



EUROPEAN PARLIAMENT

2009 – 2014

---

*Committee on Constitutional Affairs*

---

28.10.2011

## **WORKING DOCUMENT**

on amending the Rules of Procedure to take into account the changing relationships between the European Parliament and the institutions representing the national governments following the entry into force of the Lisbon Treaty

Committee on Constitutional Affairs

Rapporteur: Alain Lamassoure

DT\882264EN.doc

PE475.850v01-00

**EN**

*United in diversity*

**EN**

## **The European Parliament's changing relationships with the institutions representing the national governments following the entry into force of the Lisbon Treaty**

### **1. The situation: the European Parliament has a paradoxical lack of influence**

The Lisbon Treaty significantly increased Parliament's legislative role. At the same time, however, it created new institutions alongside governments: the European Council and its permanent President, the High Representative and the Eurogroup. Moreover, given the successive crises of recent years, it is these new institutions that have been called on to take major political decisions. Yet at the same time, the Council of Ministers is Parliament's only point of contact. If this trend continues then there is a real risk that Parliament's political influence will wane at the very time when the Union needs to complete its democratic transformation.

#### *1.1. The European Council:*

In a resolution of 7 May 2009<sup>1</sup>, the European Parliament highlighted the importance of 'refocusing the role of the European Council on the fundamental task of providing the necessary political impetus and defining the general orientations and goals of the Union's activity'. The same resolution emphasised even then that there 'is a need for a clearer and more specific definition of its obligations'.

At a time of economic and financial crisis, it is inevitable that a number of decisions have to be taken at the highest level, often as a matter of urgency. Periods of crisis aside, however, the Lisbon Treaty introduces a relatively new dimension into the Union's action: Europe is no longer a mere legislative machine, it also takes decisions. It takes decisions that fall within the realms of executive power. This has been the Commission's role in terms of Community competence from the start. As for shared competences, these new 'intergovernmental' bodies are now fulfilling the role of a collective executive.

Nonetheless, the move towards this practice raises a number of legal and political problems.

In terms of Community competence, for example, Parliament has no working relationship with the institution that is adopting the major directions. The ministers with whom it negotiates the legal expression of these directions are but carrying out orders. Subjects as varied as the energy-climate plan, the pact on asylum and immigration and increased budgetary discipline were all decided at the summit, with Parliament involved only at the stage of legal implementation.

The President of the European Council merely reports back after each meeting of the European Council to the Enlarged Bureau of the European Parliament instead of to a plenary sitting of the European Parliament, as stipulated in Article 15(6)(d) of the Treaty on European Union, and he made it known from the start of his term that he intended to continue this practice as he was responsible only to the European Council, his only 'master'<sup>2</sup>. Scarcely

---

<sup>1</sup> P6\_TA-PROV(2009)0387.

<sup>2</sup>Speech by Herman Van Rompuy, 7 January 2010.

faithful to the spirit of the Treaty, this practice is a retrograde step compared with when the presidency used to rotate, ensuring a more frequent presence in Parliament. In fact, the only institutional provision that enables Parliament to express its opinion to the European Council is the introductory speech that the President of the European Parliament is invited to give at the start of each summit.

The situation is no less outrageous in areas where national jurisdiction predominates, for the European Council debates and decides behind closed doors. No detailed feedback is provided even after these often complex negotiations. Parliamentary control takes place within 27 national frameworks, and varies considerably from one country to another: very strict in some countries, where the Prime Minister's mandate to negotiate is validated by national parliament in advance, more vague in semi-presidential systems. The common denominator is that nowhere in these 27 different national debates is the European dimension taken into account.

It is thus hardly surprising that the political legitimacy of measures decided in this way is challenged, by the opposition parties and even by the parliamentary majorities themselves, bringing their concrete application into doubt. The fate of the package adopted during the European Council of 21 July on the EFSF is a case in point: the obstacles that had to be overcome in getting the 17 parliaments in question to agree to it meant that the decision, taken nearly three months previously, had become obsolete in the meantime. Decided in spring 2011, the amendment to Article 136 of the TFEU had still not been ratified by a single Member State by the following October.

This situation is compounded when a new government takes office; why should it feel bound by commitments made by its predecessor behind closed doors?

The political architecture becomes even more complicated with the growing propensity of the European Council to hand over to its President different responsibilities for making proposals: this was recently the case with regard to the economic governance of the euro zone and the possible amendments to be made to the Treaties. This practice raises a number of legal difficulties since, by virtue of the Treaties, the Commission has a monopoly of legislative initiative and the Treaties stipulate that the European Council 'has no legislative function' (Article 15(1) TEU). In fact, the President of the European Commission does seem to be involved in the work being conducted, although this is due only to the good personal relations he has been able to establish with the current post holders. Without wishing to be too repetitive, however, this redistribution of the cards is harmful to the proper functioning of the Community institutions, completely fogs the messages being sent to European citizens and our foreign partners, and ignores the role of the European Parliament.

