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## **DRAFT REPORT**

on the development of the relations between the European Parliament and national parliaments under the Treaty of Lisbon  
(2008/2120(INI))

Committee on Constitutional Affairs

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the development of the relations between the European Parliament and national parliaments under the Treaty of Lisbon (2008/2120(INI))

*The European Parliament,*

- having regard to the Protocol on the role of national parliaments in the European Union annexed to the Treaty of Amsterdam,
- having regard to the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty of Amsterdam,
- having regard to the Protocol on the role of national parliaments in the European Union annexed to the Treaty of Lisbon, in particular Article 9 thereof,
- having regard to the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty of Lisbon,
- having regard to its resolution of 7 February 2002 on relations between the European Parliament and the national parliaments in European integration<sup>1</sup>,
- having regard to the Guidelines for relations between governments and Parliaments on Community issues (instructive minimum standards) of 27 January 2003 (the “Copenhagen Parliamentary Guidelines”)<sup>2</sup>, adopted at the XXVIII Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC),
- having regard to the Guidelines for Interparliamentary Cooperation in the European Union of 21 June 2008,<sup>3</sup>
- having regard to the Conclusions of the XL COSAC held in Paris on 4 November 2008, in particular point 1 thereof,
- having regard to the report of November 2008 by the Irish Parliament's Subcommittee on Ireland's Future in the European Union, in particular paragraphs 29-37 of the executive summary, in which a broad reinforcement of parliamentary scrutiny of the national governments as members of the Council is called for,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Development (A6-0000/2008),

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<sup>1</sup> Adopted pursuant to report A5-0023/2002 of the Committee on Constitutional Affairs (the Napolitano report) (OJ C 284 E, 21.11.2002, p. 322.).

<sup>2</sup> OJ C 154, 2.7.2003, p. 1.

<sup>3</sup> Revised version agreed upon by the Conference of Speakers of the European Union Parliaments at its meeting in Lisbon on 20 and 21 June 2008.

- A. whereas the latest resolution adopted by the European Parliament on the issue of relations with the national parliaments dates from 2002 and it is therefore time for a reassessment,
- B. whereas the peoples of the Union are represented to the full by the European Parliament and the national parliaments, each in its own realm; consequently the necessary parliamentarisation of the European Union must rely on two fundamental approaches involving the broadening of the European Parliament's powers vis-à-vis all the Union's decisions and the strengthening of the powers of the national parliaments vis-à-vis their respective governments,
- C. whereas excellent cooperation took place in the European Convention between the representatives of the national parliaments and the representatives of the European Parliament, and also between the latter and the representatives of the parliaments of the accession countries,
- D. whereas the practice of holding Joint Parliamentary Meetings on specific topics during the reflection period has proved to be a good one, so that use could be made of this instrument if a new convention were to be convened or on similar occasions,
- E. whereas relations between the European Parliament and the national parliaments have improved and diversified during recent years and an increasing number of activities are taking place at the level of parliaments as a whole as well as at the level of parliamentary committees,
- F. whereas the future development of relations should take into consideration the merits and demerits of the various existing practices,
- G. whereas the new rights accorded to national parliaments under the Treaty of Lisbon, notably with regard to the principle of subsidiarity, encourage them to get involved at an early stage in the process of policy formulation at the level of the Union,
- H. whereas all forms of interparliamentary cooperation should accord with two underlying principles: increased efficiency and parliamentary democratisation,
- I. whereas the primary task and function of the European Parliament and the national parliaments is to take part in legislative decision-making and to scrutinise political choices at, respectively, the national and the European level; whereas this does not render close cooperation for the common good superfluous, especially as regards the transposition of the law of the Union into national law,
- J. whereas it is appropriate to develop political guidelines on the basis of which the representatives and bodies of the European Parliament can determine future action with regard to its relations with national parliaments and implementation of the provisions of the Treaty of Lisbon relating to national parliaments,

### ***The contribution made by the Treaty of Lisbon to the development of relations***

1. Welcomes the new rights of the national parliaments under the Treaty of Lisbon – which

is a 'Treaty of the parliaments' – which enhance their role in the political processes of the European Union; considers that these rights can be divided into three categories:

*Rights to be informed about:*

- the evaluation of policies conducted in the area of freedom, security and justice;
- proceedings of the Standing Committee on Internal Security;
- proposals to amend the Treaties;
- applications to become a member of the Union;
- simplified Treaty revisions (six months in advance);
- proposals for Treaty-supplementing measures;

