

MEETING OF THE XL COSAC

3 - 4 November 2008

What is COSAC?

Every six months, some 180 parliamentarians, members of parliaments of the 27 member countries, the three candidate states and the European Parliament come together at the invitation of the country holding the Presidency of the Union. These parliamentarians are members of the Committees on European Affairs of each national parliament (six per member State and three per candidate State) as well as of the Committee on Constitutional Affairs of the European Parliament (six European Parliamentarians).

Their meetings bears the somewhat strange appellation COSAC, an acronym for “*Conférence des Organes Spécialisés dans les Affaires Communautaires*” (Conference of bodies specialising in European Community Affairs).

COSAC was formed in 1989 at the suggestion of Laurent Fabius, the then President of the National Assembly. It was registered under the primary law of the European Union following the adoption of the Amsterdam Treaty. The Protocol on the role of national parliaments appended to the said Treaty specifies its scope of authority:

“The Conference of European Affairs Committees, hereinafter referred to as COSAC, established in Paris on 16-17 November 1989, may make any contribution it deems appropriate for the attention of the institutions of the European Union, in particular on the basis of draft legal texts which representatives of governments of the Member States may decide by common accord to forward to it, in view of the nature of their subject matter.

COSAC may examine any legislative proposal or initiative in relation to the establishment of an area of freedom, security and justice which might have a direct bearing on the rights and freedoms of individuals. The European Parliament, the Council and the Commission shall be informed of any contribution made by COSAC under this point.

COSAC may address to the European Parliament, the Council and the Commission any contribution which it deems appropriate on the legislative activities of the Union, notably in relation to the application of the principle of subsidiarity, the area of freedom, security and justice as well as questions regarding fundamental rights.

Contributions made by COSAC shall in no way bind national parliaments or prejudice their position.”

The fortieth session of COSAC held in Paris from 03 to 04 November 2008 at the Palais du Luxembourg. It was the fourth time the French Parliament was hosting COSAC following the meetings of November 1989, February 1995 and October 2000.

The agenda of the fortieth session of COSAC featured:

– A question and answer session with the Prime Minister, Mr François Fillon, on the **French Presidency of the European Union**,

– A discussion on the **Energy Security of the European Union** with Mr Claude Mandil, former executive director of the International Energy Agency,

– A discussion on the topic “**Bringing the European Union closer to its citizens. What actions? What role for the Parliaments**”, attended by Mr Jean-Pierre Jouyet, Secretary of State in charge of European Affairs,

– A discussion on **the association of National Parliaments to the scrutiny of Europol’s activities and the evaluation of Eurojust’s activities**, attended by Mr Jacques Barrot, Vice-president of the European Commission, Mr Max-Peter Ratzel, Director of Europol, and Mr José Luis Lopes da Mota, President of the College of Eurojust,

– A debate on the implementation of the principle of subsidiarity.

As usual, the fortieth session of COSAC was wrapped up with the adoption of a Contribution and Conclusions.



Photo of the participants to the XL COSAC

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**WELCOME ADDRESSES BY THE PRESIDENTS
OF THE SENATE AND THE NATIONAL ASSEMBLY**

A. Address by Mr Gérard Larcher, President of the Senate

I am pleased to welcome to the Palais du Luxembourg this fortieth meeting of the COSAC, which is to be held in the place where we usually hold our sessions. Although choosing this place caused us a number of practical problems, we nevertheless made our choice for symbolic reasons. This place is charged with history – with the political history of France. We cannot build Europe without a knowledge of and respect for the past. Starting out from our Nation States, each with its long history, its complex culture, its political traditions, and its economic interests, we are trying to make them converge in order to build up European unity and a common identity. By participating in the construction of Europe, each of its Member States must be able to develop its values and form part of the continuum. That is what we had in mind in deciding to hold your meeting here rather than in one of those anonymous congress halls that have a tendency to look alike wherever they are in the world.



Occupying the presidency of the Union these days does not merely mean chairing meetings of the Council and the European Council. There is an important parliamentary aspect to the presidency, involving meetings of committee chairmen, joint meetings of members of national parliaments and the European Parliament, and meetings of presidents of assemblies. Among such meetings, the COSAC is without a doubt the highlight of this parliamentary aspect.

I have to say nevertheless that the title of your meetings is somewhat ambiguous. On hearing the acronym “COSAC”, one’s first thought

is of horsemen on the steppes of Eastern Europe rather than an inter-parliamentary meeting aimed at organising the growth of democracy. However, according to the etymology of the Russian language, the word “cossack” means “free man”. So in fact the title is not such a bad choice after all – the duty of parliamentarians is indeed to act as free men and hence promote the freedom of the citizens of Europe!

The agenda for your meeting includes two items that are politically topical, on the European level as well as the national level – the issues of energy, and judicial and police cooperation. Here are two areas where the citizens of our countries are looking to Europe for action. It is easy to understand that by acting together we are not only better able to ensure our security but also better able to ensure our energy supply than if we go it alone.

As for the content of the programme, I was struck by the importance given to the subject of subsidiarity on your agenda. This, unlike the other two topics I just mentioned, is not a term that means very much to the general public. At first sight, we may even ask, in this time of crises, if it would not be better to concentrate at the moment on more specific matters. But we would be wrong to do so. Subsidiarity does not take us away from reality and current events. Indeed, what did the Ministers for Finance and then the Heads of State or Government do when they drew up the European plan to combat the financial crisis? They came to an agreement on a common programme and decided that they would all apply it at the same time. They nevertheless decided that each Member State would implement the common plan separately, taking into account the specific features of each State’s banking and financial system. In other words, they applied to the full the principle of subsidiarity. They decided on the European level what had to be done, and left the Member States with the necessary leeway to adapt the general features to the specific circumstances. In use, subsidiarity does indeed prove to be a guarantee of effectiveness.

And – since this issue is also on your agenda – it is also a means of “bringing Europe closer to its citizens”. For most of our citizens are not aware of the meaning of the word “subsidiarity”, but it is something to which they aspire. They want Europe to deal with the major issues – to combat the financial crisis, to support growth and employment, to promote sustainable development, and to act in concert when faced with a crisis such as that in Georgia. But, at the same time, those same citizens find it hard to understand that Europe deals with matters such as bathing water and VAT on hairdressing. They want Europe to concentrate on its real missions. At the same time, they want the responsibilities to be exercised as close as possible to the grass roots. That is why subsidiarity proves to be a good principle of governance that is both effective and democratic. I believe that the Treaty of Lisbon was right to emphasise this principle, and that it was right to give the national parliaments a particular responsibility in this respect.

I am convinced that the national parliaments can do much to bring Europe closer to its citizens. Their role complements rather than competes with that of the European Parliament, which I am pleased to see represented here. I am also pleased that your work is to be chaired by Hubert Haenel, for the Senate, and Pierre Lequiller, for the National Assembly; both have a great deal of experience of European affairs, and both have been members of the Convention on the Future of Europe. I wish this fortieth meeting of the COSAC every success, and trust it will be a useful and fruitful stage in the development of inter-parliamentary cooperation in Europe.

B. Address by Mr Bernard Accoyer, President of the National Assembly

I have great pleasure in joining the President of the Senate, Gérard Larcher, in welcoming you to this fortieth meeting of the Conference of Community and European Affairs Committees. I could even call it the Conference of Community and European Affairs Commissions now, since during a large-scale modernisation of our institutions this summer the delegations of the European Union of the National Assembly and the Senate became a “Commission” like all their counterparts in other countries. Indeed this linguistic change is one of the many signs of our wide-ranging efforts to reinforce the place Europe occupies within the French Parliament. Our ambition is to make it, at your side, an essential partner to the Union’s institutions, and a full player in the construction of Europe.



I say that with all the more conviction since the pace of Europe has speeded up amazingly in recent months. Who would have thought it possible, earlier in the summer, to talk of and demonstrate real European economic governance assuming all its responsibilities in the face of the financial panic, at a higher, more decisive level than our American partners, in full collaboration with the Central European Bank? Who would have counted on a firm, united Europe capable of putting a stop to the serious conflict between Russia and Georgia? The world has put Europe to the test brutally in recent months. And Europe has come through with flying colours.

It is a brilliant answer to the insistent question of its legitimacy in the eyes of its citizens, and there are many other examples – more discreet, but just as valuable – of actual results in Europe. The Union has adopted an

immigration pact that is both pragmatic and generous. It is true that discussions on our plan to combat global warming have been intense, but they are proof that Europe is assuming its responsibilities, and is trying to resume its position as a pioneer in constructing a world that is more mindful of the planet.

As we can see, all these topics involve our collective destiny. We, as members of national parliaments, constituting in some way the ancient sap of democracy, have here as elsewhere a decisive role to play in cooperation with the European Parliament. For we are answerable to our electors for the direction taken by our societies. Thus the democratic challenge facing Europe is one we also must take up.

Of course the Treaty of Lisbon will, I hope with all my heart, provide the stability, efficiency and legitimacy necessary for consolidating and maintaining the progress that has been made today in the urgency of necessity. That is precisely why we must calm as quickly as possible the fears expressed by our Irish friends in order to quickly return all together to the road that leads to a Union that is stronger and closer to its peoples. Let us make no mistake about it – that road has to go through Lisbon.

As proof of this I would cite the fact that it is precisely the Treaty of Lisbon that for the first time places in the forefront the national parliaments, which have for too long been closeted in isolation with their governments, the exclusive masters of the European agenda. The Treaty gives us very real means of making ourselves heard in the decision-making carried out in Brussels. To lay down limits, making sure – through the supervision exercised by subsidiarity – that the European texts provide our citizens with real added value. But also, in just as promising a way, to take part in the great debates on our common destiny.

As you know, if the Treaty of Lisbon comes into force, all future revisions of the Treaties will have to involve the convening of a Convention of representatives of all our parliaments. This means that henceforth we would be systematically involved in advance in determining the fundamental directions to be taken by the Union.

In the same vein, the Treaty recognises that we have a role to play in supervising and assessing the common policy of freedom, security and justice, a role that is at the heart of the traditional prerogatives of the national parliaments. You have chosen to consider the issue at this juncture, and I would like to congratulate you for doing so. It is indeed thanks to this immersion in the fabric of European legislation, with collective supervision of its results and also, no doubt, of its shortcomings, that we will be in a position to assume the role that our citizens expect of us.

I see here what could be our strength, our decisive contribution to the construction of a Europe for its citizens. The national parliaments are proven venues for democratic debate, with no taboos, no rigidity, and the constant desire to forge understandings and bring about innovative solutions by confronting ideas on an everyday basis. If we manage to convince the European institutions of our points of view, I am sure that our citizens will have the feeling that Europe has come that little bit closer to them.

In this respect, I applaud the efforts made to expand this parliamentary debate to the scale of the Twenty-Seven. No fewer than ten inter-parliamentary meetings have been scheduled for the duration of the French Presidency of the European Union. I have taken part in many of them, and I would like to bear witness to the quality of their work and to the fertility of their discussions. The COSAC, which in a way is the eldest member of the family of inter-parliamentary cooperation, is participating in its rightful place in this vast promising movement. Its role, more particularly in experimenting our mission to monitor subsidiarity, is vital and valuable.

However, in the more general perspective of the irruption of the national parliaments in the framework of the European institutions, I believe we should go even further and even faster. Both the crisis in Georgia and the financial crisis forced Europe to make great strides. Well, I would say that Ireland's "no" is "our" crisis – a democratic crisis. A crisis that demands that we assume our full share of responsibility. Forging a real link of trust and hope between the Union and its peoples is also our work. We cannot wait for the new Treaty to come into force before we tackle this forcefully, and perhaps even, since in these past few months Europe has moved much faster than its institutional schedule provided for, we could all seek together new ways of starting now to play the role that the Treaty of Lisbon assigns to us for the future.

I know that you will debate all these issues with vitality and competence. And I am sure that Mr Pierre Lequiller and Mr Hubert Haenel will lead your work effectively, ensuring the success of this plenary session of the COSAC.

I – FRENCH PRESIDENCY OF THE EUROPEAN UNION

A. Mr François Fillon, Prime Minister

The national parliaments constitute a vital element in the construction of Europe. They are the guarantors of democracy and the rights of Europe's citizens. They are the interpreters of our national identities. These identities must be respected – Europe cannot ignore the souls of its nations. But these identities must be transcended, as our nations would decline if they ignored Europe. I am militating in favour of enlightened patriotism raised to the European level since, in the face of the major challenges thrown up by globalisation, our union must be borne as much by a shared passion as by reason.



Associating the parliaments in the European decision-making process has been a long struggle, and one that the COSAC embodies more than any other organisation. A struggle between two possibilities – a federal Europe, and a Europe of the nations. Today, we know that the answer lies in a combination of these two possibilities, and you have made a substantial contribution to that. What a distance we have covered from the Treaty of Maastricht to the Treaty of Lisbon! The new treaty now acknowledges that the national parliaments have a real power of supervision of application of the principle of subsidiarity for every draft of a European legislative document. It is an acknowledgement of the vital link between the European institutions and

the elected assemblies of the Member States. Even so, the Treaty of Lisbon will need to be ratified by each country for this to happen!

In recent months, the European Union has had to face a number of crises. For each of them, the French Presidency, driven by Nicolas Sarkozy, has proposed solutions and obtained decisions, thereby demonstrating that Europe is first and foremost the expression of political will. There is however no doubt that our institutional system is still poorly suited to dealing with such serious challenges. There are lessons to be drawn from the difficulties we have been through recently:

– It is urgently necessary to reinforce the organisation of the European Council, which in these recent weeks has been the essential venue for the most serious and most urgent decisions.

– We must reinforce our governance of foreign policy, and in particular the coordination between Community action and action by the Member States.

– We must improve the Council's method of decision-making, enlarge the field for joint decision-making with the European Parliament, and substantially reinforce the involvement of the national parliaments in the European decision-making process.

The Treaty of Lisbon can do all that, and it should therefore be implemented. With Bernard Kouchner and Jean-Pierre Jouyet, the French Presidency is working on the European Council's adoption in December of a detailed road map to enable all the Member States to finally ratify the new Treaty. I do not underestimate the political difficulties, particularly in Ireland. How could I, as the Prime Minister of a Member State that said "no" in 2005? I know that it will not be easy to come up with the solution, but I also know that not coming up with it is quite simply not an option.

