parliaments and with the European Parliament

In none of the responses is it indicated that a national Parliament/Chamber has debated or examined the Resolution of the European Parliament on the development of relations between the European Parliament and National Parliaments under the Treaty of Lisbon (the "Brok report") at the plenary level, or that any resolution concerning it has been adopted. However, a few answers indicate that the respective Committee on EU Affairs has given some attention to the report. In one case (the Czech *Poslanecká sněmovna)* the Committee on European Affairs has debated it, on the occasion of a visit by Mr. Brok. Also the Committee on European Affairs of the Latvian *Saeima* has examined the report. Others mention that the issues covered by the report have been discussed in a broader context (the German *Bundestag*, the Polish *Senat*), that it has been distributed to Members of the Committee on EU Affairs (the Bulgarian *Narodno Sabranie,* the Irish *Houses of the Oireachtas,* the Lithuanian *Seimas,* the Polish *Sejm*), or that Members are aware of the report, have been briefed about it, etc.

As is pointed out by the German *Bundestag*, one or more of the major points mentioned in the report – such as inviting the Members of the European Parliament representing the respective countries to participate in meetings of their Committees on EU Affairs – is already part of the practice in some national Parliaments.

Similarly, no Parliament/Chamber has specifically debated the implementation of Article 9 of Protocol 1. Some mention, however, that issues related to effective and regular interparliamentary cooperation (i.e. the issues mentioned in Article 9) have been discussed by their respective Committees on EU Affairs (the Danish *Folketing*, the French *Assemblée nationale*, the German *Bundestag*), and/or that a discussion on these issues has started or can be foreseen. The European Parliament makes reference to the "Brok report", and that the Conference of Presidents of the Political Groups (in the European Parliament) has "invited the President to conduct exploratory talks with the speakers of the national parliaments (...) in particular in the framework of the Conferences of Speakers". Also a number of national Parliaments/Chambers (e.g. the Greek *Vouli ton Ellinon*, the Irish *Houses of the Oireachtas,* the Italian *Camera dei Deputati* and the *Senato della Repubblica)* make reference to the EU Speakers' Conference with regard to discussions on the implementation of Article 9 of Protocol 1, and that the outcome of the forthcoming meeting of the EU Speakers' Conference (14-15 May 2010) could be of particular relevance for such deliberations or for the development of interparliamentary cooperation. In one or two answers similar references are also made to the discussions within COSAC.

### 1.3. REPLIES OF THE EUROPEAN PARLIAMENT

Although chapter 1 of this Report concerns the new powers of national Parliaments after the entry into force of the Treaty of Lisbon, the European Parliament has also provided information on some of the issues dealt with in this chapter.

As regards ensuring compliance of EU draft legislative acts with the principle of subsidiarity, in the European Parliament, such compliance is ensured by the committees in charge of a specific legislative dossier, together with the Committee on Legal Affairs (JURI) according to a new Rule 38a of the Rules of Procedure of the European Parliament which entered into force on 1 December 2009.

With regard to political monitoring of Europol and evaluation of activities of Eurojust, in the European Parliament it is the competence of the Committee on Civil Liberties, Justice and Home Affairs (LIBE) and the plenary. In addition, the European Parliament ensures the democratic accountability of the increasing number of JHA agencies (European Agency for the Management of Operational Cooperation of the External Borders of the Member States of the European Union (Frontex), European Asylum Support Office (Easo), and European Police College (Cepol...)).

## CHAPTER 2: THE FUTURE ROLE OF COSAC

Mentioned for the first time in the Protocol on the role of national Parliaments in the European Union annexed to the Treaty of Amsterdam, COSAC has had a fruitful existence since its creation in 1989 as a regular meeting venue of the parliamentary committees specialised in European Affairs of the national Parliaments, together with a delegation from the European Parliament.

With the entry into force of the Treaty of Lisbon, the new Article 10 of the Protocol on the role of national Parliaments in the European Union mentions a Conference of Parliamentary Committees for Union Affairs in the following terms:

"*A conference of Parliamentary Committees for Union Affairs may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the conference shall not bind national Parliaments and shall not prejudge their positions*."

Furthermore, over the past few years COSAC has acquired an important set of skills regarding the application of the principle of subsidiarity due to the subsidiarity checks undertaken on a regular basis on specific legislative proposals of the Commission. This know-how will undoubtedly prove to be invaluable for the smooth running of the so-called "early warning mechanism" established in the new Protocol 2.

Therefore, the entry into force of the Treaty of Lisbon, which includes the mentioned "mechanism", as well as a new set of tasks and powers for the National Parliaments and the European Parliament, may be as good a time as any to ponder on the future of COSAC.

The aim of this second chapter is to

(a) Identify the strengths and weaknesses of COSAC, set within the wider framework of relations between the National Parliaments and the European Parliament, as well as its influence on the day-to-day work of the parliamentary committees,

(b) Take note of the suggestions that might be forwarded by the national Parliaments and the European Parliament in order to improve the agenda, the debates and the overall procedures of COSAC, as well as in relation to the provisions included in Article 10 of Protocol 1.

## 2.1. CURRENT STRENGTHS AND WEAKNESSES OF COSAC

### 2.1.1. Debate on the COSAC Agenda Topics Prior to COSAC Meetings

A majority of Parliaments/Chambers (i.e. 21) does not hold debates on the COSAC agenda topics neither at the plenary level nor at the Committee on EU Affairs level prior to COSAC meetings. However, 11 Parliaments/Chambers do discuss the COSAC agenda topics at their Committees on EU Affairs. This is done mostly on *an ad hoc* basis. No Parliament/Chamber in their replies states that it has an established tradition to debate COSAC agenda items at the plenary level.

The reason for debating the topics on the COSAC agenda or not mostly depends on the significance of the topics (e.g. the Greek *Vouli ton Ellinon*). Furthermore, a couple of Parliaments/Chambers invite Members of their specialised committees to such debates (e.g. the UK *House of Lords*). In the Swedish *Riksdag*, the draft of the COSAC agenda is also sent to specialised committees which are offered an opportunity to comment on the topics on the agenda. Also, in some cases the topics of the COSAC meeting are taken into account when selecting Members of the COSAC delegation (e.g. the Swedish *Riksdag*).

In the case of the Baltic States and Poland, their Parliaments/Chambers have the practice of discussing, *inter alia*, the COSAC agenda prior to the COSAC meetings. The Polish *Sejm* also mentions a similar meeting with the Visegrad Group (Poland, the Czech Republic, Hungary and Slovakia).

In the Polish *Senat*, the meeting of COSAC Chairpersons is preceded by a meeting of the Committee on EU Affairs with the ambassador of the upcoming Presidency country in order to hear the Presidency priorities.

Concerning the **procedures for a debate** on the topics on the COSAC agenda, it seems that most of Parliaments/Chambers do not have regular procedures for preparing topics on the COSAC agenda.

On the other hand, ad hoc procedures are mostly mentioned in the context of preparation of the COSAC delegations (e.g. the German *Bundestag,* the Portuguese *Assembleia da República*). Such preparations could take the form of a delegation meeting prior to the ordinary meeting of COSAC (e.g. the Dutch *Tweede Kamer*), an internal briefing (the Austrian Parliament), a contribution to the interventions of delegation Members (the French *Sénat*). In addition, in the Dutch *Eerste Kamer*, the standing Committee on European Cooperation Organisations debates the agenda ahead of every COSAC meeting and gives specific instructions to the COSAC delegation as to the positions to take on the issues on the agenda.

The parliamentary body in charge of such preparation, in most cases appears to be the secretariat of the Committees on EU Affairs (e.g. the Hungarian *Országgyülés*). In case of the *Parlamentul României*, such preparations are carried out not only by the secretariat of their Committee on European Affairs, but also by the EU Law Directorate of the *Camera Deputaților* and the European Affairs Directorate of the *Senatul.*

### 2.1.2. Debate on the COSAC Contribution and Conclusions

An overwhelming majority of Parliaments/Chambers (i.e. 34) indicate that they do not hold a debate on the COSAC conclusions/contribution after each COSAC meeting.

Only a couple of Parliaments/Chambers report holding a debate after each COSAC meeting. In the Portuguese *Assembleia da República*, after each COSAC meeting (both Chairpersons' and plenary COSAC) the Chairman of the Committee on European Affairs presents a report on the meeting which is debated with the Members of the Committee together with the COSAC contribution/conclusions. In the Dutch *Eerste Kamer*, the conclusions/contribution of every COSAC meeting are debated by the standing Committee on European Cooperation Organisations and the Chairperson of the delegation routinely reports back on any developments of specific interest to the Chamber.

Although a regular debate is not held after each COSAC meeting, at a small number of Parliaments/Chambers such a debate is held on a case-by-case basis. At the French *Assemblée nationale*, a Member of the COSAC delegation, usually the Chairperson, makes a communication to the Committee on European Affairs on the COSAC meeting and this might lead to a debate. At the Italian *Camera dei Deputati,* if the Committee on EU Affairs deems it appropriate, a debate can be held. Also, at the Polish *Senat* and the Slovakian *Národná rada*, such debates are held occasionally.

Nevertheless, most Parliaments/Chambers do circulate either a report on the COSAC meeting or the COSAC documents, including the conclusions/contribution. In some cases, these documents are presented orally at the meeting of the Committee on EU Affairs. The Irish *Houses of the Oireachtas* mention that the conclusions/contribution of each ordinary COSAC meeting are included in a report, which is laid before both Houses. In the Slovenian *Državni zbor*, a report is also sent to the Members of the Committee on Foreign Policy, to the President of the Chamber, whereas in the Slovenian *Državni svet*, the information is also transmitted to the Secretary General and other interested Members. In the Hungarian *Országgyülés,* reports on the COSAC meetings are circulated to the Speaker, the leadership of the Parliament and the chairperson of the Committee on European Affairs. The Chairperson of the Committee occasionally informs the Members of the Committee on the results of the COSAC meetings.

### 2.1.3. The Effect of the Topics Debated at the COSAC Meetings and the COSAC Contribution and Conclusions

A majority of Parliaments/Chambers (i.e. 20) does indicate an effect of the activities of COSAC on their parliamentary work. The replies show that such an effect on the parliamentary work is quite diverse. For instance, the German *Bundesrat* reports that after each COSAC meeting, the Office of the EU Committee prepares an internal report on the meeting, which is then circulated to the Members of the EU Committee. In the report there is a particular emphasis on statements from the conclusions or contribution to the debates which are of relevance for the *Bundesrat*. The *Bundesrat* also states that the debate on the Commission's Annual Policy Strategy, which is now regularly conducted in its EU Committee with representatives of the Commission, was introduced largely due to an initiative promoted by COSAC to strengthen awareness of issues relating to the European Union.

A number of Parliaments/Chamber reports that debates at COSAC meetings are seen as a useful source of information and best practice for their parliamentary work. Often the COSAC documents are used as a reference and as a useful source of information for their own discussions (e.g. the French *Assemblée nationale*). The Polish *Senat* indicates that the exchange of information and of good practices within COSAC provide a valuable input into the discussions held by their Committee on EU Affairs. The *Senat* points out the particularly useful debate on the implementation of the Treaty of Lisbon at national Parliaments. In the Slovenian *Državni svet*, the COSAC conclusions/contribution are also used as a reference when the same topic is debated within their Chamber. The Dutch *Eerste Kamer* indicates that many of the substantive issues on the agenda of COSAC also feature on the agenda of their Chamber. Furthermore, the *Eerste Kamer* takes note of the views of colleagues from other Parliaments in their debates. The Finish *Eduskunta*, for its part, mentions that in principle the work of COSAC adds to the political input on which the Parliament's work is based. The Lithuanian *Seimas* mentions that the documents adopted by COSAC and in particular decisions on procedural matters have an effect on the work of the Committee on European Affairs. Furthermore, some Parliaments/Chambers indicate that the topics debated at the COSAC meetings give an impetus for addressing certain issues. Thus, in the Polish *Sejm*, the topics debated at the COSAC meetings are sometimes placed on the agenda of their Committee on EU Affairs. The Portuguese *Assembleia da República* states that the topics debated at COSAC meetings “are duly taken into account for the work in the Parliament”.

