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REPORT

on the nomination of Massimo Vari as a Member of the Court of Auditors
(C6-0344/2005 – 2005/0816(CNS))

Committee on Budgetary Control

Rapporteur: José Javier Pomés Ruiz

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PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the nomination of Massimo Vari as a Member of the Court of Auditors (C6-0344/2005 – 2005/0816(CNS))

The European Parliament,

- having regard to Article 247(3) of the EC Treaty and Article 160b (3) of the Euratom Treaty, pursuant to which the Council consulted Parliament (C6-0344/2005),
 - whereas at its meeting of 24 November 2005 the Committee on Budgetary Control heard the Council's nominee for Membership of the Court of Auditors, and considered the nominee's qualifications in the light of the criteria laid down by Articles 247(2) of the EC Treaty and 160b(2) of the Euratom Treaty,
 - having regard to Rule 101 of its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control (A6-0374/2005),
1. Delivers a favourable opinion on the appointment of Massimo Vari as a Member of the Court of Auditors;
 2. Instructs its President to forward this decision to the Council and, for information, to the Court of Auditors, the other institutions of the European Communities and the Audit Offices of the Member States.

ANNEX 1: CURRICULUM VITAE OF MASSIMO VARI

MASSIMO VARI, born in Frosinone on 23 October 1937. 'Emeritus' Vice-president of the Constitutional Court. Section President of the Italian Court of Auditors.

Studies completed

- March 1960 Degree in law from the 'La Sapienza' University in Rome, with the mark 110/110 cum laude
- 1960-61 Business training course at the Higher Institute for Business Management in Rome.
- 1963 Qualified as a solicitor.
- 1969 On the short list for a post as assistant ordinary professor in the faculty of public law institutions at the University of Perugia.

Professional activities

- 1961-1969 Official in the legal office of the Trade Union Association of Credit Institutions.
- 1969-1972 Solicitor for the Public Transport Company (ATAC) of Rome.
- From 1972 Judge at the Italian Court of Auditors assigned successively to various functions: Audit (1972); Public Attorney's Office (1973-1980); Local Authorities Section (1982-1986); Jurisdictional Sections (1980-1993); College of the Joint Sections for judgments on the general accounts of the State and special-status regions and provinces, and reports to Parliament (1988, 1989 and 1990).
- 1993-2000 Judge at the Italian Constitutional Court
- 2001-2002 Vice-President of the Constitutional Court
- Since 2002 Back at the Italian Court of Auditors. Currently President of the Section responsible for the office coordinating the regional audit sections and Member of the College of the Joint Sections for judgments on the general accounts of the State and of special-status regions and provinces, as well as reports to Parliament.

Teaching activities

- 1986-1993 LUISS (International Free University of Social Studies). Taught a course on 'The European Court of Auditors', as part of the course on 'European Community law' (from the academic year 1986-1987 to the academic year 1991-1992) and a course on 'State accounting' (academic year 1992-1993).
- 1989, '90, '93 College for Public Administration. Courses for public employees.
- 1990-91 'Tor Vergata' University in Rome. Taught a course in public accounting.
- 2002-03 LUISS (International Free University of Social Studies). Taught a course in constitutional law.

2002-06 LUMSA (Maria Santissima Assunta Free University). Taught a course in constitutional justice (from the academic year 2002-2003 to the academic year 2005-2006) and a course in administrative law (academic years 2004-2005 and 2005-2006).

Other activities in the public sphere

1980 Member of a public commission set up to study legislation relating to scientific research.

1981 Chairman of a public commission set up to study the setting up of an autonomous section 'credit for small industry and craft industries'.

1988 Chairman of a public commission set up to study housing.

1989 Member of a public commission set up to study the reform of audit and the rules of the Italian Court of Auditors.

1990 Vice-President of the Court on Infancy and Society, set up by the Italian Committee for UNICEF.

1990 Member of the Italian Delegation to the XVIIth special session of the United Nations General Assembly on combating drugs, held in New York in February 1990.

1991 Member of a public commission set up to study the protection, enhancement and movement of cultural assets with a view to the completion of the European Single Market.

1992 Member of a study group set up within the Ministry for Foreign Affairs on issues relating to combating drugs and organised crime

2003 Chairman of the Technical and Scientific Committee set up within the Ministry for the Interior for the implementation of Article 2 of Law No 131 of 5 June 2003 (provisions for adjusting the legal system of the Italian Republic in line with Constitutional Law No 3 of 18 October 2001) regarding the definition of the fundamental duties of local authorities.