When war breaks out on our continent, when the financial institutions face a serious crisis, when economic growth is slowing down everywhere, when global warming endangers the natural balance, it is essential that Europe responds with a single voice and with strength. If the European Union is not able to cope with such events now, when will it ever be. If it merely adopted the role of a spectator rather than a determined player, how would we ever be able to convince our fellow citizens of the legitimacy of the construction of Europe? If our twenty-seven nations have united their destinies, it is to take action! Together, we have put a stop to the conflict in the Caucasus, obtained a withdrawal of the Russian troops, and restarted the international negotiations on the region's future. At the beginning of August, not many people would have bet as much as a euro on such a possibility!

And yet it was indeed Europe that obtained the ceasefire conditions, that negotiated and then supervised the implementation of the agreements to withdraw the Russian troops. Together, at the historic Eurogroup summit held on 12. October, we decided on measures to re-establish the confidence of European citizens in their financial system, which was on the verge of collapse. The financial crisis may have originated in the United States, but it was Europe that responded effectively, thereby influencing the rest of the world, including the United States. Together we are now defining Europe's position for the Washington summit on 15. November, which is aimed at defining the basis for the new international financial architecture.

It was Europe above all that wanted this summit. It is Europe that for years has wanted more regulation and more transparency in the international financial system. More means of action for the International Monetary Fund. More morality and more fairness in the global economic system. A vast subject, you may say, and it is. But if the subject is not borne and decided on by us now, it will be borne and diverted by others tomorrow. In which case Europe would be discredited and globalisation would be rejected. Lastly, it is also together that we must respond to the economic crisis which is now seriously affecting our continent. The European Union cannot not react.

What are we proposing? An even more ambitious intervention of the European Investment Bank, a much closer coordination of national policies, more reference to the present exceptional circumstances in the application of certain European rules. The French President has mentioned a number of other areas – European coordination in the face of the risk caused by certain non-European sovereign funds; a European response to maintaining the competitiveness of our strategic industries, including the European automobile industry, since the United States is currently injecting massively into their own constructors.

There is one lesson I draw from these four months of the French Presidency. In times of crisis, Europe has more means of action available than it realises, and more strength than it thinks it has. What has been missing too often in the past has been the political desire to take action, coupled with paralysing doubts as to our ability to have any effect on the course of events. It is this desire and this confidence in ourselves that our citizens want from us, and we must not disappoint the people's expectations!

We must not let them down in this financial and economic crisis, or on other major European topics. Firstly, combating global warming. Europe absolutely must reach an agreement by the end of the year if we are to maintain any hope of a global agreement on climate by the end of 2009 in Copenhagen. If Europe fails to make it, then the international community will fail as well, and we will have to account for ourselves to future generations!

Of course, the economic crisis is no help in achieving an agreement among the twenty-seven Member States. But the European Council held on 15. and 16. October made the right decisions. It confirmed the ambitious objectives for reducing CO2 and using renewable energy sources, and it confirmed the schedule for an agreement by the end of the year. With a view to the European Council in December, we must intensify consultations. This is what we are doing at the moment, with help from the Commission and in close association with the European Parliament, which is a joint decision-maker on the subject. I believe we shall, in the coming weeks, find the solutions that respond to the legitimate concerns of European industry and the Member States that need accompaniment and support, without renouncing the Commission's ambitious proposals.

There is a direct link between combating global warming and energy security. I know that you share this concern, and I will be paying particular attention to the results of your work on the subject. The European Council held on 15. and 16. October decided on important directions – greater energy efficiency, greater diversification of sources of energy, the creation of crisis mechanisms, an action plan for speeding up interconnections in the Baltic region, and so on. All these subjects are vital for Europe, which has taken too long over making the necessary decisions.

Then there is immigration. The European Council held on 15. and 16. October formally approved the European pact on immigration and asylum. It is an important result for an important challenge! A challenge that concerns you directly, since one of the major objectives of the pact is to get the European Union and the Member States moving in the same direction. The Member States have real responsibilities in this area.

And there is agricultural policy. CAP is facing three major challenges : food, environment, and territories. The objective of the French Presidency is to carry out a check-up on the health of the CAP before the end of the year, so that it will be possible to modernise it. We also hope that the Ministers for Agriculture will define the first common orientations for the CAP of the future, more particularly to ensure that we all share the same appraisal.

Lastly, there is European defence policy. In a world that remains unstable and dangerous, Europe cannot be a major political player on the one hand and a military dwarf on the other. It needs to have civilian and military resources, but these are lacking. Our states spend the equivalent of 40% of America's military budget overall. Do they have 40% of America's foreign intervention capacity? Far from it. We need to spend better, programme better, coordinate ourselves better, produce together better, and organise ourselves better. That is the purpose of our initiative on defence capacity. On this point, I think that all the Member States have now understood our intentions, which

are pragmatic, and that they will help us to obtain a result at the end of the year that is worthy of the European Union's responsibilities in terms of security and defence.

In this period of crisis, Europe has never before looked so essential and so obvious. Despite the scepticism of the experts, despite the doubts of the analysts, Europe has stood up to it. It has gathered its resources, it has mobilised itself to seek solutions. Such a voluntarist Europe can only be based on States that are themselves committed to the cause. A strong Europe cannot be based on weak nations, nor can strong nations base themselves on a weak Europe. The destiny of all parties is interconnected.

With this in mind, the national parliaments have an essential role to play. They are where a good part of the European ideal takes shape. While the European Parliament embodies European democracy, the national parliaments have had the task of building that necessary convergence between national interests and European interests. It is an important and sensitive task, that places you in the front line in front of your respective peoples.

Europe is complex, Europe is not perfect, but Europe remains more than ever one of the boldest political undertakings of all time! Despite the obstacles, Europe works, it is making progress, it surprises and fascinates a good part of the world which had stopped daring to believe in the old world. If we want it to be so, the 21st century can be European! We have the economic, cultural, technological and scientific means. It is a matter of conviction and purposefulness. That, ladies and gentlemen, is the voluntarist, confident message that the French Presidency encourages you to share and pass on wherever your voice is heard and respected.

B. Debate

1. The financial crisis

a) Questions

– Ms Rossana BALDI (Italy, Senate) asked if it would not be appropriate, in the present circumstances, to exclude expenditure on investment in strategic infrastructures from the Pact for Stability and Growth.

– Mr Alex SAEZ (Spain) emphasised that Europe should speak with a single voice at the Washington summit. In this respect, he was keen that Spain should be invited to attend the meeting.

– Mr René VAN DER LINDEN (Netherlands, Senate) wondered about the means of reinforcing the morality of the international financial and

economic system. He also warned Europe against the temptation of protectionism as the only response to the economic and financial crisis.

– Mr Christos PAPOUTSIS (Greece) wondered which authority would be made responsible for monitoring the proper functioning of the European economic system; he mentioned a number of possibilities, including the Central European Bank or the creation of a new body. He also raised the question of a revision of the European financing system as a response to the crisis.

– Mr Jo LEINEN (European Parliament) raised the question of the balance to be found in economic matters between the Eurogroup and the twenty-seven Member States. He also asked whether negotiations were in hand for France to continue to chair the Eurogroup until 2010.

– Mr Ben FAYOT (Luxembourg) said he was perplexed by France's motivations, and wondered if it was tempted by the idea of some kind of management board of the major Member States or if it intended to continue to observe the principle of equality of all Member States.

b) Replies

Mr François Fillon:

The **Pact for Stability and Growth** has long been described as an over-rigid framework. And I have not been the last person to criticise it. But we can see today that it is much more comprehensive than it seemed, since it mentions the possibility of exceptional circumstances and therefore adapts itself perfectly to the present situation. These provisions relax the rules of the Pact, more particularly as regards budget deficits. We cannot ask Member States to behave in the same way if their growth is 1%, 3%, or is negative! Not to mention the issue of the indebtedness of Member States if we take into account all the efforts that have just been made to save the financial establishments!

As for the **financial crisis**, France obviously wants Spain to be able to participate in the summit on 15. November. In general, it would like the international institutions that were founded at the end of the Second World War to be brought into line with the political, economic and financial context of the beginning of the 21st century. Nowadays, it seems more difficult to disregard China, India, Africa, Latin American and the Arab countries. We must look to a better distribution among the developed economies and the emerging powers. The Washington summit will not be able to settle all the matters connected with the financial crisis and will therefore inevitably be followed by subsequent meetings. The summit should nevertheless lead to a certain number of specific decisions so that the global economy can get back

on its feet. Nothing would be worse than a useless summit. Not only would it be a political failure; it would above all be a bad signal for the financial markets.

You talked about morality. There are a number of subjects about which Europeans can propose rules to the rest of the world that make it possible to moralise on the functioning of the global economy and capitalism. I am thinking, for example, of the regulation of tax havens. An economic and financial balance cannot be achieved if certain countries do not abide by any of the rules commonly accepted by the other countries. I am also thinking about the issue of regulation: should we continue to accept methods of functioning that gradually lead the financial institutions to become disconnected from economic reality? Should the issue of short sales on the stock markets not also be raised? Is it normal to be able to take speculation so far as to make it possible to destroy in moments what men and women have worked for years to help construct? The issue of the remunerations of a certain number of operators also worries me – is it right for market operators to be remunerated as they are, with bonuses that have nothing to do with the reality of the profits stored up by their companies but are merely based not only on the hypothetical nature of these profits but also on the short term?

Apart from the conjunctural measures adopted to cope with the urgency of the financial crisis, the continuation of structural reforms, as advocated by the Lisbon Strategy, seems to be the most suitable response to the **economic crisis**. It would be a mistake to think that the crisis requires us to abandon structural reforms and concentrate on immediate measures that some of you would qualify as protectionist. I would say straight away that we are against any measure of a protectionist nature. It is just that we do not think that setting up a European plan to support the financial sector constitutes protectionism. Protectionism would mean that each Member State individually adopts measures to protect its own financial system, without any coordination with the other Member States. These national measures are inoperable, however, because of the interlocking of the financial systems. We therefore advocate responses that are both coordinated and temporary, to make up for the weaknesses in the financial system. In France, we have chosen to give guarantees, to participate in the capital of financial establishments in serious difficulty, to inject cash into those establishments that are functioning properly, to have these services paid for at the market price – which is proof that we are not in a protectionist system here – and above all to announce in advance that we will withdraw from these institutions once the economic and financial situation has returned to normal.

We must continue the structural reforms. In this respect, the role of the European Investment Bank should be reinforced so that it has more means of action in the strategic economic sectors. In the same vein, the best long-term response to this economic crisis and to globalisation will always be

investment in training, education, innovation and research. We must remain the best in the international competition for intelligence – there is no alternative. That is why the European budget should make provision for more credits for education, training, higher education, innovation and research. And if, like the United States, we decide to help the automobile industry, our support should not only consist in handing out subsidies. The aid given would have to enable the industry to modernise itself and become less dependent on energy, and promote the design of vehicles of the future adapted to the issues of combating global warming. In this respect, combating global warming is not merely a policy bearing the stamp of generosity in favour of future generations. It should also be part of the modernisation of our industries. Because tomorrow an industry that has made no effort in terms of energy or pollution and has not adapted its products to the new requirements of the global market will be left out in the cold. It therefore seems reasonable to invest massively in clean industry and in the manufacture of products that are not harmful to the environment. That is the price of winning the global battle of the automobile market.

The matter of **monitoring Europe’s financial and economic system** implies a reinforcement of supervision both at the European level and the national level. It seems necessary to envisage, at the least, laying down identical rules for supervision in all the European countries. The crisis has highlighted the disparity of the rules for supervision within the Member States; these differences could reinforce the fragility of certain financial establishments.

I will be very frank in answering the question about a **“management board”** raised by the Grand Duchy of Luxembourg. France has never defended this position and still does not. It has merely indicated that, within the euro area, there are specific responsibilities in the economic field. Although the common currency allows a better integration of our economies, this cannot take place without a degree of financial regulation and coordination of our economic policies. Indeed the Treaty itself lays down objectives and obligations specific to the Member States of the euro area. Faced with the scale of the financial crisis, we have proposed, together with the French President, that the euro area should assume its responsibilities in terms of coordinating economic policies. In this respect, we think that the Eurogroup should meet regularly at the level of Heads of State and Government. That is the only way to give it the visibility and the power it needs for harmonising economic policies. The French President has, of course, in no way indicated that he intended to chair such a meeting of the Eurogroup. Next time the Heads of State and Government meet within the Eurogroup, they will decide democratically who is to lead them and for how long. But the fundamental question, for us, is harmonisation of economic policies within the Eurogroup and thereafter throughout the European Union. This is a medium-

term objective, a difficult objective, and one which should lead to profound changes which cannot be achieved in only a few months or years.



2. The future of the Treaty of Lisbon and the European elections

a) Questions

– Mr Gunther KRICHBAUM (Germany, Bundestag) emphasised the risk that European citizens might be indifferent to European Union’s achievements. He felt that this was one of the challenges to be taken up with a view to the elections in 2009. He asked what the French Presidency was proposing in order to bring Europe closer to its citizens, and to increase their participation in the elections.

– Mr Alex SAEZ (Spain) wanted to know what the French Presidency’s proposals were for overcoming the Irish blockage and ensuring the necessary implementation of the Treaty of Lisbon.

– Mr Jo LEINEN (European Parliament) asked for details on the content of the “road map” for ratification of the Lisbon Treaty, which is to be presented in December. He said that the Committee on Constitutional Affairs of the European Parliament would be preparing a resolution recommending application of the Treaty of Lisbon before the European elections.

– Mr Fidias SARIKA (Cyprus) wondered whether Europe would have been more effective in its reaction to the crisis of the second half of 2008 if the Treaty of Lisbon had already been in force.

– Mr René VAN DER LINDEN (Netherlands, Senate) questioned the future role of the Commission as the guardian of Community interests.

– Mr Ludek SEFZIG (Czech Republic, Senate) emphasised the need to campaign on European matters and not national issues. In this respect, he wanted to have details about the ESDP. He also mentioned the financial crisis, stressing that it was not enough to give guarantees – it was also necessary to insist about who was responsible for the crisis.

