



13 notes
on the Danish Presidency's proposal
of 11 July 2002:

**“Proposal for enhancing the role of
the national parliaments in
European politics and for the
reform of COSAC into the forum of
the parliaments”**

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I - Enhancing the role of the national parliaments

Enhancing the role of the national parliaments in general and in relation to their own government

(Recommended guidelines)

Introduction

In order to ensure greater democratic anchoring of EU cooperation, it is necessary for the national parliaments to be involved more in national EU decisions. This will give the Member States' inhabitants and elected parliamentarians greater and more direct influence on joint European decisions. In this way democracy in Europe will acquire an extra dimension at the transnational level, as a supplement to democracy at a European level.

Furthermore it is important that the national parliaments be involved in EU-policies, since it has direct consequences on domestic policies. In this perspective EU-policy *is* in fact domestic policy.

Both the declaration attached to the Maastricht Treaty (1993) and the protocol on the national parliaments from the Amsterdam Treaty (1999) state that the national parliaments should be involved in EU's activities to a greater extent. The Nice Treaty (2001) and the summit statement from Laeken (2001) also mention the role of the national parliaments in connection with possible future treaty amendments. The European Convention is also considering the subject.

The question is how these intentions with regard to greater democratic influence for the national parliaments and controls on EU policy can be put into practice.

In this connection COSAC has decided to highlight certain guiding principles (minimum standards of a sort) that may help to ensure that all the national parliaments have the opportunity to take part in and influence EU policy in an active manner.

The following specific elements for the integration of European politics in the national parliaments are highlighted:

1. Recommended guidelines for the relationship between government and parliament on EU matters.
2. Cooperation between the parliaments with a view to improving their own internal procedures.

3. Inclusion of citizens in the European debate.

1. Recommended guidelines for the relationship between government and parliament in EU matters

In the relationship between government and parliament in EU matters three elements help to ensure that the national parliaments have an influence on EU politics.

These three elements are firstly the *quantity and quality of information* for the national parliament, secondly the *timing* of information exchange, and thirdly the *opportunities* that the national parliament have to use the information it receives *to influence EU policy*.

Against this background the following *basic principles* can be recommended:

- The national parliament should receive all relevant information on EU initiatives from both the government and EU institutions in good time so that it has an opportunity to take a position before a decision is taken.
- The national parliament should have a real opportunity to use the information it receives to influence its governments European policies and thereby indirectly influencing the decisions taken by EU-institutions.
- The national parliament should have an opportunity to follow up on its government's decisions at the EU level.

More specifically, the following *general guidelines* can be recommended:

- The government of a Member State should ensure that the national parliament receives all EU documents relating to legislation and other EU initiatives as soon as they become available (e.g. draft directives, regulations and green and white papers).
- The government should prepare easily accessible and well-organised material on the EU's legislation, etc., for the national parliament (e.g. in the form of explanatory memoranda on draft directives).
- The national parliament should be informed in good time by the government before decisions are taken in the EU. This applies to ordinary Council meetings, summits and inter-governmental conferences (e.g. the information could be forwarded in the form of the meeting agenda). The government should also forward minutes of the meetings.

- There should be an opportunity to hold meetings with ministers in the national parliaments well before the EU meetings. The government would explain its attitude to the EU proposals¹.

2. Co-operation between the parliaments and with the European Parliament

Increased co-operation between the parliaments could both improve the national parliaments' understanding and knowledge of EU matters and help to improve procedures and internal routines. The present organisation of the meetings is not in itself sufficient to insure the influence of the national parliaments on European policies.

The following general guidelines are recommended:

- More frequent contact at a political level and between key individuals concerned with EU matters.
- The exchange of points of view on specific EU matters and procedural questions.
- The appointment of contacts in the parliaments to facilitate the rapid exchange of opinions and solutions to problems.
- Cooperation on benchmarking and the exchange of information on resource requirements.
- Posting of staff between the parliaments.

3. Inclusion of citizens in European policy together with the national parliaments

In order to ensure democratic anchoring of the EU in the Member States and in order to bring the EU closer to its citizens in practice, it is necessary for citizens to be involved in European politics.

At the Laeken summit in December 2001 it was stated directly that citizens find that far too many decisions in the EU are taken over their heads. Citizens want better democratic controls of the EU. One way of doing this is to involve citizens more in European policy in co-operation with the national parliaments. There is no doubt that this project will be both comprehensive and difficult.

¹ The national parliaments involvement in the national EU-decision process varies from one memberstate to another. In certain memberstates a positive mandate is needed where as in other memberstate the parliaments role is much more limited.

It is an important prerequisite for involving citizens in the European debate that they are provided with information about the EU. It is, of course, completely up to the individual Member State to decide democratically how to involve its citizens, but the following possibilities are available:

- Public debates in the national parliaments on the Commission's draft legislation, etc. The debates could be broadcast on television.
- Public debates on major European topics (e.g. enlargement, the work of the Convention, etc.). The debates could be broadcast on television.
- The European Affairs Committee of the national parliament could travel throughout the country to discuss EU matters with citizens.
- Establishment of EU information centres in the Member States where citizens would be able to ask questions about EU.
- Establishment of a joint web site where citizens could monitor the national parliaments' deliberations on EU matters.

4. Closing remarks

The above guidelines and ideas are within the scope of the protocol on the national parliaments and can be implemented in the Member States in any case. They should be adopted by COSAC at the meeting in Copenhagen on 16-18 October 2002. But it would be far easier to implement the guidelines if a decision were taken to reform and strengthen the COSAC co-operation.

II – The reform of COSAC

COSAC's powers

What can COSAC do at present?

Protocol No. 9 to the European Union Treaty describes the role of the national parliaments in the European Union. The protocol was added to the EU Treaty in 1997 in connection with the signing of the Amsterdam Treaty. The Amsterdam Treaty came into force in May 1999. This means that the activities of the national parliaments at the European level are part of the *acquis communautaire*.