Rapporteur at various international conferences (in the United States, Chile, Brazil, Colombia, Uruguay, Spain and Egypt) Has for some time focused on and been particularly interested in issues surrounding the development of Latin American legal systems, frequently taking part in cultural debate in those countries.

Can write and speak the following languages: English, French and Spanish, and has a basic knowledge of German.

Recent publications: *La tutela dei diritti fondamentali tra valori e tecniche del giudizio di costituzionalità*, in *The Spanish Constitution in the European Constitutional Context*, Dykinson, Madrid, 2003; *Diritto romano «ius commune» europeo ?*, in *Index*, fasc. 30, 2002;

Globalizzazione, processo di integrazione europea e tutela dei diritti fondamentali, in *Globalizzazione ed ecumene*, ESI, Napoli 2002; *I tribunali l'amministrazione e la politica: il controllo giudiziario e i limiti discendenti dalla separazione dei poteri*, in *Archivio giuridico F. Serafini*, fasc. I, 2002; *Social Defence, Corruption, Protection of the Public Administration and Independence of the Judicial Power: Constitutional Law and Public Law Measures*, in *Responding to Corruption. Updated Documents of the XIIIth International Congress on Social Defence*, Città del Sole, Lecce, 2000; *Le articolazioni dello Stato sociale*, in *Iustitia* 1999; *Accesso alla giustizia e tutela dei diritti e delle libertà fondamentali*, in *Diritti di libertà e diritti sociali tra giudice costituzionale e giudice comune*, Jovene, Napoli 1999; *Giustizia costituzionale e tutela dei diritti fondamentali*, in *Revista de Derecho de la Universidad Católica de Valparaíso*, 17, 1996; *Legalità e giustizia nelle esperienze giuridiche contemporanee: il ruolo delle Corti nazionali e sopranazionali*, in *Congreso Internacional de Derecho Público, Filosofía y Sociología Jurídicas: perspectivas para el próximo milenio*, Universidad Externado de Colombia, Bogotá, 1996; *La nuova Corte dei conti e l'ordinamento comunitario del controllo sulla spesa pubblica*, in *Atti del Convegno di studi tenutosi a Bari il 3 marzo 1994*, Giuffrè, Milano 1994.

ANNEX 2: REPLIES OF MASSIMO VARI TO THE QUESTIONNAIRE

Question No 1

What do you think of Parliament's criticisms of the DAS as expressed in the 2003 discharge report and the working documents to the financial management seminar?

The criticisms made by the European Parliament concerned in particular:

- the fact that the Court of Auditors does not publish the rate of error or indicators to enable assessment of the progress made by both the Commission and the Member States
- the absence of any reference in the DAS to the principles of sound financial management (economy, efficiency and effectiveness)
- the absence of an exhaustive description of the problems encountered
- an incomplete account of the regularity of expenditure for each Member State.

As regards the first point, whilst it may be considered simplistic to express the regularity of the Community institutions' execution of the budget in figures only, it is also important for the political control authorities to be able to work on the basis of a number of indicators that allow them to assess whether or not the quality of management has improved. I therefore consider that the Court of Auditors should endeavour to provide such indicators.

The fact that the DAS does not indicate the quality of the Commission's management in terms of sound financial management is inherent in the very nature of the financial control of legality and regularity. However, Parliament is bound to need this information before it can express an opinion on the Commission's accounts. It is essential for Parliament to be able to find these elements, if not in the DAS, then within the Court of Auditors' annual report or special reports on specific subjects.

Normally the Court, in submitting its observations, groups irregularities together in homogenous categories and quotes some cases as examples. Personally, I would consider it useful if Parliament were provided with a comprehensive list of the deficiencies and problems encountered.

Then, as regards a description of the degree of regularity of expenditure analysed for each Member State, bearing in mind that the dissemination of such data could give rise to comparisons being made by the public in the various Member States, which may undermine the principle of solidarity, in my view the European Parliament must be provided with this information if it deems it necessary in order to help it form an opinion on the management of European finances and the processes involved.

With reference to the recent seminar on financial management, I was particularly interested

in the part that mentioned the need to establish a dialogue between the Commission and the Member States on the basis of the principles of sound financial management. I think the national authorities should be more involved in the audit tasks (ex ante and ex post), since this would not only help to make them more responsible but also ensure that the management of the Community's finances more closely involves those who are ultimately the real beneficiaries.

