



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	Partial summary of the meeting of the Committee on Constitutional Affairs (AFCO) of the European Parliament held in Brussels on 17 and 18 March 2014

The meeting was chaired by Mr CASINI (EPP, IT).

Item 4 on the agenda

Relations between the European Parliament and the national parliaments

AFCO/7/13740

Rapporteur: Mr CASINI (EPP, IT)

- Consideration of compromise amendments

Mr CASINI presented 23 compromise amendments which were designed to offer a compromise solution to the 200+ amendments tabled to his report last week. The stumbling blocks were, in his view: (i) differing interpretations of "interparliamentary cooperation" referred to in Article 9 of Protocol 1, (ii) differences in views as to whether to "institutionalise" the conference of speakers of national parliaments (NPs) and (iii) the role for COSAC.

Mr DUFF (ALDE, UK) expressed ALDE's concerns regarding the compromise wording on COSAC. He feared it would allow COSAC to tread upon the prerogatives of the EP and would oblige NPs to mandate delegations to COSAC. He also made drafting suggestions to remove the imperative language of some provisions addressed to NPs.

On a similar vein, Mr GUERRERO (S&D, ES) claimed that his group could not accept 6 out of the 16 compromise amendments since they gave guidance to NPs. This was also echoed by Mr MESSERSCHMIDT (EFD, DK) who objected to the report "imposing a specific ideology on NPs", claiming that NPs should only obey their electorate, not the EP. Mr BRONS (NI, UK) claimed that the Union was attempting to make itself more popular by means of the NPs.

Mr SCHÖPFLIN (EPP, HU) also expressed misgivings over a number of provisions, which, in his view, were based on the incorrect assumption that NPs' interaction with the EU institutions created a stronger Union.

Mr CASINI defended greater integration with NPs because of their closer connection with citizens. He did not wish for his report to set out orders for NPs, but rather to stress that NPs *could help build* the EU project. He also stated that his interim report would be complemented by more detailed reports in the future that could take stock of experience gained.

- *Next steps: the report was adopted the following day with 12 votes in favour, 4 against and 7 abstentions. The EP plenary vote is scheduled for 15 April.*

Item 5 on the agenda

Modification of the Inter-Institutional Agreement on the Transparency Register

AFCO/7/15071

Rapporteur: Mr GUALTIERI (S&D, IT)

- Consideration of amendments

Mr GUALTIERI presented the 3 compromise amendments which (i) express regret that the register was not made mandatory; (ii) define the review of the IIA in June 2013 as a "partial" step forward and (iii) group together suggestions on how the COM can introduce incentives for registration. The other amendments tabled, he claimed, risked imposing a heavy administrative burden, or went beyond the legal base of the IIA (ex. establishing a "register of the unregistered").

Mr CASINI (EPP, IT) applauded the fact that the register would now define some key terms (ex. lobbying, lobbyist, contribution in legislative process).

Ms JÄÄTTEENMÄKI (ALDE, FI) tabled an amendment proposing that draft laws or papers have a "legislative footprint", i.e. a list of all those who made "a significant contribution" in the legislative process. The rapporteur cautioned against this, arguing that it would encourage excessive and calculated lobbying. Mr DUFF (ALDE, UK) added that the definition of "a significant contribution" was entirely subjective, and it would thus be more straight-forward simply to invite rapporteurs to list the names of all organisations which were consulted.

Members also touched on the issue of lawyers complying with the transparency register. Although, according to Mr DUFF, the legal profession appeared willing to cooperate with the EP in order to reach a pragmatic solution, Mr CASINI suggested a strict approach: lawyers who carry out consultancy work on behalf of a company and discuss issues with the EP should be on the register.

Mr BRONS (NI, UK) queried whether organisations which did not go to the EP, but which, conversely, invited MEPs to their meetings, should register.

