



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	Summary record of the meeting of the Committee on Constitutional Affairs (AFCO) of the European Parliament held in Brussels on 20 and 21 January 2014

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

Items 1 and 2 on the agenda

Adoption of agenda and Chair's announcements: the agenda was adopted.

Item 3 on the agenda

Hearing on the relations between the European Parliament and the European Commission after Lisbon in the context of the Mep Paulo Rangel own-initiative report on implementation of the Treaty of Lisbon with respect to the European Parliament.

Panel I - Lisbon Treaty state of play

The rapporteur Mr RANGEL (EPP, PT) welcomed Mr Vitorino, President of Notre Europe-Jacques Delors Institute, and underlined that the purpose of the initiative report was to codify the EP interpretation of the provisions of the Lisbon Treaty involving the relationship between the EP and the Commission. He pointed out that focus would be on provisions on the appointment of the new Commission, in particular in view of the exchanges with the Council after the elections, the renegotiation of the Framework Agreement with the Commission, the expected trilateral revision of the 2003 better law-making agreement with the Commission and the Council, Delegated and Implementing acts, the institutional dimension of the EU and the separation of powers amongst EU Institutions.

Mr VITORINO expressed the general view that EU institutional development would lead to a two speed EU, with a group of MSs taking the lead (he mentioned in particular the Euro area) in line with the logics of enhanced cooperation.

He stressed the importance of maintaining the Community method with the Commission initiative of the legislative process and the Judiciary control by the Court of Justice.

No special institutional settings should be set for the Euro area, with the exception of a subcommittee within the EP ECON Committee that should deal with economic governance, in particular the European Semester and implementation of Article 13 of the Fiscal Compact.

He then addressed the issues of the Commission's political legitimacy, its efficiency and the role of the EU institutions in the legislative process.

Concerning the political legitimacy of the Commission, he stressed the designation of its President by the political groups as the material link between the result of the elections and the choice of the President by the European Council.

He nevertheless acknowledged that such results would allow no political group to reach the 376 votes necessary for the election in the EP.

In his view, future elections would not allow a normal dialectic between usual majority and opposition parties, because of the strong polarisation of the elections. He also underlined the dual nature of the EU, that was legitimated both by citizens and the Member States.

He also wondered whether the European Council would not package the election of the President of the Commission with those of the High Representative, the President of the Eurogroup or even the President of the European Council.

The choice not to reduce the number of the Commissioners put it at risk of becoming a 'Coreper 3'. He suggested, as remedies to the excess of collegiality, the creation of Commissioners without portfolio that would 'cluster' around the Vice-Presidents. In his view, the role of the President should also be strengthened in choosing the other Commissioners.

As for the role of the Institutions in the legislative process, he considered that the Lisbon Treaty had brought about a bicameral system, with the EP and the Council working on an equal footing. He considered that few withdrawals of proposals gave evidence of the fact that the Commission had lost power in the legislative procedure.

He expressed the view that a tripartite institutional agreement should better define the powers of the Institutions for legislation, Delegated and Implementing Acts.

Mr SCHÖPFLIN (EPP, HU) agreed that the semi-direct election of the president of the Commission could help reconcile citizens with the EU, even if he considered that popularity of the EU amongst the EU 'demos' had been diminishing since the 2005 French and Dutch referenda. He considered that the central issue was the role of National Parliaments (NP) and suggested that Commissioners appear before NPs.

Mr LEINEN (S&D, DE) regretted the trend towards inter-governmentalism at the expense of parliamentary democracy. He agreed that the Community method had to be reinforced and that stress should be on the structure of powers within the Commission rather than on the number of Commissioners. He also considered that the EP should make use of its right to initiate treaty changes pursuant to Art. 48 TEU.

Mr DUFF (ALDE, UK) warned against allowing the European Council to take the centre of the executive authority of the EU, as suggested by Ms MERKEL's speech in Bruges, and advocated a parliamentary system in a federal context. He wondered whether the President-elect would be able to shape the nomination and style of the new Commission, in particular given the pervading powers of the President of the European Council. He also expected the nomination system to put a great strain on European political groups and mentioned tensions between two senior members representing two different persuasions within ALDE.

