



26.4.2017

# PREPARATORY DOCUMENT

for the Interparliamentary Committee Meeting

on the implementation of the Treaty provisions concerning national  
parliaments (2016/2149(INI))

Committee on Constitutional Affairs

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The European project is neither conceivable nor feasible without Europe's national parliaments. The Treaty of Lisbon, once called the *Treaty of the Parliaments*, considerably enhanced the powers and prerogatives of national parliaments within the European Union constitutional framework. That enhanced status is indeed self-evident by virtue of Article 12 of the Treaty on European Union (TEU) on the role of national parliaments and pursuant to Protocols 1 and 2 annexed to the Treaty of Lisbon. Yet these and other provisions laid down in the Treaties are nowadays subject to debate given the problems with their implementation.

In the light of this progressive – perhaps even *emotional* (Rosenberg) – Europeanisation of the Member States' legislative branches, which 'contribute actively to the good functioning of the Union' (Article 12 TEU), the own-initiative report on the implementation of the Treaty provisions concerning national parliaments aims to assess and to improve the current mechanisms for the involvement of national parliaments in the European political process. Moreover, it envisages a ground-based assessment of those mechanisms, thus implying the establishment of challenging relations between the European Parliament and the aforementioned legislative branches.

The Interparliamentary Committee Meeting (ICM) scheduled for 2 May is thus of the utmost importance, since it will allow members of national parliaments to express their views on the subject matter of this report, as well as to engage in a dialogue with members of the European Parliament. The aftermath of the ICM, for which three experts have been carefully selected in order to enrich the debate, will decisively shape the outcome of this own-initiative procedure – along with the written contributions already submitted by some national parliaments and by academics, and the opinions to be issued by the European Parliament Committees on Legal Affairs and on International Trade.

As rapporteur for this AFCO report, and as a former member and former parliamentary group leader of the Portuguese Parliament, I should like to ask you some open questions which I would very much like you to reflect and to comment on, rather than send you pre-established guidelines that would most probably narrow the scope of the debate taking place next week. Those questions are as follows:

Every multilevel and polycentric political organisation has endless *teething troubles* with the principle of conferral.

What could be done at this stage of the European integration process to guarantee a better division of competences between the European Union and its Member States, pursuant to Article 5 of the TEU and to Articles 2 to 6 of the TFEU?

The early warning system created by and provided for in the Treaty of Lisbon has without doubt improved relations between the European Union and the national parliaments by virtue of permanent scrutiny of the principle of subsidiarity by the Member States' legislative branches. Yet, the early warning system was said to be *too narrow and of limited political attractiveness* (Fromage).

Henceforward, should the early warning mechanism remain limited to considerations pertaining to compliance with the principle of subsidiarity or could it also *encompass the principle of conferral and the principle of proportionality* (Terrinha)?

Should the eight-week *stand-still* period provided for in the early warning system be expanded, for instance with the aim of guaranteeing better coordination between the legislative branches of the Member States?

Are there any lessons to be learned from the not so effective – and yet politically symbolic – use of the so-called yellow card procedure, as well as from the non-use of the orange card procedure, pursuant to Article 7, paragraphs 2 and 3, of Protocol 2 in the Annex to the Treaty of Lisbon?

The *modest but workable* (Dancic) Barroso initiative undoubtedly promoted the engagement of national parliaments in European affairs, fostering the Political Dialogue between those parliaments and the European institutions – especially the Commission.

How could the Political Dialogue procedure be improved after more than one decade of implementation?

Could an improved Political Dialogue procedure, that does not necessarily require a revision of the Treaties, overcome the inefficiencies of the early warning system?

The conferral of legislative powers to national parliaments is currently at the top of the ever-changing table of issues relating to the European constitutional framework. From my constitutionalist point of view, a green card procedure could be designed without giving national parliaments a right of initiative – a right not even given to the European Parliament in this respect.

Hence, could it be acceptable to think through a procedure whereby a majority of national parliaments could send reasoned opinions to the Commission with the purpose of positively influencing its powers of legislative initiative, and in which the Commission could either legislate in line with such reasoned opinions or duly issue a reasoned veto underlining the reasons for not legislating in such cases?

As Carlo Casini stated in his own-initiative report on relations between the European Parliament and the national parliaments (2013/2185(INI)), the purpose of the early warning mechanism is *not to block the European decision-making process, but to improve the quality of EU legislation by ensuring, in particular, that the EU operates within its competences.*

In this context, is the establishment of a red card procedure conceivable at this stage of the European integration process, bearing in mind that it would require a Treaty change?

Several contributions received so far refer to an underrepresentation of national parliamentary minorities at the European level. In this respect, experts from the academic world suggest, for instance, the promotion of pluralist national parliamentary delegations acting before the European institutions (Rozenberg) or the participation of parliamentary minorities in the formulation of legislative initiatives (S. Kröger and R. Bellamy). Another interesting possibility would be to give national parliamentary minorities the opportunity to express their dissenting points of view, that would then be incorporated into the reasoned opinions sent by national parliaments *vis-à-vis* the early warning mechanism.

Recalling that Member States' legal orders and checks and balances are to be fully respected, what measures could be taken with the aim of ensuring, or at least promoting, the engagement of parliamentary minorities in European affairs?

In his report on this matter, Elmar Brok states that *all forms of interparliamentary cooperation should accord with two underlying principles: increased efficiency and parliamentary democratisation.*

That being said, what could be done to improve the current complex framework of meetings, organs, entities and procedures concerning relations between the European Union and national parliaments?

Accordingly, would a *Committee-based approach* (Rozenberg) be a good improvement as regards relations between the European Parliament and the legislative branches of the Member States?

Carlo Casini once referred to the COSAC as a *forum for a regular exchange of views, information and best practice regarding the practical aspects of parliamentary scrutiny, which focuses in particular on discussing the general state of the integration process.*

Recalling that the COSAC is, and should continue to be, more than a parliamentary *speakers' corner*, what measures could possibly be taken with the aim of redesigning its structure and functions, therefore allowing it to deliver more than it has delivered in the past?

The development of relations between the European Union and national parliaments could also be achieved by promotion of the interparliamentary dialogue between the Member States' legislative branches.

Would the interparliamentary European Union information exchange platform, also known as IPEX, be a good stage for such development and, even if not, what more could be done to improve this dialogue?

The European system of multilevel governance also raises questions of *differences of rhythm between EU and national politics* (Rozenberg). For instance, the European Semester agenda is nowadays a source of tension and premature or late discussions pertaining to fiscal policies, structural reforms and the prevention of macroeconomic imbalances by the Member States.

Underlining that the coordination of economic policies should take place side by side with the harmonisation of agendas between national parliaments and the European institutions, and yet considering the specific characteristics of the rules of procedure of each legislative branch, what measures could be taken in order to adjust the European Semester to those parliaments' agendas?

Moreover, should national parliaments consider undertaking a revision of their rules of procedure so as to create, on their own initiative, a *European week* – that is to say, an annual or semi-annual week in which questions concerning European integration are put on their agendas?

Finally, pointing out the noteworthy fact that national parliaments do naturally have the power – and the responsibility – to scrutinise their respective executive branches, therefore having their say in these and other European affairs, I express once more my desire for a fruitful Interparliamentary Committee Meeting, for which the questions above might help set the course of the discussions.