

## **Five years after the coming into force of the Treaty of Lisbon: Lessons learned from the subsidiarity checks by parliaments**

*Speech by Ms Anouchka van Miltenburg,  
Speaker of the House of Representatives, The Netherlands.*

Dear Madam Speaker/Madam Chair, thank you for giving me the opportunity to speak on this very important topic.

Dear colleagues,

### **Introduction**

- I am very glad that the subject of the subsidiarity check is on the agenda of this Speakers Conference, because it is my opinion that we, as Speakers of Parliaments, have a role to play with regard to the well-functioning of this Lisbon instrument.
- In order to be able to understand the way in which the subsidiarity check operates in The Netherlands, let me first explain how Dutch MPs see their duties.
- A Dutch MP first and foremost feels that he or she represents the people who elected him or her. An important part of the daily business of Members of Parliament in The Netherlands is to scrutinize the executive power, the government of the Netherlands:
  1. Does the government keep its promises,
  2. Could the government do better? And
  3. Do the policy outcomes match the intentions?

This is all about checks and balances.

- Dutch Members of Parliament perceive the subsidiarity check as one of the instruments to scrutinize the executive power, not in the Netherlands but in the EU. And therefore they use this instrument quite regularly, and inform their voters about this.

### **Looking back**

- Now, almost 5 years since its adoption, is a good time to look back on this instrument. Normally, we evaluate an instrument by asking questions such as: Did it bring us what we thought it would? Is it being used in the optimal way? And are there any obstacles that need to be discussed? These are all important questions to ask.
- But I think that there is another very important question we need to ask: Do the European national parliaments all interpret this instrument in the same way? Do all of us here in this room today agree that this instrument was indeed meant for national parliaments to control the executive power in the EU? I ask this question, because it seems that not all national parliaments are using the subsidiarity check at the same level – as can be seen in the background document - and with the same intentions.
- In the meantime, several evaluations have been carried out, not only in the Dutch parliament. Our House of Representatives has looked back on its experiences from the past five years to assess and improve our procedures regarding the subsidiarity check, and has designated a rapporteur on Democratic Legitimacy, whose task is to assess the role of National Parliaments in European policymaking and to examine whether – and how – their role should be further improved.

- COSAC has carried out several surveys on this topic and some national parliaments have commissioned studies and inquiries into the practical experiences with the Lisbon instrument – we will probably hear more about this in a moment from the next speaker, Mr Boswell. Some parliaments have even agreed on resolutions to improve the subsidiarity instrument. All of these actors concluded that there is certainly room for improvement in the instrument of the subsidiarity check.
- In the past five years, parliaments have been able to show a yellow card to two European Commission proposals. And I notice that these yellow cards resulted in two of the three possible outcomes after the review by the Commission: one resulted in the withdrawal of the proposal, and one resulted in the Commission maintaining the proposal as it was. This last yellow card, concerning the European Public Prosecutor's Office, caused some upheaval, at least in our House of Representatives in the Netherlands. This was because Members felt that their arguments against this proposal were not being heard. And this is essential in the relation between parliaments and the European Commission: it is not about getting your own way, but about being heard by the Commission. So that Members of Parliament can inform their voters that dialogue takes place between the European Commission and the national parliament and that the Commission at least listens to their arguments, even though they do not always get what they want.

### **looking forward**

- After several years of experience with this new instrument, and after two yellow cards, I certainly have some ideas and some practical suggestions

on how to improve it. In the Netherlands and in some other member states, discussions have taken place whether a change to the Lisbon Treaty might be necessary to improve this instrument.

- Although the instrument needs some improvement, I think this does not necessarily require a change to the Treaty itself. It can be done in dialogue with the European Commission, as long as all parties are willing to accept that national parliaments have a role to play and that they can only play this role in an optimal way if the instrument of the subsidiarity check is improved. Improving the instrument would indeed not only be good for national parliaments; it would also benefit the European Commission and the EU as a whole, since a well-functioning subsidiarity check and more political dialogue will definitely create more public support for future EU-legislation. If we enter this discussion with an open mind, and if we acknowledge the importance of parliaments being heard by the Commission, it should be possible to improve some practicalities without the need to change the Treaty.
- I think COSAC could play an important role here. The chairs of the committees on EU-affairs in COSAC could take this further. For example, a working group within COSAC could list possible improvements and could start a dialogue with the European Commission to see what can be improved, let's say by way of experiment, without the need to change the Treaty. In addition, COSAC could play a role in improving the quality of the reasoned opinions by thinking of ways to facilitate interparliamentary co-operation, how to organize the training of staff, exchanges of views, seminars or joint committee meetings.

- This would enable us, as national parliaments, to know where we all stand and what our suggestions for improvement would be. And the pleasant side-effect would be that if, in the end, changes to the Treaty prove unavoidable after all, it will be helpful to know what we as national parliaments AND what the European Commission would like to propose in order to improve these parts of the current Treaty that concern us all.
- Therefore I support the presidency conclusion asking COSAC to examine possible options for improvement and to take some practical steps in starting up this process. A representative of COSAC could inform the Speakers Conference next year on the steps that have been taken. We, as Speakers of Parliaments, could thus boost the discussion.

#### **improved co-operation with EP**

- Finally, we are not alone in dealing with issues regarding increasing transparency in and scrutiny of European decision-making. The European Parliament deals with similar questions, as can be read in the recent Casini report by the European Parliament which will be voted on soon.
- All of our parliaments, including the European Parliament, deal with the question on how to connect to our critical citizens, who have the right to accountability of the representatives whom they voted for to do a job on their behalf.
- And I must say, although I do not agree with all the viewpoints of Mr Casini, I do agree with the part in the Casini report where he says that, although a lot has been done already, there is room for improvement, both for national parliaments and for the European Parliament. Time and again, I see examples of how national parliaments and the European

Parliament counteract, contradict, and act as competitors instead of working together.

- It is my strong belief that, if we increase co-operation, we will be able to improve our common services to our citizens.
  
- I see three possible options where co-operation can be beneficial to all of us:
  - Improve the exchange of information
  - Improve transparency
  - Improve visibility of European decision-making for citizens
  
- Only through strong co-operation between the European Parliament and national parliaments, can we prevent the image of competition between the two organisations, which would be a wrong image to give. In the Netherlands, we organize an annual debate about the state of affairs in the European Union, in which Dutch Members of the European Parliament participate as well. This year's debate took place only last week. By initiating such a debate, we give visibility to the European Parliament and try to prevent the image of competition between the parliaments.
  
- If both parliaments were to co-operate effectively, this would give citizens the feeling that through their parliaments, they can exercise influence on the decision-making in Brussels. And of course, both national and European parliamentarians also need to explain to citizens that in a democracy, they cannot always get what they want. The important thing is that they truly feel that their arguments are being listened to at a European level.

- Therefore, since we all have common goals in our parliaments, I would like to express my sincere hope that we will find the European Parliament on our side when striving for the improvement of the subsidiarity check. Thank you.