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#### NOTE

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from:	General Secretariat of the Council
to:	Delegations
Subject:	Partial summary report of the meeting of the <b>Constitutional Affairs Committee (AFCO)</b> of the European Parliament, held in Brussels on 17 March 2015

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An exploratory meeting for various topical issues, including the reform of the EU electoral law (Ms HÜBNER & Mr LEINEN), a revision of the European Citizens' Initiative (Mr SCHÖPFLIN, and the Lessons to be taken from the 2014 Commissioner Hearings (Mr CORBETT). The committee also adopted the opinion on the review of the economic governance framework (Ms GOULARD). Other discussions of relevance included the rather consensual opinions on the Commission's annual report on subsidiarity and proportionality, and on the European Fund for Strategic Investments.

#### Item 3. Chair's announcements

- Ms HÜBNER (EPP, PL) was appointed rapporteur for the opinion on the European Fund for Strategic Investment, as well as the report on the Reform of the European electoral law.
- AFCO is to organise a hearing on "Parliamentary scrutiny over the executive", and a mini-hearing on the "Single Seat". It is waiting for AFET's confirmation for a joint hearing on "European Common Defence".
- AFCO will not follow-up on a draft motion for a resolution it had received from Ms BIZZOTTO (NA, IT) on "The incompatibilities of the Fiscal Compact with the Treaties".

- AFCO is to draft an opinion to the ECON report on the EU's role in the framework of international financial, monetary and regulatory institutions and bodies (the EPP rapporteur has yet to be named).
- AFCO is to plan 3 missions: to London (Sept/Oct 2015), Athens (later this year) and Washington (to discuss regulatory practices in the light of TTIP).

#### **Item 5. The reform of the electoral law of the European Union**

The co-rapporteurs, Ms HÜBNER (EPP, PL) and Mr LEINEN (S&D, DE), gave a brief presentation of the issues they were considering for their future report. Ms HÜBNER reminded members of the unsuccessful history of AFCO reports on the subject, and in particular how the idea of transnational lists was the source of deep divisions, both within the EP and with the Council. Learning from the past, Ms HÜBNER advocated a more pragmatic and realistic approach.

On a practical level, she clarified that the existing EU electoral law could be changed either by means of amendments, or by adopting implementing measures. Both options would need unanimity in the Council, but implementing measures had the advantage of not requiring the additional hurdle of ratification by Member States. However, their scope was more limited, and could not be used to introduce new issues (for instance, thresholds). Ms HÜBNER had thus requested an EP legal service opinion on the scope of each option.

In addition, further to informal contacts with some Member States, she highlighted Member States' contrasting positions on the matter. She hoped the Luxembourg Presidency would be willing to arrange a meeting with the rapporteurs on the subject.

Mr LEINEN listed the issues which could be included in the report:

1. EU / transnational lists: he queried whether the time was ripe to propose the idea once again;
2. Greater visibility to European political parties and their top candidates (he suggested to show the European party logo on party lists or on ballot papers);
3. Setting a deadline for Member States to announce candidates (currently national rules vary from 95 days to 20 days - he suggested 6 weeks);
4. Establishing a common electoral threshold for the European elections;

5. Lowering the minimum age for the right to vote;
6. Encouraging electronic voting;
7. Improving voting options for citizens residing in another Member State.

The most contentious issue in the subsequent debate was the **level of ambition** of the report. While some members suggested a conservative approach, focusing on what could be achieved realistically (Ms HÜBNER (EPP), Mr CORBETT (S&D, UK) and Mr ANDERSSON (Greens, SE)), others advocated a more far-reaching report and were critical of the EP restricting itself from the outset because of a potential blockage in the Council (Mr DURANT (Greens, FR), Ms BRESSO (S&D, IT), and Ms REDING (EPP, LU). As a compromise solution, Ms REDING proposed that two reports be drafted: a legal one that could secure a majority, and another presenting ideas which could be developed in the future.

Mr CORBETT also stressed that many things could be done without changing the rules at all (see the example of the *Spitzenkandidaten*) and added that the EP had the fall-back option of making recommendations to Member States to change their practices. The Chair, however, outlined that AFCO's primary objective was to adopt a *legislative* report on the matter.