The preamble to the actual protocol states, among other things, that the desire is to encourage “greater involvement of national parliaments in the activities of the European Union and to enhance their ability to express their views on matters which may be of particular interest to them”.

The protocol is divided into two sections. The first section (I) deals with the ability for national parliaments to keep themselves informed about EU matters. The second section (II) relates more specifically to the opportunities for COSAC, the cooperation body of the national parliaments, to become involved in the European legislative process.

The wording of the seven articles of the protocol are examined and commented on below by way of a description of the framework for COSAC's powers.

1. Information for national parliaments of Member States

“Article 1: All Commission consultation documents (green and white papers and communications) shall be promptly forwarded to national parliaments of the Member States.”

“Article 2: Commission proposals for legislation as defined by the Council in accordance with Article 207.3² of the Treaty establishing the European Community shall be made available in good time so that the Government of

² In the **Council's Rules of Procedure** (article 7), proposals for legislation are defined as follows: “rules which are legally binding in or for the Member States, by means of regulations, directives, framework decisions or decisions, on the basis of the relevant provisions of the Treaties, with the exception of discussions leading to the adoption of internal measures, administrative or budgetary acts, acts concerning inter-institutional or international relations or non-binding acts (such as conclusions, recommendations or resolutions).”

each Member State may ensure that its own national parliament receives them as appropriate.”

Comments on articles 1 and 2:

These two provisions mean in principle that the national parliaments should receive all consultation documents and relevant legislative initiatives, and thereby obtain the information needed in order to enter into a dialogue and decision-making procedure with the governments and EU institutions with regard to EU matters.

In total the Commission has prepared 16 green and white papers since 1999. Approximately five to eight green and white papers are sent out annually³. The annual number of new essential legislative initiatives in the form of proposals for directives and regulations is around a hundred. This figure is much higher if all the types of legislative initiative defined in the Council's Rules of Procedure are included.

Some parliaments have made it known, however, that they do not receive the necessary documents in sufficient time. The wording of article 1 is also ambiguous, as it does not make clear who is responsible for forwarding consultation documents⁴.

According to its wording, article 2 only makes provision for **governments** receiving legislative initiatives “in good time”. It is then up to the individual government to assess whether it is “appropriated” to pass the information on to the national parliament. In other words, this provision does not in itself ensure that parliaments receive all information on legislative initiatives.

It can be stated that the Commission's legislative initiatives can typically be accessed via its web site⁵ and the parliaments can therefore obtain the necessary information themselves. Not all parliaments, however, have the necessary administrative resources to ensure continuous monitoring of initiatives from the EU institutions.

³ The Commission publishes around 100 communications a year. Only few of these communications can be considered to be consultation documents.

⁴ Cf. the contribution from the XXIV COSAC in **Stockholm in May 2001**, point 7 of which states that “COSAC draws the conclusion that the Protocol on the role of national Parliaments has not been fully implemented since some Parliaments claim that they do not receive the documents within the stated time limits. COSAC urges the institutions to ensure that the Protocol, which is an integral part of the Treaties, is followed.

COSAC notes that the Protocol does not explicitly say by whom Commission consultation documents (green and white papers and communications) “shall be promptly forwarded to national Parliaments of the Member States”. COSAC asks the Council of Ministers and the Commission to clarify the division of responsibility between them in this respect. COSAC also reaffirms its statement from the COSAC meeting in Versailles regarding modification of the Protocol in order to ensure that national parliaments have enough time to scrutinise EU matters”.

⁵ <http://europa.eu.int/comm>

The COSAC meeting in Versailles in October 2000 called for the protocol to be amended with a view to ensuring that the national parliaments could receive proposals for legislation, etc., electronically.⁶

“Article 3: A *six-week* period shall elapse between a legislative proposal or a proposal for a measure to be adopted under Title VI of the Treaty on European Union [*Police and Judicial Cooperation*] being made available in all languages to the European Parliament and the Council by the Commission and the date when it is placed on a Council agenda for decision either for the adoption of an act or for adoption of a common position pursuant to articles 251 and 252 of the Treaty establishing the European Community, subject to exceptions on grounds of urgency, the reasons for which shall be stated in the act or common position.”

Comments on article 3:

The purpose of this provision is to ensure that the national parliaments have the necessary time to consider legislative initiatives or proposals for measures under the third pillar (police and judicial cooperation). The time period is linked for practical reasons to when the Commission makes the proposal for legislation or a measure available to the European Parliament and the Council. The national parliaments are not mentioned in connection with the time period.

At the COSAC meeting in Versailles in October 2000 the national parliaments indicated that a further minimum time period of 15 days between a proposal being considered by COREPER and its final adoption by the Council was necessary⁷. The COSAC meeting in Stockholm in May 2001 reiterated this opinion.

⁶ Cf. proposal to amend the protocol adopted at the XXIII COSAC in **Versailles in October 2000**, point 5: “All consultation documents and proposals for legislation from the European Commission, as well as proposals for measures under titles V and VI, should be transmitted by electronic means to each national Parliament as soon as they are adopted by the college of Commissioners.”

⁷ Cf. proposal to amend the protocol adopted at the XXIII COSAC in **Versailles in October 2000**, point 5, section 3: “- A minimum 15-day time period, or one week in urgent cases, should be observed between the final reading of a text by COREPER and the Council decision.”

The 6-week time period has been incorporated in the Council's Rules of Procedure⁸. This means that the role of the national parliaments has become part of the practical legislative procedures for the Council.

2. The Conference of European Affairs Committees

The following three articles of the protocol describe the areas in which COSAC may make contributions and who takes the initiative for its contributions.

