

**MINUTES OF THE
COSAC CHAIRPERSONS MEETING
BERLIN,
12 FEBRUARY 2007**

Agenda

- 1. Welcome by the chairpersons and adoption of the agenda**
- 2. COSAC procedural matters**
 - Draft agenda for the XXXVII COSAC
 - Structure of the 7th biannual report
 - Report on the status of efforts to enshrine the COSAC Secretariat in the Rules of Procedure and the co-financing of a permanent member
 - Direct transmission of Commission documents to national parliaments
- 3. Evaluation of the 2nd subsidiarity and proportionality check “Postal Services” and evaluation of procedure to date**
- 4. Prospects for cooperation between the Commission and national parliaments**
- 5. Berlin Declaration on the 50th Anniversary of the signing of the Treaties of Rome**
- 6. Migration and Integration**

Proceedings of the sitting

12 February 2007

IN THE CHAIR: Mr Matthias Wissmann (Bundestag), Mr Willi Stächele (Bundesrat)

1. Opening of proceedings and adoption of Agenda

The Chair welcomed the delegates and presented the draft agenda. The agenda as set out above was adopted by the chairpersons.

2. COSAC procedural matters

2.1. Debate on the agenda of the XXXVII COSAC

The Chairman presented the draft Agenda for the XXXVII COSAC meeting to be held on 14 and 15 May 2007 in Berlin. The draft Agenda, as annexed to these minutes, was noted. Additional proposals for the agenda were discussed as follows:

The presidency had received a letter by the chairman of the European Union Affairs Committee of the Polish *Sejm* suggesting to invite a delegation from the Ukrainian Parliament to the XXXVII COSAC in Berlin. The presidency had also received a letter from the president of the Conference of European Regional Legislative Assemblies (CALRE) to invite a delegation from CALRE to the XXXVII COSAC Conference in May. The Chair recalled that the Chairpersons' meeting in London 2005 had concluded that COSAC Presidencies could, after consulting the Presidential Troika, issue invitations to the Parliament of Ukraine, CALRE or other outside institutions to participate in COSAC meetings as special guests if there was an item on the agenda of clear interest to them. Invitations were to be considered on a case-by-case basis and there was agreement among the chairpersons that COSAC should avoid a permanent list of special guests.

The Chairman announced that, in view of the draft agenda for the XXXVII COSAC, and pursuant to Article 4.4 of the Rules of Procedure, the Troika had resolved not to issue an invitation to the Parliament of Ukraine, because there was no item on the agenda in May which would be of special interest to the Ukraine. Having

regard to the fact that the XXXVII COSAC was not to discuss a specific legislative proposal but to decide about the future proceedings with regard to subsidiarity and proportionality within COSAC framework, the troika had also decided not to invite CALRE in May, but to indicate a possibility of future invitations depending on the items of the agenda.

Mr Eörsi from Hungarian Parliament proposed a separate point on neighbourhood policy with Russia to be included in the May meeting agenda. He had collected nine signatures to a letter requesting this addition which he submitted to the presidency¹. Mr Wissmann concluded the debate by saying that Chancellor Merkel will be asked to touch specifically upon this topic in her speech.

2.2. Structure of the 7th biannual report

Mr Wissmann introduced the outline of the 7th bi-annual report as approved by the Troika. Mr Wissmann informed delegations about the discussion in the Troika concerning the continuation of the subsidiarity checks as initiated by a letter from the Czech Senate. The Troika proposed to follow the decisions taken in Helsinki, namely to first conduct an evaluation and then to decide on further steps during the XXXVII COSAC Meeting in May.

Mr Van der Linden from the Dutch Senate reminded delegations of the Dutch proposal made prior to the Chairperson's meeting in Helsinki requesting a debate on the role and the democratic control regarding the creation and functioning of the European regulatory agencies. He suggested to deal with the topic in the bi-annual report prepared during the Portuguese presidency.

2.3. Report on the status of efforts to enshrine the COSAC Secretariat in the Rules of Procedure and the co-financing of a permanent member

The Troika had discussed the issue and concluded to collect signed letters of intent to co-finance the permanent member of the COSAC secretariat during the German presidency to ensure the smooth running of the secretariat in case there was no agreement on an amendment to the Rules of Procedure. In the meantime the COSAC Secretariat is asked to prepare some options for changes to the Rules of Procedure, which then could be presented to the Troika in May. The target is to have an agreement of all delegations at the latest under Portuguese Presidency. If this fails, the second best option would be the coalition of the volunteers in the co-financing of the permanent member of the secretariat.