- On the most ambitious issue, **transnational lists**, Ms GOULARD (ALDE, FR) spoke in favour, while Mr ANDERSSON, going against the Green's line, argued that by taking seats away from Member States and giving them to a party political elite, the EP would *increase* the distance between EU citizens and their rulers. Ms HÜBNER speculated that the Council could be unwilling to even *start* discussions if the EP were to suggest them in its report.
- The issue of the **visibility of European political parties and their top candidates** prompted considerable debate. While many members were in favour of enhancing the visibility of both, there were divergences on the ways to do this, and whether parties affiliated to a European political party should be under an obligation to indicate their affiliation, for example, on their ballot papers (the idea was supported by Ms BRESSO but opposed by some EPP members). Ms KAUFMANN (S&D, DE) stressed the role played by parties themselves in increasing their visibility, particularly outside election time. EPP and S&D members advocated enhancing the Spitzenkandidaten process, without elaborating further.

- Ms REDING advised against imposing on Member States a **deadline for announcing MEP candidates**, suggesting the softer alternative of setting a common *opening* date for the EU election campaign.
- EPP and S&D members supported calls for a common **electoral threshold**, arguing that fragmentation was not a positive factor in the workings of the EP.
- A popular suggestion was that of reducing to 16 the **voting age** for European elections, with the notable exception of EPP members (Mr WIELAND, Ms REDING and the co-rapporteur, Ms HÜBNER) who firmly opposed the idea.
- **E-voting** attracted support from EPP, S&D and GUE/NGL members. However, Mr ANDERSSON, who had been part of a committee reforming the Swedish electoral law some years ago, cautioned against it, mainly for security reasons.

Additional issues raised by members included: **EU-wide referenda**, which would allow EU citizens to decide on issues, not just candidates - Mr GOERENS (ALDE, LU); the **low turnout** at EP elections and the frequent phenomenon of **MEP candidates becoming Commissioners** - with Mr SCHÖPFLIN (EPP, HU) raising potential concerns regarding the balance of powers.

In his closing remarks, Mr LEINEN identified the main issue as being whether the report should be conservative or progressive. Ms HÜBNER claimed that this would become clearer after discussions with the Luxembourg Presidency.

- *Next steps: Ms HÜBNER hoped to produce a working document which could be discussed in May, and to have a first exchange of views with the Presidency in July.*

### **Item 9. European Citizens' Initiative (ECI)**

Mr SCHÖPFLIN (EPP, HU), rapporteur for an-own initiative report on the implementation of the ECI Regulation, presented the general ideas he wished to include in his report (currently being drafted). The backdrop to this debate was the public hearing held by AFCO on 26 February 2015, which clearly identified the deficiencies in the current instrument, as well as the upcoming Commission review of the ECI Regulation, due by 1 April 2015.

Mr SCHÖPFLIN highlighted the innovative character of the ECI and its potential mobilisatory powers. However, he lamented the ECI's "pretty poor track record", emphasising the considerable technical and legal/political problems that prevented this instrument from working optimally. He made a number of preliminary suggestions which he wished to consider in his upcoming report:

1. 1-year deadline: many ECI organisers claimed that one year was not enough to collect the relevant number of signatures;
2. One million signatures: the rapporteur queried whether this should be interpreted strictly or whether there was room for flexibility;
3. An improved and more-user friendly website, that allowed for immediate contact with participants and greater follow-up;
4. A dedicated office on ECIs in every MS ("one-stop-shop"), which could provide assistance to citizens wishing to launch an ECI;
5. A waiving or considerable limitation to the legal liability of ECI organisers;
6. Harmonised or uniform registration requirements throughout the EU;
7. A digital-level EU citizenship which could fit within the EU Digital Agenda and would simplify identification and registration procedures;
8. A more flexible and open approach from the Commission, which has currently received over 50 initiatives, none of which have resulted in binding legislation;
9. Hearings of ECIs: which could be organised by the EP;
10. Admissibility of ECIs: avoiding that the Commission decide on this. While alternative options were still to be explored, some form of arbitration immediately outside the Commission framework could be an alternative.

Members largely adhered to the line taken by the rapporteur. Mr LEINEN (S&D, DE) supported extending the **1-year deadline** to 18 months, while Ms KAUFMANN (S&D, DE) suggested that the current time-limit be maintained, but that the clock start ticking a few months *after* registration of the ECI by the Commission, and not immediately upon registration, in order to give organisers time to prepare for the collection of signatures.