Question No 2

How can the Court of Auditors contribute to giving a positive image to European citizens of the European Union? How could the Court's reports be better presented and made more accessible to the public?

The function of audit is to present a true picture of the facts as far as possible, without hiding any shortcomings or distortions. I consider that an audit institution that does its work in a rigorous, independent and constructive manner helps to enhance the credibility of the Community institutions and hence ensure that the citizens see a positive image of the Union itself. To this end the Court of Auditors should not only present the negative aspects of the Commission's management, but also focus more on the positive aspects and successes, which to my mind are many. It is admittedly true that there is some incompatibility between the technical language used in the European Court of Auditors' reports and making them easy to read for the public. I think that as far as possible one should reconcile technical rigour with public accessibility.

Thought should be given to the content of reports, making them easier to read and more accessible to the general public, insofar as this is compatible with the strictly technical content that has to be examined by the technical and political authorities. In any event, I consider that relations with the press should be stepped up and improved.

Question No 3

What should be the main features of a sound financial management culture in any public service?

Over and above the classic principles of good financial management (Economy, Efficiency and Effectiveness) I consider that a public service should also be characterised by transparency and a quest for quality. Transparency means that citizens should be given adequate opportunity to learn how resources are used. The institutions should therefore inform the public periodically and objectively about the results of the work of the public service. Furthermore, transparency means giving the members of the representative assemblies, at the various levels, access to all the information needed to monitor the execution of the budget, which is undoubtedly a characteristic of democratic legal systems.

As far as quality is concerned, I consider that the public service should approach citizens in terms of 'customer satisfaction'. To this end, public services should pay particular attention to internal audit, in order to allow them to focus at the appropriate time on the shortcomings in public action, so as to remedy them as soon as possible.

Question No 4

According to the Treaty, the Court should assist Parliament in exercising its powers of control over the implementation of the budget. How would you describe your duties with regard to reporting to the European Parliament and its Committee on Budgetary Control, in particular? If Parliament invited the Court to prepare a report on an area of concern how would you respond to this invitation?

The tasks of the European Court of Auditors include assisting Parliament in its task of monitoring the implementation of the Community budget. It is therefore the duty of the Court of Auditors and its Members to try to provide the European Parliament with all the elements it may need in order to form an opinion on the quality of the management of European finances.

During my work as a judge at the Italian Court of Auditors I have always considered the relationship of collaboration with Parliament as particularly important, since the latter is on the receiving end of the work of the audit institutions in a democratic system. This relationship consists not only of periodic and formal relations, but also through hearings of representatives of the Court of Auditors held by parliamentary committees. I would mention, as an example, a hearing I took part in recently in the context of an inquiry, promoted by the Chamber of Deputies, into problems relating to the dissemination of secondary financial instruments. To my mind it is the task of the Members of the European Court of Auditors to establish a highly collaborative relationship with the European Parliament. The Court's work should be useful for those on the receiving end, helping them in their work of monitoring and exercising democratic control over the management of Community finances.

From this point of view I do not see any problem in undertaking specific controls requested by the European Parliament, as is the case in the relationship between the Italian Court of Auditors and the national parliament.

Question No 5

As you know, the Commission is revising its Financial Regulation. What could be the added value of such a change, if any?

The Financial Regulation recently underwent a major revision, which both explicitly incorporated the principles of good financial management in the text and decentralised a number of functions.

Now that the new Financial Regulation has been in force for a number of years, during which the strong and weak points have emerged, the Commission could simplify certain procedures. I refer, for example, to the rules governing public contracts, which many European businesses consider to be particularly complex. However, I believe that simplification should be accompanied by a reinforcement of internal audit to ensure the rigour of Community action at all times.

Question No 6

What role could the National Audit Institutions play in helping ensure the correct use of EU funds spent in their countries?

It is common knowledge that a large proportion of Community funding (more than 80%) is managed by the national and local governments of the Member States. The national audit institutions therefore have an important role to play in ensuring correct management of the funds. The European Court of Auditors often enlists the help of these institutions in carrying out its audit work. There might be closer collaboration or even a redefinition of roles, with some tasks allocated exclusively to national audit institutions and the European Court of Auditors having a supervisory and coordinating role.

In this connection it should be borne in mind that the nature and function of the supreme audit institutions are different in each of the Member States, just as the constitutional legal systems and the responsibilities of territorial governments are different. Any division of tasks between the European Court of Auditors and the national audit institutions will have to take account of these differences, which means that one single model cannot be applied to heterogeneous situations.

