

From Talking Shop to Working Forum: The Evolution of COSAC

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The Conference of Community and European Affairs Committees of Parliaments of the European Union – better known by its French acronym, COSAC¹ - brings together members of EU national parliaments and the European Parliament twice a year to exchange information and best practices regarding the scrutiny of EU business, and to prepare contributions for EU institutions. Meeting for one-and-a-half days under the chairmanship of the country holding the EU presidency, the assembly consists of six parliamentarians from each member state, plus six from the European Parliament. Delegations reflect respective party strengths, as well as both chambers in countries with a bicameral system.

The origins of COSAC can be traced to a May 1989 proposal by Laurent Fabius, then Speaker of the French National Assembly, to establish a biannual forum for members of the national parliaments' European Affairs committees. To some degree this represented a response to the introduction of direct elections to the European Parliament in 1979 – replacing the system whereby MEPs were appointed by member states' parliaments - and the corresponding loss of influence on the part of national parliaments. Fabius' proposal was endorsed by the speakers of other national parliaments. The main tasks of the new body were defined at its first meeting in November 1989 as to improve the reciprocal provision of information and to develop mutual relations.

One of the main items on the agenda of the first COSAC meetings was the forthcoming conference of EC parliaments – the Assizes - that took place in Rome in 1990. Based on an idea by the French President, François Mitterand, the Assizes brought together 173 national parliamentarians and 85 MEPs. The delegates succeeded in agreeing a final declaration containing recommendations for treaty reform². These were intended as a contribution to the imminent intergovernmental conference, which finally resulted in the Treaty on European Union. However, not all national parliaments were satisfied with the declaration, while some objected to the perceived dominance of the European Parliament, as reflected in both the composition of the Assizes and the final recommendations.

COSAC's early meetings also devoted a considerable amount of time to the formulation of its Rules of Procedure, which were finally adopted at its meeting in The Hague in November 1991. The European Parliament was keen to ensure that COSAC did not develop into a rival chamber and therefore insisted that it participate in the preparation of agendas and that all decisions be taken by consensus, including decisions amending the Rules of Procedure. Although COSAC had yet to be granted any powers vis-à-vis the EC institutions - or even acknowledged by any EU institution except the European Parliament - the adoption of Rules of Procedure nevertheless formalised its institutional identity, thereby establishing it as an actor on the European stage³.

¹ La conférence des organes spécialisés dans les affaires communautaires.

² Composed of five MEPs and the chairmen of the European Affairs committees, it was the committee charged with drafting this final declaration that constituted the direct link between the Assizes and COSAC, due to the overlap of personnel between the two bodies. cf. Knudsen, Morten and Carl, Yves: "COSAC – Its Role to Date and its Potential in the Future", in: Gavin Barrett: National Parliaments and the European Union: The Constitutional Challenge for the Oireachtas and Other Member State Legislatures, Dublin 2006.

³ cf. Maurer, Andreas: "COSAC, national parliaments and their contribution to a European strong public", paper presented at CIDEL workshop, Stirling (UK), 5-6 February 2004.

In 1992, COSAC's institutional identity was further strengthened by the Treaty on European Union. Declaration No. 13 on the Role of National Parliaments in the European Union called for greater involvement of national parliaments in EU activities and an increased exchange of information; in addition, member state governments were called upon to ensure that national parliaments received Commission proposals in good time. Declaration No. 14 on the Conference of the Parliaments invited the European Parliament and national parliaments to meet as necessary as a Conference of the Parliaments (or "Assizes") and declared that they would be consulted on the main features of the EU. However, owing to the dissatisfaction of some national parliaments with the outcome of the 1990 Assizes, this event has not been repeated. As a result, the field has been left to COSAC as the sole EU body in which national parliaments are directly represented.

The real transition from talking shop to working forum came in 1997 with the Treaty of Amsterdam. The Protocol on the Role of National Parliaments in the European Union further strengthened the role of national parliaments in EU decision making and "contained the first acknowledgement of COSAC in a document of treaty status"⁴. The protocol provides for the forwarding of Commission documents and legislative proposals to national parliaments. Furthermore, it permits COSAC to make non-binding contributions to the European Parliament, the Council and the Commission, notably with regard to the principle of subsidiarity, the area of freedom, security and justice and questions concerning fundamental rights (matters of particular interest to national parliaments).