- *Next steps: the report was adopted the following day (by 25 unanimous votes in favour), and all three compromise amendments were carried. The EP plenary debate is scheduled for 14 April and the vote for 15 April.*

Item 6 on the agenda

Amendment of Rule 90 of Parliament's Rules of Procedure on international agreements

AFCO/7/14050

Rapporteur: Mr MARTIN (S&D)

- Consideration of amendments

Mr GUALTIERI (S&D, IT) stepped in for the rapporteur, Mr MARTIN (S&D, UK), who could not attend the meeting. The report proposes amendments to the EP's Rules of Procedure (namely paragraphs 4, 5 and 6 of Rule 90) regarding international agreements. Previous discussions revealed that, while the changes to paragraphs 5 and 6 were uncontroversial, amendments to paragraph 4 were problematic. This is because they would allow the EP to adopt recommendations to an international agreement any time "from the end of the negotiations to the conclusion of the agreement" - something which, according to the EP legal service, went beyond the EP's powers under the Treaty.

Discussions therefore revolved around the potential wording of paragraph 4, with Mr DUFF (ALDE, UK) suggesting wording to keep the EP powers broad, and Mr GUALTIERI advocating an approach that would comply more fully with the legal service opinion.

- *Next steps: the report was adopted the following day by 23 votes in favour and 1 abstention. The EP plenary vote is scheduled for 16 April.*

Item 17 on the agenda [item brought forward]

Any other business

Mr CASINI announced that there was a need to make a mathematical adjustment in a delegated act relating to the citizens' initiative. Since the act provided for a minimum amount of signatures in respect of each MS, which was calculated by reference to the number of MEPS allocated to that MS, there was a need to adapt the numbers since the number of MEPS per MS has changed. The Chair noted that there were no objections to this and stated that he would inform the President of the relevant committee.

Item 7 on the agenda

Meeting with David LIDINGTON, UK Minister for Europe

Mr CASINI (EPP, IT) clarified that the invitation addressed to Mr LIDINGTON was triggered by Mr CAMERON's speech on the conservatives' plan to renegotiate the UK's membership to the EU and to hold a referendum.

Minster LIDINGTON clarified the UK Government's key message: we want to see the UK a full member, but we believe it is in the interests of the entire Union that the EU undertake the task of far-reaching reform. He claimed that Cameron's reform plans were not "anti-European" but he envisaged a more accountable and flexible EU, which would allow for opt-ins and opt-outs and would accept that power would flow both *to* it and *away from* it.

Mr LIDINGTON put forward specific proposals to fight growing discontent with the EU:

1. The EU should focus on growth and jobs, in particular by developing the digital economy, strengthening the single market and enacting legislation which is proportionate and pro-growth.

2. He made a strong appeal to improve mechanisms for ensuring that the principle of subsidiarity is respected. He advocated facilitating national parliaments issuing reasoned opinions; strengthening the yellow card procedure; and, in particular, creating a "red card" mechanism (ie. a "collective veto" on a COM proposal). He also called for national parliaments to increase their cooperation with other chambers (including through COSAC).

3. Finally, citing the conclusions of the "Balance of competences review" - a review carried out by the UK Government which looks at the areas in which the EU is successful and those where there is scope for improvement - Mr LIDINGTON suggested that the single market be liberalised further; that the EU opt for "less regulation but better regulation"; that there be greater democratic accountability and that MS retain the ability to take action where local circumstances would warrant this.