“Article 4: The Conference of European Affairs Committees, hereinafter referred to as COSAC, established in Paris on 16-17 November 1989, may make any contribution it deems appropriate for the attention of the EU institutions, in particular on the basis of draft legal texts which Representatives of Governments of the Member States may decide by common accord to forward to it, in view of the nature of its subject matter.”

Comments on article 4:

According to article 4, COSAC may make “any contribution” it deems appropriate for the attention of the EU institutions. The article also describes the opportunity for representatives of the governments of the Member States to ask COSAC to consider draft legal texts by common accord.

The primary object of the article is presumably that the actual initiative should come from the Council, which requests COSAC to consider new legislative initiatives. This procedure has never been utilised.

“Article 5: COSAC may examine any legislative proposal or initiative in relation to the establishment of an area of freedom, security and justice which might have a direct bearing on the rights and freedoms of individuals. The European Parliament, the Council and the Commission shall be informed of any contribution made by COSAC under this paragraph.”

⁸ Article 3 (3) of the Council's Rules of Procedure is worded as follows: “Items relating to the adoption of an act or a common position on a legislative proposal or a proposal for a measure to be adopted under Title VI of the Treaty on European Union shall not be placed on the provisional agenda for a decision until the six-week period provided for in point 3 of the Protocol on the role of national parliaments in the European Union has elapsed. The Council may unanimously derogate from the six-week period where the entry of an item is subject to the exception of grounds of urgency provided for in point 3 of that Protocol.”

Comments on article 5:

Article 5 describes how COSAC can make contributions in relation to legislative initiatives and initiatives to do with judicial cooperation on *its own initiative* or at the request of a national parliament.

The article states that the EU institutions must be “informed” of such contributions. It may be assumed that this means that the primary recipients of contributions under this article are the national parliaments and not the EU institutions, which just have to be informed.

“Article 6: COSAC may address to the European Parliament, the Council and the Commission any contribution which it deems appropriate on the legislative activities of the Union, notably in relation to the application of the principle of subsidiarity, the area of freedom, security and justice as well as questions regarding fundamental rights.”

Comments on article 6:

Here too COSAC may consider legislative initiatives on its own initiative or at the request of a parliament, including the assessment of compliance with the principal of subsidiarity. Contributions from COSAC in the area of freedom, security and justice as well as fundamental rights are also mentioned. This last area covers police and judicial cooperation (pillar 3) as well as EC cooperation with regard to visas, asylum immigration and the free movement of people.

The primary recipients of contributions under article 6 are the EU institutions (the Council, the European Parliament and the Commission).

“Article 7: Contributions made by COSAC shall in no way bind national parliaments or prejudice their position.”

Comments on article 7:

This last article in the protocol establishes that COSAC's contributions in no way bind the national parliaments. In other words, COSAC's contributions are without actual legal consequences, nor are there currently any political agreements on the consequences of COSAC's contributions.

Conclusions regarding COSAC's powers

1. The COSAC cooperation can in principal discuss **any** legislative initiatives it might wish, including contributions on green and white papers and communications. But the Treaty gives special prominence to the question of applying the principle of subsidiarity and the area of freedom, security and justice. This prominence does not place any restrictions on COSAC's powers.
2. COSAC can both act on its own initiative as well as on the initiative of a national parliament and send its contributions to both the EU institutions and the national parliaments. COSAC can also comment on particular legislative initiatives at the request of the Council.
3. COSAC's functions are advisory and not legally binding.
4. COSAC currently receives its information through the national parliaments, as the Treaty does not contain any obligation on the part of either the Council or the Commission to inform COSAC as an organisation.
5. The protocol provides for comprehensive information for the national parliaments. Green and white papers, communications and draft legislation must be sent to the parliaments. The parliaments also have to have time to consider the draft legislation, etc., before the Council makes decisions.

But the information procedure does not live up to the intentions in the protocol. Some parliaments do not receive the relevant EU documents in the form of green and white papers and other legislative initiatives. There is considerable scope for improving implementation of the protocol in this area.

What has COSAC done so far?

1. Since its creation in 1989, COSAC has held a total of 26 meetings in the various states, which have held the Presidency. General declarations and contributions concerning current EU topics have been adopted at virtually every meeting.

Seven COSAC meetings have been held since the Amsterdam Treaty came into force and with it the protocol on the role of the national parliaments.

COSAC has not taken a position on specific legislative initiatives, including application of the principle of subsidiarity, at any of the meetings held since May 1999. At the last meeting in Madrid in May 2002 a single (leading) delegation even went so far as to declare COSAC dead in its present form. The decision was therefore taken to draw up concrete proposals for a more effective COSAC that would make better use of the provisions of the Treaty.

2. COSAC has been calling attention to possible improvements in the cooperation since 1999.

- At the meeting in *Helsinki* (October 1999) COSAC adopted new rules of procedure that would make it possible to make better use of the opportunities offered by the new protocol.

- At the meeting in *Lisbon* (May 2000) COSAC adopted a contribution to the effect that it should concern itself more with application of the principle of subsidiarity and matters to do with freedom, security and justice.

- At the *Versailles meeting* (October 2000) COSAC proposed that all legislative documents from the Commission should be sent to the national parliaments electronically as soon as they had been passed by the Commission. Also, as a principal rule, there should be a period of at least 15 days between COREPER making a final decision on draft legislation and the Council of Ministers adopting it.

- At the meeting in *Stockholm* (May 2001) COSAC drew attention to the fact that the protocol from the Amsterdam Treaty had not been fully implemented. Many parliaments do not yet receive the legislative documents and it is unclear *who* should send the Commission's green and white papers to the national parliaments. COSAC therefore asked the Commission and the Council to reach a mutual agreement on who was responsible.

All in all, COSAC has therefore mainly acted thus far as a debating forum for national parliamentarians in the EU Member States and applicant states. This can itself be of value and act as a source of inspiration in connection with the parliamentarians' work on EU matters in the national parliaments. But it falls short of the Protocol's intentions.