Question No 7

Can you envisage any changes to the structure of the Court that might make it more efficient?

One of the aspects which one might try to improve, in the work of the European Court of Auditors, is the time taken to produce reports. It can happen that observations expressed by the Court are no longer topical when the reports are published and that they are superseded by events. In order to avoid this, it would be appropriate to try to speed up the audit procedure and streamline the decision-making process of the Court itself. As indicated in the Nice Treaty and reiterated in the European Constitution, the Court should reinforce the powers of audit groups, making them chambers in their own right, to which the approval of at least the special reports can be entrusted, without their being submitted to a plenary session of the Court.

Question No 8

How would you describe your obligation to be independent in carrying out your duties and how do you concretely envisage putting this principle into practice?

My obligations mainly derive from Article 247 of the Treaty, which requires of the Members of the European Court of Auditors that '*their independence must be beyond doubt*' and that they '*shall, in the general interest of the Community, be completely independent in the performance of their duties. In the performance of these duties they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties*'.

This article codifies principles belonging to the ethical code for auditors.

As has always been my policy in my career as a judge at both the Italian Court of Auditors and the Constitutional Court, I consider that one should always have, with those who are subject to control, a clear awareness of the fine distinction between the roles allocated to each of them.

I take the view that the prestige of an audit body also depends on the credibility of its members; audit would become meaningless if there were even a suspicion that its conclusions were inspired by interests other than those of society as a whole.

Question No 9

Could you provide the European Parliament with details of your recent and present business, financial and political interests and positions, and of any other commitment that might clash with your prospective duties?

As a judge, I have never had any activities or interests in the field of business and finance, nor have I ever held any political office, nor been a member of any political party. My only interests, apart from professional ones, are in the field of research and, more generally, culture.

Question No 10

Please highlight the main aspects of your professional experience in public finance, management or management auditing.

Since 1972, as a judge at the Italian Court of Auditors, I have carried out various tasks involving the monitoring of legitimacy, the monitoring of management and reporting to Parliament.

I was a judge in the Constitutional Court from 1993 to 2002 and Vice-President from January 2001 to July 2002.

During my work in the Constitutional Court, as well as carrying out the duties of a judge, I was also a member of the Judges' Committee for relations with administrative staff, which included dealing with the granting social assistance to the Court's staff.

I was also responsible for relations with the constitutional and supreme courts of European and non-European countries, supervising the organisational aspects of the periodic meetings with other courts.

At present I am a Section President of the Italian Court of Auditors, with responsibility for coordinating the regional sections that audit the financial management of territorial bodies, and a member of the College of Joint Sections for judgments on the general accounts of the State and special-status regions and provinces, and for various reports to Parliament.

Question No 11

If you have already served as a Member of the European Court of Auditors, please describe the contribution that you have made to improving management of the European Union's finances during your time as Member of the European Court of Auditors.

I have never served as a member of the European Court of Auditors.

Question No 12

Would you withdraw your candidacy if Parliament's opinion on your appointment as Member of the Court were unfavourable?

I consider the relationship of trust that must exist between Members of the Court of Auditors and Parliament to be of fundamental importance. I would therefore withdraw my candidacy if the European Parliament's opinion were unfavourable.

PROCEDURE

Title	Nomination of Massimo Vari as a Member of the Court of Auditors	
References	C6-0344/2005 – 2005/0816(CNS)	
Legal basis	Articles 247(3), first subparagraph, EC and 160b (3) Euratom	
Basis in Rules of Procedure	Rule 101	
Date of consulting Parliament	14.10.2005	
Committee responsible Date of referral	CONT 27.10.2005	
Rapporteur Date appointed	José Javier Pomés Ruiz 12.09.2005	
Discussed in committee	24.11.2005	
Date adopted	24.11.2005	
Members present for the final vote	Inés Ayala Sender, Herbert Bösch, Mogens N.J. Camre, Paulo Casaca, Lorenzo Cesa, Petr Duchoň, Szabolcs Fazakas, Umberto Guidoni, Hans-Peter Martin, Borut Pahor, José Javier Pomés Ruiz, Bart Staes, Margarita Starkevičiūtė, Kyösti Tapio Virrankoski	
Substitutes present for the final vote	Daniel Caspary, Joel Hasse Ferreira, Edit Herczog	
Substitutes under Rule 178(2) present for the final vote	Iles Braghetto, Manolis Mavrommatis, Marcello Vernola	
Date tabled – A6	28.11.2005	A6-0374/2005