*Rights to actively participate in:*

- the proper functioning of the Union (“umbrella” provision);
- control of Europol and Eurojust together with the European Parliament;
- conventions dealing with Treaty changes;

*Rights to object to:*

- legislation not complying with the principle of subsidiarity, through the “yellow card” and “orange card” procedures;
- Treaty changes in the simplified procedure;
- measures of judicial cooperation in civil-law matters (family law);
- an infringement of the principle of subsidiarity, by bringing an action before the Court of Justice (if permitted by national law);

***Current relations***

2. Notes with satisfaction that its relations with the national parliaments have developed positively in recent years, notably through the following forms of joint activities:
  - regular Joint Committee Meetings at least twice per semester,
  - ad hoc interparliamentary meetings at committee level on the initiative of the European Parliament or of the parliament of the Member State holding the presidency of the Council;
  - interparliamentary meetings at the level of committee chairs;
  - cooperation at the level of parliament chairs within the Conference of Speakers of the

European Union Parliaments;

- visits by members of national parliaments to the European Parliament in order to take part in meetings of corresponding specialised committees;
- meetings within the political groups or parties at European level bringing together politicians from all Member States with Members of the European Parliament;

***Future relations***

3. Is of the opinion that new forms of pre- and post-legislative dialogue between the European Parliament and national parliaments should be developed;
4. Deems it necessary to support national parliaments in their scrutiny of draft legislation prior to its consideration by the Union legislature;
5. States that regular bilateral Joint Committee Meetings of corresponding specialised committees and ad hoc interparliamentary meetings at committee level, held at the invitation of the European Parliament, allow for dialogue to take place at an early stage on current or envisaged pieces of legislation or political initiatives and should therefore be maintained and developed systematically into a permanent network of corresponding committees; believes that such meetings can be preceded or followed by ad hoc bilateral committee meetings to deal with specific national concerns; believes that the conference of committee chairs could be given the role of establishing and coordinating a programme for the activities of the specialised committees with the national parliaments;
6. Observes that meetings of the chairs of specialised committees of the European Parliament and of the national parliaments, such as the meetings of the chairs of the Committee on Foreign Affairs and of the Committee on Civil Liberties, Justice and Home Affairs, are, because of the limited number of participants, also a tool for sharing information and exchanging views;
7. Is of the opinion that forms of cooperation other than those mentioned above could make an effective contribution to the creation of a European political space and should be developed further and diversified;
8. Would welcome in this context innovations at the level of national parliaments, such as giving Members of the European Parliament the right to be invited once a year to speak in plenary sittings of national parliaments, to participate in meetings of European affairs committees on a consultative basis, to take part in meetings of specialised committees whenever they discuss relevant pieces of European Union legislation, or to take part in meetings of the respective political groups on a consultative basis;
9. Recommends examination of the possibility of granting its specialised committees a budget to organise meetings with corresponding committees of the national parliaments and of establishing the technical facilities for holding videoconferences between the rapporteurs in the specialised committees of the national parliaments and the European Parliament;

10. Believes that increased powers of the national parliaments with regard to compliance with the principle of subsidiarity, as provided for in the Treaty of Lisbon, will allow European legislation to be influenced and scrutinised at an early stage and will contribute to better law-making at European Union level;
11. States that national parliaments are for the first time being given a defined role in European Union matters which is distinct from that of their national governments and which brings the Union closer to the citizen;
12. Recalls that control over the national governments by the national parliaments must be exercised, first and foremost, in accordance with the relevant constitutional rules;
13. Highlights the fact that the national parliaments are important players when it comes to the implementation of European law and that a mechanism for the exchange of best practices in this field would be of great importance;
14. Observes in this context that the creation of an electronic platform for the exchange of information between parliaments, the IPEX website<sup>1</sup>, represents a great step forward inasmuch as it allows the monitoring of European Union documents at the level of the national parliaments and at the level of the European Parliament, and where required, their transposition into national law by the national parliaments, to take place in real time; therefore considers appropriate financial support for this system, developed and managed by the European Parliament, to be essential;
15. Envisages more systematic monitoring of the pre-legislative dialogue between the national parliaments and the Commission (the so-called "Barroso initiative") in order to be informed about the national parliaments' position at an early stage of the legislative process; calls on the national parliaments to make the opinions they issue in this context available to the European Parliament at the same time;
16. Welcomes the progress made in recent years with developing cooperation between the European Parliament and the national parliaments in the field of foreign affairs, security and defence;
17. Notes again with concern that there is too little accountability to parliaments for the financial arrangements with regard to the CFSP and ESDP<sup>2</sup> and that cooperation between the European Parliament and the national parliaments must therefore be improved in order to ensure democratic control over all aspects of these policies<sup>3</sup>;
18. Calls, in the interests of coherence and efficiency and to avoid duplication of effort, for the Parliamentary Assembly of the WEU to be dissolved as soon as the WEU has been absorbed fully and finally into the European Union with the entry into force of the Lisbon Treaty;