3. The effect of COSAC's contributions also seems to have been limited. COSAC has been and continues to be aware of this, as illustrated by section 9 of the contribution from the COSAC meeting in Stockholm, for example:

"Following-up of this Contribution

9. COSAC urges the institutions to take this Contribution into account. COSAC looks forward to the report on the future of the European Union that, according to the Nice Declaration on the Future of the Union, shall be presented to the European Council in Göteborg in June 2001 and expects the report to consider this Contribution.(...)"

A number of factors can be cited in explanation of why COSAC's contributions and declarations seem to have had a limited effect:

- ***Lack of continuity.*** As COSAC does not have a permanent administrative structure, COSAC more or less "ceases" to exist between the half-yearly COSAC meetings. This means that there is no permanent support structure to help COSAC follow up on its contributions, monitor the Commission's legislative initiatives, propose matters that might be taken up for consideration by COSAC, etc.
- ***Rules for voting.*** As COSAC's contributions are adopted unanimously, it naturally follows that they have to be formulated very broadly in order to cover the attitudes of all the participating countries. This makes the contributions general and gives them more the character of overall declarations.
- ***Lack of focus on COSAC's core area.*** COSAC has been used as a presentation platform for presidency programmes with invitations for ministers, etc.
- ***The perception of COSAC*** as primarily being a debating forum that at best makes broadly formulated contributions to current EU topics. Although COSAC's rules of procedure have been modified to take account of the possibilities offered by the protocol on the role of the national parliaments, these possibilities do not yet seem to have taken root in the perception of COSAC and its work.

The conclusion is that implementation of the protocol on the role of the national parliaments in the existing treaty necessitates the creation of a more effective COSAC, as was also contemplated at the meeting in Madrid.

Proposal for strengthening COSAC

(opinions from COSAC, etc.)

1. Introduction

COSAC can be strengthened on two tracks.

The first track (called track 1) solely involves better utilisation of the current treaty. There is a need for this and the improvement can be made relatively quickly.

The second track (called track 2) follows the work of the Convention and the subsequent Inter-Governmental Conference. This process will take slightly longer and potentially requires the treaty to be amended or new and important political agreements to be entered into.

This proposal only concerns track 1.

2. Proposal

The purpose behind strengthening COSAC is first and foremost to enhance the national parliament's insight into and consideration of EU matters. In this context COSAC is a coordinating and unifying body that enhances the efforts of the national parliaments within the framework of the treaty while promoting cooperation with the European Parliament.

The strengthening process might include the following measures and tasks:

- Establishment of a small, permanent secretariat that would continuously monitor EU legislation and take information in this regard back to the national parliaments.
- The secretariat could be involved in cooperation with the European Parliament.
- Feedback from the national parliaments regarding their deliberations on EU matters to COSAC's secretariat. The secretariat would pass the information on to the parliaments.

- The national parliaments would monitor EU legislation continuously and comment as needed on initiatives of special importance that they wished to discuss in a greater context.
- The national parliaments could also comment on compliance with the principle of subsidiarity in important draft legislation.
- Based on the parliaments' opinions, COSAC could try to collect and process them into a combined opinion. COSAC's secretariat would follow up on contributions in relation to the EU's institutions and their responses in this regard.
- COSAC would collect the national parliaments' opinions with regard to green and white papers, and try to process them into a combined opinion.
- By agreement with the political leadership COSAC's secretariat could take the initiative itself for contributions regarding EU legislation. The contributions would be submitted to the national parliaments.
- COSAC would monitor developments in the national parliaments' deliberations on EU matters and draw up benchmarking.
- Decisions could be made by a simple majority once detailed rules had been laid down in this respect. Minority opinions would have to be possible.

3. Special circumstances concerning the consideration of subsidiarity and proportionality

According to the protocol on the role of the national parliaments, assessment of the application of the principle of subsidiarity is a matter that COSAC can consider. Application of the principle of subsidiarity is mentioned directly in the protocol. It is also generally recognised that assessment of the principle of subsidiarity is chiefly political.

It may be assumed, however, that COSAC and the national parliaments can also assess the application of the *principle of proportionality*, i.e. the question of whether the EU's actions are necessary in order to achieve the aims of the treaty. It follows that COSAC can concern itself generally with the EU's legislation.

It is a very important part of the implementation of the protocol on the national parliaments that the application of the principles of both subsidiarity and

proportionality should be assessed by the national parliaments and COSAC in special cases where there is a need for them to do so.

As an example of this, if a national parliament identified problems with regard to compliance with the principle of subsidiarity (or proportionality) while considering draft EU legislation and wished to discuss this with other national parliaments, the national parliament in question would inform COSAC's secretariat. The secretariat would pass the message on to the other national parliaments and the European Parliament, which would also consider the matter and reply to COSAC. COSAC would then try to draw up a combined opinion, which might be adopted as a contribution from COSAC.

The individual parliament can, however, inform the EU institutions at any time during the process of **its own** attitude to compliance with the principal of subsidiarity in specific cases if it so wishes.

In addition, COSAC itself can point to a problem with regard to the principle of subsidiarity. COSAC would inform the national parliaments and the European Parliament, who would respond.

The important thing is, however, that COSAC's deliberations on such matters can only give rise to advisory political opinions without legal consequences.

Amendment of the treaty would be required for COSAC's contributions to have real legal consequences. Treaty amendments are a matter for the European Convention and the Inter-Governmental Conference.

New voting rules in COSAC

At the COSAC meeting in Madrid in May of this year it was decided that the presidential troika should draw up a proposal for a more effective COSAC with greater focus on the national parliaments. At the COSAC meeting of chairpersons in Copenhagen on 16 September of this year the possibilities for reforming COSAC and making it more efficient were discussed in detail. At this meeting of chairpersons there was broad agreement that one of the ways in which COSAC could be made more efficient was by changing COSAC's voting rules, including abandoning the unanimity rule.

