

## **COSAC chairpersons meeting 11.2.08/ Ljubljana**

### **Speech of vice president FRATTINI**

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#### *Cooperation between the Commission and National Parliaments*

Chairman, Honourable Members, ladies and gentlemen,

- I am very happy to participate in this COSAC meeting, before representatives of both national Parliaments and the European Parliament.
- To me, the dialogue with national Parliaments is very important and essential for a better understanding of the needs and priorities of European citizens.
- The big task that lies ahead of us - parliamentarians as well as Commissioners – is to change the way people look at the European Union and the way they participate to the debate on issues of common interest to all the Europeans. Therefore, from the very beginning, our efforts are aimed at a better anchoring of the European dimension in the

political parties and in the democratic traditions of the Member States.

- To be effective, any union needs to be perceived as such. To be strong, any union needs to be recognized as legitimate by those who are actually united. Let us never forget, that the European Union is a historically unique experience: an entirely peaceful and rational political project. This not more than 50 years old unprecedented process has reached a stage, when the direct and explicit involvement of National Parliaments has become a political necessity. It comes to strengthening both the legitimacy and the effectiveness of the Union.
- That is precisely why, in its Communication to the European Council *A citizens' agenda - Delivering results for Europe* (COM(2006)211 of 10 May), the Commission announced its intention to transmit directly all new proposals and consultation papers to national Parliaments, inviting them to react and thus to contribute to the improvement of the policy formulation process at EU level.
- The transmission of proposals has started in September 2006 and I am pleased to say that we have already received

a feedback on various issues from several national parliaments.

- But before entering into the details of a first assessment, I would like to come back to the initial vision of this political dialogue. Let's be clear! It is not an attempt to somehow circumvent established procedures, to go behind the back of the Council, the Governments or the European Parliament. It is a way of offering a dialogue which will allow all the National Parliaments to be better informed and at an earlier stage. It is a window of opportunity for all of them to be more active in the preparation and formation of European policy. It is supposed to help the National Parliaments to engage the debate at national level with their respective governments, so as to work out the national position, which will then be endorsed by the representatives of the Member States in the Council.
- As you know, Ms Wallström, responsible for institutional relations and relationships with National Parliaments, came up with a ten point plan in 2005. Well, the immediate effect of this plan was to turn the Commissioners into European pilgrims: over the past years, we have paid more than 350 visits to National Parliaments for committee hearings or

plenary debates. Those contacts have been maintained after the negative outcome of the referenda in France and the Netherlands and our relationship with the National Parliaments improved.

- We now systematically send all Commission communications and proposals to National Parliaments and so far we have received 182 reasoned replies. We are committed to responding to all of them and taking them into account for any subsequent action.
- In the Commission's view, the National Parliaments reacted very constructively. Those opinions have been issued by 27 National assemblies from 19 Member States. 47 opinions were transmitted in the framework of three successive subsidiarity and proportionality tests carried out by the COSAC, the last one related to the framework decision on the fight against terrorism included.
- So it means that a very large range of our proposals (in reality more than 80) have been commented. It covers a very large scope of policies and demonstrates the great interest of National Parliaments for European issues.

- This being said, and without any judgement from our part, it has to be noted that there is a club of proactive chambers: Apart from the COSAC tests, 135 opinions have been issued by 7 assemblies. Some of the assemblies, which initially choose not to participate, have eventually decided to examine our green and white papers.
- The Commission is evaluating the mechanism and will examine how to improve it. What we can already say is that the political dialogue is evolving. The Commission has more interlocutors, the debate does not focus only on the subsidiarity questions – (a majority of our replies is actually addressing political questions) and the information and IT tools provided by IPEX are in progress. The IPEX website has become an important tool of coordination of national parliamentary scrutiny processes.
- What we can also say is that the first impact of this political dialogue is to oblige the Commission to better explain the purposes of its proposals. In some cases, the Commission, in full cooperation with the Council and the European Parliament, has complemented the text of a proposal in order to better justify it in terms of subsidiarity.

- In many cases opinions expressed by National Parliaments were reflected in the legislative process by either the European Parliament or the Council. It clearly points out the added value of the political dialogue as the initial proposals could be modified through the European inter institutional process. As far as the Commission is concerned, it allows us to pick up early signals from Parliaments if they feel that we are going beyond our remit, or if they feel we are going on the wrong path.
- Let me take a couple of examples:
  - The achievement of the Internal market of postal services for instance. The French Senate and National Assembly, the Belgian Senate and Chamber as well as the Luxembourg Chamber expressed reserves regarding the question of the universal service in the draft directive and in particular regarding the financing. Those reserves have been partly reflected by the first reading position taken by the EP and the Council in November and had been incorporated in the final agreement.

