

Five years after the Lisbon treaty: lessons of Subsidiarity checks in Parliaments, Note taken by David Hunt, HMA Vilnius

I attended the EU Speakers conference in Vilnius this week. The Deputy Speaker, Eleanor Laing represented the House of Commons, Lord Boswell for the Lords. He spoke during this session.

A senior Seimas (Lithuanian Parliament) official has confirmed that this could be used as evidence for our BoC exercise.

The session began with a speech by Milan Stech, chair of the Czech Senate. He argued that there was much room for improvement: it was unnecessary for the EU to legislate on 'marginal matters', for example on the power of vacuum cleaners and light bulbs. He complained of 'bloated, admin demanding measures' and that two thirds of the EU population thought it was too bureaucratic. A democratic deficit permeates the EU and daily contact was needed with citizens. The impact of the Subsidiarity principle was negligible. The use of reasoned opinions was increasing but national parliaments saw them as inefficient. The result does not match the effort. Since Lisbon there had been two yellow cards. On the second, 'the Commission did not cope with the arguments on the EPPO at all'. A green card system would allow closer integration of the of the EU Citizens with policy but would the Commission agree?

Pietro Grasso, President of the Italian Senate was more positive on Lisbon. Subsidiarity was a fundamental principle of European democracy - 'a filter and a driving force'. The new instruments of the treaty had allowed the Senate to become more involved in EU legislation. He was a firm believer in the prerogative of Parliaments to enforce Subsidiarity but not to compete with or confront the EP. He was firmly opposed to a variable geometry EU. A multi-speed Europe was unthinkable. The EU needed better governance of economic and political processes but we must not reduce the EU to an inter Governmental institution, we must renew its democratic credentials. Our common commitment should not be more or less EU but a better Europe.

Anouchka Van Miltenburg, speaker of the Dutch House of Representatives said that the Dutch Parliament saw Subsidiarity checks as a way to check the executive power of the EU. 5 years after Lisbon was a good point to look at/review the mechanism: do all Parliaments use it the same way? Not all are using it to the same level. There was a rapporteur for democratic legitimacy on the Dutch Parliament. All their studies had confirmed there was room for improvement. There had only been two yellow cards so far leading to one withdrawal of a proposal, the other was maintained. The latter (EPPO) caused upheaval in the Dutch Parliament. This was not about getting their own way but about being heard by the Commission. Improvement could be achieved through dialogue with the Commission. Effective Subsidiarity would help deliver more public support for EU legislation. This could be done without changing the treaties: COSAC could play an important role. It could take forward the discussion with the Commission. it could also improve the quality of reasoned opinions. COSAC should take this work forward and inform this meeting of its progress next year. National Parliaments and the EP compete and counteract each other. We need to improve the information exchange and increase cooperation. Parliamentarians need to feel they are being listened to at a European level.

Following Lord Boswell's contribution the session moved into Q&A. Simon Sutour, President of the French Senate's European Affairs Committee, agreed with Lord Boswell: the yellow card was not taken seriously by the Commission. Mr Juan José Lucas, Vice-President of the Spanish Senate, said that Lisbon had improved national parliaments' legislative control. A large part of EU policy was coordinated at a regional level through the EU's Committee of the Regions. He believed the 8 week deadline to consider legislative proposals was sufficient but did not object to extending it. Michael Lampel, President of the Austrian Federal Council, said that Subsidiarity checks were working. The Austrian system was an EU best practice model and has led to the improvement of debates.

The Czech speaker in response said that the yellow card system was not functioning properly. The EPPO yellow card 'failure' had deepened the lack of trust: we need to find a mechanism to use it more. Otherwise the EU would become even more distant from its citizens and national politicians would find it hard to justify. COSAC should be involved more in the process as they have the expert knowledge. The Speaker of the Dutch Senate, Ankie Broekers-Knol, agreed with Lord Boswell's speech: we must strengthen dialogue with the Commission much further.

Per Westerberg, Speaker of the Swedish Parliament, said they were not satisfied with the Commission response to yellow cards, "it must do better".

Mars Di Bartolomeo, Luxembourg, said that alongside the Swedes, their Parliament had issued the most reasoned opinions. The 8 week deadline was too restrictive whereas the Commission reply takes 7-8 months and was quite often unclear. It was not satisfactory. Parliaments should play a more active role at an earlier stage in legislative process. Proportionality was also important. The networking between national parliaments should be entrenched. If there is more than one involved 'we are stronger'.

Lord Boswell summarising said that the discussion showed that there was a strong wish to upgrade the Subsidiarity checks. A forward gear was needed: a 'green card'. National parliaments should engage earlier. This was not a process to delay or slow down legislation. An early political dialogue smooths the way in the legislative process.

Pietro Grasso said that Subsidiarity checks allow us to have a louder voice. Anouchka Van Miltenberg said that proportionality also needs to be discussed as well as Subsidiarity, 'we are being crushed between the EP and the Commission'. The next conference should therefore discuss proportionality.

Miguel Angel Martínez Martí, Vice-President of the European Parliament, agreed that the 8 week deadline could be reconsidered if colleagues think it is too restrictive.

Josip Leko, Speaker of the Croatian Parliament, said that 8 weeks was not enough for small parliaments with limited capacity. Paulo Mota Pinto, President of the Portuguese Parliament's European Affairs Committee, said that we should improve Subsidiarity checks but it was a success in terms of generating reasoned opinions and they did not see it as a method of controlling executive power. Arguments against EU integration should not be presented in the form of Subsidiarity checks but he agreed with Lord Boswell that yellow cards should not be seen by the Commission as merely bumps in the road. We should come up with a positive proposal to improve the system. Legal basis arguments should be included but do not include proportionality in this. Proportionality should not be a part of Subsidiarity checks.