Mr FOX (ECR, UK) stressed the lack of legitimacy of the Commission and of the EU. He considered that a central role by the European Council was justified by the fact of representing people elected in national parliaments (NPs), which enjoyed much more democratic legitimacy. He complained that the two main political groups had blocked an initiative under Art. 48 TUE on the single seat of the EP.

In his view, the discharge procedure should lead to sacking Commissioners whenever a positive statement of assurance is not delivered by the Court of Auditors. Otherwise, he agreed with the idea of creating 'clusters' of Commissioners.

Mr AGNEW (EFD, UK) considered that such clusters should be created in a way to avoid driving debates inside the Commission, when for instance all the Commissioners belonged to the Euro area. He complained about the use of delegated powers by the Commission in the Agri dossiers.

Mr VITORINO stressed that all MSs, except UK and DK, were to share the Euro and in any case considered that decisions on the European Monetary Union should continue to be adopted by the Commission as a college.

Panel II - Has the crisis endangered the European Union democratic achievements?

Mr Nymand Christensen, Director in the Commission General Secretariat, considered that the economic crisis had overshadowed the Treaty of Lisbon (ToL). The six-pack and the two-pack legislation had been adopted to strengthen the economic governance of MSs, but largely remained within the competence area of MSs.

NPs had to be anchored in the EU legislative process, whereby the Commission was fully committed to respect their subsidiarity control. He stressed that the Commission had fully taken into account the two yellow card procedures that were concluded. In the case of the Monti II directive, the proposal had been withdrawn, whereas the Commission had provided appropriate answers for the Public Prosecutor proposal. He added that the ToL had strengthened the EP in a number of legislative and non-legislative areas. He mentioned the role played by the EP in the SWIFT consent procedure. He nevertheless underlined that the rationale of the ToL was to reinforce all EU institutions and highlighted the role of the Commission in the ordinary legislative procedure, in particular during trilogues. In his view, the Commission/EP partnership was justified by the common EU perspective of the two institutions, whereas the Council had to mediate national interests. He also mentioned the initiatives proposed by the EP under Article 225 TFEU and the attention devoted to them by the Commission, although the answers of the Commission did not always appear to reach individual rapporteurs. As for the delineation between delegated and implementing acts he felt that the issue should be solved through an agreement, since the approach had been unnecessarily tense so far, despite the efforts of the Commission to avoid political bargaining.

Mr Blockmans, Senior Research Fellow and Head of the EU Foreign Policy Unit at the Centre for European Policy Studies, stressed the increasing role of the **European Council (EC)**, which had extended its policy area through inter-governmentalism, in particular in the EMU area. Despite lacking legislative powers, EC had also impeded on the initiative role of the Commission and framed the legislative powers of the Council in a number of areas. He felt that it was unlikely that EC powers would regress. He also addressed the subsidiarity control, that needed to be better streamlined within NPs. He recalled also that the EP had a role in the economic governance through the economic dialogue introduced by the six-pack.

Mr Parkes, Programme Coordinator at the Polish Institute for International Affairs, witnessed the ToL from the perspective of the new central European MSs. They felt that as smaller MSs they had lost powers as the EC grew in importance compared to the Council. Also the Commission, traditionally seen as an ally of smaller MSs, had lost this role because of a short term alliance with the EP. He wondered whether the strengthening of the powers of the President of the Commission would be enough to better resist pressure from big MSs. The approach of the Commission towards Germany was being carefully observed in Eastern European MSs. As for the international dimension, the role of the EP in supporting strong conditionality in international agreements was appreciated as a way to help MSs to stick with the protection of EU values as demonstrated by the Ukrainian case.

Mr DUFF said that the Commission lacked a powerful strategic direction of the EU.

Mr SCHÖPFLIN agreed with Mr Parkes that new MSs tend to consider themselves as being only partially part of the EU. He considered that this might find justification in the fact that the GDP ranking had remained much the same as it was in 2004. The free movement of capital resulted in an impoverishment of those domestic markets. Moreover, mobility of the labour force showed overqualified people working in western MSs (mentioned the case of people with a degree working as porters in London hospitals).