A number of Parliaments/Chambers underlines the importance of the COSAC coordinated subsidiarity checks (e.g. the Austrian Parliament). For instance, the Slovenian *Državni zbor* points out that “the coordinated subsidiarity checks and the models of dealing with EU affairs in other national Parliaments are of a particular importance”. Also, the Swedish *Riksdag* points out a specific effect of the subsidiarity checks on their relevant specialised committees. The UK *House of Commons* points out that the activities of COSAC had an effect “only in so far as the European Scrutiny Committee has participated in the subsidiarity checks coordinated by COSAC and the adaptation of working practices alongside the tests”.

Some Parliaments/Chambers, however, do not see a direct effect, but consider that the knowledge and best practice acquired within the framework of COSAC do have an indirect effect (e.g. the Greek *Vouli ton Ellinon*). The Hungarian *Országgyülés* also indicates that although the conclusions adopted by COSAC do not have a direct influence on the work of the Parliament, they provide vital information on EU issues for their Members. The Slovakian *Národná rada*, for its part, states that the work of COSAC has no direct effect on the *Národná rada*, but occasionally affects the work of their Committee on European Affairs.

#### 2.1.4. Particularly Useful Aspects of COSAC Meetings

All the Parliaments/Chambers (i.e. 39) highlighted a number of useful aspects of COSAC meetings. The most recurrent **useful aspect** put forward by a significant number of Parliaments/Chambers (i.e. 18) is the possibility given at the COSAC meetings **to exchange best practice and/or information.** In this context, the Hungarian *Országgyülés* notes that the COSAC meetings offer a unique opportunity for the interparliamentary exchange of experiences and best practices acquired on EU issues and in monitoring governmental activities in this field. The Portuguese *Assembleia da República* equally emphasises the exchange of best practices on specific topics. The *Parlamentul României* attributes great importance to the sharing of best practices, including the scrutiny procedures at national Parliaments. The Slovakian *Národná rada* indicates that for them the exchange of information and best practices between national Parliaments and the European Parliament is especially useful in the areas of new competences and responsibilities accorded to the national Parliaments by the Treaty of Lisbon. The UK *House of Commons* similarly considers as particularly useful the exchanges of information and best practice between the Committees on EU Affairs of national Parliaments on subjects of common concern (e.g. on the implementation of the Treaty of Lisbon).

Another major aspect of COSAC meetings mentioned as useful by a significant number of Parliaments/Chambers (i.e. 12), is the **COSAC-coordinated subsidiarity checks** (e.g. the Belgian *Chambre des représentants*). In this context, the German *Bundesrat* indicates that the “experience gleaned from these (checks), has been incorporated directly into considerations on implementation of the early-warning system in the *Bundesrat*”. The French *Assemblée nationale* acknowledges the qualitative work done by COSAC in coordinating the subsidiarity checks and expresses its support for the continuation of these coordinated checks. The Italian *Senato della Republica* indicates that the checks have encouraged the scrutiny of EU legislative proposals. Whereas the Dutch *Eerste Kamer* underlines that these checks have drawn attention to the importance of these aspects of parliamentary powers across the EU. In this regard, the *Eerste Kamer* indicates that the role of COSAC should be to create the conditions for an easy exchange of information and to coordinate collective action if needed.

The Swedish *Riksdag* also emphasises that the continuing process of discussions within COSAC on the application of the subsidiarity principle is possibly the best example of added value for national Parliaments. The Dutch *Tweede Kamer*, for its part, proposes to devote more time to substantive discussions at the meetings of the Chairpersons of COSAC.

The possibility given at COSAC meetings to have an **exchange of views with Ministers and Members of the Commission and the Council** is also considered by a number of Parliaments/Chambers (i.e. 10) as being very useful (e.g. the Greek *Vouli ton Ellinon,* the French *Sénat*). Among these, the UK *House of Lords* emphasises the importance of having the opportunity to question and put their views to the Presidency Minister or Commissioner responsible for a particular dossier.

Another frequently mentioned useful aspect is **the opportunity to meet colleagues from other EU Parliaments**. The Italian *Camera dei Deputati* explicitly indicates that it has always seen COSAC as a useful forum to encourage better personal contacts between Members of the Committees on EU Affairs of the national Parliaments and the European Parliament. The Dutch *Eerste Kamer* also states that COSAC meetings provide a useful opportunity to meet colleagues from other Parliaments and to have an exchange of views with them. In this regard, the Swedish *Riksdag* also underlines the importance of having the opportunity to meet with party colleagues within the political groups in connection with COSAC meetings.

Debates on relevant topics, on new mechanisms introduced by the Treaty of Lisbon, on the Presidency programme, on COSAC Bi-annual Reports, on main political documents of the EU institutions, on the current state of affairs in the EU and in individual Members States have also been mentioned as useful aspects of COSAC meetings.

### 2.1.5. Less Relevant Aspects of the COSAC Meetings

A large number of Parliaments/Chambers (i.e. 14) has not mentioned any less relevant aspects of the COSAC meetings.

The Parliaments/Chambers that have done so, point out a broad variety of such aspects. An aspect that has been mentioned several times is the (very) **general nature of the debates on either non-legislative topics or broad subjects**. Thus, for the Czech *Senát,* the very general debates relating to the topics of non-legislative nature have no direct effect on the legislative work of parliamentary Chambers, and thus are less relevant. The UK *House of Lords* indicates that it finds not very useful the broadly focused presentations from Presidency Ministers, which do not concentrate on a specific proposal currently under discussion. The French *Assemblée nationale* also questions the need and relevance of retaining very general debates like those on the Presidency's priorities, as they rarely offer an opportunity to have a deep exchange of views. The *Assemblée nationale* therefore considers that it might be more appropriate to concentrate on a smaller number of important and precise topics with the indication of specific legislative proposals. Also, the Latvian *Saeima* and the UK *House of Commons* mention that the debates on the Commission's Annual Policy Strategy and the Annual Work and Legislative Programme are not always useful, as they are already scrutinised within the responsible Committees. The Swedish *Riksdag* indicates that duplicating discussions in other fora or on already decided documents and strategies seem in general, less relevant. On the other hand, the Dutch *Eerste Kamer* singles out a significant proportion of time is dedicated to questions and answers following a presentation by a guest speaker, where Members read pre-composed statements, which not always relate to the presentation. According to the *Eerste Kamer*, this may limit the time available for effective interaction with the guest speaker.

Discussions on COSAC Bi-annual Reports, on the conclusions/contribution and subsidiarity checks are also seen by a few Parliaments/Chambers as less relevant aspects of COSAC meetings. Thus, the Spanish *Cortes Generales* state that they have serious doubts on the relevance of COSAC debates of the Bi-annual Reports. The *Cortes Generales* are of the opinion that drafting of regular reports should be avoided and that reports should be drafted on specific COSAC-related issues. Also, the UK *House of Commons* indicates that the debate on Bi-annual Reports is not as productive or as stimulating as it could be. The *House of Commons* therefore suggests focusing on issues of importance identified by the Bi-annual Report, rather than allowing statements on any aspect of the Report.

Discussions on **procedural or technical issues** are also mentioned by a few Parliaments/Chambers as being less relevant to them. The Portuguese *Assembleia da República* states that COSAC should not debate procedural aspects and should rather focus on political issues, whereas the Austrian Parliament and the Polish *Senat* generally consider procedural aspects as less relevant.

## 2.2. THE FUTURE ROLE OF COSAC

### 2.2.1. Regular Items on the COSAC Agenda

For the future planning of COSAC meetings it was considered important to find out the opinions of Parliaments/Chambers on the items which should regularly appear on the COSAC agenda. In their replies, some Parliaments/Chambers have shared their general observations. For instance, according to the Finnish *Eduskunta*, no agenda item should be retained just because it is always on the agenda and it is ultimately the COSAC Presidency, the Presidential Troika of COSAC and the meeting of COSAC Chairpersons that are responsible for the relevance and topicality of each COSAC agenda. In the opinion of the Swedish *Riksdag*, “it should be up to each Presidency to decide on the items on the COSAC agenda and the material forming the basis for discussions”.

Analysis of the replies from Parliaments/Chambers reveals a considerable diversity of views on individual regular items of the COSAC agenda.

This table provides statistics on the replies with regard to each category analysed below:

| Replies | Bi-annual Report | Presidency Programme | Principle of Subsidiarity | Contribution Conclusions | Commission APS |
|---|---|---|---|---|---|
| **YES** | 33 | 30 | 31 | 37 | 29 |
| **NO** | 5 | 7 | 8 | 1 | 9 |
| **No reply** | 1 | 2 | 0 | 1 | 1 |

**Bi-annual Reports**

An overwhelming majority of national Parliaments/Chambers (i.e. 33) and the European Parliament express support for a debate on COSAC Bi-annual Reports as a regular item on the COSAC agenda. The Bi-annual Reports drafted by the COSAC Secretariat and presented to each ordinary meeting of COSAC are generally viewed by Parliaments/Chambers as very useful in comparing different practices at national Parliaments and in providing information connected with the subjects on the COSAC agenda (e.g. the Greek *Vouli ton Ellinon,* the Italian *Camera dei Deputati*, the Lithuanian *Seimas,* the UK *House of Lords*).

On the other hand, Parliaments/Chambers underline that the Bi-annual Reports should be kept short and focused on specific topics, especially those to be debated at the COSAC meetings (e.g. the Swedish *Riksdag,* the German *Bundestag*). Some Parliaments/Chambers also point out that the Bi-annual Reports are often too wide-ranging in their form and it would be preferable to focus on more specific topics as there is no need to prepare a chapter which does not fulfil either of the above purposes (e.g. the Italian *Camera dei Deputati*, the UK Parliament).

On the other hand, five Parliaments/Chambers (i.e. the Belgian *Sénat*, the Danish *Folketing*, the Hungarian *Országgyűlés*, the Finnish *Eduskunta* and the Spanish *Cortes Generales*) are of the opinion that Bi-annual Reports should not be maintained as regular items on the COSAC agenda. In their opinion, Bi-annual Reports should not be discussed as such but in certain cases they should/could serve as a background document for other agenda points.

**Presidency Programme**

A vast majority of Parliaments/Chambers (i.e. 30) expresses their support for keeping the Presidency programme as a standing item on the COSAC agenda. For example, the Italian *Camera dei Deputati* considers it useful to hear directly from the rotating Presidency about its priorities for the six-month Presidency, which also makes it easier to exchange ideas. In this context, the UK *House of Lords* suggests considering whether COSAC would be an appropriate forum for the new President of the European Council to meet Members of national Parliaments. The European Parliament supports the debate on the Presidency programme during the meeting of COSAC Chairpersons, but thinks that at the ordinary meetings of COSAC it would be more useful to have a presentation of the Presidency programme by the country holding the following Presidency.

However, seven Parliaments/Chambers (e.g. French *Assemblée nationale* and *Sénat*, the Latvian *Saeima*, the Slovenian *Državni zbor*) would rather not discuss the Presidency programme at the COSAC meetings on a regular basis. Among those, the Swedish *Riksdag* recalls that usually, the Presidency period is halfway through by the time of the ordinary meeting of COSAC and the Presidency programme may be well-known to COSAC participants. Instead, the *Riksdag* suggests exchanging views on a short presentation of the results of the Presidency so far, but not a presentation of the Presidency programme as such.