– Mr Bernard DURKAN (Ireland) referred to the progress of the work done in Ireland to overcome the rejection of the Treaty of Lisbon. He said that a standing sub-committee on European affairs has been created and that a report would be published and debated in the Irish Parliament at the end of November.

b) Replies

Mr François Fillon:

The indifference on the part of citizens to the European Union or their rejection of it on the grounds that it is ineffective or fails to respect our national identities raises the question of the quality of European decision-making. The European Union should have no hesitation in being bold and original. It cannot content itself with *a minima* measures that do no more than embody the Council's consensus on the lowest common denominator. In-depth discussions among the Member States make it possible to go beyond the initial reticences and divergences and reach measures that are both specific and innovative. The present economic and financial crisis is acting as a test in this respect. While the American administration is making a financial contribution to the modernisation of its automobile sector with a view to adapting it to the new environmental demands, the European Union is questioning the setting up of a support plan of the same type for the European automobile industry on the grounds that it would not be in keeping with the principle of free, undistorted competition. But our fellow citizens will find it difficult to understand lack of action in this area. Participation in the European elections, which reveals the level of citizens' involvement in the European project, depends on this type of specific policy, adapted to everyday issues.

To resolve the **Irish blockage**, we are going to put on the table in December a route map that should make it possible to continue the ratification process and give Ireland the time and distance necessary for making a decision. Nothing would be worse than preaching to Ireland, putting unbearable political pressure on the country to ratify the Treaty. That would have the opposite effect than the one we seek. I know what I am talking about, since I experienced the resounding failure of the 2005 referendum in my own country. What the failure of the constitutional treaty has emphasised is that it

is not possible to resume the process by means of major negotiations. This means that it is necessary for the Treaty of Lisbon to be ratified. We must see the process through right to the end, proposing this route map which will enable each party to do so at its own pace, and leaving the Irish with the possibility of debating the best solution at the national level. Like each of us today, Ireland needs European solidarity.

The French Presidency hopes that this route map will enable all the European countries to accept and support the idea that renegotiation is not an option. Re-opening the institutional debate would mean paralysing Europe for many years.

Would Europe function better with the Treaty of Lisbon? I would say “yes”, on at least two counts. Firstly, Europe would have a stable presidency, which everyone feels is important. The half-yearly rotation does indeed create many difficulties within the European Union. For instance, there is the trick of waiting for the end of the presidency when an obstacle comes up, to try to pass the problem on to the next presidency. Europe would also be able to make decisions more easily, as the Treaty of Lisbon extends the areas in which voting is subject to a qualified majority.

The Commission, the guardian of observance of the Treaties, has very extensive powers. While I do not think it is necessary to modify its status, I do feel it is essential to develop rather more the powers for the Council as a counterweight. For this, it seems particularly desirable to improve the mechanisms for decision-making within the Council, as it is so difficult to reach agreement among twenty-seven Member States.

3. Combating global warming

a) Questions

– *Mr Andrzej GRZYB (Poland, Diet) recalled that although Europe wanted to pioneer the combat against climate change, it also needed to ensure security and solidarity in the energy field.*

– *Mr Bernard DURKAN (Ireland) stressed the need to achieve a suitable balance between combating global warming and providing for our industrial and agricultural needs.*

– *Ms Anna KINBERG BATRA (Sweden) recalled her concern that Europe should take immediate action to combat global warming – inaction would place too much of a burden on future generations. She called on the French Presidency to be vigilant, and expressed her fears that the financial crisis would crowd out the efforts made so far to combat global warming.*

– Ms Lone DYBKJAER (Denmark) stressed the importance of the energy summit to be held in 2009 in Copenhagen. She called on the French Presidency to continue combating global warming, advancing the argument that some third countries did not want to see Europe as a leader in this field.

b) Replies

Mr François Fillon:

On the issue of **combating global warming**, the French Presidency is convinced that global warming should not be in competition with energy security. That is why we are trying to get the countries of Eastern Europe, which have different structures for industry and energy production, to adopt solutions to achieve the major objective without causing damage. Some of them, including Poland, have expressed their desire to postpone the discussion on global warming. For our part, however, we think that postponing it would in fact be tantamount to renouncing our objectives before the world meeting in 2009. It is Europeans who are the most concerned by this issue, and the most ambitious. Backing off would lead at best to an *a minima* agreement, and at worst to no agreement at all. We should therefore maintain our objectives with a view to reaching an agreement before the end of the year. Two difficult subjects also need to be taken into account in combating global warming. Firstly, the interests of European industry – in this respect, we have proposed arrangements for free quotas and mechanisms for adjustment at frontiers for those industries most exposed to international competition. We still need to find the right balance, however. Secondly, the specific features of the States of Eastern Europe. Discussion with each one of them should make it possible to devise arrangements for interim aid that we could set up to enable them to cope with this evolution. These negotiations obviously raise the question of Europe's independence in terms of energy.

As far as combating global warming is concerned, we also have the benefit of a historic occasion. The new President elected in the United States will certainly have to be more sensitive to environment issues than his predecessor has been, because of the evolution in mentalities in the country in recent years. In fact, the change of administration represents a real opportunity that we must make the most of if we want to implement an ambitious global policy on combating global warming. The European Union cannot downgrade the objectives adopted under the German Presidency, although it would be appropriate to provide specific aid for those Member States that do not yet have suitable infrastructures.

4. External relations of the European Union and European defence policy

a) Questions

– Ms Anne DELVAUX (Belgium, Senate) had doubts about the Union for the Mediterranean project, veering between hope and scepticism. She felt there was still much uncertainty, particularly regarding the matter of headquarters and the shared chair. She stressed the need to make progress on specific projects, such as de-polluting the Mediterranean. She also wondered whether reinforcing military capacity, as advocated by the French Presidency, also involved reinforcing “battle groups”, and whether this capacity corresponded to real budget commitments.

– Mr Vitalino CANAS (Portugal) and Mr Andrzej GRZYB (Poland, Diet) wondered about the future of relations between the European Union and Russia further to the crisis in Georgia. Mr Canas emphasised the importance of these relations for the future of Europe and Russia, while Mr Grzyb regretted that Russia had recognised the independence of Abkhazia and South Ossetia.

– Mr Petras AUSTREVICIUS (Lithuania) also broached the matter of relations between the European Union and Russia; he wondered what impact they could have on neighbouring countries.

– Mr Marko MIHKELSON (Estonia) wondered about the influence the upcoming American election could have on transatlantic relations, considered as being vital in the context of the global crisis.

– Mr Kimmo SASI (Finland) expressed his concerns about a proposal for a Regulation published by the European Commission in April 2008 which would limit the right of access to administrative documents although this was firmly protected by CJEC case-law. He asked whether the French Presidency would be making efforts to ensure that this access to documents was not limited and that CJEC case-law was upheld.

b) Replies

Mr François Fillon:

Regarding the **Union for the Mediterranean**, we have been able to see that much of the future of Europe and peace in the world depends on the Mediterranean basin. Previously, the European Union has not paid enough attention to this region, despite the existence of the Barcelona Process. This process has indeed been rendered more fragile by the unilateral vision and the inegalitarian format on which it is constructed. The aid granted to the Mediterranean by the European Union does not relieve it of its

responsibilities. In this respect, the countries of the Mediterranean rim should set the process in motion, even if it is difficult. That is the object of the Union for the Mediterranean, which aims to get the European and Mediterranean countries working on an equal footing. It is a real challenge, but I believe it is a necessary one. It is important, however, to settle the matter of the headquarters of the institutions quickly, in order to preserve the interests of the southern coast. It is also necessary, as President Mubarak stressed to me during his visit to Paris last week, to privilege specific major projects in order to bring together the countries of the Mediterranean rim.

Coming to the issues concerning **European defence**, I do not think that it is necessary to refer to the budget aspects at this stage, as that would be the quickest way to see the project shelved, and it is only in its early infancy as yet. The idea is simply to better coordinate and harmonise the military capacities of the various Member States so that we have much stronger external intervention capacity. For a very long time the debate has been reduced to the straightforward opposition of European defence on the one hand and the Atlantic Alliance on the other. The position France adopted recently has helped to put an end to that debate. France has indeed taken a very important step by saying that it is ready to fully rejoin the Atlantic Alliance structures, on condition that real progress is made on European defence. What is needed now is substantial progress in harmonising procedures, pooling means of information, and setting up structures for coordination and command. In this respect, the example of Congo is striking – Europe, given its current commitments and its complex procedures, has only been able to intervene on the diplomatic level, even though new massacres continue to be perpetrated.

The relationship between Europe and Russia is a delicate subject, since Russia is both one of Europe's strategic partners and an immense country that plays a major role in global stability. It is also a State with which Europe has always maintained sensitive relations, particularly during the 20th century. In the circumstances, we think that the European Union will only carry any weight in its dialogue with Russia if it is united and speaks with a single voice. Moreover, it has to be able to create the conditions for dialogue. In this respect, the stoppage of negotiations on the future strategic partnership, in response to the crisis in Georgia, would not be helpful for getting our message across. The first condition for opening this strategic dialogue consisted of the withdrawal of Russian troops to their positions prior to the start of the conflict in Georgia. The troops were withdrawn, and European observers are on the spot to check that this is so. So we consider that discussions should be started on this strategic partnership which is so important for peace in Europe and the world. I realise how difficult it is – as witnessed by the comments made by Poland – to embark on this debate because of the history of Europe's relations with Russia. But I can only repeat my conviction – we must be very firm in this dialogue with Russia, but we

absolutely must keep the dialogue going. In the absence of dialogue, we would expose ourselves to the risk of Russia turning away from Europe and finding other contacts. Europe would then have lost a real opportunity to influence the country's evolution. While we may criticise the pace at which the country is making progress, we should not give in to the temptation of qualifying recent changes as a return to the Cold War period.

I find it difficult to answer questions on the **consequences of the American election**. Firstly, I have no idea who will win the election. Above all, I am not sure that the candidates are respectively pro-European and anti-European. Similarly, I do not think that it is possible to state that there is one candidate in favour of the emergence of a multipolar world as we advocate it and one candidate in favour of American leadership assumed by force. In reality, I think that there is not much difference between the two candidates on all these subjects. I therefore feel that we should not expect the American elections to provide solutions to the problems we are facing. On the contrary, it is better that we should provide our own solutions, and that we should have the strength to say to the Americans, "*that's how we want the world to be organised in the future*". It is not abnormal for the United States to want to exercise its leadership. But it cannot claim to impose it on the rest of the world. I feel that there are a certain number of balances to be observed and that, in this respect, Europe supports a model for the organisation of the world in economic and philosophical terms as well as in terms of respect for national identities and cultures. The United States must accept that.

Lastly, I will close with the issue of **access to documents**. The French Presidency will ensure that this access is as open as possible and that the case-law of the European Court of Justice is respected. I do not have any specific elements available on the proposal made by the European Commission, but I can assure you that, having been alerted by you, we shall look into this matter immediately and we shall be vigilant.

II – ENERGY SECURITY AND THE EUROPEAN UNION

A. Mr Claude Mandil, former Executive Director of the International Energy Agency

I was instructed by the Prime Minister to report on energy security in Europe so that the future French Presidency would have some ideas to work on. I submitted my report last April, and I was very pleased – almost against all expectations – to note that a number of the conclusions contained in my report had been taken up by the Heads of State and Government at the European Council held on 15 and 16 October. What, then, were my main observations?



1. The risks

Firstly, when we talk of energy security, when we talk of security, it means that there are risks against which we must arm ourselves, and it is a good idea to start by analysing them. I have identified two fairly different categories – long-term risks and short-term risks.

a) Long-term risks

In the long term, the main risk is connected with climate change. More specifically, we do not have enough energy to be able to supply all the world's requirements, particularly those of the poorest populations, and still cut down on CO₂ emissions. I believe this is a very big risk and I am not optimistic. But we know what the remedies are, although we are not always aware that the difficulty is on such a large scale. The remedies are, first and foremost, much greater energy efficiency. Secondly, more energy that is not

carbon-based, meaning more from renewable sources and more nuclear energy, everywhere in the world, since the risk is on a global scale. Thirdly, since we will need to keep using fossil fuels, more capture and confinement of CO₂ so that the CO₂ produced is not released into the atmosphere. As I was saying, this risk is very great because the present trend is far removed from what would be necessary. And I would add that the financial crisis and the economic crisis that we are experiencing at the moment, even if paradoxically they have a positive effect in the short term by reducing demand, in fact have a negative effect because they slow down investment in the energy sector, and this investment is absolutely essential.

b) The short-term risks

Regarding the **short-term risks**, the risk facing our continent is “*is there a risk of our suffering interruptions in supply, whether of oil, gas, or electricity ?*” And here I have to dispute the validity of a certain number of preconceived ideas.

Firstly, contrary to what is said, **imported energy does not constitute a greater risk than energy produced inside the European Union**. Everyone says, “*it’s a disaster – the European Union imports 50 % of the energy it consumes. If nothing changes, it will be as much as 70 % in 2030*”. I am tempted to say, “*So what ?*” If we look at all the incidents in the last ten years concerning the supply of energy, nearly all of them have been caused by something internal. Almost none has been caused by a failure in imports. What is dangerous is being over-dependent on a single source of energy, or on a single supplier, or on a single means of transport.

Secondly, I do not believe that the main risk lies in oil or gas. I think that it is not in oil because we already have solutions to arm ourselves against this risk, and I will come back to them in a moment. Nor do I think it lies in gas because the situation of Europe in terms of gas is relatively balanced, on average at least, and contrary to what is sometimes said no supplier, averaged over Europe as a whole, represents more than one quarter of gas consumption in Europe. **I believe the main problem is electricity** because electricity cannot be stored and because Europe is not investing enough in production and transport of electricity.

Thirdly, I am convinced that **it is always better to mutualise risks**. A small country or a small community of consumers of energy is always in a more risky situation than a large community or a large country or a large group of countries such as the European Union. It is the same thing as for an insurance policy. You are better insured if you are part of a larger group capable of mutualising risks. There again there is one condition, and that is that the insurance actually works. For example, when you take out insurance against the risk of a car accident, you expect that, if an accident occurs and

you need to receive compensation, you will receive a cheque speedily. The problem with energy in Europe is that, nowadays, this is no longer possible. If you are a country in the European Union and you have a breakdown in the supply of energy, you have no guarantee that the other countries will be able to help you. And that is where the main problem lies.

2. The remedies

What are the remedies? What is needed firstly is a **political desire** that consists of saying, “*within the European Union, there is total solidarity on energy issues*”. This has never been said before and it was said for the first time – I am pleased to be able to say – by the European Council held on 15 and 16 October. Solidarity does not, of course, only work in one direction. It does not mean that there is one country that pays for everything and deals with all the difficulties so that the others can benefit without doing anything themselves. Like any insurance policy, everyone must take out insurance against the common risk, and the European Council, following my proposals, was quite right to say that “*solidarity goes hand in hand with responsibility*”.