Mr PERNICE, Humboldt University, Berlin, in drawing the concluding remarks noted that legislative measures needed a proper justification of their subsidiarity. NPs would no longer table complaints of loss of competence if they received a clear explanation that only action at the EU level was useful. Subsidiarity would also be useful when debating with Mr CAMERON, since he should explain which EU competences were not useful.

He considered that the legislation adopted in the EMU sector could only work for a limited period. Since it only enhanced coordination between MSs through inter governmentalism, a reform of the treaty was needed in order to apply the Community method to this policy area.

He added that a direct election of the Commission would weaken the EP and create problems at national level: the German constitutional Court would object that this was tantamount to transforming the EU into a federal State, which was not possible for the German constitution.

Instead, he welcomed the election of the President of the Commission through a nomination of candidates by the political parties as a way to steer interest amongst the EU citizens.

He welcomed the idea of clusters of Commissioners and considered that in the choice of the Commissioners, attention should be given to the results of the elections within MS.

He finally stressed the role of the newly elected EP as representing the will of citizens. The EP should translate this into a political programme to be given to the Commission. He considered that the way of transmitting the programme to the EC remained an open issue. He suggested that a double hatted President of the Commission and President of the EC could ensure accountability of the latter institution towards the EP.

Mr RANGEL told Mr PERNICE that if the EU contrasted with a national constitution, the latter had to be changed, since the traditional national state had failed in ensuring peace in Europe.

Item 5 on the agenda

Chair's announcements concerning coordinators' recommendations

Mr CASINI indicated that he had been appointed rapporteur on the modifications of EP rules 49 and 50. He also indicated that an opinion from the EP Legal Service has been asked on Article 48 of the TEU following the receipt of a document by the Scottish government on the possible application of this Article.

Item 6 on the agenda

Statute and funding of European political parties and European political foundations

AFCO/7/10671

Rapporteur: Ms GIANNAKOU (EPP, EL)

Responsible: AFCO –

- Presentation of the report on the trilogue of 17 December 2013

Ms GIANNAKOU indicated that a meeting with the shadow rapporteurs would take place on 22 January to discuss the Commission services' compromise proposals on funding provisions in order to prepare a technical trilogue on 23 January. She understood that the Hellenic Presidency was aiming to get a full negotiating mandate in February and was looking forward to starting negotiations with the Council, with the hope of concluding this file during this legislature.

Mr DUFF (ALDE, UK), while recalling that the EP had agreed on the institutional part of the package last December, underlined that several important issues remained to be discussed and that progress had to take place rapidly.

Ms GURMAI (S&D, HU) stressed that the timeframe was very tight and that more than one negotiation meeting would certainly prove to be necessary.

Mr SCHÖPFLIN (EPP, HU) agreed with the other speakers. However, he indicated that some opposition remained in Council on the entire project and that failure was a possibility, hence delaying discussions after EP elections.

Ms GIANNAKOU acknowledged that there was some opposition in the Council. In case there would be no agreement in trilogues, she considered that the EP should at least vote on its first reading position in Plenary before the end of this term.

***** Voting time *****

Item 7 on the agenda

Amendment of Rule 136 of the Rules of Procedure on the attendance of Members at sittings

AFCO/7/12050

Rapporteur: Mr HÄFNER (Verts/ALE, DE)

Responsible: AFCO –

- The draft report was adopted as amended.

***** End of vote *****

Item 8 on the agenda

Amendment of the Rules of Procedure with regard to parliamentary questions

AFCO/7/12575

Rapporteur: Ms GURMAI (S&D, HU)

Responsible: AFCO –

- Consideration of amendments

Ms GURMAI presented her amendments, which also covered EP written questions, and aimed at reducing unnecessary questions and at preventing abuses. In particular, she stressed that:

- the EP President shall decide upon the admissibility of a question;
- EP questions should remain with the scope of the Treaties;
- Each MEP may submit a maximum of five questions per month.