Against this background the COSAC presidency was asked to come up with a specific proposal for new voting rules in COSAC.

The following provides a brief account of the existing voting rules and possible new voting rules. In the event of a decision to change the voting rules, COSAC's rules of procedure would have to be amended.

1. The voting rules today

COSAC's rules of procedure state that the fundamental rule of voting in COSAC is **unanimity** among the **attending** delegations, but with the **possibility of what is known as constructive abstention**.

It further appears from articles 10.5 and 14.3 of the rules of procedure that the unanimity rule applies to the **adoption of COSAC contributions** and the **revision of COSAC's rules of procedure**.

The rules on unanimity are worded as follows:

Article 10.5 (on adoption of contributions)

"Adoption of the contribution requires unanimity between the delegations present at the meeting. Abstentions by delegations shall not prevent the adoption of the contribution."

Article 14.3 (on amendment of the rules of procedure)

"Adoption of the proposal requires unanimity between the delegations present at the meeting. Abstentions by delegations shall not prevent the adoption of the proposal."

Finally, an absolute majority of the chairpersons of the European Affairs Committees and the relevant organ in the European Parliament may make decisions in certain specific instances of a procedural nature, including calling

extraordinary meetings (article 1.2), calling extraordinary meetings of the chairpersons (article 1.4) and appointing working groups (article 1.5).

2. Proposed new voting rules

At the meeting of chairpersons on 16 September 2002 there was a broad consensus that the proposed new voting rules should be based on the principle of one state, one vote. The European Parliament would also have a vote.

This principle already forms the basis for the existing rule of voting in article 10.5 of COSAC's rules of procedure, which requires unanimity between the **delegations** present at the meeting⁹. It is also a fundamental principle of international cooperation that all states are equal.

3. Simple majority

If COSAC were to introduce a rule of simple majority voting, it would correspond to the voting rules for the Economic and Social Committee¹⁰ and the Committee of the Regions¹¹. In both cases this rule of voting is worded roughly as follows:

"The assembly shall decide by simple majority of the votes cast for and against, save where otherwise provided in the rules of procedure."

In other words, two important consultation bodies in the EU system have voting rules based on a simple majority.

It can also be said of a simple majority that this rule of voting is typically used in most contexts in the national parliaments. It is therefore standard parliamentary practice to base decisions on a simple majority except in very special circumstances. This also applies to voting in the European Parliament.

Finally, article 205 (1) of the EC Treaty states that a simple majority is also the point of departure for voting in the Council unless specific treaty provisions dictate otherwise. A simple majority is used on the Council for decisions of a procedural nature, for example, including revision of the Council's rules of procedure. In practice, however, a qualified majority and unanimity are used for the most part in connection with the Council's legislative procedures.

⁹ Each parliament decides on the composition of its own delegation. Parliament in this context means both chambers combined in the case of a bicameral system. By way of illustration, article 24 of the French constitution states: *Le Parlement comprend l'Assemblée nationale et le Sénat*".

¹⁰ Cf. article 49 (2) of the Economic and Social Committee's rules of procedure.

¹¹ Cf. article 22 of the Committee of the Regions' rules of procedure.

Based on the above, it is not regarded as expedient to use a qualified majority.

This also applies in regard to a revision of the rules of procedure. **However, in the case of a modification of the composition of COSAC, the consensus rule should still apply.**

Proposal for a permanent secretariat for COSAC

In the presidency's proposal of 11 July 2002 for enhancing the role of the national parliaments in European policy and for the reform of COSAC it was suggested that a small secretariat with between three and five members of staff be set up in Brussels under the management of a general secretary. This secretariat could work closely with the national parliaments' representatives in Brussels.

At the meeting of the chairpersons of the European Affairs Committees of the national parliaments and the European Parliament on 16 September 2002 there was broad support for the proposal and for the presidency drawing up a detailed description of the possibilities for establishing this secretariat.

1. Proposed tasks

The tasks of the COSAC secretariat would be independent of the tasks to be performed by COSAC, but as the presidency's proposal indicates it would primarily be coordinating in nature:

- To coordinate enquiries and contributions from the national parliaments to the EU institutions
- Preparing draft contributions from COSAC concerning EU-legislation etc.
- To contribute to the enhanced flow of information from the institutions to the national parliaments and between the latter
- To improve cooperation, information and coordination between the national parliaments and the European Parliament
- To prepare and organise COSAC meetings (particularly if they are being held in Brussels)

2. Proposed staffing

The secretariat should include between three and five members of staff, including a general secretary with administrative responsibility for the secretariat. It is proposed, that the general secretary be appointed by the COSAC plenum after recommendation from the troika (which in it self is proposed extended). The additional staff would be engaged by the general secretary after consultation with the troika.

It is assumed that the secretariat would establish close cooperation with the national parliaments' representatives in Brussels, with the latter assisting with the performance of specific tasks under the management of the general secretary by agreement with the COSAC presidency.

3. *Proposed location*

The presidency's proposal says that the secretariat should be located in Brussels. This would facilitate contact with the EU institutions and offers the advantages that close cooperation with the representatives posted by the national parliaments would bring.

These considerations also speak in favour of looking at whether the secretariat could be located in the European Parliament

Other possibilities have also been suggested, e.g. the Belgian parliament or the European Commission might be considered.

4. *Cost*

Staff costs: The employment status to be used ought to be investigated further. It could either approximate to that used in the EU institutions (the question of tax would have to be looked into in more detail) or be the same as that used for the national parliaments' staff in Brussels, i.e. posting on foreign service terms.

The cost would be dependent on the size of the staff and their employment status, location and the agreement reached herein.

New composition of the presidency of COSAC

The executive of COSAC currently follows the general principles for the presidency of the EU. This is set out in article 11.1 of the rules of procedure:

“The Community and European Affairs Committee of the Member State holding the Presidency of the Council of the European Union shall hold the Presidency of COSAC during that presidency.”

