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**Structured Debates
in COSAC
on the Work Programme
of the European Commission**

Background Note



Prepared by the COSAC Secretariat and presented to

**The Meeting of the Chairpersons of the Conference
of Community and European Affairs Committees
of Parliaments of the European Union**

10 - 11 February 2011, Budapest

BACKGROUND NOTE FOR THE MEETING OF THE CHAIRPERSONS OF COSAC

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Structured debates in COSAC on the Work Programme of the European Commission

1. Introduction

To prepare structured debates in COSAC on the Work Programme of the European Commission, called for by the XLIV COSAC¹, the Hungarian Presidency asked the COSAC Secretariat to draft a background note on the subject for the meeting of the Chairpersons of COSAC of 10-11 February 2011 in Budapest.

This background note takes stock of decisions and opinions expressed in the past on the debates in the framework of COSAC on the strategic planning documents of the Commission, i.e. its Annual Policy Strategy and the Work (and Legislative) Programme. On that basis, the note draws conclusions and recommendations designed to give an input into future discussions.

2. Historical Context

In this context, it is important to note that the strategic planning system of the Commission may vary from mandate to mandate. Thus, the first Barroso Commission (2004-2009) had two main annual planning documents: the Annual Policy Strategy and the Work and Legislative Programme. As the first step of the Commission's strategic planning system, the Annual Policy Strategy gave an annual strategic framework and defined early in the previous year (usually in February/March) political priorities and key initiatives for the following year. It also allocated the corresponding financial and human resources to these priority initiatives. The Annual Policy Strategy was aimed to launch the structured dialogue with the Council and the European Parliament on the priority policy areas of the next year. Based on the Annual Policy Strategy, the results of the inter-institutional dialogue, and taking into account progress in the budgetary process and the operational planning at the services level, the Commission (usually in October/November) decided on the second step of its planning system by determining its Work and Legislative Programme for the following year, including a list of specific legislative and non-legislative proposals. The main difference between the two documents lied in their openness to negotiation and possible changes. The Annual Policy Strategy, as the first step in the process, was open to amendment, whereas the

¹ In Part 4.2 of the Contribution of the XLIV COSAC (Brussels, 24-26 October 2010) "COSAC considers an extensive debate on the Work Programme of the European Commission as an essential and recurrent part of its agenda. Therefore, COSAC encourages the incoming Presidencies to include a debate on the Work Programme of the European Commission in the agenda of the ordinary meetings of COSAC. When fixing the date of these meetings, COSAC Presidencies are invited to take into account the timing of the publication of the European Commission's Work Programme". In addition, in Part 2 of the Conclusions of the XLIV COSAC "COSAC invites national Parliaments to develop a procedure to determine which EU draft legislative acts should be subject to subsidiarity checks. Referring to the annual Work Programme of the European Commission, the COSAC Presidency is asked to present proposals to have structured debates on this programme".

Work and Legislative Programme constituted a final statement and, following its publication, could not be amended.

However, the second Barroso Commission (2010-2014) adopted a new strategic planning system by merging the Annual Policy Strategy and the Work and Legislative Programme into one document called the Commission Work Programme. The Programme was based on the Political Guidelines for the Next Commission presented by President José Manuel BARROSO to the European Parliament on 3 September 2009. In the Work Programme the Commission sets out both the key new initiatives for the specific year and the initiatives on which it will work during the rest of the mandate. The Commission reviews its Work Programme every year launching the inter-institutional dialogue on the priority policy areas of the next year. Thus, the Work Programme for 2011² was published on 27 October 2010, setting new strategic initiatives and adopting multi-annual strand where appropriate.

3. Overview of COSAC Decisions

As early as October 2002, in the mandate of its working group, the XXVII COSAC underlined a need “to consider the possibility of letting COSAC assess the Commission’s annual legislative programme in order to ensure its compliance with the principle of subsidiarity”³. Having examined the findings of the working group, in January 2003, the XXVIII COSAC concluded that “COSAC shall henceforward once a year invite the European Commission to a general presentation on the contents of its working and legislative programme”⁴.