Mr CORBETTT (S&D, UK) reiterated his objection to the strict requirement of **one million signatures**, urging for greater flexibility, both in terms of the threshold and in the verification of signatures. This position was contested by Mr LEINEN, who argued that the Treaty was clear on this issue, and that a loose and less formal approach ran the risk of giving ECIs less value.

Mr LEINEN and Ms KAUFMANN were in favour of a **designated ECI office** in each Member State. They also raised the issue of whether **the scope of ECIs** should be broadened (i.e. whether ECIs should cover all areas of EU competence, rather than those of the Commission only, as is currently the case).

Ms PAGAZAURTUNDÚA RUIZ (ALDE, ES) stated that her group would back the rapporteur, adding that she was in favour of e-voting and the standardisation of registration requirements.

- *Next steps: Commission report by 1 April 2015. EP report available in May-June 2015. COM proposal to reform the ECI Regulation, potentially before the end of 2015.*

#### **Item 10. Procedures and practices regarding Commissioner Hearings, lessons to be taken from the 2014 process**

Mr CORBETT (S&D, UK) presented his report, drafted as a motion for a resolution, which sets out a number of suggestions on how to improve the Commissioner hearings. To that end, it proposes various changes to the EP's rules of procedure. The report largely reflects the rapporteur's previous working document, presented to AFCE on 4 December 2014.

The 8 concrete suggestions in the rapporteur's draft report are:

1. Timing - to set a deadline by which all Member States have to put forward a candidate, so as to leave adequate time for the hearings and evaluations;
2. Candidates - to recommend that each Member State put forward at least two candidates - one male and one female - for consideration by the Commission President-elect (new suggestion compared to the working document);
3. Hearing of a Vice-President - given such a candidate's horizontal responsibilities, to have the hearing take place at an open meeting of the Conference of Presidents or of the Conference of Committee Chairs;
4. Number of questions - to reduce the number of questions from 45 to 25, with the possibility for members to pose an immediate follow-up question;
5. Procedures for evaluation - to set clear procedures establishing how a Commissioner is to be evaluated and in what circumstances additional written questions or an additional hearing can be requested (at the 2014 hearings, a lack of consensus among coordinators resulted in mechanisms being introduced which were not in accordance with the EP's rules of procedure);

6. Publication of the results of the evaluations - to provide that the results of an evaluation are published 24 hours after the *evaluation*, and not 24 hours after the *hearing*;
7. Horizontal questions - to ensure that questions of a horizontal nature (e.g. composition, structure and working methods of the Commission) are addressed only to the Commission President, at meetings with the Conference of Presidents (both before and after the hearings);
8. Declarations of interest - to confirm JURI's competence in scrutinising such declarations and to include an invitation to the Commission to broaden the scope of the current declarations.

VP TIMMERMANS, whom the rapporteur had recently consulted on the suggestions, apparently had no objections, but recommended uniformity in the questionnaires sent to Commissioner-designates ahead of a hearing, which hitherto varied considerably (in terms of length and the number of sub-questions). Similarly, Mr PREDA (EPP, RO) advocated harmonising the tone of the final evaluations, deemed to range from "neutral" to "exuberant" in the 2014 hearings.

The subsequent debate was largely consensual, with some comments on the rapporteur's specific suggestions:

- the idea of **setting a deadline** by which all Member States have to put forward a candidate was supported by Mr PREDA the EPP shadow rapporteur;
- on the **number of questions**, Ms PAGAZAURTUNDÚA RUIZ (ALDE, ES) objected to a reduction, arguing that more questions gave members the opportunity to assess candidates more fully. Mr CORBETT, supported by Ms KAUFMANN (S&D, DE), indicated that there was no real reduction in the number of questions, and that his suggestion enhanced the inquisitorial nature of hearings, allowing members to quiz a Commissioner further if the initial reply was considered inadequate;
- on the **procedures for evaluation**, Mr PREDA recommended that approval for a second hearing be given by the Conference of Presidents, and not the EP President, and Mr ANDERSSON (Greens, SE) was critical of some procedural aspects envisaged.

Furthermore, as in the AFCO debate in December 2014, representatives of the smaller groups - this time Ms PAGAZAURTUNDÚA RUIZ (ALDE, ES) and Mr ANDERSSON (Greens, SE) - spoke against the **horse-trading** that took place among the two dominant political groups at the last hearings, arguing that this conflicted with an objective assessment of candidates.