As with the general presidency of the EU, the presidency of COSAC involves a presidential troika. COSAC’s presidential troika consists of the presidency, the preceding presidency, the next presidency and the European Parliament (article 1.3 of the rules of procedure).

The Danish presidency of COSAC has proposed that COSAC should have a more permanent executive of 5-7 members with a rolling or elected presidency. The purpose behind a more permanent executive is to bring continuity and progress to COSAC’s work.

A more permanent executive of this sort could be based on one of the following two models:

Model 1

In model 1 the existing executive, consisting of the presidential troika, would be expanded by one state on either “side” of the presidency. This would increase the period during which a state is part of the troika from 1½ years to 2½ years, giving each member of the executive more time to gain an overview of COSAC’s activities.

Such an expansion of the executive to a total of 6 persons (including the European Parliament) would be expedient in view of the fact that COSAC must be expected to utilise the opportunities offered by the protocol on the national parliaments to a greater extent in future. The overall workload for the executive must therefore be expected to increase.

In model 1 the *presidency* of COSAC would still be held by the Member State with presidency of the EU.

Model 2

In model 2 the existing executive, consisting of the presidential troika, would be expanded by one state on either “side” of the presidency as in model 1.

Instead of the *office of president* of COSAC being held by the Member State with presidency of the EU, however, it is proposed in model 2 that the *president be elected for a 2-year period* by COSAC. A rule can be added to the effect that the president may not be re-elected. The executive would then consist of seven members in total (including the European Parliament).

Here too the purpose of having a permanent president for 2 years is to ensure stability, continuity and progress in the work done by COSAC.

Closing remarks

If COSAC decides to set up a small, permanent secretariat for COSAC, both models would involve a possible general secretary assisting with and taking part in the meetings of the executive, but without being entitled to vote.

Future meetings and composition of delegations

1. Introduction

The considerations concerning the frequency of meetings and the composition of delegations at future COSAC meetings should naturally include *what tasks* COSAC can be expected to perform. They should also include how *active* a role COSAC ought to have. Both topics are open for debate.

The future structure of COSAC could, like today, be comprised of two levels: *a political level*, which would be operated by an expanded troika, the meeting of chairpersons and the COSAC plenum in accordance with guidelines to be defined, as well as *an administrative level*, consisting of COSAC's secretariat. The COSAC plenum could continue the bi-annual meetings, while the expanded troika and the meeting of chairpersons could meet more often as required.

Consideration might be given to the meeting of chairpersons being given the authority to adopt contributions, for example. According to COSAC's current rules of procedure, only COSAC meetings (plenum) can adopt contributions. If COSAC is to play a more active role, it ought to be possible to adopt contributions to EU initiatives continuously and more than twice a year.

Consideration might also be given to introducing opportunities to adopt contributions by electronic means, possibly using a modernised IT structure.

2. Future meetings

The Danish presidency's proposal for reform of COSAC states that future meetings of COSAC should be more effective and specific in scope. There was agreement on this point at the meeting of chairpersons on 16 September 2002.

COSAC should not pass a large number of declarations of a general nature, but ought instead to concentrate its meetings around specific essential matters with a view to increasing COSAC's impact and usefulness.

The following measures are proposed for future COSAC meetings:

- The present frequency of meetings with two meetings a year should be maintained as a principle rule. If the need arises, however, the frequency of meetings can be increased.
- The length of meetings should be reduced to a day. Depending on the type of task to be performed by COSAC, it cannot be ruled out that the volume of work will necessitate meetings of longer duration in some cases.
- COSAC meetings should be held in Brussels. This will allow savings to be made.
- COSAC meetings should be held at the beginning of each term of the presidency with a view to ensuring that COSAC and the national parliaments are involved in the decision-making process at an early stage.
- The meetings should be well prepared and the agenda, which should focus on COSAC's core areas and other relevant documents, should be sent out well before meetings.
- The present composition with a **maximum of six members** from each country should be maintained.

Ought COSAC to have a more intelligible and simpler name?

The acronym COSAC stands for **C**onférence des **O**rganes **S**pecialisés dans les **A**ffaires **C**ommunautaires. It therefore only means anything if one is familiar with the words and the translation behind the abbreviation.

The Danish presidency of COSAC has therefore proposed that COSAC should change its name to something that is more immediately intelligible and accessible such as “Forum of the Parliaments” or the like. The intention is that the name should give the population an immediate idea of what the assembly does.

When it was created in 1989, the conference was named both COSAC and CEAC, i.e. the Conference of European Affairs Committees.

1. Is amendment of the treaty required?

It has been stated that COSAC’s name cannot be changed to something more intelligible because the protocol on the role of the national parliaments in the EU uses the COSAC acronym. In other words the name COSAC has been confirmed by treaty and can therefore only be changed by amending the treaty.

This point of view is scarcely tenable. Article 4 of the protocol on COSAC uses the phrase “hereinafter referred to as COSAC...” and therefore indicates that the name COSAC is used because it is the name in general use. This is not to say what COSAC might otherwise be called if practical circumstances so dictated.

The European Parliament can be used as an illustration. The name “European Parliament” was not introduced into the Treaty of Rome until the Single European Act of 1987. In the Treaty of Rome of 1957 the name was the “Assembly”. This designation was confirmed by treaty right up until 1986.

This treaty-based designation did not, however, prevent the common name for the “Assembly” being the “European Parliament” from the early 60s onwards. The name “European Parliament” was therefore used in various documents, including legal documents, from the beginning of the 60s.¹²

¹² Cf. by way of illustration “Decision of the Representatives of the Governments of the Member States on the provisional location of certain institutions and departments of the Communities” of 8 April 1965, in which the designation “European Parliament” is used.