In his replies to questions, Minister LIDINGTON further developed a number of issues:

- On subsidiarity, he was asked by Mr SCHÖPFLIN (EPP, HU) how the UK intended to apply the maxim "Europe when necessary, national when possible" in practice. Mr DUFF (ALDE, UK) cautioned against the UK exaggerating claims that the EU breaches subsidiarity : of the 462 draft laws adopted since the Treaty of Lisbon, yellow cards had been raised only twice. He felt that the UK was therefore creating a problem where there was none. Minister LIDINGTON stressed that the UK was not arguing for a unilateral right for any national parliament (NP), but claimed that the voice of NPs needed to be stronger, and NPs were to improve their cooperation and networking. He expressed the wish to lengthen the very tight 8-week time limit and showed support for the Dutch proposal for a "late card" mechanism (if a COM proposal changes significantly during negotiations). He also called for a stronger proportionality check to be included in the reasoned opinion mechanism.
- On the single market, Mr SCHÖPFLIN also asked him how the UK could truly envisage excluding labour from the single market without accepting a change to free movement of capital principles. Minister LIDINGTON emphasised that freedom of movement was not being challenged, but that the UK did not believe this was simply an unqualified right to move for any reason. He suggested distinguishing between those moving in order to genuinely seek work and those who did not. He expressed the wish, for future admissions, to define transitional arrangements in order to avoid that a large number of people move from those new MS (he explained for example, that a means of gauging such risk was to compare the GDP of a new MS to that of existing MS).

- On the balance of competences exercise, the Minister was asked by Mr DUFF what conclusions the UK had drawn from it. The UK had apparently learned that businesses relished the opportunities provided by the single market, but that in many cases regulation that was too prescriptive and thus hindered the business dynamism that the EU needs.
- On pulling out of the ECHR and Charter, Minister LIDINGTON was asked by Mr DUFF how the UK envisaged doing this, given that the ECHR is a general principle of EU law and that this would not simply be a reform, but "a revolution that would destroy the construct of the EU". He replied that the debate did not involve denying fundamental rights, but rather revolved around *the ways* in which the UK was to bind itself to its commitments (i.e. whether to incorporate the principles in national law, have a self-standing UK Bill of Rights).
- On other MS' support for the UK's position, the Minister cited Spanish support for the liberalisation of services, Nordic countries being interested in the debate on NPs, the Dutch Parliament presenting ideas on institutional and economic reform. Italy's previous government showed a great interest in deepening the single market and promoting smarter regulation. There was, in addition, real anxiety in the Council to promote competitiveness and there was also an increased awareness of the extent of public disaffection, as evidence by the increasing popularity of far-right political groups.
- The Minister was questioned by Mr BRONS (NI, UK), Mr AGNEW (EFD, UK), Mr VAN ORDEN (ECR, UK), Mr DUFF, MR SCHOLZ (GUE,DE) and Mr GUALTIERI (S&D, IT) on the feasibility of UK reforms requiring Treaty changes and on whether the UK had any "back-up plan." The Minister replied that Treaty reform was the UK's preferred option but that, if it did not work, it would consider other options (for ex. Protocol for the UK, or practical agreements with the COM on its handling of reasoned opinions). Mr MESSERSCHMIDT (EFD, DK), invited the UK to follow Denmark's example in using the opt-out mechanism as a way forward.
- To Mr AGNEW's calls for the UK to leave the EU because it would be better off, the Minister cautioned against being "unnecessarily pessimistic" and gave examples of policies which delivered results for UK citizens (reduction of MFF, reform of common fisheries policies, etc.). He also acknowledged the EU's importance as an international trading partner, substantiating his claim by reference to the announcement by US businesses that they would be less willing to deal unilaterally with the UK rather than with the EU as a whole.

- Mr GUERRERO criticised the UK's "either-you-change,-or-we're-out" approach to the EU. He questioned whether this really reflected the collaborative attitude that was required among MS. The Minister accepted the necessity for compromise but still felt that the UK was entitled to push for reform, particularly in the light of the deepening public disaffection for the EU.

Item 9 on the agenda

Chair's announcements concerning coordinators' recommendations

Mr CASINI (EPP, IT) briefed the committee of the coordinators' unanimous decision to suspend discussions on his report on amending Rules 49 and 50 of the EP rules of procedure concerning cooperation among EP committees - despite President SCHULZ's insistence to push ahead. Item 10 on the agenda would therefore not be discussed.