In May 2007, the XXXVII COSAC expressed its opinion⁵ on the Commission's Annual Policy Strategy, stressing the importance for national Parliaments to be “informed at an early stage about the Commission's policy projects”. Furthermore, COSAC expected the Commission's announcement to enter into a critical dialogue with national Parliaments on its political priorities to be followed by specific action, also within the framework of COSAC and wished for “the positions of national Parliaments to be taken into account by the Commission in the formulation of its Legislative and Work Programme for 2008.” Later the same year, the XXXVIII COSAC reiterated “the importance of the dialogue being developed between the Commission and national parliaments and wished this to include concrete action to inform national parliaments at an early stage about the Commission's policy projects.”⁶

In May 2008, the XXXIX COSAC acknowledged “the efforts of the Commission to respond to the reactions submitted by national parliaments”⁷, whereas a year later, the XL COSAC announced “its intention to discuss the Annual Policy Strategy of the European Commission on a regular basis” as it “represents a welcome initial source of information for effective parliamentary scrutiny” and “facilitates the EU parliaments' early involvement in the EU's decision-making process.”⁸

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Commission Work Programme 2011, COM(2010) 623 final

³ Part 6(e) of the Contribution of the XXVII COSAC, Copenhagen, 16-18 October 2002

⁴ Part 6 of the Contribution of the XXVIII COSAC, Brussels, 27 January 2003

⁵ Part 3 of the Contribution of the XXXVII COSAC, Berlin, 13-15 May 2007

⁶ Part 2.3 of the Contribution⁶ of the XXXVIII COSAC in Estoril, 14-16 October 2007

⁷ Part 2.2 of the Contribution of the XXXIX COSAC, Brdo pri Kranju, 7- 8 May 2008

⁸ Part 5.1 of the Contribution of XLI COSAC⁸ in Prague on 10-12 May 2009

In June 2010, the XLIII COSAC decided on further details of such COSAC debates, suggesting that "COSAC ordinary meetings could include the presentation by the President of the European Commission of his institution's Annual Working Program in the first semester and an assessment of the Commission's activities in the course of the year in the second semester."⁹

The latest XLIV COSAC in October 2010 considered "an extensive debate on the Work Programme of the European Commission as an essential and recurrent part of its agenda" and encouraged "the incoming Presidencies to include a debate on the Work Programme of the European Commission in the agenda of the ordinary meetings of COSAC". When fixing the date of these meetings, COSAC Presidencies were invited "to take into account the timing of the publication of the European Commission's Work Programme"¹⁰.

In this context, it is important to recall Article 7.1 of the Rules of Procedure of COSAC, which provides that "before the last ordinary meeting of each year the delegations shall indicate the subjects they propose to be dealt with the following year. This matter shall be discussed at the end of the meeting. The Presidential Troika <...> proposes, at the beginning of each Presidency, one or several subjects drawn from the working programme of the Council of the European Union, the European Parliament and the European Commission, or from proposals made during the meeting referred to above"¹¹.

4. Opinions of National Parliaments and the European Parliament

Three Bi-annual Reports of COSAC, namely the Sixth, the Thirteenth and the Fourteenth, have dealt with the subject of debates on the strategic programming documents of the Commission in the framework of COSAC.

The Sixth Bi-annual Report, published in November 2006, *inter alia*, analysed opinions of national Parliaments and the European Parliament on cooperation with the Commission and concluded that the Annual Policy Strategy had so far only been debated by a few national parliaments. The majority saw an added value in a parliamentary debate on the Strategy, and some were considering introducing a debate in the future. A clear majority would welcome an inter-parliamentary debate on the Annual Policy Strategy in the framework of COSAC.¹²

The Thirteenth Bi-annual Report, published in May 2010, reiterated that a majority of national Parliaments/Chambers and the European Parliament were in favour of having regular COSAC debates on the Commission's Annual Policy Strategy or a similar document¹³. It was considered of great importance to ensure that COSAC started effectively examining the Annual Policy Strategy, a fundamental document for the legislative and policy planning of the EU. However, some Parliaments were concerned with the timing issues and the inherently general nature of the document.