- Concerns regarding proper financing of the EIT raised by the Dutch Parliament and other assemblies were reflected by the position of the EP and the Council. And as you know, the Commission put forward a proposal to revise the Multi annual Financial framework 2007-2013 in order to ensure the funding of EIT and Galileo. On the same topic, the LORDS questioned the participation of private investors, and this aspect has also been echoed during the debates in the EP and the Council.
- Now let's have a look at my field of responsibility. I have to confess that we received already 35 opinions from national parliaments. They concern 13 different proposals, as you know, but in particular two proposals selected by the COSAC for its subsidiarity and proportionality tests: the **proposal on jurisdiction and rules concerning applicable law in matrimonial matters and, more recently, the proposal on the combat against terrorism.**

- I welcome these opinions, as well as the fact that the COSAC has selected these proposals for a "subsidiarity and proportionality check".
- The Commission is currently carefully analysing all opinions on the fight against terrorism and will provide a reply to all of them. Let me remind you that the proposal amending the Framework Decision on combating terrorism was adopted by the Commission on 06.11.07, within the counter-terrorism package. It aims at introducing in the Framework Decision the offences defined in the Convention on the Prevention of terrorism: public provocation to commit a terrorist offence, recruitment for terrorism and training for terrorism.

It is encouraging to see that all national parliaments opinions but one confirm that our proposal respects the principle of subsidiarity.

- Some opinions include remarks with regards to the principle of proportionality. A number of them consider that, although the principle is respected, the motivation of the Commission is not entirely satisfactory. These opinions

include questions and constructive criticism. The Commission is elaborating exhaustive replies to each of these opinions.

- A concern raised by several Parliaments is the notion of "public provocation to commit a terrorist offence", as a very broad notion which could interfere with freedom of expression.
- I would like to recall that even if freedom of expression is of paramount importance, it has its limits. For instance, incitement to racial hatred cannot be considered admissible on the grounds of the right to freedom of expression. The same goes for public provocation to commit terrorist offences, recruitment for terrorism or training for terrorism.
- Also, concerns with respect to the independence of the media have been taken into account: the proposal explicitly excludes the dissemination of information for scientific, academic or reporting purposes from the scope of the Framework Decision on combating terrorism as well as the expression of radical, polemic or controversial views in the

public debate on sensitive political questions, including terrorism.

- Let me finish with some words on the proposal on combating racism and xenophobia.
- Europe is founded on common values. Respect of fundamental rights is one of the most important shared values of the European Union.
- A deep commitment in combating racism and xenophobia is a direct consequence of the respect of fundamental rights.
- A proposal for a Council Framework Decision on combating racism and xenophobia was presented by the Commission in November 2001.
- The discussion on this text at the Council was long and difficult: it started in 2002 and Member States were able to reach a political agreement only 5 years later.
- As you can see it from the title of the draft Framework Decision, which has become "combating *certain forms and expressions* of racism and xenophobia by means of criminal law" modified in the wake of lengthy negotiations, the scope of this instrument has been progressively narrowed.

- Even if the text is much less ambitious than what the Commission initially proposed, the Commission welcomes the political agreement reached in April 2007 by the JHA Council.
- However, 5 delegations in the Council, namely the Netherlands, Ireland, Sweden, Denmark and Latvia have notified their respective parliamentary scrutiny reservations.
- The Commission underlines that if Parliamentary scrutiny reservations are not lifted and, as a consequence, the text isn't formally adopted and published in the Official Journal before the entry into force of the Lisbon Treaty, 5 years of discussions in the Council will get lost.
- I hope that the Parliamentary reservations still blocking the formal adoption will be lifted as soon as possible.
- Chairman, Honourable Members, ladies and gentlemen, let me conclude:

It is my firm belief that the political dialogue launched by the Commission gives a real opportunity to the National Parliaments to express their views and to participate in the European debate. It fully corresponds to the political commitment of this Commission.

Now, what we would like to do is to further improve this political dialogue. The Commission is therefore open to your suggestions also concerning the form and modalities of our relationship.