Secondly, there must be the **possibility of releasing available capacity**. If one area of the European Union is suffering from a lack of energy, there must be surpluses somewhere else that could be sent to that area. It works for oil because it is easy to store – there is a system that works very well, which is the system operated by the International Energy Agency, which I had the honour of heading until a year ago. The system involves mutualising oil stocks among those States that are members of the Agency. The problem is that there are a number of States that are members of the European Union and are not yet members of the Agency, and there are some States that are members of the Agency but are not members of the European Union. The two groups must start to converge; at the very least, all the members of the European Union should be members of the Agency. However, there is no such system for gas and electricity, and any system for them could not be the same. It is difficult to store gas, and even more difficult to store electricity. That can only be done in countries where there are dams. This means we need something else, and that something else can only be the political agreement on the part of each Member States to say, “*if there is a need, and if a collective decision is made, we are prepared to reduce our own consumption by 5 or 10 % so that capacity can be channelled to the country that needs it*”. There is no reason for this not to be feasible. Here again, the European Council has asked the Commission to look into this type of solidarity mechanism.

Thirdly, it must be possible to transfer the electricity and gas made available in one place to another place where they are needed. This means that we need a **high level of fluidity in the internal market for electricity and gas**, particularly through investment. Electricity transport lines and gas pipelines are essential tools for energy security, and this is not said often

enough. Public opinion often imagines that they are merely tools for adding to electricity companies' shareholders' profits. No – they are essential tools for solidarity, and hence for energy security. And the rules must be the same on both sides of borders, which means that, contrary to a third preconceived idea I would like to scotch, there is no contradiction between achieving the internal market for electricity and gas in Europe and the security of supply. Quite the contrary – achieving the internal market is a requirement for security. All this demands transparency, so that we know how much we are using, what stocks we have, how much is imported, how much is exported, and what the long-term prospects are. This work on transparency is essential and must be pursued. One section of my report was devoted to relations between the European Union and Russia in the area of gas, relations that are often presented as exemplifying the difficulties of supply security. I leave the matter open, but in a word I would say that our relations with Russia are doubly bad in respect of gas. Firstly, I should say that we are not over-dependent on Russia. Russia's overall share in the global supply of the European Union is 25 %, and the gas itself could be replaced by other sources for the production of electricity, and even for nearly all its other uses. I am well aware that some countries are totally dependent on Russia for their supply of gas, but if we can manage to actually achieve the solidarity I was talking about a moment ago, this would not be a problem. Thus the problem is that we are continually saying, *“it's terrible – we are too dependent on Russia, we need more Russian gas; what would happen if we didn't have more Russian gas ?”* This means we are putting ourselves in a very bad position for negotiating with Russia and, in the opposite direction, we spend all our time cursing Russia over energy, saying, *“you've got to do this, you've got to do that; we don't like what you're saying, we don't like what you're doing.”* We are like a drug addict who curses his dealer. Well, we need to be less addicted and then perhaps we would curse our supplier less. I made a number of proposals in this direction in my report. I'll stop there so that the discussion can continue.

B. Debate

1. Sources of supply

a) Questions

Many speakers recalled the need for the States of the European Union, to adopt an attitude of solidarity. This need was referred to more particularly by Ms Alena VENHODOVA (Czech Republic, Senate), Mr Atanas PAPARIZOV (European Parliament), Mr Edmund WITTBRODT (Poland, Senate), Mr Herman DE CROO (Belgium, Chamber of Representatives). Mr DE CROO deplored in particular the negotiations with Russia being carried out bilaterally by a European Union Member State. Mr Milan

URBANI (Slovakia) referred to successful bilateral partnerships within the European Union between his country and Italy in the nuclear field.

More specific questions referred firstly to the situation and functioning of the energy market, the diversification of sources of supply in order to ensure energy security in Europe, and the situation of transit areas. Mr Edmund WITTBRODT (Poland, Senate) queried the possibility of the creation of a cartel for the gas market. Ms Vaira PAEGLE (Latvia) was concerned about the reliability of the Russian Gazprom consortium. The diversification of supply sources was raised by Lord John Roper (United Kingdom, House of Lords), while Mr Yasar YAKIS (Turkey), Mr George VELLA (Malta) and Mr Jakob PRESECNIK (Slovenia, National Assembly) referred to the conditions for the transit of primary energy, particularly gas.

b) Replies

Mr Claude Mandil:

The situation of producers is highly concentrated. There are three major producer countries – Russia, Qatar and Iran – who possess 60 % of the world's reserves of gas. There are also a number of less important producers, which could play a role in the short term – Norway, Algeria, Libya, and so on. But energy strategies can only be based on the long term, so it is on these three countries that Europe needs to concentrate.

Iranian gas is very important. The Nabucco gas pipeline running from the Caspian Sea to Europe is not justified by gas from the Caspian Sea area, but it is worthwhile if it carries Iranian gas. Once the political problems have been settled, the European Union will have to accept the idea that it needs Iranian gas. If Europe does not take up the Iranian gas, Iran will have no difficulty in finding a taker elsewhere.

This dependent status of Europe should lead us to a certain type of behaviour. The dialogue between producer and consumer supposes reciprocal listening and understanding. The present situation gives the impression of being blocked – the producer countries are not producing as much as the consumer countries would like. But in fact there may be a convergence of interest in the long term. It is in the interests of the consumer countries for them to reduce their consumption, and it is in the interests of the producer countries to keep their reserves for as long as possible. The two situations meet in the middle.

As for a cartel of producers – a sort of gas OPEC – I don't believe in it. Certainly in the past there was some rapprochement between the USSR and Algeria, but everything opposes the main three members of the new trio –

Russia, Qatar and Iran. If a cartel or some kind of organisation were to be set up, it would be beneficial for the consumer countries to be associated with it.

The issue of Turkey is a complex one. While it is true that Turkey is a transit country, it is also a fact that it is a very big potential consumer of gas. The client countries of the European Union are therefore justified in wondering about Turkey's attitude, as it has the choice between two positions. Either the country adopts the position of a trader and says, "*I take advantage of the gas transiting through my territory, I take the gas I need and I sell the rest*", or it adopts the position of a transit country and totally separates its function as an intermediary from its own requirements and says, "*I buy for myself, regardless of the requirements of others, and I act fairly as a transit country*". There is a fundamental difference between these two modes of intermediation.

The European Union seems to be rather too concerned with Gazprom, which cannot be ignored as a partner nowadays. It is just that we must not be over-dependent; we must find some leeway, particularly by looking for other suppliers. We need to say to Gazprom, "*we are very pleased to have your gas, but if we need 5 % more you are not the only producer – there are others*" (particularly Qatar and Iran).

2. The consequences of tension on the energy market

a) Questions

The question of the price of energy was raised by Mr Takis HATZIGEORGIOU (Cyprus) and Mr Milan URBANI (Slovakia, National Council), who both felt that the cost of energy commanded a proportion of purchasing power, that penalises the poorest populations and the functioning of social services.

The issue of arbitration between diversification of sources of energy within the EU and energy efficiency was also raised by Mr Jacinto SERRAO (Portugal) and Mr Takis HATZIGEORGIOU (Cyprus).

b) Replies

Mr Claude Mandil:

On **the cost of energy**, we have to disregard the present disturbance. Although we must understand and take into consideration the legitimate concerns of vulnerable populations, and although there is no guarantee that the price of energy will continue to fall, these price changes only apply to the situation in the short-term. It would be a mistake to work on the basis of low-priced energy. The long-term trend is for an unavoidable increase in energy prices. The current lower prices are not necessarily a good

thing, in fact, and have pernicious effects by postponing investments and the efforts that are essential for controlling energy.

As for prices, mention must be made of a situation that is something of a paradox. The public authorities are being pushed to develop renewable sources of energy without enough attention being paid to their cost. Yet there are many examples of renewable sources of energy that are not above all criticism, and where cost-efficiency is doubtful. For example, I would mark down off-shore wind turbines, photovoltaic cells, and current agri-fuels. The public authorities are focusing too much on the development of technologies that are not all ideal, and are not putting enough money into research, which is the only thing that will make it possible to reduce costs.

The public authorities **must decide between diversifying energy sources and seeking energy efficiency**. I nevertheless feel that there is no question that priority should be given to seeking energy efficiency. Whatever it is, every type of energy has pernicious effects, whether these involve emissions of CO₂ in the case of using fossil fuels, the issue of waste for nuclear energy, or the competition between various forms of land use for agri-fuels; every form of energy has a negative aspect, which is not the case of improving energy efficiency – that only has advantages. So that is the obvious priority area.

The search for energy efficiency must take priority since this is what gives the best results. An improvement in this area can only be the result of deliberate action and regulation. We may consider the example of the paradox of a flat a tenant rents from its owner. Everyone agrees to improve energy efficiency, and in the case given here this involves more efficient heating ; however, the tenant feels that the owner should pay for the work, while the owner has no financial incentive to have the work done, since it represents a high cost that he will never recuperate. The public authorities must get down to dealing with these contradictions.

**III – BRINGING EUROPE CLOSER TO ITS CITIZENS.
WHAT ACTIONS? WHAT ROLE FOR PARLIAMENTS?**

A. Mr Pierre Lequiller, Chairman of the Committee in charge of European Affairs of the French National Assembly

The European Union has crossed a turning point. It was built without its citizens and may probably have never been born had it been otherwise. Today, however, the European Union can no longer afford to operate in the same manner.

Personally, following three negative referendums, I would consider a low participation in the upcoming European elections, scheduled for June 2009, as a fourth “No” to the European Union project. We are therefore called upon to work together to avoid this from happening. National parliaments and the European Parliament need to cooperate more and exercise their full prerogatives accordingly.



There is a need to address European issues that directly concern our citizens. In this regard, the French Presidency has retained priorities in which they take interest, namely: immigration, energy, sustainable development, agriculture, financial regulation...

The solution to a good number of issues lies in increased cooperation amongst national parliaments and the European Parliament. There is a need for all of the national parliamentarians, and not only specialists in each assembly, to talk about the European Union to their fellow citizens. They need to reach out to their people on the field. That is how the European idea can make headway.

As for me, I will make a few proposals. National parliamentarians ought to travel frequently to Brussels and Strasbourg to the institutions of the Community, such as the Committees of the European Parliament. Conversely, European parliamentarians may travel to present their reports to the national parliamentarians. I am equally recommending that the European Commission hold decentralised meetings on a regular basis in the capitals of Member States, with a view to making up for the distances separating the different institutions.

Finally, I wish to propose that each year, a general meeting be held, a sort of “State of the Union”, in the course of which the current President of the European Union and the President of the Commission would present a general report for the year just ended and the outlook for the upcoming years before an assembly of national and European Union parliamentarians.

These proposals seek to achieve one and the same goal, namely: make the European Union a political issue that touches the hearts of our fellow citizens!

B. Mr Jean-Pierre Jouyet, Secretary of State in charge of European Affairs

“Bringing Europe closer to its citizens...” What a difficult topic! For it implies, rightly or wrongly, that its citizens are on the sidelines of the European Union. Whereas in your parliament and in your constituency, each and every one of you is aware of how much the European Union’s policies are primarily concerned with the daily lives of our fellow citizens. However, it is irrefutable that there is equally a feeling of indifference with regard to the institutions and the decision-making processes of the European Union. For a good number of citizens, the European Union’s decision-making process has remained unfathomable; hence the urgent need for increased transparency and more effective communication.

All over Europe, our fellow citizens have felt over the last months what was the added value of the European Union. The paradox of the present state of affairs is that the impact of this added value was felt more in a time of crisis – a severe and multifarious crisis actually – than it has been in normal times. All over Europe, it has been observed that the European Union is definitely the most relevant avenue to take on the international crises and work out a coordinated approach to tackle not only the financial crises, but also to respond to other global challenges, such as global warming, the energy crisis or the management of migratory movements.

There is no doubt that for each and every one of us and our fellow citizens, the European arena is indispensable. But there is a need for the European Union’s responses to today’s challenges to be more comprehensible.

Moreover, we need to work relentlessly to reinforce European citizenship, not only by working closely with the elected representatives, but equally by reaching out individually to each and every one of our fellow citizens. There is no conflict between European citizenship and national citizenship. On the contrary, European citizenship extends, completes and strengthens national citizenship at this dawn of the 21st Century. To bring the European Union closer to the citizen, the Union ought to be more political. The debate at national level, regardless of the distance separating the people's representatives and the citizens, is predominantly political, whereas, at times, at the level of the European Union, the debate turns out to be too abstract and technical. We, therefore, need to re-inject politics into the European Union. The major challenge of the European elections will consist in making debates on the European Union more political.



For the country holding it, the Presidency of the Council is definitely an unusual opportunity to restore meaning to the European Union and debate at length on its future. That is why we have been making efforts to create the much-needed enthusiasm everywhere in France. A programme called “*Paroles d’Européens*” has been designed in France to host the exchange of ideas on the European Union with elected representatives. I would like to focus on two key events under the programme:

– The “*Journées civiques européennes*” organised by the European Civic Forum at La Rochelle in September 2008, which brought together over 1000 citizens and leaders of different associations from all European Union States to share best practices and discuss at length on European citizenship,

– The meeting that brought together 500 youths at Nantes in early October to work out 12 proposals for the European Union by 2020, which were then submitted to the reflection group on the future of the European Union chaired by Mr Gonzalez.

Bringing the European Union closer to its citizens is equally a means of materialising European citizenship. It is a means to highlight the major achievements of the European Union. I have identified a good number of such achievements that symbolise a European Union closer to our direct concerns:

– The possibility to take out a cross-border health insurance policy where one is subject to mobility within the European Union (an agreement on the issue is expected in the month of December),

– The ongoing creation of a European Union card for health professionals,

– The agreement on a regulation relating to cross-border alimony,

– The practical cooperation for the interoperability of warning systems in case of child abduction,

– European civil protection already tested in a pilot phase in Greece (firefighting) and in Romania (flood control),

– The creation of a European network to monitor paedophile Internet sites,

– The launching of operations to reinforce consumer protection,

– The review of mobile telephone rates with the setting of a ceiling on SMS rates.

First of all, the European citizens expects the European Union to have a positive impact on their daily lives, by allowing them to travel, live and work within the Union without facing any administrative bottlenecks.