As to the Commission's Legislative and Work Programme, a majority of national Parliaments/Chambers and the European Parliament were in favour of adding the Commission's Legislative

⁹ Part 10.3 of the Contribution of XLIII COSAC in Madrid on 31 Mai - 1 June 2010

¹⁰ Part 4.2 of the Contribution of the XLIV COSAC in Brussels on 24 – 26 October 2010

¹¹ The Rules of Procedure of COSAC were published in the Official Journal on 31 January 2008 and may be found on the COSAC website at: <http://www.cosac.eu/en/documents/basic/procedures/>

¹² Part 2.3 of the Sixth Bi-annual Report of COSAC, November 2006

¹³ Part 2.2.1 of the Thirteenth Bi-annual Report of COSAC, May 2010

and Work Programme to the list of regular items on the COSAC agenda¹⁴. In addition, as to the time allocated for the future COSAC debates with the Commission, more than half of Parliaments/Chambers (i.e. 20) have indicated that additional time would be very useful and relevant for having both wide-ranging debates on the Commission's Annual Policy Strategy and its Annual Legislative and Work Programme.¹⁵

According to the findings of the Fourteenth Bi-annual Report, published in October 2010, all Parliaments/Chambers which responded to the questionnaire seemed to agree on the added value of the debates on the Commission's Work Programme in the framework of COSAC¹⁶. As to the timing of such COSAC debates, a number of Parliaments/Chambers suggested presenting and debating the Programme during the meeting of the Chairpersons of COSAC or the COSAC ordinary meeting in the first semester of the year. A debate in the COSAC ordinary meeting in the second semester of the year should focus on the assessment of the annual activities of the Commission. Other Parliaments/Chambers, however, thought that the presentation and debate on the Programme in COSAC should take place in the second semester of the preceding year. To avoid potential timing problems, it was suggested that COSAC Presidencies took into account the timing of publication of the Commission's Work Programme when fixing the date of the future COSAC meetings.

5. Opinion of the Commission

On 26 October 2010, in his address to the XLIV COSAC meeting in Brussels, the President of the Commission José Manuel Barroso acknowledged the importance for COSAC "to have an extensive debate on the Commission Work Programme as an essential and recurrent part of its agenda". The President was "convinced that national Parliaments should somehow be involved in the strategic planning process" and that their "voice should not be heard only downstream but also upstream". In view of that, Mr Barroso put forward a specific proposal concerning the enhanced involvement of COSAC in discussions on the Commission's Work Programme. The President and later the College of the Commission, in its reply to the Contribution of the XLIV COSAC, encouraged COSAC to hold a yearly general policy debate during its spring plenary meeting, which would allow the Contribution of COSAC to be presented in time to feed into the preparations for the State of the Union speech and the Commission Work Programme. "National Parliaments would thus be in a position to contribute to building a consensus on where the EU should focus its policy for the upcoming year"¹⁷.

6. Commission Work Programme 2011

The Commission's Work Programme for 2011 (COM(2010) 623 final) was published on 27 October 2010. This Work Programme is built on the five main political priorities for the EU set out by President Barroso in the first State of the Union Address delivered before the European Parliament in September 2010: (1) dealing with the economic crisis and building the momentum of the recovery, (2) restoring growth for jobs by accelerating the Europe 2020 reform agenda, (3)

¹⁴ Part 2.2.2 of the Thirteenth Bi-annual Report of COSAC, May 2010

¹⁵ Part 2.2.3 of the Thirteenth Bi-annual Report of COSAC, May 2010

¹⁶ Part 3.3 of the Fourteenth Bi-annual Report of COSAC, October 2010

¹⁷ The Commission's reply to the Contribution of the XLIV COSAC is published on the COSAC website at: <http://www.cosac.eu/en/meetings/Brussels2010/ordinary.pdf/>

building an area of freedom, justice and security, (4) launching negotiations for a modern EU budget, and (5) pulling the EU's weight on the global stage.

The Work Programme 2011 focuses on strategic initiatives to be adopted in 2011 and provides an indicative list of other important initiatives for 2011-2014. Thus, the four annexes of the Work Programme set out: (1) 40 strategic initiatives scheduled for adoption in 2011, (2) indicative list of 92 possible initiatives under consideration in 2011, and 59 possible initiatives under consideration in 2012-2014, (3) Simplification Rolling Programme and 48 Administrative Burden Reduction initiatives, and (4) list of withdrawals of 23 pending proposals.