The Finnish *Eduskunta*, for its part, urges COSAC to take note of the effects of the Treaty of Lisbon on the Council, which makes the Presidency programmes less important than before.

**The Principle of Subsidiarity**

The principle of subsidiarity as a standing item on the COSAC agenda is supported by a broad majority of national Parliaments/Chambers (i.e. 31) and the European Parliament. For instance, according to the Finnish *Eduskunta*, "as the Treaty gives COSAC a particular responsibility for subsidiarity, it would seem logical for subsidiarity to be a recurring element on the COSAC agenda, possibly as an exchange of best practice". The Swedish *Riksdag*, for its part, considers that "discussions on the application of the principle of subsidiarity would be useful".

However, a minority of Parliaments/Chambers (i.e. 8), thinks that this should not be the case (e.g. the Irish *Houses of the Oireachtas*, the Italian *Camera dei Deputati*, the Spanish *Cortes Generales*). For instance, the Italian *Camera dei Deputati* believes that "the subsidiarity experiments must cease", because "the Treaty no longer vests COSAC with the power - that it used to have - regarding subsidiarity". In the opinion of the *Camera dei Deputati*, this power is now vested in the individual Chambers of the national Parliaments.

On the other hand, the UK *House of Lords* sees no reason to maintain the principle of subsidiarity as a standing item on every COSAC agenda, because it is but a small part of the work of national Parliaments on European Union affairs. Nevertheless, the *House of Lords*, suggests raising subsidiarity issues where there are current and important subsidiarity debates and to widen the regular debate along the lines suggested by the French *Assemblée nationale* and include a regular item where Parliaments/Chambers compare the results of their policy scrutiny which includes, but is not limited to, subsidiarity. In addition, the *House of Lords* suggests holding an annual COSAC debate on subsidiarity and the experiences of national Parliaments with regard to reasoned opinions. This is put forward as a useful tool for exchanging best practice while the system introduced by the Treaty of Lisbon is still new.

**COSAC Contribution and Conclusions**

As regards debates on the COSAC Contribution and Conclusions, national Parliaments/Chambers (i.e. 37) and the European Parliament are almost unanimous in maintaining the current practice of regularly debating the Contribution and Conclusions at each ordinary meeting of COSAC. Two Chambers have chosen to share their general comments on this point. The Italian *Camera dei Deputati* is not opposed to the idea, provided that the Contribution continues to be non-binding on the participating Parliaments. While the UK *House of Lords*, having pointed out "very little impact from these" suggests seeking to invite a response from the Commission, rotating Presidency or both to the COSAC Contribution.

**Commission's Annual Policy Strategy or Similar Document**

A majority of national Parliaments/Chambers (i.e. 29) and the European Parliament are in favour of having regular COSAC debates on the Commission's Annual Policy Strategy or a similar document. For instance, the Italian *Camera dei Deputati* attributes the greatest importance to ensuring that COSAC begins to effectively examine the Commission's Annual Policy Strategy, which is a fundamental document for the legislative and policy planning of the EU. According to the *Camera dei Deputati*, this would enable COSAC "to consider the main thrusts of EU policies at an early stage, and in greater detail" and suggests that in the first semester COSAC could routinely examine the Strategy, to enable Parliaments/Chambers to identify the priority policies and sectors on which COSAC and individual Parliaments might focus their attention in the initial planning phase.

A minority of Parliaments/Chambers (i.e. 9), however, do not favour this idea (e.g. the Czech *Senát*, the Hungarian *Országgyűlés*, the Swedish *Riksdag*) mainly because of the timing concerns and the inherently general nature of the document. Thus, the French *Senát* considers that the COSAC meetings do not usually take place at a time which would allow COSAC to exert an influence on the Commission's Annual Political Strategy, moreover that “experience shows that this document is drafted in too general terms to allow an interesting and conclusive debate”. Furthermore, the UK *House of Lords* believes that these debates have not been particularly effective in the past and instead suggests COSAC debates on a strategic planning document, such as is adopted at the start of a new Commission[10].

### 2.2.2. Possibility of Adding Other Regular Items on the COSAC Agenda

Regarding the possibility of extending the list of regular items of the COSAC agenda, a majority of Parliaments/Chambers supports adding such items as debates on the Commission's Annual Work and Legislative Programme[11], on the area of freedom, security and justice, on political monitoring of Europol and evaluation of Eurojust's activities as well as on common foreign and security policy, including common security and defence policy.

As a general comment, the Irish *Houses of the Oireachtas* warn against being too prescriptive about the agenda for COSAC meetings, which would leave little room for initiatives of the Presidency or reaction to emerging issues. On the same note, the German *Bundestag* believes that the agenda should be kept flexible for accommodating ongoing and topical political developments, issues or initiatives. On the other hand, the Swedish *Riksdag* points out that all the items in this Subsection fall within the area of activities of specialised committees and could possibly be dealt with in joint committee meetings.

This table provides statistics on the replies with regard to each category analysed below:

| Replies | Commission's AWLP | Area of FSJ | Europol and Eurojust | CFSP and CSDP | Other |
|---|---|---|---|---|---|
| **YES** | 28 | 30 | 30 | 24 | 6 |
| **NO** | 10 | 8 | 8 | 12 | 8 |
| **No reply** | 1 | 1 | 1 | 2 | 25 |

**The Commission's Legislative and Work Programme**

A majority of national Parliaments/Chambers (i.e. 28) and the European Parliament favour adding the Commission's Legislative and Work Programme to the list of regular items on the COSAC agenda (e.g. the Danish *Folketing*, the Estonian *Riigikogu,* the Luxembourg *Chambre des Députés*, the Spanish *Cortes Generales*). As to the timing of the debate, the Greek *Vouli ton Ellinon* suggests holding this debate at February meetings of COSAC Chairpersons.

Ten Parliaments/Chambers (e.g. the Dutch *Tweede Kamer*, the UK *House of Commons*, the German *Bundestag*) would rather not extend the list of standing items on the COSAC agenda with the debate on the Commission's Legislative and Work Programme. As was the case with the Commission's Annual Policy Strategy, these Parliaments/Chambers seem to be mostly concerned with the issues of timing of such debates and the content of the Programme. For instance, the French *Sénat* points out that the dates of the COSAC meetings do not seem to suit such debates and, in addition, the Programme itself is presented as an enumeration of texts only

[10] Such as Political Guidelines for the New Commission by Mr José Manuel Barroso, dated 3 September 2009. See: http://ec.europa.eu/commission_2010-2014/president/pdf/press_20090903_en.pdf

[11] Under the Barroso II Commission (2010-2014) the title of the annual programme has been changed to Commission Work Programme 2010 "Time to Act" (COM (2010) 135 final)). See: http://ec.europa.eu/atwork/programmes/docs/cwp2010_en.pdf

the general subject of which is known at the time. As a possible solution, the Dutch *Tweede Kamer* suggests facilitating exchange of information in COSAC on the priorities of other Parliaments regarding the Commission's Legislative and Work Programme.

**Taking Part in the Evaluation Mechanisms for the Implementation of the Union Policies in the Area of Freedom, Security and Justice**

As to taking part in the evaluation mechanisms for the implementation of the EU policies in the area of freedom, security and justice, a large majority of Parliaments/Chambers (i.e. 30) (e.g. the Belgian *Chambre des représentants* and *Sénat*, the Luxembourg *Chambre des Députés*, the Slovakian *Národná rada)* welcome adding this issue as a regular item on the COSAC agenda.

However, some Parliaments/Chambers (i.e. 8) do not think that such an addition is necessary. For instance, the French *Sénat* thinks that for each of these subjects COSAC may play a role in jointly defining the most appropriate procedures, but once such procedures are agreed upon, it is for the national Parliaments to act together. Nevertheless, according to the *Sénat*, COSAC could have debates on these subjects, but not necessarily on a regular basis.

On the other hand, the UK *House of Lords* and the European Parliament consider that such regular and focused debates are better held in existing fora. In the opinion of the *House of Lords*, whether or not this means COSAC is a matter for the EU Speakers' Conference who will want to take into account other fora, such as meetings of the Chairpersons of the Committees on Justice and Home Affairs.

**Political Monitoring of Europol and Evaluation of Eurojust's Activities**

Adding the topic of political monitoring of Europol and evaluation of Eurojust's activities as a recurrent issue on the COSAC agenda is supported by a large majority of Parliaments/Chambers (i.e. 30) (e.g. the Estonian *Riigikogu*, the French *Assemblée nationale*, the Polish *Sejm* and the *Senat*). Among these, the Dutch *Eerste Kamer* thinks that COSAC should explore how effect can be given to this stipulation in the Treaty of Lisbon. While the UK *House of Lords* considers that such debates could possibly take place, but "further consideration needs to be given to the most appropriate forum for such oversight."

Eight national Parliaments/Chambers and the European Parliament do not favour the idea of holding regular debates on Europol and Eurojust in the framework of COSAC (e.g. the German *Bundestag*, the Dutch *Tweede Kamer*, the Spanish *Cortes Generales*, the Swedish *Riksdag*).

**Common Foreign and Security Policy, Including Common Security and Defence Policy**

More than a half of Parliaments/Chambers (i.e. 24) consider that a debate on common foreign and security policy, including common security and defence policy should be added to the list of regular items on the COSAC agenda (e.g. the Danish *Folketing*, the Irish *Houses of the Oireachtas*, the Italian *Senato della Repubblica*, the Hungarian *Országgyűlés*).

A different opinion is shared by a group of 12 national Parliaments/Chambers (e.g. the Austrian Parliament, the Czech *Senát*, the Cypriot *Vouli ton Antiprosopon*) and the European Parliament. For instance, in the opinion of the UK *House of Lords*, such debates could possibly be held by COSAC, but COFACC[12] and the regular meetings of the Chairpersons of the Committees on Defence are well established, and “it may be that the Conference of Speakers consider one or both of these a better forum for such debates than COSAC.“ The European Parliament, for its part, informs that the Committee on Foreign Affairs (AFCO) “holds currently a debate on this matter with a view to holding regular JCMs on CFSP and CSDP”.

**Other Items**

With regard to other regular items on the COSAC agenda, 25 Parliaments/Chambers have provided no further suggestions. Eight Parliaments/Chambers think that no additional items should be included on the list of regular COSAC agenda items.

Nevertheless, six Parliaments/Chambers are of the opinion that the following items could also be regularly debated in the framework of COSAC:

- COSAC-coordinated subsidiarity checks (the Czech *Poslanecká sněmovna*),
- Horizontal issues such as EU budget review (the Irish *Houses of the Oireachtas*),
- The 'Citizens initiative' (the Italian *Camera dei Deputati)*,
- Procedures for adopting delegated instruments (the Italian *Camera dei Deputati)*,
- Establishment of the European External Action Service (the Italian *Camera dei Deputati)*,
- Specific legislative proposals (the French *Assemblée nationale*),
- The state of play of EU political integration record and the analysis of developments for the revision of the Treaties (e.g. possibility of gradual elimination of opt-outs) (the *Parlamentul României*),
- The state of play of the implementation of the EU acts on financial markets (the *Parlamentul României*),
- Evaluation of the stability of the Eurozone and the state of play of introduction of single currency in Member States outside the Eurozone (the *Parlamentul României*),
- Evaluation of the functioning and effects of the principle of mutual recognition (the *Parlamentul României*),
- Evaluation of existing enhanced cooperation and the necessity to establish new ones (the *Parlamentul României*).