In this regard, there is an urgent need to take action with a view to:

– On the one hand, addressing the daily obstacles facing mobility, as recommended by Alain Lamassoure's report: millions of European citizens who live, work and set up a family in a partner country very often face real difficulties. It is the duty of the national and European lawmakers to ensure that the law is properly implemented. An information drive is equally crucial to make the European citizen aware of the rule of law applicable, the steps to be taken and the means of redress when faced with any practical difficulties.

– On the other hand, the possibilities of mobility. Firstly, youth mobility: it needs to become the “rule and no longer the exception”. In this regard, the development of European mobility programmes (Erasmus, Leonardo or Comenius) alongside national programmes is vital for students, trainees and teachers. In my reckoning, it is one of the most efficient ways of bringing about the emergence of a generation of genuine European citizens. Not only youth mobility, but also mobility of the working population: we want to go ahead with negotiations relating to the directive on the portability of supplementary retirement pension rights, a vital project to further the rights of mobile employees within the Europe Union.

We are therefore called upon to work together. We have to play as a team, and here too, the national parliaments have a key role to perform.

Therefore, just like you, while I respect the outcome of the Irish referendum, I regret the fact that the Treaty of Lisbon cannot become effective as from 1st January 2009, as initially planned. It is a pity for the Georgian crisis, for instance, showed the urgent need for a stable presidency of the European Council and a high representative. I am equally disappointed for the Treaty of Lisbon establishes the role of national parliaments in the decision-making process. You have already made provision for this new early warning system and I am happy about it.

Nevertheless, I remain optimistic. The parliaments of the 24 Member States have already adopted the Treaty of Lisbon. At Dublin, where I will soon travel, studies ought to be carried out and additional reviews should help us to jointly work out a road map in December.

As you are aware, the time has come for action with conviction. I know that you do not lack these, especially on the eve of European elections.

C. Debate

a) Questions

Several speakers focused on the need for the European Union to ensure transparency, so as to restore the confidence of its citizens in building the European Union. In this regard, Mr Erkki TUOMIOJA (Finland) expressed fears as to breaches the draft regulation regarding “the public access to European Parliament, Council and Commission documents” may cause to this principle. Ms Martine ROURE of the European Parliament pointed out that the European Ombudsman had made recommendations that may be used to conclude an inter-institutional agreement that will help to

strike a balance between the need for professional secrecy and the need for transparency.

Ms Anne DELVAUX (Belgium, Senate), Mr Edmund WITTBRODT (Poland, Senate) and Ms Lone DYBKJAER (Denmark) highlighted the key role national parliaments can perform in bringing the European Union closer to its citizens. The intensification of cooperation amongst national parliamentarians and European parliamentarians coupled with the organisation of more political debates on the European Union, especially within COSAC, have equally been mentioned as ways to help foster this initiative.

Mr Herman DE CROO (Belgium, House of Representatives) reckoned that communication actions on the European Union did not sufficiently highlight the achievements of the Union. Ms Anne DELVAUX (Belgium, Senate) equally expressed disappointment that communications on the Union focused excessively on the institutions and not sufficiently on the policies implemented and the concrete results achieved, adding that such communication operations should generally be tempered with humility and should refrain from any excesses of marketing.

Ms Darja LAVTIZAR BEBLER (Slovenia, National Assembly) indicated that in her country, the gulf separating the European Union and its citizens may have been caused by the fear of jeopardising the nation's sovereignty, which is a new conquest for the people of Slovenia. She emphasised that her fellow citizens had the impression that institutions of the Community did not pay enough attention to the national identities and cultural specificities of the different Member States. Mr Mladen TCHERVENIAKOV (Bulgaria) pointed out that the enlargement policy over which European citizens are likely to express concerns should be explained more thoroughly.

Mr Mario PESCANTE (Italia, Chamber of Deputies) took the floor to draw the attention of participants to the unpleasant consequences to some national sports organisations of certain rulings passed by the European Court of Justice (ECJ), especially the "Bosman ruling".

b) Answers:

Mr Jean-Pierre Jouyet:

The French Presidency is particularly attentive to the issue of transparency of the Community's institutions. The regulation of 2001 needs to be updated, and we remain available to the European parliament for that. Talks have already started. A balance needs to be struck between the need for transparency and other considerations. The Treaty of Lisbon offers headway in this regard. I am happy to note that this COSAC meeting is broadcast on television.

We need to see more politics in debates on the European Union to build up citizenship.

Communications on the European Union should display more humility and transparency. They should equally recognise the national specificities and identities.

The major achievements of the European Union are not always highlighted. This is the case with Schengen, for instance, which equips the citizens of Europe with the largest area of freedom and security on the globe. This is equally the case with the euro, without which the financial crisis would have been aggravated by dramatic monetary disorders. The euro actually performed its stabilising role. This is a resounding success for the European Union.

The media deficiency suffered by the European Union is acute. This is undoubtedly one of the thorniest issues to be addressed. Extensive talks need to be held with the different media that are not yet sufficiently interested in the debates on Europe.

The Committee ought to be very cautious in its subsequent communications on the enlargement process. The French Presidency is in favour of enlargement, but there is a need to exercise caution and refrain from hastily advancing any deadlines for the admission of any candidate State as a member. This would be a serious mistake on the part of the Committee.

European citizenship can only exist if diversity and cultural specificities are respected.

I think we have gone too far in considering sports as a business activity. There is a need to reassert its specific character, as is the case with culture. That is what the Treaty of Lisbon actually provides for. Sports is a builder of economic and social cohesion, especially for the most disadvantaged population. The French Presidency has concerns for issues such as sport ethics and anti-doping activity.

**IV – THE ASSOCIATION OF NATIONAL PARLIAMENTS TO
THE AREA OF FREEDOM, SECURITY AND JUSTICE, AND IN
PARTICULAR TO THE SCRUTINY OF EUROPOL’S ACTIVITIES
AND THE EVALUATION OF EUROJUST’S ACTIVITIES**

A. Mr Hubert Haenel, Chairman of the European affairs committee of the French Senate

Through the referendum on the Constitutional Treaty or on the Treaty of Lisbon, the peoples have sent us messages that we have to take into account. They think Europe's weight is too heavy in some fields. To this respect, the subsidiarity check is essential. But, at the same time, they also want Europe to be more present in other fields. This is particularly true for what concerns their security. The development of police and judicial cooperation therefore constitutes a major stake to meet our fellow citizens' expectations.



Two organisations play an important part in this field: **Europol** for the police cooperation, **Eurojust** for the judicial cooperation. These cooperations are necessary. But they must be submitted to a democratic control. And national parliaments must be associated to this control. Indeed, national parliaments traditionally have an eminent mission as regards the scrutiny of the police activities and the evaluation of the judicial activities. Associating national parliaments to the procedures of control of these cooperations led by the European Parliament thus complies with both a democratic requirement and a purpose of efficiency. The Treaty of Lisbon precisely recognizes that the interparliamentary cooperation “*between national parliaments and with the European Parliament*” contributes to “*the good functioning of the Union*”.

I remind you that the idea of organising a parliamentary scrutiny of Europol is not new. Indeed, it was brought up during a parliamentary

conference held in The Hague in 2001. At that time, some speakers had made some suggestions about the forms of this scrutiny. For instance, Antonio Vitorino, who was then the European Commissioner in charge of justice and internal security, had spoken in favour of “*a form of association between the members of national parliaments and the members of the European Parliament*” for the exercise of this scrutiny. He had suggested conducting it at first in an informal framework, before considering subsequently its institutionalisation. The European Commission also proposed in 2002 the participation of national parliaments in the democratic scrutiny of Europol. The idea was discussed within the Council.

The European Commission’s proposal considered the possibility for the European Parliament to create a parliamentary joint committee of representatives from the European Parliament and from national parliaments. This joint committee would have examined the questions related to Europol and would have conducted the “*hearing*” of the director of Europol. However, this measure was modified during the negotiations at the Council, and national parliaments were removed.

And yet, the need for cooperation between the European Parliament and national parliaments has emerged during the Convention’s works as well as during the preparation of the Treaty of Lisbon. The latter states that the rules which shall determine “*Europol’s structure, operation, field of action and tasks*” shall also lay down “*the procedures for scrutiny of Europol’s activities by the European Parliament, together with national parliaments*”. Let us be quite clear about this. We do not intend to anticipate today the coming into force of the Treaty of Lisbon. But it is useful to have here and now an exploratory debate about the possible forms of cooperation between national parliaments and the European Parliament on these matters. To that end, it seems relevant to think about the following questions:

- Should the effective implementation of the association of national parliaments to the scrutiny of Europol take the form of a joint committee between the European Parliament and national parliaments, according to the idea voiced eight years ago?
- What should be – if the need arises – the prerogatives of such a committee (scrutiny of Europol’s yearly report, scrutiny of its budget, and hearing of its director...)?

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Likewise, national parliaments must also be associated to the evaluation of Eurojust’s activities. This is stated in the Treaty of Lisbon. The current decision establishing Eurojust has only imposed information of the Council and of the European Parliament about Eurojust’s activities and

management. Here again, the prospect of associating national parliaments to this mechanism must lead us to focus on some questions:

- Would it be sufficient to extend to national parliaments the information currently passed on to the Council and to the European Parliament?

- Do we need to go farther and to create a direct relation between Eurojust and all the parliaments (the European Parliament and national parliaments)?

- In this framework, should not these parliaments be entitled to meet Eurojust's officials?

- Finally, would it be useful to institute a common body as a joint committee?

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These are a few thoughts and questioning that I wanted to share with you to open our debates. I repeat that in our mind, the debate which is going to take place only intends to explore the question, to record the suggestions of everyone, and to underline the difficulties and possibilities. From this debate, it could be up to the Czech Presidency to precise the conceivable solutions and to provoke a debate about some proposals during the next COSAC meeting in Prague. Thus, if – as we hope it – the Treaty of Lisbon happens to come into force in a reasonable delay, we will not be caught off the guard and we – both the European Parliament and national parliaments – will be able to express our views to the European Commission and to the Council as regards the exercise of the democratic control on these sensitive matters.

B. Mr Jacques Barrot, Vice-President of the European Commission

First and foremost, I would like to point out that one of the fundamental goals of the European Union is to provide its citizens with an area of freedom, security and justice with no internal boundaries. This is a space in which the security of its citizens as well as their collective and individual protection should be guaranteed by taking appropriate measures. This is an area in which court rulings are expected to circulate freely and wherein Europe's citizens ought to have easy access to the courts of law. This is equally a space that will require a concerted management in the domains of immigration and asylum.

The individual actions of each State are no longer appropriate to these growing threats. Nine citizens out of ten support this ambition to see increased action at the level of the European Union. Of course, this does not rule out the actions taken at national level. Actually, it is worthwhile for me to recall a few examples to illustrate the need for concerted action. One of our prime concerns is the drug plague. Each hour that goes by, we record the death of a young European citizen aged less than 25. The Mediterranean has become one of the leading hubs in the transit of cannabis, cocaine and heroin, carried by very powerful ships known as "Go fasts". Through the regional maritime platform, we have been able to seize thirty tonnes of drug. And presently, we have a new regional structure with the CECLAD recently set up at Toulon. That is the situation for the threats. We equally have the daily lives of our fellow citizens, notably the increasing number of binational couples with specific problems to handle. Close to 20 % of marriages between people from different nationalities lead to 20 % of divorces. There is the issue of child custody to manage, including the payment of alimony. Third example with regard to asylum: the number of asylum seekers has increased by 12%, but the different approaches in each of the 27 member countries give rise to varying results that the seeker finds it very difficult to understand. Depending on whether one submits one's request in one country or another, one's chances of being granted asylum are higher or less, whereas all the seekers may come from the same country.

Renewed impetus was given by two new and successive multinational programmes, namely the Tampere Programme (1999–2004) and The Hague Programme (2004–2009) that provided details of the priorities and initiatives to be taken in the different sectors. We should therefore waste no time in mapping out the way forward and working out the future priorities of the European Union in this domain. In May 2009, I will present a strategic vision on the area of freedom, security and justice for the period running from 2010–2015. It is my hope that by the close of 2009, a Stockholm programme will take over from The Hague Programme.

Let us set the record straight, we do not want to systematically Europeanize all of our policies. The European Union can sustain and supplement the policies of the Member States, where the national framework in itself cannot guarantee the rights and protection of its citizens. This is the case with organised crime. We were witness to the efficiency of the long-term programmes that helped to give the impetus needed to make headway with the area of freedom, security and justice and ensure a perfect harmonisation of the different actions. I have just launched a consultation via the Internet to sound out the opinions of our fellow citizens, with a view to gathering enough material to map out this new strategy.

However, and this is my first observation, I am convinced that national parliaments need to be involved more closely, upstream, in European

Union policies. Actually, national parliaments ought to reach out to their fellow citizens in order to help us to better understand how to achieve this balance between security and justice. And your contribution will be crucial in working out a strategy for the period spanning from 2010-2014. Therefore, Ladies and Gentlemen, members of national parliaments, I solemnly make this commitment before you here today: whenever I travel to any member State, I will take the floor before your parliamentary committees to present the Stockholm programme. I actually intend to establish a frank and constructive dialogue amongst us. That is how we shall build up the European Union: through dialogue and understanding of our diversities.

Now, let me return to the parliamentary circles. With regard to European law, the Parliament of Strasbourg is definitely the key player. Nevertheless, the national parliaments equally play a major role, be it for authorisations to make decisions, such as revising treaties or transposing European directives. Transposition is an important issue which can be problematic! Presently, we are facing some major difficulties with the transposition of the directive on issues pertaining to family reunification under immigration policies. What are the options offered by the Treaty of Lisbon? The ratification process is not yet over. However, the improvement it shall offer with regard to the roles of both national and European parliaments is worth mentioning.

Article 12 of the Treaty on the European Union as set up by from Treaty of Lisbon highlights the contribution of national parliaments to the smooth running of the Union. And the treaty expressly makes reference to the national parliaments for the evaluation of the activities of Eurojust and the scrutiny of Europol. The subsequent regulations that shall outline the mode of operation of these agencies should equally make provision for the involvement of national parliaments. Apart from this direct role, you are equally aware that the Treaty of Lisbon will introduce the codecision procedure in the area of freedom, security and justice. Considering the links between national parliaments and the European Parliament, the implementation of the codecision procedure to the third pillar will indirectly reinforce the role of national parliaments.