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<sup>1</sup> IPEX: Interparliamentary EU Information Exchange, officially launched in July 2006

<sup>2</sup> Common Foreign and Security Policy and European Security and Defence Policy

<sup>3</sup> Interinstitutional Agreement between the European Parliament, the Council and the Commission of 17 May 2006 on budgetary discipline and sound financial management (OJ C 139, 14 June 2006, p. 1) and Article 28(3) of the Treaty on European Union

### *The role of COSAC*

19. Is of the opinion that the political role of COSAC in the future will have to be defined by close cooperation between the European Parliament and the national parliaments, and that COSAC, in conformity with the Protocol on the role of national parliaments in the European Union annexed to the Treaty of Amsterdam, should remain primarily a forum for the exchange of information and debate on general political issues and best practices with regard to the scrutiny of national governments<sup>1</sup>; considers that information and debate should be focused, second, on legislative activities pertaining to the area of freedom, security and justice and on respect of the principle of subsidiarity at European Union level;
20. Is determined to play its role to the full, to discharge its responsibilities with regard to the functioning of COSAC and to continue to provide technical support to the secretariat of COSAC and the representatives of the national parliaments;
21. Recalls that the activities of the European Parliament and of the national parliaments within COSAC must be complementary and must not be fragmented or abused from outside;
22. Believes that its specialised committees should be more strongly involved in the preparation of, and representation at, COSAC meetings; considers that its delegation should be led by the chair of its Committee on Constitutional Affairs and should comprise the chairs and rapporteurs of the specialised committees dealing with the items which are on the agenda of the COSAC meeting in question; considers it essential for the Conference of Presidents, regularly, and Members, once a year, to be informed about the progress and results of COSAC meetings;
23. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

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<sup>1</sup> See the guidelines for relations between governments and Parliaments on Community issues (instructive minimum standards) referred to above.

## EXPLANATORY STATEMENT

### I. Development of relations between the European Parliament and the national parliaments

During the period prior to the first direct elections in 1979, relations between the European Parliament and the national parliaments could be described as 'organic', since the Members of the European Parliament were appointed by the national parliaments. The direct elections ended that link and threw up the question of how relations could and should be shaped in the future. Following a lengthy period during which only piecemeal, unsystematic discussions were held, with the adoption of the Maastricht Treaty the first attempt was made to give mutual relations between the European Parliament and the national parliaments a structure. Two declarations annexed to the Treaty emphasised that the national parliaments play a role in the Community legislative process, that they should be informed by their governments about legislative proposals in good time and that there should be cooperation between the national parliaments and the European Parliament, which might take the form of the holding of regular meetings and the granting of reciprocal facilities<sup>1</sup>.

At the same time the Conference of Community and European Affairs Committees of the Parliaments of the European Union (COSAC) was set up. It holds six-monthly meetings, also involving representatives of the European Parliament, in particular in order to exchange experiences and best practices in the area of the scrutiny of national governments' policies on EU issues. COSAC can address 'contributions' to the European Parliament, the Council and the Commission, although these are not binding on the parliaments involved. The European Parliament's involvement takes the form of attendance by a delegation of six Members, two of whom are Vice-Presidents particularly familiar with issues concerning relations with the national parliaments.

The Protocol on the role of national parliaments in the European Union annexed to the Treaty of Amsterdam formalised these arrangements and incorporated them into Treaty law. The Protocol encourages the national parliaments to become more closely involved in the activities of the Union and to express their views on matters of particular interest to them. With that aim in view, it provides for the prompter forwarding of Commission documents and stipulates that six weeks must elapse before the Council can start considering a text.