### 2.2.3. Necessity to Provide More Time for Debates with the EU Institutions

Debates with representatives of the Commission and the Council have been a regular feature of the COSAC meetings for many years. However, in view of the new powers provided to national Parliaments by the Treaty of Lisbon, it was considered important to know the opinion of Parliaments/Chambers on whether in the new circumstances more time needed to be allocated for such debates.

**The Commission**

As to the time allocated for the future COSAC debates with the Commission, more than half of Parliaments/Chambers (i.e. 20) have indicated that additional time would be very useful and relevant for having both wide-ranging debates on the Commission's Annual Policy Strategy and its Annual Legislative and Work Programme and focused debates on, e.g. application of

[12] The Conference of the Chairpersons of the Committees on Foreign Affairs of the EU Parliaments.

the principle of subsidiarity (e.g. the Italian *Camera dei Deputati*, the Irish *Houses of the Oireachtas*, the Swedish *Riksdag*).

On the other hand, a number of national Parliaments/Chambers (i.e. 14) and the European Parliament perceive that there is no need for additional time for debates with the Commission, since a good amount of time is already given to such debates (the UK *House of Commons*). The Finnish *Eduskunta*, for its part, warns against a potential confusion as to the nature of such COSAC debates, for "Commissioners or Ministers speaking to and taking questions from COSAC participants is not necessarily the same thing as a dialogue between COSAC and an EU Institution." The remaining five Parliaments/Chambers have refrained from expressing their views on the issue.

**The Council**

Analysis of the replies regarding COSAC debates with the Council reveals a slightly different picture with regard to allocation of additional time. More than half of national Parliaments/Chambers (i.e. 20) and the European Parliament prefer not to extend the current timing arrangement, while 12 of them favour longer debates than is the case presently.

The Swedish *Riksdag* considers that occasional debates with the Council or other institutions in scrutiny matters can be relevant. The Finnish *Eduskunta* is of the opinion that COSAC should take note of the effects of the Treaty of Lisbon on the Council, and suggests that the President of the European Council could be invited to COSAC meetings. Correspondingly, there may be less value in hearing Presidency ministers. The UK *House of Lords* also suggests that COSAC may be a good forum for an exchange of views with the President of the European Council. Several Parliaments/Chambers (i.e. 7) have refrained from expressing their views on this issue.

**Other EU Institutions**

As to COSAC debates with other EU institutions, Parliaments/Chambers, in most part, have chosen not to put forward any suggestions. Nevertheless, a few of them have suggested debates, for example, with the European Central Bank (the *Parlamentul României*) or with representatives of Europol and Eurojust (the Slovenian *Državni svet*).

### 2.2.4. Debate on EU Draft Acts, Particularly EU Draft Legislative Acts

When asked whether Parliaments/Chambers would be in favour of COSAC debating specific EU draft acts, particularly EU draft legislative acts, which are on the EU agenda, an overwhelming majority has expressed their support for such debates. Several of these Parliaments/Chambers condition their support on the following:

- The draft legislative acts are of significant political importance, they are to be dealt with both in the European Parliament and the Council and the debate would result in a position of COSAC expressed in its final Contribution (the French *Sénat*);
- The topics are current and of genuine interest to (most) participants (e.g. the Belgian *Sénat*, the Slovenian *Državni svet,* the Finnish *Eduskunta*);
- The number of draft acts to be debated is kept manageable and the draft acts are not agreed before the debates in COSAC (the UK *House of Commons* and the *House of Lords*);
- The debates are related to the subsidiarity checks (the Belgian *Chambre des représentants*, the Lithuanian *Seimas*);

- The debate falls within the eight-week period for assessing the compliance of the draft legislative act with the principle of subsidiarity or if a legislative act has been finally adopted by EU institutions regardless of reasoned opinions of national Parliaments (the Slovakian *Národná rada*);
- The timing of debates in COSAC ensures the possibility of addressing points of substance (the German *Bundestag*);
- Such debates should not become a specific recurring item on the COSAC agenda (the Irish *Houses of the Oireachtas*);

A few Parliaments/Chambers are not in favour of COSAC debating specific EU draft acts (e.g. the Dutch *Tweede Kamer* and the *Eerste Kamer*, the Czech *Poslanecká sněmovna*, the Estonian *Riigikogu,* the Slovenian *Državni zbor,* the Swedish *Riksdag*). For instance, the Dutch *Eerste Kamer* suggests that "COSAC could provide added value by promoting that Parliaments share documents that could be relevant to partners through IPEX or the national representatives in Brussels" and underlines that the primacy for substantive discussions on many draft (legislative) acts at European level should now be with the European Parliament. Similarly, the Dutch *Tweede Kamer* considers that such debates should take place in national Parliaments while COSAC "should help create the conditions for national Parliaments to take up their responsibility regarding these issues". In the opinion of the Swedish *Riksdag*, the task of organising debates on specific draft legislative acts falls within the competence of specialised committees and therefore COSAC is not the forum for such debates.

As a general rule, the Greek *Vouli ton Ellnion* and the Spanish *Cortes Generales* are not in favour of debating EU draft acts in COSAC. Nevertheless, as an exception, they agree that there may be certain drafts that deal with contentious issues that may be especially sensitive to the public opinion of a number of Member States (the Spanish *Cortes Generales*). The Greek *Vouli ton Ellnion* suggests that in case a Parliament feels that an important issue should be raised in the framework of interparliamentary cooperation, it would be better to propose its inclusion in the COSAC agenda, rather than organising a Conference itself. However, the Greek Parliament adds that this aspect of interparliamentary cooperation is "more or less covered by meetings organised by the European Parliament committees or co-organised by the European Parliament and the Presidency.

The European Parliament is not in favour of COSAC debating specific draft legislative acts as these acts are already extensively debated in its committees and in the plenary.

**Selection of the EU Draft Acts to be debated in COSAC**

Concerning selection of the EU draft acts to be debated in the framework of COSAC, a number of Parliaments/Chambers suggest that such a selection could be done by the COSAC Presidency based on suggestions submitted by national Parliaments or COSAC delegations, and/or following discussion by the Presidential Troika of COSAC (e.g. the Austrian Parliament, the Italian *Camera dei Deputati*, the Luxembourg *Chambre des Députés*, the UK *House of Commons*). Other Parliaments/Chambers suggest that the final selection is done by the Presidential Troika (e.g. the Belgian *Sénat*, the Cypriot *Vouli ton Antiprosopon*, the Hungarian *Országgyűlés*, the Polish *Senat)*, by the meeting of COSAC Chairpersons (e.g. the Czech *Senát*, the French *Assemblée nationale* and the *Sénat*), or alternatively by the ordinary meeting of COSAC (e.g. the Bulgarian *Norodno Sabranie*, the Italian *Senato della Repubblica*). In addition, Parliaments/Chambers suggest following the procedure established during the COSAC subsidiarity pilot checks (e.g. the German *Bundestag* and the *Bundesrat*, the Latvian *Saeima*, the Portuguese *Assembleia da República*, the UK *House of Lords*) or the procedure under Articles 7.1, 7.2 and 7.3 of the COSAC Rules of Procedure (the Danish *Folketing*). Furthermore, the Latvian *Saeima* notes that national Parliaments could propose which acts could be reviewed in COSAC after a presentation of the Commission's Annual Work and Legislative Programme at a COSAC meeting.

For example, the Italian *Camera dei Deputati* believes that all Parliaments should take part in such a selection. Consequently, the *Camera dei Deputati* suggests that the Presidency invites all Parliaments/Chambers to propose a list from which the Presidency would select the ten most frequently mentioned draft legislative acts to be tabled for the meeting of COSAC Chairpersons, from which the Chairpersons could carry out a further selection on which the Conference could have a say.

As to the number of EU draft acts to be scrutinised in COSAC, the German *Bundestag* underlines that the drafts should be dealt with selectively, and not at every COSAC meeting; the Portuguese *Assembleia da República* considers it important that some flexibility is left for the Presidency (and the Presidential Troika) to decide, if a certain proposal is considered relevant to be included in the agenda; the Italian *Senato della Repubblica*, for its part, proposes that each ordinary meeting of COSAC could debate two EU draft legislative acts, i.e. the total of four per year.

**COSAC Bi-annual Report as a Basis for the Debate**

Another aspect of the discussion on how to organise COSAC debates on EU draft acts, is the basis for such a debate. Parliaments/Chambers have been asked whether they consider that a chapter in the COSAC Bi-annual Report, analysing the contributions of each delegation, would be a proper basis for such a debate. The replies reveal that there is no clear majority in favour or against such a basis. For example, the Belgian *Sénat* is of the opinion that the debate could be based on a chapter, or any other written consultation document. The German *Bundesrat* considers that it would be good idea since preparing debates by means of the Bi-annual Report has so far proved to be a useful approach. However, the Lithuanian *Seimas* supports this solution provided a threshold is reached concerning subsidiarity checks. Also, the UK *House of Lords* considers it important to establish the views of all Chambers before the meetings, to allow for a more informed debate, but states that this could be more easily achieved through informal exchanges of information between national Parliaments' representatives in Brussels rather than through a questionnaire. The Danish *Folketing* points out that the COSAC Secretariat could be asked to draw up a specific background document on the legislative proposal.

**Participation of the Member of the Commission, the *rapporteur* of the European Parliament or the Chairpersons of Competent Parliamentary Committees**

In reply to the question concerning participation of a Member of the Commission, the *rapporteur* of the European Parliament, or Chairpersons of the competent parliamentary committees at a possible debate on EU draft acts at COSAC meetings, an overwhelming majority of Parliaments/Chambers has answered “yes”. However, some Parliaments/Chambers add that the responsible Minister of the current Presidency would be a useful addition (e.g. the Belgian *Sénat* and the UK *House of Lords).*

**Participation of Members of National Parliaments Responsible for the Subject-matter**

Approximately half of national Parliaments/Chambers support the participation in such possible COSAC debates of the Members of Parliament who work on the subject-matter in their Parliaments/Chambers (e.g. the Austrian Parliament, the Belgian *Chambre des représentants,* the German *Bundesrat*, the Hungarian *Országgyűlés*, the Polish *Sejm* and *Senat*). Some of the replies indicate that this depends on circumstances. For instance, the *Parlamentul României* replies that it is in favour of such debates organised on a case by case basis and the UK *House of Commons* is in favour as long as the Member in question is a Member of the Committee on EU Affairs. Several Parliaments/Chambers underscore that it is for each national Parliament to decide, (e.g. the Czech *Senát*, the Finish *Eduskunta,* the French *Sénat*, the Portuguese *Assembleia da República*, the Lithuanian *Seimas*). Only a few Parliaments/Chambers are not in favour of the participation of Members who work on special subjects, (e.g. the Irish *Houses of the Oireachtas,* the Italian *Camera dei Deputati* and the *Senato della Repubblica*). While the Latvian *Saeima* underlines that the participation should depend on the issues addressed, and it should not be mandatory.

**Elements of Consensus as a Part of the COSAC Contribution**

An overwhelming majority of the respondents are in favour of elements of consensus found during COSAC debates on EU draft acts forming a part of the COSAC Contribution, (e.g. the Bulgarian *Narodno Sabranie*, the Cypriot *Vouli ton Antiprosopon*, the German *Bundestag*, the Italian *Camera dei Deputati*, the Polish *Sejm* and *Senat*). The Danish *Folketing* notes that this is already taking place. The Hungarian *Országgyűlés* considers that it would send a clear message to the EU institutions and to the citizens. Whereas the UK *House of Lords* suggests that when sending the contribution to the EU Institutions, they should be asked to respond.