And then, you will equally have to oversee the issue of subsidiarity. I must point out that according to the Treaty of Lisbon, where a third of the votes cast by national parliaments challenges the proposal from the angle of subsidiarity, this one-third automatically becomes a quarter with regard to the area of justice, security and freedom. Where a quarter of the votes cast by national parliaments challenges the proposal, the Committee ought to review its proposal and justify whether it shall maintain or withdraw it. Another case is the "Orange Card" for which a simple majority of the votes cast by national parliaments is enough to challenge the principle of subsidiarity.

Let me return to the national parliaments and the area of freedom, security and justice: the national parliaments will take on an increasingly significant role in the development of this area. COSAC is there to act as a watchdog by indicating how concerned are parliamentarians by a text, even where such contributions are not binding on national parliaments. And of course, we will have to specify the role of national parliaments with regard to Europol and Eurojust.

I would like to specially pay tribute to their respective directors for the commendable work performed. I would equally like to remind you that with the decision that replaces the current convention, Europol is presently witnessing an extension of its missions to address more severe forms of crime. With regard to Eurojust, we have been able to obtain a reinforcement of the powers of national members and the College, sharing of information by setting up Eurojust coordination systems within the Member States and the possibility of assisting Eurojust liaison magistrates in third countries.

Europol and Eurojust are becoming increasingly solid and increasingly important cornerstones of the area of justice, freedom and security. We should be thankful to Europol for cracking down on a clandestine printing press, and seizing a pack of 11 million euros of forged bank notes. We are grateful to Eurojust for coordinating the BAGDAD operation, which mobilised 1 300 police officers in nine different countries and resulted in the arrest of 75 persons.

Europol and Eurojust have displayed their efficiency. Hubert Haenel expressed a longing for a somewhat bygone era, that of 2002, where there was a willingness to associate COSAC and the national parliaments more closely in the evaluation process, especially in handling information from Europol and Eurojust. It is true that the European Commission had proposed that a single report be sent to the European Parliament and to the Council, that the Parliament be conferred the powers to invite the Presidency, as well as the Director of Europol for discussions, or that a coordination mechanism be set up based on the COSAC model. In addition, with regard to the scrutiny of Eurojust's activities, the communications with parliaments equally need to be improved.

As President Haenel rightly said, there should be no hasty conclusions with respect to the implementation of the Treaty of Lisbon. We should also refrain from coming up with solutions characterised by an excessive dose of formalism. The possibility of holding a meeting each year bringing together Europol, Eurojust and COSAC in the presence of the European Commission is a good idea. Whatever the case, it is through open discussions of this nature that the different institutions will be able to challenge one another. What matters is that, henceforth, Europol and Eurojust and their Community financing mechanism, equip us with avenues for action

that will take into account more and more the need for information of both the European Parliament and national parliaments.

Europol's annual report will be submitted to the Council and the European Parliament as well as that of Eurojust, and practically, the President of the Eurojust's College and the Director of Europol will both be invited to present their reports and respond to questions. Additionally, an independent evaluation of both agencies will be conducted on a regular basis by an external team and the report thereof forwarded to the European Parliament.

I am firmly convinced that the national parliaments can play a leading role in building up a European Union not grounded on uniformity, but rather designed as a platform to establish relationships based on mutual trust. Such relationships of mutual trust will require a sound judicial system and proper knowledge of our respective judicial systems. I strongly believe in the role national parliaments can play in achieving this, and your opinions, your advice and your suggestions upstream will be welcome to help prepare the future long-term programme I intend to present before the end of 2009.

We would be most obliged by the suggestions and invaluable assistance you would be kind enough to give us. I must add that, for Eurojust and Europol, the reservations expressed by national parliaments and that obstructed decision-making be withdrawn as soon as possible, so that Europol and Eurojust can go ahead and take full advantage of the enhancements made to their status. Thereby their excellent President and Director will be able to carry out the good work needed to ensure the individual and collective protection of all of our fellow citizens.

C. Mr Max-Peter Ratzel, Director of Europol

I am greatly delighted to see that Europol has been invited to speak before you today.

Firstly, I would like to lay emphasis on **the need for Europol to develop close working relationships not only with national parliaments but equally with the European Parliament**. Why are such relationships important? Well, they are vital because there is a need to conduct a democratic scrutiny of activities and also because, in the future, this democratic scrutiny and this close working relationships with the agencies in charge of law and order and the parliamentarians will occupy centre-stage. Another reason is that the police force has always been an issue of special interest to the public, and given this interest from the general public, this automatically becomes an issue of direct interest to the parliamentarians, who are at the forefront when it comes to defending public interests.

The second factor I would like to raise is **the conditions for cooperation between national authorities and Europol**. This was clearly stated by Commissioner Barrot: the overriding principle is subsidiarity. This is a principle that underpins cooperation at the European level, including law enforcement services. The competent authorities in member countries maintain control with regard to crime control. The principle of sovereignty of Member States must absolutely be preserved in this domain. However, to effectively control organised crime and combat terrorism on the international scene, a number of challenges need to be faced. This will require that we coordinate our activities and adopt an integrated approach. This will involve cooperation at the level of the European Union and cooperation amongst the police forces and judicial systems of the Member States. Moreover, it is worthwhile ensuring vertical cooperation between Europol on the one hand, and the competent authorities of Member States on the other hand. In order to achieve this coordination, there is a need to develop mechanisms that will call for time and effort. The guiding principles should be based on the need for consistency and I am delighted to note that the French Presidency has introduced the notion of convergence. Furthermore, we need to understand one another and trust one another within the European Union.

This brings me to the third point of my statement. **What is the role of Europol in combating organised crime and international terrorism?** What are the functions that enable Europol to provide its support to the competent authorities of member countries? Firstly, we are an information facilitator, which means that we have developed a network of mechanisms and technological tools, which enable Member States to transfer information in virtually no time via secure networks. Secondly, there is an examination of the crime in order to have a clear picture of what are the major threats regarding international crime and terrorism. We equally carry out operational analyses that enable us to provide material support to operations conducted in Member States, by identifying the links between crime, organised crime and groups of criminals and individual criminals. Moreover, we provide assistance to Europol collaborators to allow them to travel to member countries, on the condition that these colleagues must have been invited initially by the member country concerned and will therefore be under the care of the authorities of the said country. Our colleagues of Europol can on no grounds whatsoever conduct arrests, seizures or searches, and have no coercive powers. Furthermore, we serve as a relay between Member States and third parties, that is, other authorities of the European Union, other agencies of the European Union and other international organisations.

The fourth element I would like to mention is **the control mechanism operated by Europol**. We are a very closely scrutinised organisation. It is the mission of the “Article 36 committee” whereby national representatives speak on behalf of their respective governments. By so doing, Europol is closely scrutinised by national parliamentarians. In addition to this,

we run a national supervisory body that guarantees data confidentiality and data protection. Here too, Member States exercise their influence. Actually, the international audit committee makes sure that we perform our business in an efficient manner, and here too, the parliamentarians have a say. This definitely means that over 500 persons are involved in the governance and scrutiny of Europol as an organisation.

My fifth point: **implementing the decision of the Council on Europol** that has just been mentioned by Commissioner Barrot. We think that the decision will be enforceable as from 1st January 2010. It will offer a new legal basis for Europol and a new financing mechanism given that financial settlements and payment of civil servants of the Commission will be directly applied to Europol. Europol will be financed directly by the budget of the Community. At the same time, there will be more flexibility for us to set up our own avenues for action to enable us to respond rapidly to operating needs. With regard to operations, we slightly adjusted our mandate in order to combat not only organised crime and international terrorism, but also serious organised crime. Moreover, Europol will be called upon to play a major role in protecting the euro against counterfeiting. Here too, the decision of the Council will help us to set up innovative data bases that will enable us to efficiently control organised crime.

The sixth point of my statement will address **the system of scrutiny of Europol's activities**. Europol's increased responsibilities should be accompanied by more transparency and the control mechanisms and systems must not only be more efficient, but must equally involve national parliaments more closely in the future. It must be understood that the notion of scrutiny needs to be construed as monitoring and follow-up. The provisions that justify this need are contained in the Treaty of Lisbon. The newly-formulated Article 12 of the Treaty on the European Union mentions that national parliaments need to be involved in the "Political Monitoring" of Europol. Article 88 of the Treaty on the functioning of the European Union specifies that the activities of Europol will be scrutinised by the European Parliament and national parliaments.

And now, the last point of my statement. Allow me to make a few proposals as to the best way of implementing Article 88. Europol may submit strategic documents to COSAC, namely its annual report, its work programme, the report by the international supervisory body, the audit committee. Meanwhile, COSAC representatives could be invited to the European Parliament when the Presidency of the Council as well as the Director of Europol will be called up to report on the activities before the European Parliament. Of course, the director may equally be invited to take part in COSAC meetings and to submit a report to you on the activities carried out over the year just ended and activities scheduled for the year ahead. And finally, let me point out that under the present configuration of the

European Union's internal security framework, a balance needs to be maintained between the tasks and responsibilities of the agencies at the European level and the tasks to be performed at national level. This is a reality and I can only call upon each and every one as national parliamentarians to make sure that OCTA (Organised Crime Threat Assessment) – which performs an annual appraisal of European priorities with regard to organised crime, adopted by the JHA Council – is taken into account in a timely manner by your respective parliaments.

D. Mr José Luis Lopes da Mota, President of the College of Eurojust

I would like to share few ideas with you on the situation of national parliaments in evaluating Eurojust, notably on the new article of the treaty on the functioning of the European Union: Article 85. This article stipulates that the regulations determining the structure, functioning, scope and mission of Eurojust equally lay down the terms of association of the European Parliament and the national parliaments in evaluating the activities of Eurojust. The legitimacy of the actions undertaken by the European Union and its bodies, notably Eurojust and Europol, shall be strengthened by the enhanced role played by the European Parliament and the national parliaments. Actually, criminal matters belong to the core of the competences of national parliaments which play an essential role in the build-up and smooth functioning of the European penal area. The involvement of the European Parliament in legislative procedures as co-legislator and the special role of national parliaments in supervising the implementation of subsidiarity and proportionality principles are absolutely indispensable measures that doubly reinforce the area of freedom, security and justice.

The treaty enables the Council to gradually develop Eurojust in keeping with the procedure provided under Articles 85 and 86, including the possibility of creating a European Court based on Eurojust with specific powers of prosecution. The increasing powers of Eurojust, within the framework of the Rule of Law, should be accompanied by accented controls. It is indispensable to guarantee the independence of Eurojust in dealing with concrete matters under its competence. However, I would like to reiterate the fact that if criminal policy priorities are defined at the European level, they also are an important matter with regard to the principle of subsidiarity, which falls under the competences of the national parliaments. In this regard, the European Council defines the strategic orientations of the legislative and operational scheduling, and national parliaments are involved in determining this orientation as provided under Articles 68 and 69 of the treaty on the functioning of the European Union. Within this framework, the European

bodies, notably Eurojust, should play a fundamental role in implementing criminal policy priorities and orientations at the level of the European Union.

The effective cooperation between Eurojust and Europol is fundamental in guaranteeing the smooth functioning of the European penal area and for more efficient measures against transborder crimes: drug trafficking, human trafficking, money laundering, economic and financial crimes and international terrorism. This cooperation, I must say, is already underway. However, it needs to be developed and improved upon. It should equally be assessed by taking into account the bases that exist at the national level. We are cooperation, judicial and police bodies and, as such, we stand under the guidance of Member States.

In the same vein, it seems to me that national parliaments should be more and more informed of the content and result of the assessment of the implementation by member States authorities of European Union penal policies. Notably in view of fostering the full application of the principle of mutual recognition as provided under Article 70 of the treaty. This information should enable national parliaments to assess the activities undertaken by national authorities and the activities undertaken by national members of Eurojust, that is, the action undertaken by each member of Europol in his or her Member State.

The evaluation of Eurojust activities by the European Parliament and by national parliaments will, undoubtedly, help to efficiently and effectively develop a common European criminal policy that shall serve all citizens. A coherent evaluation system should be put in place to accompany the construction of a European Union internal security structure. It should notably focus on mechanisms that shall identify and evaluate serious and organised transborder crime threats. This evaluation process should guarantee the involvement of national bodies and authorities, including the coordinated involvement of national parliaments. The construction of the judicial Europe is a shared mission. The content, mode and method of evaluation are fundamental aspects that should be taken into account within this framework. In my opinion, national parliaments should agree on common criteria and standards to guarantee a balanced evaluation of Eurojust activities at the European level and at the level of each Member State. This, for example, can be an important mission for the national parliaments' joint committee.

The fact that this is a Eurojust evaluation – I must remind you that this is not a control – underscores a very important aspect: the judicial aspect of Eurojust's activity; the principle of separation of powers should be taken into consideration in defining evaluation content and methods. Thus, we could have recourse to periodic reports. An annual report is usually sent to the European Union Council which, each year, publishes conclusions on this

annual report with instructions and recommendations. The annual report is equally presented before and debated upon in the European Parliament.

Moreover, Eurojust national members present these national reports to the competent national authorities of their countries. Some colleagues equally present the annual report in the national parliaments of these countries. This practice could be the basis for the development of evaluation mechanisms conducted by the national parliament. The possibility for the reports from Eurojust and from Eurojust members to be presented to the European Parliament and the national parliament of each country concurrently can be envisaged. As such, national parliaments shall have an opportunity to be informed on the activities of Eurojust that will eventually be presented to them during a parliamentary hearing session. In my opinion, each national parliament should look into the activities of Eurojust at the national level. The functioning of Eurojust as a cooperation body always depends on an effective implementation of Eurojust at national level in all member States. This implementation includes, firstly, the adoption of a legislation aimed at introducing Eurojust in national penal systems, that is, elaborating a legal framework at the national level to foster cooperation via Eurojust. The implementation of the new decision on Eurojust is a priority of the French Presidency and I would like to congratulate the Presidency for the political agreement that has been obtained so far. In principle, the new decision will be approved during the next JHA (Justice and Home Affairs) Council on 28 November. The implementation of this decision will be an extremely important mission for the national parliaments in 2009. A national legislation should be adopted in the 27 member States for Eurojust to function more effectively.

A sound understanding of the functioning of Eurojust can facilitate this approach. The delegation for the European Union of the French Senate chaired by Mr Hubert Haenel has already visited Eurojust. We were very pleased with this visit which was an opportunity for us to present Eurojust to the French Senate and exchange ideas on how to improve the penal aspect of the legal cooperation. I would like to seize this opportunity to invite you all to visit Eurojust and follow the steps of the delegation of the French Senate. Actually, a lot of work needs to be done to put in place an evaluation system that will help attain the objectives of the European penal area. In particular, fight against serious and organised crimes in the European Union. On our part, I can assure you that we will be very happy to bring our full contribution based on our experience. COSAC meetings in the future could become an excellent opportunity to debate on, reinforce and evaluate Eurojust.