Items 11 and 12 on the agenda

Statute and funding of European political parties and European political foundations

AFCO/7/10671

Rapporteur: Ms GIANNAKOU (EPP, EL),

- Consideration of a consolidated text and possible vote on the outcome of negotiations

The rapporteur, Ms GIANNAKOU (EPP, EL), thanked colleagues for the excellent cooperation which led to a positive outcome under the Greek Presidency. She explained that the concept of a European legal statute had created concerns in Member States and that differences of opinions had led to delays in negotiations. While the agreement was not completely in line with EP's initial position, she felt it did not depart significantly from the EP's objectives, i.e.: freedom to register without any interference from political parties, no request for increased EU funding, introduction of a true European legal status, possibility for citizens to be members of EUPPs, increase of the ceiling of individual donations/contributions, possibility to carry over EU funds from one year to the next ("N+1" rule). She felt that all these issues had been settled in a satisfactory way. She indicated that Ms GRÄSSLE's (EPP, DE) report on the linked proposal amending the Financial Regulation as regards the financing of EUPPs had also reached its final stage.

Although she would have preferred the register for EUPPs/EUPFs to have been a service inside the EP, the final decision was to create an independent agency within the EP since Member States were particularly attached to the idea. She was pleased that the Regulation provided for the possibility for a revision in a few years' time and that the EP and COM reports assessing the situation would be adopted before the next EP elections. She considered that the adoption of this file before the upcoming EP elections was particularly important, given that EUPPs had nominated their candidates for COM President, even if the Regulation would only apply in 2017. She concluded that the compromise text should be adopted at the April plenary session and subsequently by the Council.

Mr SCHÖPFLIN (EPP, HU) congratulated the rapporteur for the outstanding work carried out on this file and was pleased that the European political field was recognised through this Regulation.

Mr GUALTIERI (S&D, IT), indicated that the S&D firmly supported the compromise. He considered that the agreement represented a step forward towards a genuine European democratic space and contained safeguards to protect the freedom of expression, and introduced a more rigorous check on respect for EU values.

Mr DUFF (ALDE, UK) strongly supported the outcome of the trilogue. He was satisfied that the status of EUPPs had been upgraded and considered that the de-listing procedure represented an improvement compared to the current rules, stressing in particular the need to respect EU values enshrined in the Treaty and EP/Council involvement. He highlighted the importance of the review clause which will allow for an improvement of the system in time for the 2019 elections.

Mr HÄFNER (Verts/ALE, DE), on behalf of his group, supported the result of this compromise, stressing that democracy needed political parties. He considered that the new procedure was objective and made it impossible to de-list a party for political reasons. Mr TARAND (Verts/ALE, EE) argued that parties could only be financed by membership fees and that rules should neither accept donations from lobbyists and businesses nor public money, hoping that these issues could be discussed again during the next term. He said, however, that he will vote for the consensus.

Mr SCHOLZ (GUE/NGL, DE), on behalf of his group, also supported this compromise, arguing that it was a good step to enhance democracy. He stressed the importance of the link between EUPPS' activities and the respect of EU values. Conversely, Mr FOX (ECR, UK), supported by Mr HANNAN (ECR, UK), considered that this was "a bad deal" and highly undemocratic: taxpayers' money was going to be given to EUPPs which they did not support and the EP would judge these parties and their financing according to their respect for EU values. He stressed the risk that small parties could be strangled by political machinations and indicated that his group would vote against the compromise.

Mr MESSERSCHMIDT (EFD, DK) disagreed with the claim that democracy needed stronger federal parties, adding that popular support was needed instead.

Mr BRONS (NI, UK) felt that freedom of assembly had been disregarded in this Regulation. He referred to a previous attempt to de-register European political parties on no valid grounds.

- *Next steps: The report was adopted with 18 votes in favour, 4 against and 1 abstention. The EP plenary is to vote on the final compromise text on 14-17 April.*

Item 16 on the agenda

The future of Europe: which institutional arrangements?