On the other hand, some Parliaments/Chambers do not support the idea that elements of consensus found during discussions could form a part of the Contribution (e.g. the Czech *Senát*, the Irish *Houses of the Oireachtas*, the Slovenian *Državni zbor* and the *Državni svet*). While the German *Bundesrat* thinks that the idea should be reviewed diligently and discussed thoroughly bearing in mind that COSAC Contributions cannot bind national Parliaments.

**List of EU Draft Acts that Could be Debated in COSAC**

A vast majority of the Parliaments/Chambers has not submitted proposals of EU draft acts for a debate in COSAC. The main reason for such a decision mentioned by Parliaments/Chambers in their replies is the fact that the Commission's Work Programme for 2010 had not been published at the time their replies were drafted (e.g. the Czech *Senát*, the Danish *Folketing,* the Portuguese *Assembleia da República* the Slovakian *Národná rada*). The Austrian Parliament notes that such proposals are only feasible for the next COSAC ordinary meeting. The Hungarian *Országgyűlés* suggests that these lists should focus on draft legislative acts which are on the agenda of the running Presidency. While the German *Bundestag* underlines that before submitting a list, a decision on "if" should be taken.

Nevertheless, some Parliaments/Chambers have submitted proposals for eventual debates in COSAC, including the following:

- Proposal for a Regulation of the European Parliament and of the Council on the implementation of the citizens initiative; Proposal for a Regulation of the European Parliament and of the Council amending regulation (EC) No 44/2001 on jurisdiction, recognition and enforcement of judgments in civil and commercial matters (Brussels I) (the Bulgarian *Narodno Sabranie*);

- Proposal for a Regulation of the European Parliament and of the Council on the implementation of the citizens initiative; Proposals for Regulations on political monitoring of Europol and evaluation of activities of Eurojust (the Italian *Senato della Repubblica*);
- Proposal for a Directive on consumer rights; the Financial Regulatory Package; and eventually carbon taxation and energy policy (the French *Assemblée nationale*);
- The Swift; Proposal for a Directive on consumer rights; soil protection (the French *Sénat*);
- Proposals pertaining to the Stockholm Program (the Luxembourg *Chambre des Députés*);
- Directive of the European Parliament and of the Council on the European Protection Order; Amended proposal for a Regulation of the European Parliament and of the Council on establishing an Agency for the operational management of large-scale IT systems in the area of freedom, security and justice; Proposal for a Regulation of the European Parliament and of the Council lying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (the *Parlamentul României*);
- The Commissions' better regulation agenda; EU 2020; the review of the budget, the future of cohesion funds, the common fisheries policy, the common agricultural policy (the UK *House of Lords*).

### 2.2.5. COSAC-coordinated Subsidiarity Checks

A decision to conduct COSAC-coordinated subsidiarity pilot checks was taken at the XXXII COSAC meeting in the Hague in October 2004 in order to assess how the subsidiarity early-warning mechanism provided in the Treaty Establishing a Constitution for Europe (later, in the Treaty of Lisbon) might work in practice. During the following five years, until the end of 2009, **COSAC conducted eight such subsidiarity checks**.

In general, Parliaments/Chambers have expressed their satisfaction with the subsidiarity checks conducted jointly in the framework of COSAC and the effect they have had on the development of parliamentary procedures. However, **there is no clear consensus on the continuation of the coordination of COSAC subsidiarity checks.**

Nineteen Parliaments/Chambers express their **support for the continuation** of the checks. On 26 November 2009, eight Chairpersons of the Committees on EU Affairs of the Parliaments/Chambers of seven Member States[13] wrote a letter to the then-Swedish Presidency of COSAC in which they underlined that the pilot checks "have promoted awareness by the national Parliaments and allowed COSAC to act as an effective platform for mutual coordination"; also, as a result, the parliamentary proceedings have become more transparent. Therefore, in order "not to lose this achievement" the signatories of the letter urged COSAC "to build upon past years' experience" and to "consider turning the annual pilot exercises into standing practice of coordinated exchange of views of national Parliaments scrutinizing especially remarkable legislative proposals of the EU." In their opinion, it is by this means that

[13] The Czech *Poslanecká sněmovna,* the Czech *Senát*, the Dutch *Tweede Kamer*, the French *Sénat*, the German *Bundestag*, the Polish *Senat*, the Slovakian *Národná rada* and the Slovenian *Državni zbor.*

COSAC is to be used as an effective coordination tool for subsidiarity checks conducted by national Parliaments.

Unsurprisingly, other Parliaments/Chambers in their replies to the questionnaire also share the view that the checks have been "an efficient instrument during the test phase" (the Austrian Parliament), "very valuable in preparing for implementation of the Lisbon Treaty" (the UK *House of Lords*) or "partly useful, particularly to find out how all the parliaments are equipped to perform subsidiarity checks" (the Italian *Camera dei Deputati*). According to the Danish *Folketing,* "it is important that COSAC continues the subsidiarity checks", because "the checks raise the awareness of Members regarding their responsibility *vis a vis* monitoring the subsidiarity principle and the checks promote a European approach to the issues". The *Folketing* underlines that COSAC provides the possibility for Members of Parliament to discuss any issues with representatives of the Commission and the European Parliament. Moreover, in the opinion of the Portuguese *Assembleia da República*, the COSAC-coordinated subsidiarity checks have been the only mechanism currently enabling the selection of two priority proposals a year for all 27 national Parliaments as well as the only moment when all national Parliaments have been working on the same proposal. In addition, the *Assembleia da República* finds the evaluation reports drafted by the COSAC Secretariat very useful for the exchange of best practice and for the improvement of the scrutiny procedures.

Most of the supporters of the idea of continuing the COSAC-coordinated subsidiarity checks, including the signatories of the letter of 26 November 2009 suggest **following the procedure established during the pilot checks,** including the procedure for selecting proposals whereby in reply to a call by COSAC, national Parliaments would hand in their suggestions based on the Commission's Annual Legislative and Work Programme.

The Belgian *Sénat* also suggests the Commission's Annual Policy Strategy and suggestions from national Parliaments as a possible source for the selection. It is suggested that, based on the suggestions from national Parliaments, the COSAC Secretariat would compile a priority list from which national Parliaments would jointly select specific draft legislative acts to be subjected to check in the framework of COSAC that year. As to the results of such a selection, Parliaments/Chambers suggest that those draft legislative acts which potentially pose subsidiarity concerns (the Belgian *Sénat)*, which are considered of particular importance to most Parliaments (the Dutch *Eerste Kamer*) or "especially remarkable legislative proposals of the EU" (the letter of 26 November 2009) should be given priority.

As to the **number of such subsidiarity checks**, Parliaments/Chambers suggest conducting one per semester (the Danish *Folketing*), at least twice a year (the Latvian *Saeima*), limit them to 2-3 proposals (the Dutch *Eerste Kamer*), or to a total of four per year (the Italian *Senato della Repubblica*). According to the Danish *Folketing,* in case additional checks are requested by Parliaments, the possibility could be considered of introducing a procedure whereby ¼ of the Parliaments could ask to have a subsidiarity check run on a particular proposal. Additionally, the *Folketing* suggests putting a proposal on the agenda of COSAC for discussion if a third of national Parliaments find a European legislative proposal in non-compliance with the principle of subsidiarity and the Commission decides to maintain the proposal.

As to the **coordination and the aims of such checks**, the Dutch *Eerste Kamer* is of the opinion that the primary objective of COSAC should be to ensure that information on all subsidiarity checks is easily available. For the *Eerste Kamer* it is important to develop a system where all subsidiarity checks from all Parliaments are fully transparent through IPEX. Also, an additional benefit of such checks would be balanced COSAC meetings in terms of procedural and substantive aspects.

According to the German *Bundestag*, COSAC and its Secretariat should concentrate its work in identifying draft acts and coordinating the positions of national Parliaments (also informally) at an early stage within the eight-week deadline. For that purpose, the *Bundestag* suggests further developing and taking advantage of the existing infrastructure of COSAC (Secretariat in Brussels, website, cooperation between national Parliaments). The German *Bundesrat* also underlines the added value of the joint checks in ensuring greater coordination of the positions of national Parliaments and suggests that "one or several *rapporteur* Parliaments" could endeavour to issue their subsidiarity statements as early as possible. These statements could then be integrated into deliberations in other Parliaments/Chambers when they conduct their checks. Such opinions, according to the *Bundesrat*, would have a greater impact if these checks were based on the same or similar criteria, especially "if it is not possible to attain a quorum". The UK *House of Lords* concludes that "if the subsidiarity checks continue, and if targets are chosen with care, the procedure might offer the best chance of getting all the way to a yellow/orange card in the time allowed." Finally, the Danish *Folketing* suggests carrying out a review of any such arrangements after two or three years.

As to the **reports on the results** of the subsidiarity checks drafted by the COSAC Secretariat, the Portuguese *Assembleia da República* considers them very useful for the exchange of best practice and for the improvement of scrutiny procedures. However, the German *Bundestag* thinks that at this stage, with the Treaty of Lisbon now in force, the "questionnaires, reports, etc do not seem to be necessary anymore". Instead of the current practice of having an evaluation report after each subsidiarity check, the Polish *Senat* suggests COSAC Bi-annual Reports as "a useful instrument in this respect."

There are, however, sixteen national Parliaments/Chambers and the European Parliament that believe that following the entry into force of the Treaty of Lisbon there is **no need for COSAC to continue coordinating joint subsidiarity checks**. For instance, the Italian *Camera dei Deputati* expresses a clear-cut position that "the subsidiarity experiments must cease", because "the Treaty no longer vests COSAC with the power - that is used to have - regarding subsidiarity". According to the *Camera dei Deputati*, the power to scrutinise subsidiarity now is vested in the individual Chambers of the national Parliaments. Similarly, the Finnish *Eduskunta* considers that now all national Parliaments are supposed to independently carry out subsidiarity checks on all legislative proposals covered by the relevant Treaty Protocols and for COSAC to coordinate just a few of them is not helpful.

According to a number of Parliaments/Chambers, instead of coordinating subsidiarity checks COSAC should instead hold debates on the application of the principle of subsidiarity (e.g. the Austrian Parliament). Among those, the Spanish *Cortes Generales* consider it more useful for COSAC to provide a forum for exchanging information and best practices regarding the subsidiarity checks that will henceforth become a day-to-day feature of the proceedings of each national Parliament. Also, according to the Lithuanian *Seimas*, application of the principle of subsidiarity should stay on the COSAC agenda in order to appropriately use the new powers granted to national Parliaments by the Treaty of Lisbon.

However, in this context, some Parliaments/Chambers see broader potential tasks for COSAC and its Secretariat. According to the Irish *Houses of the Oireachtas*, COSAC should continue to invite national Parliaments to consider the Commission's Annual Legislative and

Programme with a view to identifying envisaged legislative proposals which they consider to be potentially controversial in relation to subsidiarity. The *Houses of the Oireachtas* suggest that the list should be compiled by the COSAC Secretariat. However, COSAC should not continue coordinating subsidiarity checks, but the analysis of experiences could form part of the discussion on its Bi-annual Report. The French *Assemblée nationale* suggests that in cases when the reasoned opinions exceed a certain number (e.g. 5) the COSAC Secretariat could draft a report on the opinions and encourage other Parliaments to get involved in the matter as soon as possible.

The Slovenian *Državni svet*, on the other hand, envisages slightly narrower tasks for COSAC which "could just discuss the state of affairs in Member States regarding the subsidiarity checks or maybe 'IPEX reports' on this matter".