Mr Connarty from the UK House of Commons supported the presidency approach. The Polish delegation announced their willingness to sign up to the "coalition of volunteers" stressing that the letters of intent should be collected as soon as possible because the budgetary commitment had to be made before the autumn. Mr Waalkens from the Dutch Tweede Kamer also committed himself to the coalition of the volunteers, but he stressed the fact that a new institution should not be created. Mr Leinen from the European Parliament expressed his conviction that the Secretariat was well established and stressed that continuity was needed in its work. He said that the European parliament would continue to accommodate the Secretariat on its premises.

3. Evaluation of the 2nd subsidiarity and proportionality check “Postal Services” and evaluation of procedure to date

Mr Stächele reported on the results of the second subsidiarity and proportionality check which participating national parliaments conducted on the Commission's Proposal for a Directive concerning the full accomplishment of the internal market of postal services (COM (2006)594). The report on the results prepared by the secretariat was distributed to the delegations before the meeting.

A total of 27 parliamentary chambers from 21 Member States took part in the check. However, only 10 parliamentary chambers from 9 Member States were able to send their results within six weeks. The majority of parliaments found no violation of either the principle of subsidiarity or the principle of proportionality in the

¹ The letter is published on the COSAC website: <http://www.cosac.eu/en/meetings/Berlin2007/chairpersons/>

proposed directive. The Luxembourg Chamber of Deputies was the only parliament to find the proposal in breach of the subsidiarity principle. The German Bundesrat did not find a subsidiarity breach as such, but expressed concern regarding one particular provision of the directive. Some parliamentary chambers criticised the rather short reasoning provided by the Commission with regard to the legal base of the directive and subsidiarity. Seven parliamentary chambers found a breach of the proportionality principle or expressed reservations in this regard; six criticised the justification of the proposal concerning proportionality. Several parliaments noted that in order to carry out the task effectively more exchange of information between the national parliaments was needed.

Mr De Croo from the Belgian Chamber of Deputies underlined the need to debate European issues in national parliaments. This should not only be a prerogative of the EU Affairs Committees but the sectoral committees should be involved as well. The principles of subsidiarity and proportionality are still problematic and there is no sufficient degree of clarity of what should be done on which level.

Mr Waalkens from the Dutch Tweede Kamer emphasised the need of national parliaments to get involved at a very early stage. He also encouraged COSAC to continue to foster further checks. Ms. Vaira Paegle from the Latvian Saeima considered the concepts difficult and complex. She found that member states are in unequal positions, since some national parliaments lack the staff and/or the technical knowledge to carry out the checks. She proposed a discussion of what could be done to remedy the unequal situation. The Czech delegation thought that COSAC should not spend too much time in evaluating the system but move ahead with further checks.

Some delegations voiced problems complying with the deadlines, some stating reasons relating to their respective scrutiny systems whereby sometimes it was not even politically wise to reply within six weeks. Mr Haenel from the French Senate underlined the wider scope of the subsidiarity and proportionality debate: After COSAC had taken the initiative to have a debate on the proposal on applicable law and jurisdiction on the divorce matters the Council had – for the first time - a substantive debate on subsidiarity.

The Chair concluded the debate by encouraging COSAC to keep on debating the issues of subsidiarity and proportionality. After an evaluation of the current methods used, the secretariat will come up with concrete proposals how to improve the system.

4. Cooperation of the Commission and National Parliaments

Mr Stächele welcomed Ms Margot Wallström, Vice-President of the European Commission, Institutional Relations and Communication Strategy, and gave a short overview of the results of the Commission's initiative of direct transmission of COM documents to national parliaments: Since the launch of the initiative on 1 September 2006, 18 national parliaments had sent 59 opinions on 33 legislative proposals and consultation papers to the Commission. About half of these opinions referred to the two legislative proposals that were subject to the COSAC subsidiarity and proportionality check, namely the proposal on matrimonial matters (COM (2006)399) and on the liberalisation of postal services (COM (2006)594). Mr Stächele mentioned the French Senate, the House of Lords and the German Bundesrat as particularly active chambers with regard to the submission of opinions to the Commission.

In her introductory address Ms Wallström, Vice-President of the European Commission, Institutional Relations and Communication Strategy, gave an overview² of the prospects for cooperation between the Commission and national parliaments. She stressed the key role of national parliaments with regard to the improvement of the European policy formulation as well as the better involvement of citizens in EU affairs. Sustainable development, integration of immigrants and the strengthening of democracy were identified as the main future challenges for the EU to be tackled at both the European as well as the national level. Political and public authorities, media and education systems should take ownership of the European project and thus make it a domestic issue.