In other words there was nothing to prevent a name being used for the European Parliament (“European Parliament”) that was not identical to the name contained in the treaty (“Assembly”).

In the same way it must be possible to use another name for COSAC irrespective of whether COSAC is the designation currently used in the protocol on the role of the national parliaments. The protocol could be adjusted in connection with a possible future amendment of the treaty.

2. No new role as a result of a name change

Another point of view to be expressed is that a name change might send a misleading signal that COSAC’s role was being modified and expanded. This is in no way the intention – COSAC’s role would continue to be as described in Protocol No. 9 to the Amsterdam Treaty.

With regard to the risk of a name change being interpreted as a signal of new and expanded powers it can be said that such a misinterpretation assumes that one already has a clear idea of the role and powers currently enjoyed by COSAC. If, on the other hand, one does not know anything about COSAC, a more intelligible name might be regarded as helping to disseminate awareness of and insight into COSAC’s role and functions.

A name change might therefore be said to be in perfect accord with the more general objective of bringing the EU closer to the individual citizen and making it more accessible and intelligible.

It is therefore proposed that work should proceed on the plans to change the name in order to make it more intelligible and simpler. The specific designation can be decided on later.

Proposal for a new IT strategy for COSAC

1. "www.cosac.org" today

The COSAC web site currently contains practical information on the next COSAC meeting together with documents and information from the most recent meetings to be held. The organisation's rules of procedure, the protocol on the national parliaments from the Amsterdam Treaty and contact information from the individual national parliaments and parliaments of the applicant states can also be found there.

2. The need for a new public web site

The present COSAC web site needs an overhaul. In addition to information on future meetings and the organisation's activities, the web site should show how the national parliaments exercise democratic control over EU cooperation. It must be possible to follow all the national parliaments' deliberations on EU matters from a single portal. The web site must also act as a democratic forum where the population can participate in the general debate on the principles of subsidiarity and proportionality.

3. A new web site must act as a link between the secretariat and the national parliaments

The creation of a joint COSAC secretariat would necessitate the need for information and or documents to be exchanged between the secretariat and the national parliaments. As all sorts of exchange formats can be used – paper, fax, e-mail, etc., this might lead to the secretariat and the national parliaments having to spend a disproportionate amount of time on ensuring that the correct data is being exchanged. Time would then also have to be spent logging correspondence.

It is therefore proposed that a new web site should also act as a link between the secretariat and the national parliaments, with the national parliaments being given the opportunity to exchange data directly with the secretariat's IT systems. As the exchange of confidential information might be involved, part of the web site must always be protected by passwords and user names.

It would be an advantage if agreement could be reached on a common electronic format (possibly XML) that would make direct communication between the secretariat and the national parliaments possible. Such a system

would bring a number of advantages, including certainty of the validity of information, a fast administration process and a joint standard that would further facilitate information exchange between COSAC and the institutions of the EU.

4. Language policy

As the web site would act both as a public home page about the work of COSAC and an internal database where the secretariat and the national parliaments could exchange documents, its navigation would have to be in all the official languages. All official COSAC documents (rules of procedure, texts of treaties) would therefore have to be available in all languages (as is the current practice).

On the other hand, it would be sufficient for relevant documents for consideration by COSAC to be available in English or French only (in line with current practice). Finally, it is proposed that documents prepared by the national parliaments in connection with COSAC's ongoing work should be created in such a way that only the title is translated into English or French.

Co-operation between the EU administrations in the national parliaments, the European Parliament and COSAC's secretariat

1. Background

The presidency's proposal of 11 June 2002 for enhancing the role of the national parliaments in European politics and for the reform of COSAC suggests that cooperation between the EU administrations in the national parliaments, the European Parliament and COSAC's secretariat could be enhanced to allow practical experiences to be developed and exchanged.

At the meeting of the chairpersons of the European Affairs Committees of the national parliaments in the Member States and the European Parliament in Copenhagen on 16 September 2002 there was broad support for the presidency preparing a detailed description of the possibilities.

2. Possibilities for co-operation

The establishment of efficient co-operation on the Internet with an open and closed section would be the central element of day-to-day co-operation (cf. special memorandum in this regard).

COSAC's secretariat would play a coordinating role with regard to the exchange of information between the parliaments, but in this context could benefit greatly from close co-operation with specific staff attached to the parliaments' European Affairs Committees and in the European Parliament.

As is the case between the committees, there would also be a need for information exchange, benchmarking and cooperation between the EU administrations in the parliaments and the European Parliament on administrative procedures, etc.

Regular (e.g. annual) meetings between the administrations in the parliaments and the European Parliament would be valuable in developing the cooperation. Special topics of common interest could be taken up in this context. Such a meeting could be held in connection with a COSAC meeting.

The national parliaments' EU representations in Brussels in 2002

It was decided at the COSAC meeting of chairpersons on 16 September 2002 to draw up a detailed description of how the arrangements for sending representatives of the national parliaments to Brussels currently work.

1. Who is in Brussels?

Six national parliaments have set up offices in Brussels in the last 10 years with a view to obtaining their own information on the work of the European institutions.

They are Denmark (Folketing 1991), Finland (Eduskunta 1996), Italy (Camera dei deputati 1998), France (Sénat 1999), United Kingdom (House of Commons 1999) and Latvia (Saeima 2002).

The parliaments of Holland, Slovenia and Lithuania are planning to dispatch a representative in the near future, and a number of other parliaments have expressed an interest in, or are actively considering the appointment of a representative.

All six parliaments now have offices in the European Parliament in both Brussels and Strasbourg. The representative of the French Senat also works from France's Permanent Representation, however.

2. How are the offices organised?

There are differences in how the individual offices have organised their work. Whereas Denmark, Finland, the United Kingdom and Latvia have based their representatives permanently in Brussels, staff from the French Senat and the Italian Camera dei Deputati travel between their capitals and Brussels when they have to attend meetings in the EU institutions. Representatives regularly travel to Strasbourg for the EP plenary sessions. Offices are made available to them in the Strasbourg EP building.