The 'Declaration on the Future of the Union' adopted by the Nice European Council called for the national parliaments to be involved in wide-ranging discussions which would address issues including the 'role of the national parliaments in the European architecture'. Accordingly, one of the eleven working groups set up by the ensuing European Convention focused on the role of the national parliaments. In its final report the working group stated that the national parliaments should do everything in their power to influence the Council through their governments. 'Anchoring' the Union in the Member States was a matter for the national parliaments, whose relationship with the European Parliament should not be one of competition. Their roles might be different, but they shared the common objective of bringing

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<sup>1</sup> Declarations 13 and 14.

the EU closer to citizens and thus contributing to enhancing the democratic legitimacy of the Union<sup>1</sup>.

In 2002 the European Parliament drew up a comprehensive report on its relations with the national parliaments<sup>2</sup>. In that report it stated that the concerns of the national parliaments with regard to the European Union made it necessary to define better and more clearly their powers vis-à-vis their respective governments and the European Union, in particular with a view to closer and more effective cooperation between the national parliaments and the European Parliament<sup>3</sup>. The necessary parliamentarisation of the Union should be based on two fundamental approaches: on the one hand, the broadening of the European Parliament's powers vis-à-vis all the Union's decisions, and, on the other, the strengthening of the powers of the national parliaments vis-à-vis their respective governments<sup>4</sup>. As regards the practical side of relations, it proposed that cooperation between the parliamentary committees of the national parliaments and the European Parliament in all European integration-related sectors should be developed and placed on a systematic footing, not least in the areas of the common foreign and security policy, Economic and Monetary Union, the area of freedom, security and justice and constitutional affairs<sup>5</sup>.

In the protocols annexed to the Constitutional Treaty dealing with the role of the national parliaments in the European Union and the application of the principles of subsidiarity and proportionality for the first time the national parliaments were given the possibility of securing a review of a legislative proposal in respect of its compliance with the subsidiarity principle if one-third of the national parliaments submit reasoned opinions calling for such a review ('yellow card' procedure). In the same protocols annexed to the Lisbon Treaty, also referred to as the reform Treaty, this right was broadened to encompass the possibility of halting consideration of a legislative proposal on the basis of a call made by a majority of the national parliaments, a majority in the European Parliament and a majority of 55% of the members of the Council ('red card' procedure). This innovation also has a bearing on relations between the European Parliament and the national parliaments, since the former must allow a period of eight weeks to elapse before concluding its consideration of a proposal and must take account of reasoned opinions submitted during that period. In addition, it must bring its Rules of Procedure into line with the new situation. Although the practical impact of the new arrangements will become clear only once the Lisbon Treaty has entered into force, their 'symbolic' significance should not be underestimated, since for the first time the national parliaments have been officially recognised as 'players at Union level'.

## II. Conclusion

What conclusions can be drawn from this survey of the way relations between the European Parliament and the national parliaments have developed? The first is that there is no longer any antagonism between the two sides. The European Parliament has not just taken a benevolent view of the measures which have increased the importance of the role played by

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<sup>1</sup> Document CONV 35302 of 22 October 2002, pp. 2 and 3

<sup>2</sup> Resolution of 7 February 2002, report A5-0023/2002 of the Committee on Constitutional Affairs, rapporteur Giorgio Napolitano

<sup>3</sup> Paragraph 1 of the resolution

<sup>4</sup> Paragraph 3 of the resolution

<sup>5</sup> Paragraph 13 of the resolution

the national parliaments; it has actively supported the process. In addition, all those involved have recognised that it is only by joining forces that they can enhance parliamentary scrutiny of the executive at both Union and Member State levels. The Members of the European Parliament and of the national parliaments have to deal with the same ministers, whether in their capacity as representatives of national governments or in their capacity as representatives of the Council of Ministers. Duplication of work and rivalries are of no use to either side. Relations between the European Parliament and the national parliaments must take the form of cooperation which is more structured, but not necessarily more formalised. The motion for a resolution preceding this text contains a number of practical proposals as to how this might be brought about. On the other hand, interparliamentary cooperation must not encroach on parliaments' decision-making powers. Any form of interparliamentary cooperation should be deliberative by nature, non-decisive with regard to the existing EU policy cycles and characterised by mutual recognition of parliaments and parliamentarians as mirrors of society<sup>1</sup>.

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<sup>1</sup> Andreas Maurer, The Lisbon Treaty: New options for and recent trends in interparliamentary cooperation, speech held at the annual conference of correspondents of the European Centre for Parliamentary Research and Documentation, Brussels, 9 October 2008, p. 7.