² The speech of Ms. Wallström is published on the COSAC website:
<http://www.cosac.eu/en/meetings/Berlin2007/chairpersons/>

Wallström assessed the Commission's cooperation with national parliaments as a success that could however be further improved. In this context she stressed the high number of parliamentary opinions received by the Commission since the launch of the direct transmission of COM documents to national parliaments. With regard to the Commission's upcoming review of the initiative, Mrs. Wallström reported that the Speakers of national parliaments had been asked for their assessment.

An exchange of views took place. A number of Chairpersons requested clearer structures for the cooperation between Commission and national parliaments especially with regard to a due consideration of parliaments' opinions within the Commission. In this context it was suggested that the Commission should publicise its responses, e.g. in sending them to the COSAC Secretariat, and that COSAC should undertake a yearly evaluation of the progress of the Commission's initiative. The importance of a parliamentary debate on the Commission's Annual Policy Strategy was stressed. Some said they would regard it useful to have a Commissioner present during the debate in their respective parliaments.

Commissioner Wallström welcomed the idea of Commissioners being invited to parliamentary debates on the Annual Policy Strategy and highlighted that the Commission had to date paid 150 visits to national parliaments. With regard to the Commission's initiative of direct transmission of COM documents, she made clear that parliaments' reactions would be duly considered, but that the Constitutional Treaty ought not to be anticipated. She explained that the opinions would be submitted to the responsible Directorates-General of the Commission which would then try to comment on the substance. It would not necessarily be the number of opinions on a proposal that counted but also the quality of every single statement.

Mr Wissmann closed the discussion underlining that national parliaments would actively use their new opportunities in order to strengthen European integration.

5. The Berlin Declaration

Dr. Uwe Corsepius, Director of the European Policy Division from the Federal Chancellery communicated the appreciation of the German Federal Government to the Italian Government for agreeing that the session of the European Council to commemorate the signing of the Treaties of Rome could take place in Berlin. He hoped that Berlin would become a symbol for overcoming the division of Europe. In addition to the special session of the European Council there was also going to be a "European Club Night" on 24 March 2007 and a public celebration on 25 March.

Regarding the so-called Berlin Declaration, he underlined that the drafting process was as important as the final text. The ambition was to find ways out of the constitutional crisis; therefore, it was important for the drafting process to take place in a confidential atmosphere. Each Member State had nominated two civil servants to help with the consultations; the European Parliament, Commission and Council secretariat were also participating in the process. The aim was to agree on a text of a maximum of two pages which could be adopted in a public session in Berlin without further negotiations. In this way, a strong signal of unity should be sent. The Declaration was to be published in newspapers; therefore, it was important for the text to be short and comprehensible for citizens.

Mr Corsepius underlined that the presidency did not aim at solving the constitutional issue in March; the text would not be legally binding but a political declaration. The approach was to come to an agreement on the contents of the Declaration but to leave the drafting to the presidency in order to arrive at a coherent text. According to the presidency's plans, a first part was to highlight the considerable achievements of European integration: 50 years of peace and prosperity. A second part would selectively describe European values which are at the core of all European politics. The third part would outline ambitions of the European Union for the future, taking into account expectations of citizens towards the European project: Energy security, fight against climate change, internal and external security. The fourth and final part was to comprise the commitment of European Heads of State and Government to provide the European Union with the necessary instruments to achieve these goals. This part was expected to be the most difficult, but important in order to create the

momentum for moving the constitutional process forward in the summer. The wish of the Federal Chancellor was to have an institutional settlement in place before the European elections in 2009.

An exchange of views took place. Chairpersons underlined the importance of the Berlin Declaration as a political step towards a resolution of the constitutional impasse. Many chairpersons recalled the Contribution of the XXXVI COSAC in Helsinki which asked for the views of national parliaments to be taken into account when drafting the Berlin Declaration, stating that this had not yet taken place. The practice of "secret" drafting meetings was criticised and contrasted with the democratic example of the European Convention which had also benefited from contributions of NGO's and the civil society. National parliaments had a duty to closely monitor the next steps in the constitutional process. While some delegations underlined the need for the Constitutional Treaty, others stated that they could live with the European Union as it stood today. It was suggested to refer to the preamble of the Constitutional Treaty for European values. The importance of a common approach in Foreign and Security Policy and the responsibility of the European Union towards the rest of the world were underlined. It was important to demonstrate to citizens that their sovereignty was not given away to the European Union and that it is meant to work in their interest. The declaration could be widely distributed amongst the population and treated in schools.