The representatives are in principal rule recruited from their parliament's administration and are very familiar with the parliament's method of working when it comes to considering EU matters.

The representatives of the United Kingdom, Finland, Latvia, France and Denmark are all sent as diplomats and formally attached to their country's Permanent Representation in Brussels. They all receive instructions only from

their parliament in the capital, however, and act independently of their government's Permanent Representation.

The offices of the national parliaments are small establishments. The representatives of the United Kingdom, Finland and Denmark are assisted by a member of staff who is also stationed in Brussels. Denmark and Finland use a "stagiaire" for this assistance. The United Kingdom's office has a permanent member of staff employed locally. Latvia is also considering increasing its staff to two when its parliament sends eight observers to the European Parliament in the near future.

3. What is the purpose of a national parliament's office?

The purpose behind the national parliaments' representations in Brussels is not to take over the duty that the countries' governments have to inform the parliaments.

It is the task of the representatives to act as the eyes and ears of the parliaments in the EU-institutions and supplement the information that the parliaments receive from their governments. The representations are small, fast-acting units that can provide information rapidly on new draft EU legislation, important institutional matters or other important initiatives on the part of the EU institutions.

In general the offices focus on providing information on the activities of the European Parliament and new draft legislation or other important initiatives from the European Commission. An observation post in Brussels is ideal for gathering information or assessments of questions that cannot be obtained from the capitals using the Internet. The presence of representatives at the European Parliament make it possible to follow committee meetings and establish contacts with the staff of the Parliament.

Such additional information can make an important contribution to improving the ability of the parliaments to exercise parliamentary control of their government before it takes part in meetings in the Council of Ministers.

The representatives also play a role in disseminating information about the role of their respective national parliaments and European Affairs Committees to interested parties in Brussels.

Finally, in varying degrees, the offices assist members of their parliaments when they visit Brussels on official business. All the offices assist the Convention members from their parliaments when they are in Brussels to take part in meetings of the Convention or its working groups, for example.

4. How do the representations report back?

There are differences in the reporting systems for the individual parliaments. They concern both who the individual parliamentary offices report back to in their parliaments and how the information is sent to the national parliaments.

Whereas the Folketing, the House of Commons, the French Senat and the Latvian parliament report primarily to their European Affairs Committees, the Finnish office sends reports to the Finnish parliament as a whole, as all its specialist committees are involved in EU matters.

Whereas Finland, the United Kingdom and Latvia prepare weekly newsletters, the reports from the Folketing are more ad hoc. As a principal rule the representations' reports are internal documents. In Denmark and Finland they are distributed to the MEP's, however. In Denmark they are also posted on the web site of the Folketing's EU Information Centre.

To this can be added all the verbal communications that take place daily between the representations and the administration of their home parliament. There are, for example, weekly telephone conferences between the Folketing's office and central staff in the Folketing's EU administration with a view to exchanging information on EU matters of current interest or importance.

5. What does a national parliament's office cost?

In practice the cost of running a permanent representation for a national parliament in Brussels is between approx. €100,000 and €180,000 per annum.

This figure covers pay, allowances and expenses for the representative and his/her assistant plus office running costs.

The precise cost is dependent on, among other things, the seniority of the staff posted, travelling expenses, etc.

The representatives are paid in accordance with the rules for staff on postings with the Permanent Representations of the individual countries.

Office space is provided free of charge by the European Parliament in Brussels and Strasbourg.

III – Co-operation agreements between national parliaments and the institutions of the European Union

Proposals for co-operation agreements between national parliaments and the Council, the Commission and the European Parliament

In order to enable the national parliaments to work as efficiently as possible through COSAC on EU matters, it is proposed that agreements be entered into between COSAC as the representative of the national parliaments on the one hand and the EU's institutions on the other hand.

With a view to ensuring the greatest possible flexibility, it is proposed that the agreements be entered into individually with each institution (the Council, the Commission and the European Parliament).

The items in the agreements might be as follows:

1. Proposal for a co-operation agreement between COSAC and the Council

- Declaration by the Council that its members will seek to involve the national parliaments as much as possible in EU politics; this would include a declaration on the part of the Council that it would follow COSAC's recommended guidelines with regard to the relationship between the national parliament and its government.
- Introduction of a 15-day time period between COREPER considering a matter and its final adoption by the Council with a view to giving the national parliaments sufficient time to relate to EU matters. The introduction of such a time period was proposed at the COSAC meeting in Versailles (October 2000).
- The Council will send relevant information to COSAC and the national parliaments, including agendas for future Council meetings and minutes. It can possibly be sent electronically.
- Inclusion of COSAC contributions in the Council's agenda for information.
- Legislative initiatives to be forwarded as soon as they have been finally adopted.

- Initiatives put forth by the Member States with regard to common foreign and security policy, and in the judicial sphere, should be forwarded to all Member States.

2. Proposal for a co-operation agreement between COSAC and the Commission

- Establishment of a permanent point of contact with the national parliaments, including the possible appointment of a commissioner to be responsible for such contact.
- All green and white papers, communications relating to legislative initiatives and actual draft legislation will be sent directly to the national parliaments immediately and to COSAC as soon as they have been adopted by the Commission.
- Establishment of time periods for the parliaments or COSAC to respond to consultation so that their replies can be included in the preparatory work for legislation.

3. Proposal for a co-operation agreement between COSAC and the European Parliament

- The national parliaments and COSAC will be briefed about the European Parliament's deliberations.
- COSAC's contributions with regard to legislation will be put on the agenda of the European Parliament.
- The detailed guidelines for use of the European Parliament's facilities by future COSAC secretariat will be established.
- The national parliaments will be invited to relevant sittings of the European Parliament.