AFCO/7/15235

- Exchange of views with Professor Joseph H. H. WEILER (President of the European University Institute) and Mr Janis A. EMMANOUILIDIS (from the European Policy Centre)

Professor WEILER explained why, in his view, turnout at European elections has continually declined. The EU does not have the essential features which characterise all our democracies: accountability, representation and voter preference. In traditional democracies, voters understand that, by voting, they contribute to determining *who* will govern them, and, in some measure, *how* they will be governed. They also know that, by means of their vote, they can change the government or steer the polity in a particular direction. On the other hand, citizens in the EU do not feel that by voting at European elections they can decide who will govern them nor can they change the direction of the polity. Consequently, EU elections become a domestic election which gives citizens the opportunity to express grievances with their *national* government.

WEILER then spoke about the potential "revolution" of the *Spitzenkandidaten* approach. He applauded this great achievement which introduced an element of *choice* into the heart of the European electoral system. However, he cautioned that this *Spitzenkandidaten* gamble was risky for the EP: it could increase turnout (thus increasing pressure on the Council to accept the winning candidate), but if turnout were to remain low, the pressure on the Council to select one of the candidates would be reduced. Prof WEILER'S prediction was that turnout would indeed increase - though not necessarily because of the *Spitzenkandidaten* procedure, but because of an increase in anti-European sentiment.

He concluded by asking whether the EU was truly ready for a politicised Commission and for "the very different Europe" this would entail.

Mr EMMANOUILIDIS, from the European Policy Centre (EPC), presented a project ("A new pact for Europe") on which 11 foundations were currently working, which has carried out an extensive survey of public sentiment in the Member States and is to then propose strategic options for the EU. He described the various options, numbered 1 to 5, which propose varying degrees of European integration (option 1 suggests a "reversal" of the integration process and option 5 promotes a more federal EU).

The study, so far, appears to indicate that option 2 is the most popular (i.e. putting the EU in "neutral", leaving time to consolidate past achievement before taking action, and waiting for previous "constitutional traumas" to fade). Despite such results, Mr EMMANOUILIDIS urged for greater action to be taken to avoid fragmentation (economic, social, political, etc.) at all levels given that this would only fuel an anti-European feeling .

Mr SCHÖPFLIN (EPP, HU) offered his views as to the low turnout: citizens feel it is still too difficult to engage with the political power at EU level, there is no common demos, the EU is simply too large for citizens to conceptualise and the COM uses too much technocratic language.

On the issue of *Spitzenkandidaten*, Mr BRONS (NI, UK) added that citizens would simply be unaware of the issue and would therefore not know what they had voted for. Mr DUFF (ALDE, UK) claimed that discussions on the future shape of the COM go to the heart of the clash between those who wish to ground the government of the EU on the COM, and those who prefer to ground it on the European Council.

Mr GUALTIERI (S&D, IT) claimed that meeting on the morning of 27 May of the current leaders of the political groups in the EP and the European Council dinner planned that same evening indicated the increasingly strong link between elections and decisions at EU level. He believed that such prompt reactions after the elections reflect the fact that emphasis is increasingly being placed on the results of the election.

Professor WEILER's closing remarks related to the *spitzenkandidat* procedure. He felt that the EP did not fully appreciate the consequences of what it had done: if the EP were not to mobilise public opinion and hence if the European Council were not to opt for the chosen candidate, then the EP would emerge from these elections substantially weakened. If, however, the EP were to succeed, and there would indeed be a COM President to shape the EU in terms of governance, that could be "bigger than the Lisbon Treaty" and "as revolutionary as qualified majority voting in the Council".

Mr EMMANOUILIDIS, on the other hand, advised against overemphasising the *Spitzenkandidaten*, since this was only an experiment and things would develop over time.

Item 17 on the agenda

- Next meeting: 7 April from 3pm to 6.30 pm.

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