### *1.2. The Eurogroup and Eurogroup summits:*

The European Council of 27 October ratified the permanent creation of a Eurogroup Summit, with a President. This new institution creates further legal, administrative and political complications. In particular, the sidelining of states that are not members but are in a position to join the euro is difficult to justify and leads to a regrettable duplication of meetings. The distribution of roles between the President of the European Council, the President of the Euro Zone Summit (these two functions will eventually be separated), the President of the Eurogroup and the new Vice-President of the Commission with responsibility for the euro is

problematic.

The work of this new institution cannot escape the control of, nor debate within, Parliament. On 27 October President Van Rompuy made a commitment before a plenary sitting that he would regularly appear before the European Parliament to report back on the work of these summits. These summits, however, of varying shapes and sizes, raise other problems for the European Parliament, which, itself, represents the 27 Member States.

### *1.3. The Council:*

The Lisbon Treaty failed to resolve one of the major faults of the European institutions: the poor functioning of the Council.

Despite being strengthened by the Treaty, the General Affairs Council is not capable of ensuring coherence and, if necessary, political arbitration between the other Council configurations, which too often ignore each other, contradict each other and are even unaware of the decisions of the European Council itself. Last June, for example, several Member States criticised the Commission for moving too fast with the coordination procedure anticipated by the European semester, when that timetable had been decided by the European Council. In its vote on the 2012 draft budget, the Budget Council contradicted the European Council's wish to increase the resources of Frontex, and reduced the resources of other financial supervision agencies created some months earlier at the urgent request of Ecofin.

## **2. Proposals**

### *2. 1. Relations with the European Council:*

Practice and good sense lead us to consider establishing additional practices to those already in place. The following proposals could form the object of a political agreement, a gentlemen's agreement if you like, between the two institutions.

The President of the European Council should meet more regularly with the European Parliament, particularly prior to each meeting of the European Council, in order to have a discussion with Members instead of merely meeting the chairs of the political groups.

The President of the European Council has already demonstrated his reluctance to take part in a proposed 'question hour' each month during a plenary sitting<sup>1</sup>. It would nonetheless be interesting to hold a debate before he submits any work, reports, etc. that the European Council has requested of him so that he can present the broad outlines to Members and listen to their opinions before submitting his work.

The President of the European Council has demonstrated his willingness to 'introduce' an annual debate on the state of the Union<sup>2</sup> but that is not enough. There should be a real in-depth discussion or, failing this, a full part played in the discussion that follows the President of the Commission's speech.

---

<sup>1</sup>Speech by Herman Van Rompuy, 7 January 2010.

<sup>2</sup>Letter to President Buzek, 15 June 2010.

### *2.3. Relations with the Eurogroup:*

The recent institutionalisation of Eurogroup Summits means that a ‘question hour’ with the President of these summits, in this case the President of the European Council, should be held during the plenary sitting that follows each Eurogroup Summit so that the European Parliament is fully informed of the decisions taken at this level. This is in line with the proposals of the working group as regards making the plenary more interesting.

### *2.2. Relations with the Council:*

Contact with the Council must be strengthened, through more regular meetings with the committee chairs, the coordinators, rapporteurs, etc.

Ways of improving cooperation with the European Parliament could be discussed in greater detail, informally, with the trio of presidencies in order to reach a general political agreement, divided if necessary into specific agreements focusing on issues that raise particular problems, as has already been the case with the working group chaired by Mr Lehne.

As co-legislator, the European Parliament’s work would benefit from receiving the minutes of the Council’s legislative debates, as is already the case for the national parliaments and governments since the entry into force of the Lisbon Treaty.

### *2.4. Implications for national parliaments:*

In the wider context, national parliaments need to be more closely involved in the decisions taken at European level. There are two possible routes to consider.

On the one hand, it would be interesting to compare the practices of the 27 Member States with regard to their parliamentary control of the European Councils, with a view to facilitating the adoption of best practices.

On the other hand, a way has to be found to invite the national parliaments to introduce the European dimension into their debates by organising regular interparliamentary meetings.

The financial conference held on 20 and 21 October in Brussels could serve as a model for other conferences, bringing together representatives of the European institutions and of the national parliaments with national governments, in the context of the European semester but also around other broad European themes (agriculture, cohesion policy, energy, immigration, defence, etc.).