Mr Corsepius concluded that a consensus was beginning to build up as far as the contents of the Declaration was concerned; remarks of the chairpersons were quite similar to those he had received from national delegations. He explained that it was not possible for the Declaration to include the entire preamble of the Constitutional Treaty - a selective approach would have to be adopted in order to arrive at a concise, readable text. In order to give new impetus to the constitutional issue it would not be possible to have parliamentarians participate in the drafting of the Declaration. Also, there was not enough time for the presidency to convene a new Convention. Making reference to the Constitutional Treaty would be a delicate issue but the ambition was to agree on a time table for solving the constitutional crisis. He confirmed that there were not going to be negotiations about the Treaty; national parliaments were not going to be overridden. He stressed that the approach of the presidency regarding the contents as well as the procedure had been endorsed by all Member States. National parliaments could engage in a dialogue with their respective governments. The presidency was ready to accept proposals from the Bundestag or other national parliaments in confidential talks.

Mr Wissmann concluded that it was difficult to have a broad discussion and arrive at a short Declaration at the same time. He suggested that national parliaments should enter into a dialogue with their governments in order to increase the transparency of the process.

6. Migration and Integration

Dr. Wolfgang Schäuble, Federal Minister of the Interior of the German Government, introduced the theme by stressing that the issue of migration and integration must nowadays be understood within a totally different framework. He compared his current position with his previous assignment as Minister of the Interior between 1989 and 1991, noting that the main difference was that national efforts alone were no longer sufficient. Globalization brought migration and integration onto the international agenda. The responsibilities were also international, which meant that these challenges had to be addressed through a comprehensive approach at the European level.

The forthcoming Justice and Home Affairs Council would firstly discuss how to control legal migration that entered the EU's legal labour markets. The Employment Ministers Council also had to deal with this issue since the regulation of labour markets was a national competence.

On the other hand, illegal immigration had to be tackled with determination at the national level, but also by combining efforts at the European level. This required cooperation with the origin and transit countries, ensuring that all illegal immigrants returned to their home countries, issuing a clear sign of credibility so that people understood that there was no point investing in illegal immigration schemes because they would be sent back immediately. Nevertheless this also implied that the openness of the employment markets should be enhanced so that the immigration flows could occur within a legal and established framework.

The control of illegal immigration must be linked with a successful integration policy. In modern Europe people from different origins live side by side. This diversity had to be seen as something that brought added value to societies and made Europe a culturally richer place, where racism, xenophobia and intolerance had no place. A comprehensive approach therefore was required so that integration could be effective. This approach needed to be based on tolerance and mutual understanding. Mr Schäuble pointed out that a Meeting of EU Integration Ministers would take place in Potsdam in May, to reflect on these issues, through benchmarking and an exchange of experiences between Member States, namely stressing the vital role Europe had in the dialogue with the Muslim world.

Germany, as well as other countries with a significant percentage of immigrants, has experienced that integration does not occur automatically and that it must be planned and implemented, both by the authorities and the civil society. This meant dialogue with the different communities, confidence building measures, and initiatives such as sports and public schools policies, so that the European model could become increasingly attractive, with well known rules that could benefit everyone involved.

This common approach required that the EU was able to take on responsibilities in these matters, since it could provide an effective mechanism to tackle these problems, Mr Schäuble concluded.

An exchange of views took place. Some Chairpersons explained that immigration had always been very important for growth and demography. They agreed that the EU should be open and tolerant, considering that the threat was not the immigrants, but the lack of a coherent policy in this field. It was also stressed that globalization changed the dimension to these issues, creating new financial, demographic and social challenges. This meant that a common European approach should be built on the basis of solidarity with those countries most affected by the impact of large immigration flows.

A number of Chairpersons emphasised that coordination at the EU level was also required to ensure the full openness of the labour markets to citizens of the new Member States. Other interventions addressed the geographical specificities of some EU countries (e.g. Spain and Malta) and the difficulties they faced in dealing with immigration, clearly underlining the need of solidarity among Member States.

The Chairpersons inquired about the Presidency's intentions to bring the Treaty of Prüm into the EU's legal framework, and also the enlargement of the Schengen area, with the correspondent added value that it may bring to data sharing.

Mr Schäuble answered the questions, for example, referring to the specific case of the Bulgarian nurses in Libya, where he promised the Presidency's full support. He also acknowledged that the enlargement of the Schengen area must be accomplished shortly and that the information exchange systems must be strengthened, once privacy and data protection guarantees were assured. In this context, the integration of the Prüm Treaty into the EU would be an asset. He also reminded delegates that the control and steering of immigration rested with the Member States and that the common approach would only be adopted if the EU was given the necessary means to act, as the example of Frontex clearly demonstrates. Finally, Mr Schäuble stressed that this integrated approach also meant that all countries of origin were to be considered as important and that it was crucial to promote close cooperation between the Member States and the third countries involved.