As of the time of drafting of this note¹⁸, as far as it was made available to the COSAC Secretariat, six national Parliaments/Chambers, i.e. the Dutch *Eerste Kamer* and the *Tweede Kamer*, the Czech *Senát*, the Irish *Houses of the Oireachtas*, the Lithuanian *Seimas*, and the Slovenian *Državni zbor*, had completed the scrutiny of the Commission's Work Programme 2011, in the majority of cases identifying priority initiatives for their Parliaments/Chambers in 2011. For instance, the European Scrutiny Committee of the *Irish Houses of the Oireachtas* decided that the following three proposals, when published, should be subject to detailed scrutiny for conformity with the principle of subsidiarity: (1) Legislative proposal for a Common Consolidated Corporate Tax Base (CCCTB), (2) Directive on responsible lending and borrowing, and (3) Directive on the rights of and support to victims of crime. The Committee on EU Affairs of the Czech *Senát*, for its part, adopted a Resolution recommending to the Presidency of COSAC "to continue with its practice of the coordinated testing of adherence to the principle of subsidiarity" and to consider focusing on 16 legislative proposals, including (1) Legislative proposal on access to basic banking services, (2) Legislative initiative on Posting of Workers, (3) Revision of the Directive on Working Time (Directive 2003/88) (Carry-over 2010), and (4) Legislative proposal for a Common Consolidated Corporate Tax Base (CCCTB).¹⁹

Other national Parliaments, such as the Belgian *Chambre des représentants* and the *Sénat*, the Danish *Folketing* and the Portuguese *Assembleia da República*, are currently in the process of scrutinising the Commission's Work Programme 2011.

7. Conclusions and recommendations

On the bases of the above decisions and opinions, a number of conclusions and recommendations can be formulated.

7.1 Conclusions

7.1.1 Based on Part 3 of this note, it is apparent that over the recent decade the attitude of COSAC towards a debate on the Commission's strategic planning documents has evolved into the agreement to have extensive debates on the Commission's Work Programme as an essential and recurrent part of the COSAC agenda. Hence, COSAC could encourage all national Parliaments to regularly scrutinise the Work Programme of the Commission.

¹⁸ 27 January 2011

¹⁹ The Resolution, including the full list of the suggested proposals is published on the COSAC website at: <http://www.cosac.eu/en/info/CWP2011/>

- 7.1.2 Based on Part 4 of this note, national Parliaments and the European Parliament unanimously agree on the added value of the debates on the Commission's Work Programme in the framework of COSAC.
- 7.1.3 Based on Part 5 of this note, the Commission is committed to enhancing the involvement of COSAC in the discussions on the Commission's Work Programme to enable COSAC Contributions to be taken into account in determining EU policy priorities for the following year.

7.2 Recommendations

- 7.2.1 In accordance to Article 7.1 of the COSAC Rules of Procedure, national Parliaments and the European Parliament could be invited to submit to COSAC their proposals as to which Commission's initiatives set out in the Work Programme could be debated in the framework of COSAC the following year.
- 7.2.2 As to the timeframe of the COSAC debates:
- (i) The presentation of the Commission's Work Programme for the following year by the President or a Vice-President of the Commission should preferably take place during the ordinary meeting of COSAC in the second semester of the year, after the publication of the Programme. Therefore, when fixing the date of the meeting, COSAC Presidencies are invited to take into account the timing of the publication of the Commission's Work Programme. The agenda of the ordinary meeting of COSAC in the second semester of the year could also include an assessment of the Commission's activities in the course of the year.
 - (ii) The decision on which Commission's initiatives would be debated in COSAC could be made at the meeting of the Chairpersons of COSAC in the first semester of the year. Based on the Commission's initiatives, Parliaments would have the opportunity to inform each other in the framework of the meeting on their intention to scrutinize certain EU draft legislative acts, which according to this early information might raise subsidiarity concerns.
 - (iii) COSAC could hold a yearly general policy debate during its ordinary meeting in the first semester of the year. This would allow the Contribution of COSAC to be presented in time to feed into the preparations for the State of the Union speech and the Commission Work Programme.
 - (iv) When setting the agendas of the ordinary meetings of COSAC, it is important to allocate sufficient time for a thorough debate between the Commission and the COSAC delegations which, where appropriate, could include Members of specialised parliamentary committees.

7.3 Final Note

The COSAC Secretariat is willing to collect the pre-selected proposals of national Parliaments and the European Parliament and to publish them on the COSAC website, thus facilitating exchange of information between Parliaments and enriching 'domestic' debates on EU matters. The COSAC Secretariat could also examine the pre-selected proposals in a Bi-annual Report of COSAC.