Mr DUFF felt that several amendments were similar and that there was plenty of scope for compromise. He referred to his amendment 15 which explained the present problem: in 2013, 32% of the EP written questions were asked by only 10 MEPs and 45% by only 20 MEPs, adding that one MEP tabled 890 written questions. Raising the costs to process such EP questions, he therefore stressed the need for stricter quality control and to provide for a cap on the quantity. He also suggests extending the procedure of EP written questions to the President of the European Council, adding that the current EC President was only prepared to reply to questions concerning his personal agenda and not on behalf of the European Council. Mr DUFF felt that it was a mistake and that his successor should improve this practice. Ms GIANNAKOU agreed with the previous speakers.

Item 9 on the agenda

Enquiry report on the role and operations of the Troika (ECB, Commission and IMF) with regard to the euro area programme countries

AFCO/7/14608

Rapporteur for the opinion: Mr SCHOLZ (GUE/NGL, DE)

Rapporteur for the responsible committee (ECON): Mr KARAS (EPP, AT), Mr HOANG NGOC (S&D, FR)

- Consideration of draft opinion

Mr SCHOLZ criticized the inter-governmental approach of the Council in addressing the crisis as well as the work of the Troika, stressing the need to enhance EP scrutiny and to clarify the responsibilities of the Troika. He called for a Treaty change in order to create a legal basis for the Troika in the Treaty and a single financial assistance instrument within the Community framework. He also felt that the social dimension should be taken into account in countries affected by the crisis.

Mr SCHÖPFLIN (EPP, HU) agreed with the draft opinion, especially as regards the lack of adequate scrutiny of the Troika's work. Mr RANGEL (EPP, PT) indicated that the programmes of the four countries under Troika processes had been validated by national elections afterwards. Mr GUALTIERI felt that the draft opinion should also clarify the legal framework behind the Troika system and that Troika's competences should fall within EU law. Mr HÄFNER (EPP, AT) considered that the Troika solution could be justified in emergency situations but that it would be dangerous as a constant policy approach, adding that a democratic solution was now necessary.

Next steps:

- Deadline for tabling amendments: 23 January
- Draft opinion to adopted on 11 February

Item 10 on the agenda

Relations between the European Parliament and the national parliaments

AFCO/7/13740

Rapporteur: Mr CASINI (EPP, IT)

Responsible: AFCO –

- Exchange of views

Mr CASINI indicated that this new own-initiative report (in preparation) will aim at analysing how the Lisbon Treaty had been implemented and at looking at the relations between national parliaments and EU institutions more generally.

Mr SCHÖPFLIN (EPP, HU) raised the complexity of the role and competences of national parliaments in EU matters, pleading for greater clarity. Mr GUALTIERI (S&D, IT) considered that the report should focus on the implementation of the Lisbon Treaty, excluding any major reform on this issue at this stage.

Mr DUFF (ALDE, UK) warned against reopening this sensitive issue before EP elections which will be very polarized in some Member States, adding the need to consult national parliaments themselves before drawing any conclusions. He believed that the closest cooperation between EU and national parliaments took place in the context of the Convention which, he thought, should be reiterated after 2014 in order to reform the Treaties. He felt that the Council should act in a more parliamentary style notably in terms of transparency and questioned whether the EP should be a full player in the COSAC¹.

¹ Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union

Ms GURMAI (S&D, HU) highlighted the need to assess parliamentary scrutiny as well as inter-parliamentary cooperation, considering that COSAC had to be further strengthened. Mr HÄFNER believed that the report should examine how to improve relations with national parliaments in the context of the current Treaties, adding that COSAC functioning was not satisfactory.

Mr CASINI concluded that the report would be limited to the Lisbon Treaty implementation and to pragmatic ways to increase cooperation with national parliaments.

Next step: continuation of the discussions on 10 February.

Next meeting(s)

- 10 February 2014, 15.00 – 18.30 (Brussels)
 - 11 February 2014, 9.00 – 12.30 (Brussels)
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