There is a third group of Parliaments/Chambers that have not expressed a clear position on the issue of continuation of the COSAC-coordinated subsidiarity checks or have given a conditional answer. For instance, the Hungarian *Országgyűlés* believes that "if COSAC maintains any coordination that should be focused on technical and procedural issues like deadlines, thresholds, etc." The Swedish *Riksdag* considers that "since COSAC has gained considerable and valuable experience, and developed a mechanism for comparison, COSAC could continue the performance of this task if more experience is needed." According to the *Riksdag* "there should still be no elements that limit or force participation" however, "the role of COSAC should still be to hold discussions on the application of the subsidiarity principle." The Greek *Vouli ton Ellinon* is of the opinion that "since some of the Parliaments do not examine all the legislative proposals in terms of their compliance with the principle of subsidiarity but proceed to a selection, it would be useful to have a common selection procedure in place which would be connected with the discussion of the Commission's Legislative and Work Programme." While the UK *House of Commons* maintains that "this is not a priority for the House of Commons; the European Scrutiny Committee already carries out subsidiarity checks on all documents that are deposited by the UK Government under Standing Order No. 143.[14]"

**2.2.6. COSAC and Political Groups**

Meetings and discussions within political groups have been a regular feature before ordinary meetings of COSAC since 2005. In view of drafting this Report, Parliaments/Chambers have been asked whether, in their opinion, more time was needed for deliberations in political groups during the ordinary meetings of COSAC and whether such deliberations should be organised during the meetings of the Chairpersons of COSAC.

The analysis of the replies with regard to longer political group meetings has revealed divergent views of Parliaments/Chambers. A large majority of respondents neither favours devoting more time to deliberation in political groups during the ordinary meetings of COSAC (i.e. 26) nor holding political group meetings during the meetings of the Chairpersons of COSAC (i.e. 29). According to the Belgian *Chambre des représentants*, COSAC is not a political conference but an instrument to improve the coordination of EU issues among Parliaments; consequently, "meetings of political groups in the framework of COSAC are incoherent with its functions". The Italian *Camera dei Deputati*, for its part, does not think it would be appropriate to hold a meeting of the political groups during the meetings of COSAC

[14] Find at: http://www.publications.parliament.uk/pa/cm/cmstords.htm

Chairpersons. The *Camera dei Deputati* puts forward two important motives: first, not all political groups are represented within the delegations of each Parliament and, secondly, in many Parliaments the Chairpersons attend COSAC meetings as representatives of their Committee, and not as members of any specific political group or political family. In addition, the Greek *Vouli ton Ellinon* notes that there isn't always a clear political affiliation between national Parliaments and the political groups of the European Parliament. Thus, the *Vouli ton Ellinon* questions the necessity of such meetings.

Nevertheless, a number of Parliaments/Chambers have expressed their explicit support for political group activities during COSAC meetings. For instance, the Italian *Senato della Repubblica* considers them undeniably constructive for the activities of COSAC and the Belgian *Sénat* considers them important for the preparation of the ordinary meetings of COSAC and adds that the political group meetings should be as long as necessary. The *Sénat* even goes further and suggests organising meetings of other group before or during the ordinary meetings of COSAC (e.g. Greens, women, etc.). The Italian *Camera dei Deputati*, for its part, suggests organising political group meetings outside the time dedicated to the COSAC meeting, if possible the day before. The Finnish *Eduskunta* is of the view that the political groups can each decide whether they want to meet and the organisers should simply provide a time slot and rooms for such meetings, to be used or not, as the political groups decide.

Also, a small group of national Parliaments/Chambers and the European Parliament support the idea of devoting more time to discussions within European political families during the ordinary meetings of COSAC (i.e. 6). The Swedish *Riksdag* and the UK *House of Commons* seem to be among the most enthusiastic supporters of this idea. The Swedish *Riksdag* suggests devoting more time to deliberation in political groups "since these cross-border party meetings are particularly useful" and recalls that this idea has been supported and put forward by the Committee on EU Affairs of the Swedish *Riksdag* on previous occasions. The UK *House of Commons*, for its part, thinks that the political group meetings should be chaired by the host Parliaments delegation from the respective political grouping, but a longer meeting would allow the "European Parliamentary Group contributions to be included in the business." The Lithuanian *Seimas* also suggests reconsidering the timing of political group meetings during the ordinary meetings of COSAC. In addition, the Lithuanian *Seimas,* the UK *House of Commons* and the European Parliament consider it useful to have political group meetings at the meetings of the COSAC Chairpersons.

#### 2.2.7. Improvements Regarding the Existing Resources of COSAC

The analysis of the replies to the question on possible improvements to the existing resources of COSAC, especially the COSAC Secretariat, reveals that a vast majority of national Parliaments/Chambers (i.e. 29) and the European Parliament are satisfied with the current state of affairs (e.g. the Czech *Poslanecká sněmovna*, the German *Bundesrat*, the French *Assemblée nationale*, the Slovenian *Državni zbor* and the *Državni svet*) or has no specific comments on the matter (e.g. the Greek *Vouli ton Ellinon*, the Finnish *Eduskunta*, the Polish *Senat*). For instance, the Dutch *Eerste Kamer* is pleased with the high level of service provided by the Secretariat, the Lithuanian *Seimas* considers that the current practice is proper and there seems to be no need for the modifications at the moment, the Danish *Folketing* is of the opinion that the Secretariat has been a very valuable creation which has improved the quality of preparations of COSAC meetings significantly, while the Italian *Camera dei Deputati* believes that with the existing resources the COSAC Secretariat has performed its functions well, particularly in recent years, also thanks to the contribution of the present permanent member.

Specific suggestions put forward by Parliaments/Chambers regarding improvements of the existing resources of COSAC concern the cooperation of COSAC with the EU Speakers' Conference, the COSAC Bi-annual Reports, its website, the preparation of COSAC agendas and the Secretariat staff.

As to **cooperation of COSAC with the EU Speakers' Conference**, the Dutch *Tweede Kamer* suggests that it would be useful to start a debate about such cooperation. Also see sub-section 8c on Organisation of Interparliamentary Conferences.

As regards **COSAC Bi-annual Reports and background notes**, the Danish *Folketing* points out that the Bi-annual Reports are very valuable sources of information - not just for the COSAC delegations, but also for academics and others with particular interest in the involvement of national Parliaments in EU matters. In addition, the *Folketing* suggests asking the Secretariat to produce factual background notes on specific agenda items for COSAC. In this context, the Portuguese *Assembleia da República* notes the positive development in the past years with regard to the Bi-annual Reports and background notes supplied on some important issues debated at COSAC meetings. The *Assembleia da República* calls for maintaining the practice of regularly consulting national Parliaments about future topics they deem relevant to be discussed in the framework of COSAC and analysed in the Bi-annual Reports as well as the practice consolidated over the last two to three years of streamlined questionnaires put to national Parliaments.

As to the **preparation of the COSAC meetings**, in particular the advanced publication of draft agendas, the Dutch *Eerste Kamer* suggests that "perhaps the Secretariat could offer additional assistance to Presidencies so as to ensure that agendas of COSAC meetings are consistently received well ahead of meetings". The *Eerste Kamer* underlines that in order for COSAC delegations to be able to take part in more substantive debates, ample opportunity should be available to discuss the agenda within the respective parliamentary committees in preparation for COSAC meetings. Also, the Danish *Folketing* suggests considering involving the Secretariat even further in the planning and preparation of COSAC meetings.

The Belgian *Chambre des représentants*, the Danish *Folketing* the Portuguese *Assembleia da República* and the European Parliament suggest upgrading the **COSAC website** which has become an extremely important source of information and now needs to be made user-friendly and orientated towards the effective results of COSAC work.

As to the **COSAC Secretariat** and, in particular its size, four Chambers/Parliaments prefer maintaining the current *status quo* and keeping it to a minimum. Thus, the Dutch *Tweede Kamer* is of the opinion that it should remain limited in size. The UK *House of Commons* recalls that COSAC needs to be mindful of the pressures on the budgets of many Parliaments at this time when it comes to requests for resources. In the same line, the Spanish *Cortes Generales* consider that insofar as the future of COSAC remains in doubt, the permanent resources of COSAC should be kept to a minimum. Similarly, the Swedish *Riksdag* is of the opinion that "no new resources are called for, for the time being, due to the fact that tighter meetings should be strived for."

The Irish *Houses of the Oireachtas* point out the practice whereby the country holding the Presidency supplies a member of staff and thinks that this practice should continue and be encouraged. While the UK *House of Lords* thinks that "given the fact that a permanent member of the COSAC Secretariat has been working for some time, it might be a good time now to review her role to ensure that we can demonstrate value for money".

There are, however, opinions that the existing infrastructure of COSAC. i.e. the Secretariat, website and cooperation between national parliaments, should be further developed and taken advantage of (the German *Bundestag*), including suggestions to add five more permanent posts financed in the same way as the present post, but having the headquarters in the national Parliament of the incumbent (the *Parlamentul României*).

### 2.2.8. Composition of the Conference

In view of Article 10 of Protocol 1 which provides for the possibility for the Conference of Parliamentary Committees for Union Affairs, inter alia, to "*promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees*" and to "*organise interparliamentary conferences on specific topics*", it was considered important to ask Parliaments/Chambers of their opinions as to the need to modify the current composition of COSAC.

In their replies to this question, an overwhelming majority of national Parliaments/Chambers (i.e. 35) and the European Parliament see no reason for any modification of the current composition. Their motives include the following:

- "Since Article 10 refers to Committees for EU Affairs, we don't see how the composition of the Conference could be modified, however, some small ad hoc changes in the composition of delegations could be made in order to better adapt to the need for expertise" (the Greek *Vouli ton Ellinon*);
- "The composition of COSAC was neither established in the Amsterdam Protocol on the role of national Parliaments. So the fact that Protocol 1 of the Treaty of Lisbon does not mention the composition does not in itself justify any modification of COSAC's composition. The current composition of six Members per Member State is appropriate and well established in paragraph 4.1 of the Rules of Procedure (the Danish *Folketing*);
- "Modifications of COSAC composition should only be considered after detailed discussions" (the German *Bundesrat*);
- "The representatives of the EU Policy Committees of the national Parliaments and of the competent bodies of the European Parliament are the most appropriate parties to exchange views on the experiences and positions of their respective Assemblies" (the Italian *Camera dei Deputati*);
- "Any alteration would widen the source of Members and would reduce the focus and diminish the credibility of COSAC" (the UK *House of Commons*).

The Danish *Folketing* also points out that if a national Parliament should wish to include Members of a specialised committee in its COSAC delegation; this should be allowed in accordance with the wording of Article 10, which encourages national Parliaments to promote the exchange of information between specialised committees of national Parliaments in the framework of COSAC. The *Folketing* suggests considering the possibility of carrying out a review of any such arrangements after 2 or 3 years.

The Swedish *Riksdag*, however, looks at the issue in a wider context, i.e. that "the question of modification of the composition of COSAC is connected with the issue of COSAC's tasks. At this point there seems to be no immediate need for modification". COSAC is an important forum for exchange of information and best practices between bodies for EU affairs in national parliaments, notwithstanding slightly different roles according to national rules. According to the *Riksdag*, in order to accomplish as interesting and fruitful discussions as possible, it is of course important that the delegations are suitably composed.

On the other hand, two Parliaments see a possibility of modifying the current composition of COSAC. The Finnish *Eduskunta* is of the opinion that the composition of COSAC can be changed by amending the Rules of Procedure. Article 10 could be interpreted as giving COSAC a coordinating role also for specialised committees and Committees on Foreign Affairs. According to the *Eduskunta* “one could imagine these meetings under the COSAC banner” and since the issue is sensitive, it should be explored in greater depth.