The adoption of this Protocol formalised the relationship of COSAC to the European institutions. COSAC's place in the institutional structure of the European Community was emphasised further by the fact that it was to direct its contributions not to the individual member states, but rather to the EU body in which they are collectively represented⁵. And in order to avoid conflicts of interest, the European Parliament's delegation agreed to abstain from votes on contributions directed to itself.

The next major reform took place in 2002-3, when the Rules of Procedure were revised to place the exchange of information and the practical aspects of parliamentary scrutiny at the heart of COSAC's activity. This reform initiative led to the adoption of minimum standards for national parliamentary scrutiny of EU matters: The resulting Copenhagen guidelines⁶ encourage governments to provide parliaments with Community documents as soon as they become available, to prepare information material on Community legislation, to provide opportunities for meetings with ministers in advance of Community meetings and to inform parliaments about decisions to be made in the EU. Although these standards are not legally binding, their adoption nevertheless broke new ground in defining the relationship between national parliaments and EU governments.

Further reforms provided for the introduction of decision-making by qualified majority voting in cases where consensus proved impossible to achieve, as well as the establishment of a secretariat comprising one permanent member and four members seconded from national parliaments and the European Parliament. The object of these reforms was to focus the work

⁴ cf. Knudsen, Morten and Carl, Yves: "COSAC – Its Role to Date and its Potential in the Future", in: Gavin Barrett: National Parliaments and the European Union: The Constitutional Challenge for the Oireachtas and Other Member State Legislatures, Dublin 2006.

⁵ cf. Maurer, Andreas: "Die Konferenz der Europa-Ausschüsse (COSAC) und der Konvent: Schwächung oder Stärkung der demokratischen Legitimation in der EU", in: Rudolf Geiger (ed.): Neuere Probleme der parlamentarischen Legitimation im Bereich der auswärtigen Gewalt, Baden-Baden 2002.

⁶ Guidelines for relations between governments and Parliaments on Community issues (instructive minimum standards) in: Official Journal of the European Union (2003/C 154/01).

of COSAC on the role of national parliaments, while at the same time enhancing its effectiveness and providing a degree of continuity between presidencies.

In the course of its development COSAC has been granted a degree of direct access to EU institutions that exceeds the powers of national parliaments. Yet it would be inaccurate to view COSAC delegates as representatives of their parliaments: they do not generally have a mandate to speak for their respective parliaments, while COSAC deliberations are not usually debated in national parliaments. The fact that COSAC's contributions are non-binding on national parliaments further weakens its claim to be their representative.

Indeed, non-binding contributions are an inherently weak form of parliamentary scrutiny, especially when consensus is the preferred mode of decision-making. COSAC's scrutiny role is further hampered by the fact that delegates come from "horizontal" EU affairs committees: as generalists, they are not well equipped to scrutinise draft legislation forwarded by the Commission. Members of justice or home affairs committees may in fact be better versed in the issues under scrutiny. Any decision to open COSAC to sectoral committees, however, would have to take account of existing ad hoc arrangements for inter-parliamentary committee meetings.

Although COSAC itself is not in a position to scrutinise thoroughly draft EU legislation, it has proved to be an effective platform for the exchange of information and best practice, thereby strengthening the ability of national parliaments to scrutinise EU affairs. Indeed, the current make-up of COSAC, composed as it is of parliamentarians with an in-depth knowledge of the EU but not necessarily of the legislation under scrutiny, supports this role. The launch of IPEX – an electronic platform for the exchange of EU information between parliaments – may to some extent usurp this function, although it cannot replace COSAC as a forum for debate. Pilot projects have further demonstrated that COSAC can perform a useful role in coordinating the application of the subsidiarity early-warning mechanism provided for in the Constitutional Treaty.

In sum, COSAC has emerged not as an institutional rival to the European Parliament, but instead as an effective platform for sharing information, experience and views, while at the same time promoting networking among national parliamentarians. This function is valued in particular by EU candidate countries, whose parliaments also attend COSAC meetings and are keen to adopt best practice as part of their preparations for EU membership. And although this role is admittedly limited, and thereby scarcely contributes to closing the EU's "parliamentary deficit", there seems to be little appetite to equip COSAC with a more robust mandate, let alone to create any body that might resemble a second chamber for parliamentary decision-making in the EU.