E. Debate

a) Questions

Mr Bogdan BAROVIC (Slovenia – National Assembly) and Mr Jim DOBBIN (United Kingdom – House of Commons) both observed that the Treaty of Lisbon was not specific on the content of Europol's control and Eurojust's evaluation. Consequently, they pondered on the form that might have the control of national parliaments in this area. Moreover, they asked if regulations in relation to Europol and Eurojust might be binding for the national parliaments and if the Court of Justice of European Communities would be competent to rule on the observations made by national parliaments. Besides, Mr Bogdan BAROVIC wished to know if national parliaments shall have direct access to information. He equally raised the issue of the possible creation of a joint committee bringing together the European Parliament and the national parliaments. He thought that COSAC was an appropriate framework to debate on these issues. Mr Jim DOBBIN, on his part, wondered if the European Parliament consulted national parliaments prior to adopting regulations in relation to Europol and Eurojust.

Mr Juan MOSCOSO (Spain) pointed out that the Treaty of Lisbon softened the rules as regards blocking minority on issues in relation to the area of freedom, security and justice. He wished to have the views of Europol and Eurojust representatives on the implementation of this blocking minority.

Mr Tadeu MORGADO (Portugal) indicated that European citizens are asking for more police and judicial cooperation at European level so as to improve the fight against serious crimes. He wished to know how more visibility could be given to the actions undertaken by Europol and Eurojust and what could be the contribution of national parliaments in this regard.

Mr Giacomo SANTINI (Italy - Senate) raised the issues of efficiency and trust that Europol and Eurojust continue to face. He called for more mutual trust between Member States and pleaded for the institution of a European prosecutor.

Ms Ankie BROEKERS-KNOL (The Netherlands - Senate) underlined the importance of an evaluation of Eurojust activities by national parliaments. She wished to know how national parliaments could be associated to the reinforced control that might be exercised by the European Parliament within the framework of the codecision procedure.

b) Answers

Mr Jacques Barrot:

Firstly, I wish to observe that the texts relative to Europol and Eurojust activities cannot be adopted at the moment, owing to the reservations of the Czech and the Dutch that have not yet been raised.

The Treaty of Lisbon recognises the primordial role played by national parliaments in controlling the application of the principle of subsidiarity. When we elaborate regulations in relation to Europol and Eurojust, national parliaments shall thus be able to ensure that these regulations comply with the principle of subsidiarity. Under this reserve, these regulations will be your binding. To prepare these texts, we need your cooperation. It is through more sustained dialogue with national parliaments that we will improve these texts.

I would like to reassure you that you will be involved in the preparation of the upcoming pluriannual programme, notably through proposals from your parliaments. I will also sustain the efforts made by Europol and Eurojust to meet your demands. In my opinion, an annual meeting of Europol and Eurojust with COSAC will be a much welcome initiative.

On the issue of access to documents, the Commission wants to be more transparent. However, it should be noted that some documents cannot be communicated when they are involved in an investigation.

Moreover, European citizens want us to be more efficient in the fight against organised crimes and, to achieve this, institutions have to work together and trust each other. To give more visibility to this action, I deem it useful to teach European citizens, from as soon as primary school the existence of institutions like Europol and Eurojust.

Mr Max-Peter Ratzel:

I would like to reiterate that within Europol, the responsibilities are clearly defined. The Director is in charge of administrative issues. But topping him is a Board of Directors, made up of representatives from Member States placed under your control. Within this framework, if any irregularities are observed, they can be sanctioned. The procedure can even go as far as the Court of Justice.

In relation to visibility, let me remind you that Europol is divided between the Headquarters located in the Netherlands and the national units located in Member State countries and placed under the control of their parliaments. Whereas, citizens are not well aware of the role of Europol for their safety. I think national parliaments can help in raising awareness.

Moreover, information transmission is not satisfactory, both in quantity and quality. Much still needs to be done in this area at the national level, for Europol depends on the information it receives from national security bodies.

The Treaty of Lisbon provides staff reinforcement for Europol where two-thirds of its staff are civil servants transferred by Member States. Whereas, Member State legislations in relation to the career of these civil servants vary greatly.

Mr José Luis Lopes da Mota:

The implementation at national level of the 2002 decision relative to Europol is insufficient. Most Member States have not adopted provisions at national level. Unfortunately, some Member States use this loophole as a pretext to restrict their cooperation with Eurojust.

National parliaments shall, as from 2009, play a crucial role in the cooperation between Eurojust and national authorities. I would like that, within the framework of COSAC for example, an agreement is reached on how to best implement Eurojust decisions at national level, for there are currently great divergences between Member States. The national mainstay of Eurojust is currently missing!

The Treaty of Lisbon should reinforce Eurojust. The next stage should be the institution of a European prosecutor general within the framework of Eurojust, although this is a more further step. This stage comprises complex legal aspects that need to be debated upon by national parliaments. It is clear that the more powers Eurojust shall have, the greater the necessity for political and judicial control shall be.

As far as visibility is concerned, I think that national authorities in charge of fighting serious crimes should first legitimise Eurojust. It is only after this is done that we will address the citizens. We depend on the requests sent to us by Member States. However, they do not always forward to Eurojust the files on organised crimes, as provided in the decision establishing Eurojust. As far as public opinion is concerned, the problem is that files are often subjected to the confidentiality clause during the investigation phase. The judgement can only be made public after the case is closed and our actions can thus be assessed.

Cooperation relies on the exchange of information. We should gradually break open judicial borders and let mutual trust become more perceptible. It would be unthinkable to have a European prosecutor who is not supported by national prosecutors. In this regard, I think the European prosecutor should be selected by national prosecutors.

c) Questions

Mr Ludek SEFZIG (Czech Republic – Senate) stated that national parliaments should control issues in relation to security, which is a very sensitive issue addressed by citizens.



Ms Martine ROURE (European Parliament) pointed out that democratic control is actually limited. She proposed that the Director of Europol should present his priorities for the upcoming year before a joint committee bringing together the European Parliament and the national parliaments. She equally suggested that the President of Eurojust should present a statement each year on the activities and management of Eurojust (including budgetary) before the European Parliament, underlining the fact that national parliaments should also play an important role in exercising a yet limited democratic control. She however noted that Europol and Eurojust handle a good quantity of personal data, including sensitive data. She suggested that national parliaments should fill in the legal gaps between the European legislation and national legislations on data protection.

Ms Cécilia WIGSTROM (Sweden) showed concern for the respect of the principle of proportionality in the European PNR project and wondered if this issue should not be examined after the implementation of the Treaty of Lisbon, given that the latter reinforces the powers of the European Parliament.

Mr Andrzej GALAZEWSKI (Poland - Diet) pointed out that citizens are more interested in security than in the functioning of each institution. He also relayed their worries on the degree of preparedness of national authorities faced with all types of threats.

Mr Michaël ROTH (Germany – Bundestag) advanced that the balance between security and freedom was not respected. He noted that

national parliaments should be able to intervene early enough, which could avoid the necessity of creating a new committee.

Ms Lone DYBKJAER (Denmark) advanced that there should be a cooperation at the European level on these issues of direct interest to citizens. She regretted that the treatment of human beings, especially women, had not been brought up in the preliminary discussions.



Mr Tasos MITSOPLOULOS (Cyprus) asked for a more efficient democratic control of human and citizens' rights. He deemed it necessary to set up an information exchange mechanism between the European Parliament and national parliaments as well as the creation of a joint committee.

Mr Onur BASARAN OYMEN (Turkey) thought that increased cooperation was necessary to fight against serious crimes and underscored the role of the enlargement in reinforcing the fight against serious crimes, terrorism and corruption.

d) Answers

Mr José Luis Lopes da Mota:

In relation to democratic control, I would first remind you that even if this has not been provided in the decision establishing Eurojust, I have presented the activities of Eurojust before the LIBE Committee of the European Parliament.

On data protection, it is vital to find a balance between repressive action and the protection of fundamental human rights, notably in relation to private life. Eurojust set up, internally, a strict data protection system, based on the convention of the Council of Europe of 1981. Moreover, there exists an outline decision proposal on data protection, elaborated as part of the third

pillar; however, discussions have been difficult so far. Besides, this proposal is a third attempt. Furthermore, the convention of the Council of Europe of 1981 does not apply to criminal history files. I would equally underline that data protection regulations should not stop the fight against serious crimes. It is necessary to find the balance. These regulations are however very strict for the authorities conducting the investigations. To apply these regulations properly, appropriate means are needed.

Eurojust is not concerned by the European PNR. Personally, I think this provision should respect all the obligations outlined in Article 8.2 of the European Convention on Human Rights.

I would like to specify that I mentioned the human trafficking in my intervention, which is a very serious problem. However, cooperation, which is vital given the transborder nature of the human trafficking business, is insufficient. I will add that we often need to cooperate with third States. I have regretfully noted that the latter do not always respect the criteria of the European Convention, thus rendering information exchange difficult.

e) Questions

Lord Mark MARLESFORD (United Kingdom – House of Lords) advanced that there should be a closer cooperation between the national police forces and Europol. He deemed it necessary to extend the rotating presidency of Europol to two years, which today is limited to six months. He wished that the European Commission should consult the European Parliament prior to taking any new initiative.

Mr Achilleas KANTARTZIS (Greece) stated that fundamental human rights were not respected in the fight against terrorism and, consequently, democratic control was vital in his opinion.



Mr Bernard DURKAN (Ireland) pointed out that Ireland, though it has not ratified the Treaty of Lisbon, was very conscious of the importance of cooperation, particularly on issues of human trafficking and money laundering.

Ms Soledad BECERIL (Spain) indicated that the actions undertaken by Europol and Eurojust were essential for Spain on issues such as fight against terrorism and respect of human rights. She called for strengthened cooperation between the European Parliament and national parliaments, and urged the latter to reinforce their role of control. She called for increased financial and human means for Europol and Eurojust.

f) Answers

Mr José Luis Lopes da Mota:

There has been a lot of coordination within Eurojust after Madrid attacks. Notably, we were able to bring before The Hague prosecutors and representatives of the Ministries of Justice and the Interior of two North African countries. The cooperation was excellent. In practice, results can be obtained when there is the will to cooperate!

A decision of September 2005 provides that judicial authorities must forward cases of terrorism to Eurojust. In reality, however, we collect information on these cases in newspapers and then, we seek confirmation from national authorities! We need national parliaments to convince them that things can be done with differently.

V – SUBSIDIARITY

On two occasions, the XL COSAC discussed the issue of the application of the principle of subsidiarity.

1) Firstly, it debated on the **conclusions of the working group** made up of representatives of national parliaments at the European Union; the decision to set up this working group was taken under the Slovenian Presidency, with the aim to examine the prospect of improving the cooperation between national parliaments **in view of the application of protocol N° 2 on the principles of subsidiarity and proportionality appended to the Treaty of Lisbon.**

Summary of the conclusions of the working group

There is a widely shared interest among national parliaments to engage in a debate on the concept of subsidiarity. However, there is no general consensus over whether national parliaments should in their individual scrutiny try to converge and apply the same formula or criteria for evaluating the compliance of proposals with the principle of subsidiarity. Some parliaments are in favour of developing common methodologies; others consider the subsidiarity principle to be a political matter which does not require any general rules.

The synthesis of the discussions of the working group shows that there does seem to be broad agreement between national parliaments to exchange information at the earliest possible point: they all agree on the necessity to alert each other of any subsidiarity concerns and to establish flexible and *ad hoc* modes of information exchange. At the same time, there is a clear need for a reliable database with complete information on the state of play in national parliaments. In this regard, there is support for further development of IPEX.

The large majority of national parliaments propose different ways for conducting an early forward-looking analysis of draft legislation (using, *inter alia*, the Commission's Annual Policy Strategy and Legislative and Work Programme). This is a field of cooperation that clearly requires further development.

The main contentions which seem to need special attention of COSAC itself include the extent to which COSAC should concentrate on subsidiarity issues. Some parliaments are strongly in favour of such a focus, while others oppose in favour of concentrating on policy issues.

No consensus was reached during the discussions on the idea of organising a meeting when the Treaty of Lisbon enters into force, if one of the thresholds provided by the protocol N° 2 for an early warning mechanism on subsidiarity is met. It was only decided that, without excluding any formula,

the Chambers having raised the issue of subsidiarity shall concert on the procedure to adopt in these situations.

However, there was consensus on several points: the use of the IPEX network to exchange information on subsidiarity, the fostering of informal exchanges via the network of representatives of national parliaments at the European Union, the role of the COSAC Secretariat in informing national parliaments when one of the thresholds provided by the protocol n° 2 has been met.

2) Then, the COSAC for a examined **the results of the subsidiarity check** based on the proposal for a directive implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.

**Presentation of the results of the subsidiarity checks
by Mr Hubert Haenel**

I would like to express my satisfaction with the manner in which this fifth subsidiarity check was conducted within the framework of COSAC. This is the second check carried out based on the measures provided for by the Treaty of Lisbon.

Actually, in spite of the period in which the test was performed, a period hardly conducive to meetings and discussions owing to the suspension of deliberations in most of our parliaments for summer holidays – whereas the eight-week timeline is already so short –, I find the rate of participation quite satisfactory. I wish to point out that seventeen parliaments or chambers of thirteen Member States completed their tests in good time, while twelve parliaments or chambers of ten member States delivered their results after the deadline. Overall, twenty-nine parliaments or chambers of twenty Member States took part in this subsidiarity test.

This proves that we have understood the overriding importance of the subsidiarity check, which is not merely a formal procedure. Far beyond that, it is an opportunity for us parliamentarians to use this test to remind the European Union of its “core business”, in order to make sure that it focuses its actions on its genuine and fundamental missions. In this manner, we are bringing the European Union closer to its citizens.

Let me present to you the findings of the check. According to the report from the COSAC Secretariat, only two chambers of parliament concluded that the text violated the principle of subsidiarity, namely the Irish Parliament (joint committee of the two chambers) and the Czech Senate. It seemed the German Bundesrat equally expressed some reservations, but I think these reservations have finally been resolved.