Mr CORBETT countered that "a little give and take in practice worked well", in that a candidate only fell if there was wide consensus that he or she performed very badly.

Ms HÜBNER (EPP, PL) questioned whether the **commitments** made by Commissioners at their hearings required some form of follow-up procedure that could be formalised in the rules of procedure. Mr CORBETT's preferred the option of allowing committees to check commitments when Commissioners visited them.

The Commission representative, Mr CLEMENS (Deputy head of unit for interinstitutional relations), stressed the Commission's insistence on the **equal treatment** of Commissioner-designates, in terms of their questionnaires and the structure of their hearings.

➤ *Next steps: 16 April exchange of views on amendments, 5 May vote in AFCD.*

#### **Item 11. Draft opinion on the Commission's annual reports 2012-2013 on subsidiarity and proportionality**

Mr UJAZDOWSKI's (ECR, PL) brief opinion to the JURI report, among other things, welcomes the Commission's ex ante scrutiny of proposals, the greater exchange of information between national parliaments and the increase in reasoned opinions (from +9% in 2012 to +25% in 2013). It also calls for a significant extension to the 8-week deadline for national parliaments' scrutiny and for clear criteria as to when there is a breach of the principles of subsidiarity and proportionality.

Mr SCHÖPFLIN (EPP, HU), on behalf of the EPP, supported the draft opinion, and wished to add a reference to the EP's increasingly important role in checking compliance with subsidiarity and proportionality. He also called for national parliaments to be involved in setting the criteria for the breach of such principles, and for the EP to encourage the participation of local and regional parliaments.

Mr BRESSO (S&D, IT), speaking for S&D, supported the main points of the opinion and the greater involvement of national parliaments. She also referred to the possibility of a "green card" allowing national parliaments to suggest issues in respect of which they would like the Commission to take action, but which would fall short of a formal right of legislative initiative.



ALDE and the Greens agreed on the opinion's general lines, while GUE/NGL (Mr CHRYSOGONOS, EL) advocated including in the opinion a reference to subsidiarity and proportionality in the implementation of fiscal adjustment programmes.

➤ Next steps: 16 April exchange of views on amendments, 5 May vote in AFCD.

## **Item 12. European Fund for Strategic Investments**

Ms HÜBNER (EPP, PL), the rapporteur for the AFCD opinion to the BUDG committee, welcomed the Fund for Strategic Investments, clarifying its unprecedented character and its potential as an impulse for investment and a boost to the EU's competitiveness. She clarified that the Fund's specific guarantee mechanisms created a new space for interinstitutional cooperation, which required an independent, transparent and accountable system that should not be politicised.

It is precisely those issues which she sought to address in her 30+ amendments to the BUDG report. Her amendments also highlighted the need for transparency in the selection of investment experts and projects. On the issue of reporting, the rapporteur's amendments supported the EP's *ex post* scrutiny of selected projects (advising against the EP's *ex ante* role, claiming it would render the procedure excessively lengthy).

Ms HÜBNER also tabled amendments seeking to ensure that as many issues as possible be included in the Regulation on the European Fund for Strategic Investment - as opposed to the Agreement to be signed between the EIB and the Commission on the matter - so as to give the EP a stronger say.

Most speakers supported the rapporteur's stance. Ms BRESSO (S&D, IT), supported by Ms PAGA ZAURTUNDÚA RUIZ (ALDE, ES), called for a reference to the EU needing a fully-fledged own-resources capacity, given that this clearly limited the Investment Plan: the Commission could not go beyond the current MFF and thus had to finance its project by taking resources from other headings and engaging in complex financial engineering. In addition, she suggested a reference to the investment package having to respect economic and territorial cohesion.

Mr CHRYSOGONOS (GUE/NGL, EL) and Ms SPINELLI (GUE/NGL, IT) had reservations about the investment fund generating as much private investment as envisaged. They also called for a reference to the independence, permanence and legal personality of the Steering Board.

Mr ANDERSSON (Greens, SE), supported the general direction taken by the rapporteur.

In her closing remarks, Ms HÜBNER argued that pushing for an own-resources system would take time and thus was not a practical solution for the years to come. She acknowledged that the Investment plan could not realistically solve all problems given the size of the challenge ahead.

➤ Next steps: *AFCO vote on 16 April and ECON vote on 20 April*

Next AFCO meeting:

16 April 2015.

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