



CORTES GENERALES

Madrid, 24 May 2010

Dear Mr. Sefzig,

In response to your letters dated May 13<sup>th</sup> and May 20<sup>th</sup>, I am sorry to learn that you disagree with the Contribution and Conclusions drafted by the Presidency, and I feel obliged to make a number of considerations.

First of all, allow me to remind you that the Contribution is drafted by the Presidency and therefore the wording expresses what the Spanish presidency believes should be included in the final text. As you well know, the draft Contribution will be openly debated during the Madrid XLIII COSAC and will be adopted if it reaches a sufficient consensus. You are of course free to table the amendments you see fit, -as you have indeed done-, and to intervene during the debates with the arguments that you consider pertinent. I would strongly encourage you to expose your arguments in an open debate during the forthcoming Madrid XLIII COSAC, instead of voicing them in a letter addressed to the Presidency.

I would also like to encourage you to read the 2<sup>nd</sup> draft of the Contribution and Conclusions, where the Spanish Presidency has decided, in the light of the amends that were tabled by different Chambers, to alter the wording of paragraph 7.2 (formerly paragraph 6.2) in order to include a reference to the "early warning mechanism".

The Spanish Presidency has also decided to modify paragraph 1.4 of the Conclusions in order to accommodate part of your amendment to the said paragraph.

Secondly, and as you felt obliged to announce your position in an open letter to this Presidency, allow me to express my complete disagreement with your position regarding the continuation of subsidiarity checks after the entry into force of the Treaty of Lisbon.

I would urge you to read carefully the Treaty of Lisbon and the Rules of Procedure, especially article 10 of the Protocol (nº1) and article 7.1A of the Rules of Procedure, both of which you mention in your letter of May 13<sup>th</sup>. You will notice that these regulations do not establish the obligation of COSAC to conduct subsidiarity tests, nor do they oblige us to focus on the principle of subsidiarity as a priority of the Conference.



XACOBEO 2010  
Galicia



## CORTES GENERALES

---

Indeed, conducting coordinated subsidiarity tests might have been useful in order to prepare for the entry into force of the Treaty, but the *Cortes Generales* believe that maintaining these coordinated subsidiarity tests after the entry into force of the Treaty of Lisbon has very little sense, if any. Furthermore, I would even argue that making the subsidiarity checks the priority of COSAC is a mistake.

As you well know, after 1 December 2009, the Treaty confers the power to all Chambers to conduct their own subsidiarity checks on the draft legislative acts with the effects established in Protocol (nº2). Most Chambers already conduct their own checks on a regular basis in accordance with their own internal regulations. The so called “early warning mechanism” has indeed become a feature of our Chambers’ proceedings, and I am sure there is ample scope for an exchange of expertise on the subject and on the general implications of the subsidiarity principle, but that does not include the need to conduct subsidiarity checks coordinated by COSAC.

Moreover, I remind you that parliamentary scrutiny does not limit itself to the subsidiarity principle. Indeed, from the *Cortes’* perspective, I can assure you that the “early warning mechanism” and the check for the compliance of the subsidiarity principle is not the main mechanism, nor the most effective, through which we control our Government. I am indeed alarmed to read that you seem to consider COSAC as a technical forum whose sole aim would be to conduct subsidiarity checks. As you are surely aware, this is not the case now, nor has it ever been in the past.

In your letter dated on May 20<sup>th</sup> you mention the 13<sup>th</sup> COSAC Biannual report, and I again encourage you to read it in its entirety: you will find there is no consensus on the need to continue with an exercise that is already conducted on a regular basis by most Chambers.

Indeed, in the current context, coordinated subsidiarity checks may be even seen as a waste of time and effort that we could put to a more effective use on debates over truly politically relevant issues. I can assure you, and I remind you that the *Cortes* were a founding member of COSAC in 1990, that this Conference has only a sense if it remains what it has always been: a political forum, where members of the different Parliaments debate on European issues as well as they exchange expertise on practical aspects of parliamentary scrutiny related to the European policies of their respective Governments.





CORTES GENERALES

I also fail to see how a forum that meets twice a year may provide you with up-to-date information on the subsidiarity checks performed by other Chambers. I would strongly advise you to turn your attention to online systems like IPEX, which might be a much more useful tool for the purposes that you seem to seek through COSAC.

Yours sincerely,

Miguel Arias Cañete  
Chair of the Joint Committee for the European Union