Whatever the case, in spite of these significant exceptions, the great majority of parliaments that submitted their conclusions did not report any breach of the principle of subsidiarity, which, consequently, gives us no grounds to unleash the “red card” or “orange card” mechanisms provided for by the Lisbon Treaty. This goes a long way to show that the European Commission has resolved to refrain from overstepping the legislative authority of the European Union. And I am sure that the obligation to submit to our scrutiny makes it to be more vigilant in this regard, even though a good number of our parliament deemed inadequate the motivations of the Commission with regard to the principle of subsidiarity on the grounds that they were too general with very few details. As a result, the Commission should endeavour in future to put forward more convincing arguments.

COSAC finally confirmed that the next subsidiarity checks will focus on:

– The proposal for a directive on standards of **quality and safety of human organs for transplantation**;

– The proposal for a regulation on the applicable law, jurisdiction, recognition of decisions and administrative measures in the area of **successions and wills**.

VI. CONTRIBUTION AND CONCLUSIONS OF THE XL COSAC

A. Contribution of the XL COSAC

1. Economic and financial crisis

1.1. COSAC supports the conclusions of the European Council of 15 and 16 October 2008, including the measures to be taken to boost growth and employment. It subscribes to the objective of working on a reform of the international financial system, based on the principles of transparency, sound banking, responsibility, integrity and world governance. COSAC encourages the European institutions and the Member States to improve the supervision of the banking sector and to reinforce the coordination of economic and monetary policy.

1.2. COSAC welcomes the fact that the Commission was invited to make proposals to preserve the international competitiveness of the European industry and stresses the fact that the economic slowdown must not lead to climb down from the objectives of the European Union in terms of sustainable development and climate strategy.

1.3. COSAC welcomes the Summit to be held in Washington DC on 15th November and hopes that the EU will contribute to its success with a unified position, submitting proposals on how to reform the financial system and on the implementation of those reforms.

2. Climate change

2.1. COSAC welcomes the ambitious objectives set by the European Council to fight climate change and promote sustainable energy and calls on the Council and European Parliament to maintain the objective of reaching an overall agreement before the end of 2008.

3. Energy security

3.1. COSAC considers that the development of energy savings, the diversification of energy sources, including the development of renewable energy, and of routes of transportation, the introduction of European emergency plans in the event of a supply crisis, the setup of a real cooperation between national transmission system operators and the definition of an investment policy in energy infrastructures (and especially in electric and gas interconnections as well as liquefied natural gas terminals) are keys to improving energy security. These Union internal responses should enable to build relationships on better foundations with supply countries. Energy security also depends on strengthened solidarity inside the European Union and between Member States on energy issues, as well as on the efforts made by each Member State in this area.

4. Bringing Europe closer to its citizens. Treaty of Lisbon.

4.1. COSAC considers that the European Union, in order to be better understood by European citizens, should concentrate on the top issues of common interest, for which it is the most appropriate level and communicate them to the public.

4.2. COSAC notes that the Treaty of Lisbon strengthens the Union's means of action in the fields of external action, area of freedom, security and justice, as well as economic and social governance. It also observes that the Treaty introduces a procedure in order to encourage the respect of the subsidiarity principle. Therefore, the implementation of the Treaty could help bring Europe closer to its citizens.

4.3. COSAC hopes that the concerns expressed by the Irish people in the referendum on the Treaty of Lisbon will be addressed and that the elements of a solution acceptable to all will be defined as soon as December 2008.

4.4. COSAC expresses its concerns about the proposal for a regulation regarding public access to documents (COM (2008) 229), which should not limit the access to documents in comparison with the current situation. COSAC thus invites the European Parliament and the Council to guarantee a full public access to European documents, according to the transparency principle.

B. Conclusions of the XL COSAC

1. Association of national parliaments to the scrutiny of Europol's activities and the evaluation of Eurojust's activities

1.1. COSAC underlines the great importance of developing police and judicial cooperation in the European Union. It recalls the role of national parliaments in scrutinizing police activities as well as in evaluating judicial activities in the Member States. It affirms the necessity to submit cooperation in these fields for scrutiny by the European Parliament, in association with national parliaments.

1.2. Following the debate it had on November the 4th, COSAC hopes that proposals dealing with the form this association could take will be debated during its next meetings.

1.3 COSAC wishes that the European Commission sends out a consultation document before finalising the proposal for regulations concerning the activities of Eurojust and Europol and involving national parliaments.

2. Evaluation of the subsidiarity check

2.1. COSAC welcomes the results of the last subsidiarity check on the proposal for a directive on implementing the principle of equal treatment between persons irrespective of religion, or belief, disability, age or sexual orientation. The check was carried out by 17 parliaments or chambers of the European Union within the period of eight weeks. Besides, 15 other parliaments or chambers of 13 Member States did participate in the subsidiarity check but were not able to conclude it within the timeframe.

A great majority of chambers which carried out the check came to the conclusion that the proposal was not contrary to the principle of subsidiarity. Nevertheless, a significant number of them judged that the Commission had not justified its proposal enough as regards to the principles of subsidiarity and proportionality.

2.2. COSAC takes note of the difficulties expressed by most national parliaments respecting the timetable, as the period of eight weeks was during the summer recess. It believes that it is necessary to consider the possibility of adapting the timeframe in such cases.

3. Results of the working group on the cooperation between national parliaments on subsidiarity and proportionality

3.1. Following the decisions taken by the XXXIX COSAC that took place on 7-8 May 2008 in Brdo pri Kranju under the Slovenian Presidency, COSAC takes note of the synthesis of the discussions of the working group of the national parliaments' representatives to the EU giving ideas for a better cooperation on the application of Protocol 2 of the Treaty of Lisbon on the principles of subsidiarity and proportionality and thanks the COSAC Secretariat for its report which gave the basis for its discussions.

3.2. COSAC thanks the services of the European Commission and of the European Parliament for their cooperation with the working group and for their commitment to a good application of Protocol 2 of the Treaty of Lisbon. It notes, in particular, the European Commission approach in a constructive and qualitative manner and its willingness to take any reasoned opinion of a national parliament as an input to the political dialogue between National Parliaments and the European Commission.

3.3. COSAC welcomes the informal indication from the Commission to discount the 4 weeks of August from their calculation of the deadline for receipt of reasoned opinions. COSAC hopes that the Commission will formalise this arrangement in due course and urges the Council and European Parliament to take a similar approach.

3.4. COSAC welcomes that parliaments or chambers that have possible concerns of subsidiarity on a proposal exchange information on how to proceed as soon as possible.

3.5. COSAC considers IPEX to be the most appropriate platform to transmit at an early stage information on subsidiarity and the official decisions of national parliaments on this matter. It also encourages informal exchange of information on subsidiarity, e.g. through national parliaments' representatives to the EU.

3.6. COSAC encourages national parliaments to make good and effective use of the network of their staff based in Brussels. COSAC considers that this existing network is the most efficient way to exchange regular, early and informal information on the results of national parliaments' scrutiny activities. COSAC invites the European Parliament to consider how it might wish to work with this network

3.7. COSAC welcomes the fact that national parliaments consider the pilot exercises necessary in advance of the implementation of the Treaty of Lisbon and is therefore determined to continue these exercises. It considers

that the COSAC meetings are the appropriate body for political exchanges on subsidiarity.

3.8 COSAC considers that the COSAC secretariat should inform national parliaments when the threshold for a “yellow” or “orange card” has been reached.

4. Bi-annual report

4.1. COSAC welcomes the tenth bi-annual report prepared by the COSAC secretariat, which is an important source of information on the way national parliaments and the European Parliament exercise their responsibilities and on the development of interparliamentary cooperation.

ANNEX

List of participants

PRESIDENCE – CHAIR

• FRANCE

Assemblée nationale / *National Assembly*

Pierre LEQUILLER, Président de la commission chargée des affaires européennes,
Daniel GARRIGUE, Vice-président,
Jérôme LAMBERT, Membre de la commission chargée des affaires européennes,

Sénat / *Senate*

Hubert HAENEL, Président de la commission des affaires européennes,
Denis BADRE, Vice-président,
Simon SUTOUR, Vice-président,

ÉTATS MEMBRES – MEMBER STATES

• ALLEMAGNE / GERMANY

Bundestag / *Diète fédérale* / *Federal Diet*

Gunther KRICHBAUM, Président de la commission des affaires de l'Union européenne,
Kurt BODEWIG, Membre de la commission des affaires de l'Union européenne,
Michaël ROTH, Membre de la commission des affaires de l'Union européenne,

Bundesrat / *Conseil fédéral* / *Federal Council*

Carsten-Ludwig LUEDEMANN, Membre adjoint de la commission des questions européennes,

• AUTRICHE / AUSTRIA

Nationalrat / *Conseil national* / *National Council*

Michael SPINDELEGGGER, Président de la sous-commission permanente des affaires européennes,
Elisabeth GROSSMANN, Vice-présidente,

Bundesrat / *Conseil federal* / *Federal Council*

Gottfried KNEIFEL, Président de la commission des affaires européennes,
Albrecht KONECNY, Vice-président,

• **BELGIQUE / BELGIUM**

Chambre des Représentants / House of Representatives

Herman DE CROO, co-Président du comité d'avis fédéral chargé des questions européennes,
Camille DIEU, Députée,
Daniel DUCARME, Député,

Sénat / Senate

Anne DELVAUX, co-Présidente du comité d'avis fédéral chargé des questions européennes,
Jean-Jacques DE GUCHT, Sénateur,
François ROELANTS DU VIVIER, Sénateur,

• **BULGARIE / BULGARIA**

Narodno Sobranie / Assemblée nationale / National Assembly

Mladen TCHERVENIAKOV, Président de la commission des affaires européennes,
Nadezhda MIKHAILOVA, Vice-présidente de l'Assemblée nationale, Membre de la
commission des affaires européennes,
Maria ANGUELIEVA KOLEVA, Vice-présidente de la commission des affaires européennes,
Denitsa GADZEVA, Vice-présidente de la commission des affaires européennes,
Radoslav IVANOV, Membre de la commission des affaires européennes

• **CHYPRE / CYPRUS**

Vouli ton Antiprosopon / Chambre des Représentants / House of Representatives

Nicos CLEANTHOUS, Président de la commission des affaires européennes,
Takis HATZIGEORGIU, Député,
Tasos MITSOPOULOS, Député,
Fidias SARIKAS, Député,
Demetris SYLLOURIS, Député,

• **DANEMARK / DENMARK**

Folketinget / Assemblée du Peuple / The People's Assembly

Lone DYBKJAER, Membre de la commission des affaires européennes,

• **ESPAGNE / SPAIN**

Cortes generales / Parlement Espagnol / Spanish Parliament

Alex SAEZ, Vice-président de la commission mixte de l'Union européenne,
Inaki ANASAGASTI, Sénateur,

Soledad BECERRIL, Député,
Juan MOSCOSO, Député,
Joan SABATE, Sénateur,
Jordi XUCLA, Député,

• **ESTONIE / ESTONIA**

Riigikogu / Parlement / Parliament

Marko MIHKELSON, Président de la commission des affaires européennes,
Hanno PEVKUR, Membre de la commission des affaires européennes,
Rein RATAS, Membre de la commission des affaires européennes,

• **FINLANDE / FINLAND**

Eduskunta / Parlement / Parliament

Erkki TUOMIOJA, Président de la Grande commission,
Heidi HAUTALA, Membre de la Grande commission,
Hakan NORDMAN, Membre de la Grande commission,
Sari PALM, Membre de la Grande commission,
Kimmo SASI, Membre de la Grande commission,

• **GRÈCE / GREECE**

Vouli Ton Ellinon / Parlement / Parliament

Christos PAPOUTSIS, Vice-président de la commission permanente spéciale pour les affaires européennes,
Ioannis BANIAS, Membre de la commission permanente spéciale pour les affaires européennes,
Achilleas KANTARTZIS, Membre de la commission permanente spéciale pour les affaires européennes,
Marios SALMAS, Membre de la commission permanente spéciale pour les affaires européennes,

• **HONGRIE / HUNGARY**

Országgyűlés / Assemblée nationale / National Assembly

Matyas EORSI, Président de la commission des affaires européennes,

• **IRLANDE / IRELAND**

Houses of the Oireachtas / Parlement / Parliament

Bernard DURKAN, Président de la commission mixte des affaires européennes,
John PERRY, Président de la commission mixte du contrôle des affaires européennes,
Michael MULCAHY, Membre de la commission mixte des affaires européennes,

• **ITALIE / ITALY**

Camera dei deputati / Chambre des députés / Chamber of Deputies

Mario PESCANTE, Président de la commission sur la politique de l'Union européenne,
Enrico FARINONE, Vice-président,
Nunziante CONSIGLIO, Vice-président,

Senato della Repubblica / Sénat / Senate

Rossana BOLDI, Présidente de la commission sur la politique de l'Union européenne,
Giacomo SANTINI, Vice-président,
Roberto DI GIOVAN PAOLO, Sénateur,

• **LETTONIE / LATVIA**

Saeima / Diète / Diet

Vaira PAEGLE, Présidente de la commission des affaires européennes,

• **LITUANIE / LITHUANIA**

Seimas / Diète / Diet

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• **LUXEMBOURG / LUXEMBURG**

Chambre des députés / Chamber of deputies

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• MALTE / MALTA

Kamra Tad-Deputati / *Chambre des représentants* / *House of representatives*

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• PAYS-BAS / THE NETHERLANDS

Tweede Kamer / *Chambre des Représentants* / *House of Representatives*

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Eerste Kamer der Staten-Generaal / *Sénat* / *Senate*

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• POLOGNE / POLAND

Sejm / *Diète* / *Diet*

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• PORTUGAL

Assembleia da República / *Assemblée de la République* / *Assembly of the Republic*

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• **ROUMANIE / ROMANIA**

Camera Deputatilor / *Chambre des députés / Chamber of deputies*

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• **ROYAUME-UNI / UNITED KINGDOM**

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House of Lords / *Chambre des Lords*

Lord Julian GRENFELL, Président de la commission de l'Union européenne,
Lord John ROPER, Président de la sous-commission C de la commission de l'Union européenne,
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• **SLOVAQUIE / SLOVAKIA**

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• **SLOVÉNIE / SLOVENIA**

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• **SUÈDE / SWEDEN**

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• **PARLEMENT EUROPÉEN / EUROPEAN PARLIAMENT**

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● **ANCIENNE REPUBLIQUE YOUGOSLAVE DE MACEDOINE /
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Sabor / Parlement / Parliament

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● **TURQUIE / TURKEY**

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