The Spanish *Cortes Generales* think that “it could be useful to turn COSAC into a forum of national Parliaments, as no such forum exists today. This could provide an added value to COSAC and would contribute to avoiding confusion with other venues like the Joint Parliamentary Meetings organised by the European Parliament.” The *Cortes Generales* underline that the European Parliament already has a number of instruments of interparliamentary cooperation with national Parliaments, like the Joint Parliamentary Meetings and related meetings. Furthermore, the *Cortes Generales* point out that from an institutional point of view, as the Conference may submit contributions to, amongst others, the European Parliament, “it does not seem logical that the European Parliament should have a say and a vote regarding this contribution”. Since “in relation to other EU Institutions that are possible recipients of the COSAC contributions, the European Parliament has a number of intra EU procedures at its disposal and should not use COSAC for that purpose” and “may possibly participate as an observer to COSAC, together with other EU institutions (e.g. the Council of the EU and the Commission, in accordance with Article 4.3 of the Rules of Procedure).”

**2.2.9. Acronym of the Conference**

Article 10 of Protocol 1 defines the role of the Conference of Parliamentary Committees for Union Affairs without mentioning the current acronym of the Conference 'COSAC'. In view of the fact, it was considered useful to find out what Parliaments/Chambers think about the current acronym and its possible substitution with another one.

As a general comment, the Finnish *Eduskunta* points out that “in view of the *travaux préparatoires* of the Treaty, we take it for granted that the article refers to COSAC.”

As regards the current acronym of the Conference, a large majority of Parliaments/Chambers (i.e. 27) has expressed their support for 'COSAC' preferring to keep it unchanged (e.g. the Austrian Parliament, the Dutch *Tweede Kamer* and the *Eerste Kamer*, the Luxembourg *Chambre des Députés*, the Polish *Senat*) or has held no debates on this issue (i.e. the French *Assemblée nationale*, the Irish *Houses of the Oireachtas*, the German *Bundestag*).

The **motives for keeping the current acronym** range from historic to those of continuity and consistency. The Austrian Parliament and the Greek *Vouli ton Ellinon* recall a similar debate in 2002 during the Danish Presidency which did not produce a better alternative. The Italian *Camera dei Deputati* opposes a change because the acronym 'COSAC' is “widely known and well established”. Similarly, the Finnish *Eduskunta* contends that ‘COSAC’ “has a certain history”, it is “widely recognised and easy to pronounce and remember, rather like the film in the yellow box.” Therefore, the *Eduskunta* suggests keeping the current acronym and introducing a more current long title. The French *Sénat* thinks that “today COSAC begins to be known in all European circles without anyone knowing it is an acronym; therefore it may not be necessary to change its name at the risk of blurring the understanding and clarity." Furthermore, the German *Bundesrat* warns that other acronyms would probably not be meaningful to the general public. The Spanish *Cortes Generales* also note that a change may result in confusion and a probable increase of expenses, moreover that the Treaty does not preclude the possibility of maintaining the current acronym COSAC.

A group of Parliaments/Chambers, however, **support a possible change** of the current acronym (i.e. 4) or are open to considering such a change (i.e. 4). The UK *House of Commons* points out to the fact that the current acronym does not give any explanation as to the purpose of the conference. The Belgian *Sénat*, on the other hand sees a need to encompass as much as possible the wording of Article 10, i.e. 'Conference of Parliamentary Committees for Union Affairs'. Therefore, Parliaments/Chambers, advocating such a change, have put forward the following alternative solutions:

- '**COSAU**' (Conférence des organes parlementaires spécialisés dans les affaires de l'Union) (the Slovenian *Državni zbor*);
- **'Conference of Parliamentary Committees for Union Affairs'** (the Belgian *Sénat*);
- **'Conference of the European Affairs Committees'** (the *Parlamentul României*);
- **Different acronyms in all EU official languages** (the Bulgarian *Narodno Sabranie*);
- '**CPCUA**' or '**COPSAU**' (the Bulgarian *Narodno Sabranie*).

As mentioned above, some Parliaments/Chambers (e.g. the Czech *Poslanecká sněmovna*, the Swedish *Riksdag*, the UK *House of Commons* and the *House of Lords*) and the European Parliament are open to holding a debate on the possible new name of COSAC, following the changes introduced by the Treaty of Lisbon.

### 2.2.10. Organisation of Interparliamentary Conferences

Article 10 of Protocol 1 provides that "*A conference of Parliamentary Committees for Union Affairs <...> may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy*".

Analysis of the replies to the question on the need to amend the COSAC Rules of Procedure to allow it to organise interparliamentary conferences on specific topics reveals a clear division in the opinions of Parliaments/Chambers.

A majority of national Parliaments/Chambers (i.e. 22) and the European Parliament see no need to modify the current COSAC Rules of Procedure (e.g. the Czech *Sénat*, the German *Bundesrat*, the Hungarian *Országgyűlés*, the Portuguese *Assembleia da República*). For instance, the Polish *Sejm* and the Austrian Parliament believe that first all interparliamentary work on future interparliamentary cooperation should be taken into account and relations between COSAC and other fora, in particular the EU Speakers' Conference need to be clarified. The same opinion is shared by the Dutch *Eerste Kamer*, which suggests that COSAC benefits from the discussion within the EU Speakers' Conference.

According to the Greek *Vouli ton Ellinon*, since Article 10 provides the possibility to organize interparliamentary conferences, especially on matters of common foreign and security policy, including common security and defence policy, COSAC should respond and proceed to organizing such conferences, in order to enhance democratic accountability in the above mentioned policies. Also, the Danish *Folketing* considers that "obviously, interpaliamentary conferences organised by COSAC should include foreign and security policy and defence issues as this is foreseen in Protocol 1". Otherwise, it should be an ad-hoc decision by COSAC on the organisation and format of a conference on other topics.

The other reason put forward by Parliaments/Chambers for keeping the COSAC Rules of Procedure unchanged is their flexibility. For instance, in the opinion of the German *Bundesrat* there does not appear to be an urgent need to amend COSAC's Rules of Procedure, because they offer the requisite flexibility to organise conferences on specific topics. The Latvian *Saeima* shares a similar opinion in pointing out that the COSAC Rules of Procedure set forth the procedure for adopting the COSAC agenda, which covers cases of adopting an agenda containing specific issues, therefore there is no need to introduce any amendments to the Rules of Procedure. Similarly, the Portuguese *Assembleia da República* maintains that the current Rules of Procedure seem to be fit to accommodate this issue.

Analysis of the replies also indicates that regardless of the fact that Article 10 specifically provides for a possibility for COSAC to organise interparliamentary conferences on specific topics, some Parliaments/Chambers are cautious about this novelty. For instance, the Slovenian *Državni zbor* and the *Državni svet* warn against "duplication of structures dealing with the same topics", the Cypriot *Vouli ton Antiprosopon* - against "increasing the number of interparliamentary conferences", the Irish *Houses of the Oireachtas* - against "a proliferation of fragmented interparliamentary meetings", the UK *House of Commons* and the *House of Lords* - against "a proliferation of meetings in the current economic situation", the Dutch *Tweede Kamer* points out that "there are already more interparliamentary conferences than the House can attend" and therefore COSAC should not organise additional conferences, while the Swedish *Riksdag* believes that "Conferences of this kind lie primarily within the scope of the work of specialised committees, and should be arranged by them and not by COSAC." The European Parliament considers that the interparliamentary conferences on specific topics can be organised within the existing interparliamentary forms of cooperation. The Italian *Camera dei Deputati* believes that the most appropriate body for organising and coordinating the interparliamentary conferences is the EU Speakers' Conference, which is specifically dealing with this issue at the present time. If an agreement were to emerge in COSAC on the importance of organising a specific meeting, the President in office might take up this request and make a specific proposal to the Presidency of the EU Speakers' Conference.

On the other hand, a group of Parliaments/Chambers (i.e. 10) are of the opinion that the COSAC Rules of Procedure could/should be amended to accommodate this new possibility for COSAC (e.g. the Bulgarian *Narodno Sabrani*, the Estonian *Riigikogu*, the Lithuanian *Seimas*, the *Parlamentul României*, the Spanish *Cortes Generales*) or are open to discussion on possible proposals (the Czech *Poslanecká sněmovna*). For instance, in the opinion of the Finnish *Eduskunta*, organisation of interparliamentary conferences by COSAC "seems to be what was intended in Article 10 of Protocol 1". However, *Eduskunta* points out that this issue needs to be prepared carefully, with full involvement of the specialised committees, "many of which have developed their own recurring conferences with distinct identities". While the Polish *Senat* believes that Article 10 of Protocol 1 makes it advisable to amend the COSAC Rules of Procedure to specify such issues as: who summons the conference, composition of delegations and working languages. The Danish *Folketing* is of the opinion that the COSAC Rules of Procedure would probably require an amendment, if the format of the interparliamentary conferences would deviate significantly from the format of the ordinary meetings of COSAC. Otherwise, no such amendment is needed.

As to the **organisational aspects of such interparliamentary conferences**, the proponents of the idea believe that they should be organised by COSAC itself (e.g. the Danish *Folketing*, the Italian *Senato della Repubblica*, the Greek *Vouli ton Ellinon*, the Lithuanian *Seimas*). For example, the Slovakian *Národná rada* suggests that the conferences can be organised the similar way as the ordinary meetings of COSAC – i.e. the Parliaments of Presidential Troika, including the European Parliament with the administrative support of the COSAC Secretariat. The German *Bundesrat* is of the opinion that the respective COSAC Presidency should hold sole responsibility for organising such meetings and selecting specific topics as required and that Members of specialised committees could also be invited as special guests. The French *Sénat*, on the other hand, believes that interparliamentary conferences on specific subjects should have the same composition as COSAC, but bring together Members of Parliament specialized in the area under discussion. The German *Bundestag* has a narrower view, holding that they could be useful "in very particular cases, e.g. on topics that require a very high level of parliamentary coordination".

In contrast, the Belgian *Sénat* is considering the idea of creating "an interparliamentary cooperation based on the organisation of the Council". According to the *Sénat*, a general affairs conference could be organised in the current form of COSAC, i.e. two ordinary meetings and two chairpersons' meetings a year while specialised conferences, like those already existing today (on foreign affairs, finance, social affairs, equal rights, etc.), can be organised in the framework of COSAC. The *Sénat* thinks that coordination of these meetings could fall under the responsibility of a secretariat that is based on the current COSAC Secretariat.

In the opinion of the *Parlamentul României*, the interparliamentary conferences should be organised at the initiative of a Committee on EU Affairs of a national Parliament/Chamber, if at least 10 other Committees on EU Affairs agree and at least 8 other national Parliaments are represented. The Committee on EU Affairs initiating the meeting should also host and organize it, with the contribution of the COSAC Secretariat. The Bulgarian *Narodno Sabranie*, for its part, thinks that such conferences could be hosted by the Member State holding the Presidency of the EU or by the European Parliament.

As to convening such conferences, the Spanish *Cortes Generales* suggest that they should be convened with the approval of the Presidential Troika, on the proposal of the Presidency, while the Polish *Senat* suggests that it should be an ordinary meeting of COSAC which summons a conference and chooses its topic.

In view of previous extensive debates about including various other bodies or parliaments in COSAC meetings, the UK *House of Lords* suggests in limited situations to include an additional half-day session after an ordinary meeting of COSAC for a meeting with a group of non-EU parliaments such as COSAP[15] or the Parliaments of the Eastern Partnership countries. The *House of Lords* believes that "this would be just as effective, and clearly cheaper, than seeking to arrange these meetings in separate fora."

Article 10 of Protocol 1 gives only one example of topics to be potentially debated at the interparliamentary conferences, i.e. "*matters of common foreign and security policy, including common security and defence policy*".

[15] Conference of the European Integration Parliamentary Committees of the States participating in the Stabilisation and Association Process in South East Europe

When asked about the **topics** that Parliaments/Chambers would be especially interested in debating at such interparliamentary conferences, the replies varied and included the following:

- **Common foreign and security policy, including common security and defence policy** (the Bulgarian *Narodno Sabranie*, the French *Sénat*, the *Greek Vouli ton Ellinon*, the Portuguese *Assembleia da República*).
- **The Conference of National Security and Defence Committees** which would take over from the Parliamentary Assembly of the Western European Union (the Lithuanian *Seimas*);
- **Area of Freedom, Security and Justice** (the Bulgarian *Narodno Sabranie*, the Italian *Senato della Repubblica,* the French *Sénat*, the *Greek Vouli ton Ellinon*, the Portuguese *Assembleia da República*);
- **Multi-annual EU programmes**, such as the Stockholm Programme, the European Development Fund programmes, legislative planning programmes, etc. (the Belgian *Chambre des représentants*);
- **Evaluation of Europol and Eurojust** (the Bulgarian *Narodno Sabranie*);
- In limited situations, a **half-day session** after a COSAC Plenary meeting to meet with a group of **non-EU parliaments such as COSAP or the Easter Partnership** (the UK *House of Lords*).

There is also a group of Parliaments/Chambers which instead of identifying specific topics for such interparliamentary conferences, offer general comments on them. For instance, the Spanish *Cortes Generales* think that "the topic will be proposed by the Presidency and should be an EU-related topic", while the Polish *Senat* is of the opinion that the topics should be chosen by the ordinary meetings of COSAC. The German *Bundestag*, for its part, considers that the conferences should deal with "topics that require a very high level of parliamentary coordination", while the *Parlamentul României* believes that interparliamentary conferences should debate "only high interest subjects" which "change according to the EU agenda."

## 2.3. FUTURE PROCEDURE FOR COSAC MEETINGS

### 2.3.1. The Format of COSAC Meetings

Parliaments/Chambers are almost unanimous in their opinion that the **current format of COSAC meetings is functioning well** and therefore there is no need to change it. Additionally some of the Parliaments/Chambers have offered a few **general observations**. For instance, the Greek *Vouli ton Ellinon*, the Finish *Eduskunta* and the Slovenian *Državni svet* are of the opinion that if the duration of meetings is prolonged, it will be at the expense of Members' internal parliamentary work and thus would create problems for participation. The Finish *Eduskunta* also states that it would consider anything on an *ad hoc* or experimental basis. According to the Italian *Camera dei Deputati* "it does not seem necessary in this phase to change the current format but to reflect on the actual role of the meeting of the Chairpersons, which sometimes appears merely to be a foretaste of the plenary Conference, and gives rise to considerable supplementary costs to the organising Parliament". The Latvian *Saeima* considers that the current format of COSAC meetings is functioning well but the meetings of COSAC Chairpersons could be longer, if necessary. The Portuguese *Assembleia da República* suggests that "the setting of Committees in the framework of COSAC should be debated". The UK *House of Commons* thinks that it is important that the formal sessions remain based on the Monday and Tuesday of the week as it allows travel on Sundays.

However the Swedish *Riksdag* sees "room for improvement, especially in terms of new initiatives aimed at enhancing discussions". The *Riksdag* suggests new arrangements for COSAC meetings including "discussions in smaller groups, parallel subjects to choose from in seminar-like settings, or more panel discussions". These arrangements do not seemingly require changes in the COSAC Rules of Procedure, but are primarily tasks for the Presidency.

The UK *House of Lords* considers that concerning the suggestion made by some that COSAC should follow the Council in moving from a Troika system to a Trio system, it is difficult to see what would be gained. The UK *House of Lords* adds that "if parts of the meetings are broadcast, this should be confined to the discussion of public policy". Indeed it considers that "internal business should not be broadcast and hospitality should be kept within the bounds of public acceptability".

### 2.3.2. Preferences Regarding the Number of Times each Parliament/Chamber can take the Floor on each Point on the Agenda

This table provides statistics on the replies with regard to each category analysed below:

| Replies | Not Limited number of times | Limited to once per Parliament / Chamber | Limited to twice per Parliament / Chamber | Second or third-time uses of the floor | Chairpersons' decision |
|---|---|---|---|---|---|
| **YES** | 14 | 4 | 4 | 20 | 23 |
| **NO** | 12 | 20 | 20 | 9 | 11 |
| **No reply** | 11 | 13 | 13 | 9 | 4 |
| **Other** | 2 | 2 | 2 | 1 | 1 |

Regarding the number of times each Parliament/Chamber can take the floor on each point on the agenda, there is a difference of opinions. Some Parliaments/Chambers state that it should be limited[16] (i.e. 12) while others, including the European Parliament, do not share the same opinion[17] (i.e. 14). The UK *House of Commons* comments that the calling of multiple delegates from one country when others have not spoken is not well received. On the other hand, the UK *House of Lords* considers that the number of times each Parliament/Chamber can take the floor is a matter for each Presidency to decide according to the specific circumstances.

The majority Parliaments/Chambers[18] and the European Parliament express the opinion that the number of times each Parliament/Chamber can take the floor on each point on the COSAC agenda should not be limited to once per Parliament/Chamber. The Estonian *Riigikogu*, the Belgian *Chambre des représentants* and the *Sénat* are of the opposite opinion. The UK *House of Commons*, for its part, states that the number of times each Parliament/Chamber can take the floor on each point on the agenda should be limited to once per Parliament/Chamber if there are two Chambers represented. The UK *House of Lords* thinks that this is a matter for each Presidency to decide according to the specific circumstances.

[16] E.g. the Belgian *Chambre des représentants* and the *Sénat*, the Danish *Folketing*, the German *Bundestag.*
[17] E.g. the Czech *Poslanecká sněmovna* and the *Senát*, the German *Bundesrat, the* Spanish *Cortes Generales.*
[18] E.g. the French *Assemblée nationale* and the *Sénat*, the Latvian *Saeima*, the Hungarian *Országgyűlés.*

More than half of national Parliaments/Chambers[19] and also the European Parliament are in favour of the idea that the number of times each Parliament/Chamber can take the floor on each point on the agenda should not be limited to twice per Parliament/Chamber while a few Parliaments/Chambers (e.g. the Belgian *Chambre des représentants*, the German *Bundestag*, the Polish *Senat*, the UK *House of Commons*) disagree. Again, the UK *House of Lords* states that this is a matter for each Presidency to decide according to the specific circumstances.

For the majority of Parliaments/Chambers[20] and the European Parliament, the number of times each Parliament/Chamber can take the floor on each point on the agenda should not be limited but second or third-time uses of the floor should only be granted after all national Parliaments have had their chance to speak. Amongst these, the Austrian Parliament stresses that the Chairperson would have to raise this issue during the debate, while the UK *House of Commons* states that "the Chair should ensure that the 2nd use etc still rotates among all the Parliaments". On the other hand, nine Parliaments/Chambers[21] do not favour this idea.

Most of the Parliaments/Chambers[22] and the European Parliament are of the opinion that, concerning the number of times each Parliament/Chamber can take the floor on each point on the agenda, the Chairperson may adopt any one of these procedures based on the number of requests for the floor. According to the Polish *Sejm* it is also necessary to secure that each Parliament/Chamber is able to take the floor. However, almost a third of the Parliaments/Chambers[23] do not agree with this idea. Particularly the UK *House of Commons* states that "the main task should be to allow contributions that are aimed at, and limited to 3 minutes and if there are many contributors then each Parliament must be heard before the time is shortened to allow second contributors from the same Parliament to speak".

As far as suggestions of other criteria in regards to the number of times each Parliament/ Chamber can take the floor on each point on the agenda, five Parliaments/Chambers have made remarks and proposals. Thus, the Latvian *Saeima* considers that the requests for taking the floor could be divided into questions and comments, the requests for asking questions should be handled first and comments could be made after all the questions have been asked.

According to the Italian *Camera dei Deputati* whatever rule is adopted there is always the risk of excluding some of the speakers wishing to take the floor. The role of the Presidency is therefore crucial, considering the items on the agenda and the debating times and the list of Members wishing to speak, so that the debate can be governed in such a way as to permit adequate participation in the debate. Therefore, the *Camera dei Deputati* suggests that "each delegation could coordinate themselves within and with the other delegations in the same Parliament (in the case of bicameral Parliaments), in order to ensure that the speakers represent both the majority and the opposition". In this context, the Italian *Camera dei Deputati* and the Slovakian *Národná rada* suggest restricting the number of agenda items in order to focus the debate and make it possible for the maximum number of speakers to take the floor.

The Belgian *Chambre des représentants* states that it must remain possible to react to the answers given. For the Swedish *Riksdag,* it is generally the task of the Chairperson to distribute the use of the floor between the delegates, and there is a risk that excessively strict rules may

[19] E.g. the Estonian *Riigikogu,* the Dutch *Tweede Kamer and* the *Eerste Kamer*, the *Parlamentul României.*
[20] E.g. the Austrian Parliament, the Luxembourg, *Chambre des Députés,* the Slovenian *Državni zbor.*
[21] E.g. the Belgian *Sénat*, the Czech *Senát*, the French *Assemblée nationale*, the Latvian *Saeima*.
[22] E.g. the Danish *Folketing,* the Estonian *Riigikogu,* the Greek *Vouli ton Ellinon*, the Spanish *Cortes Generales.*
[23] E.g. the Cypriot *Vouli ton Antiprosopon*, the German *Bundestag*, the French *Sénat*, the UK *House of Commons.*

hamper flexibility. The Finish *Eduskunta* is of the opinion that it is up to the Chairperson to assign speaking time in the fairest possible manner, bearing in mind the equality of Chambers and of Members. This may include giving priority to Chambers that have not yet had the floor over those that already have spoken.

### 2.3.3. Speaking Time Adjustments

For the majority of Parliaments/Chambers [24] (i.e. 21) and the European Parliament, speaking time should be limited between 2 and 3 minutes in order to ensure that the largest number of Parliaments/Chambers can take the floor. Among these, the UK *House of Commons* considers that the main task should be to allow contributions that are aimed at, and limited to 3 minutes. The *House of Commons* adds that "if there are many contributors then each Parliament must be heard before the time is shortened to allow second contributors from the same Parliament to speak and this should be the method used by the Chairperson depending on the number of Members that have indicated their wish to speak".

Nine Parliaments/Chambers[25] favour the idea that the Chairperson should determine the maximum speaking time in order to provide a flexible framework for the discussions with regard to the availabe time frame. Among these, the Finish *Eduskunta* highlights the importance of introducing time limits at an early enough moment to be fair to all participants and enforcing them consistently. The Danish *Folketing* considers that the Chairperson should be empowered to fix a maximum speaking time of either 2 minutes or even 1 minute.

For the rest of the Parliaments/Chambers there is a variety in opinions. For instance, the Italian *Camera dei Deputati* believes the time could be limited to a maximum of seven minutes while the Bulgarian *Narodno Sabranie* suggests that each Parliament should be entitled to a strict maximum of four minutes speaking time, unless the meeting determines otherwise. The *Parlamentul României* is of the opinion that limiting the speaking time is necessary in any meeting. In addition, the duration of the interventions depends on their number and also COSAC may consider introducing a maximum speaking time per delegation. The Luxembourg *Chambre des Députés* considers that speaking time depends on the nature of the debates, therefore on general topics one intervention per delegation is sufficient while on more complex and precise topics speaking time should be more flexible. On the other hand, the Estonian *Riigikogu* is of the opinion that the speaking time should not be limited.

[24] E.g. the Belgian *Sénat*, the Cypriot *Vouli ton Antiprosopon*, the German *Bundestag* and the *Bundesrat.*

[25] E.g. the Swedish *Riksdag*, the Czech *Poslanecká sněmovna*, the Portuguese *Assembleia da República.*