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Former Members of Parliament  
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'Is a second European chamber possible?'

This idea was expressed **as an obvious fact right from the beginning of European construction**, but experience has shown **that it has had difficulty in gaining ground despite repeated attempts to make it a topic of public debate**.

Any debate on the second European chamber must therefore first aim at **dispelling a certain number of ambiguities** before **raising the question of its relevance and the practical possibility of setting it in place**.

**I. A natural idea, but which has never managed, to date, to go beyond the stage of the public debate agenda**

**I.1. An obvious idea**

The idea appears in the memoirs of Jean Monnet who, alongside a house of peoples elected by direct universal suffrage, wanted a Senate elected by national parliaments. It appeared in the draft Constitution implemented at the beginning of the 1950s. Above all, it had started to be implemented when the draft was aired of the European Defence Community, of which Article 11 provided explicitly for its existence.

After the failure of the EDC and with the roll-out of the Rome Treaty, the topic of the second chamber **was defended successively by several European leaders from a wide variety of countries**. Among the most well-known declarations, mention could be made of:

- On the occasion of the creation of the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) in 1989, ten years after the first election of the European Parliament by direct universal suffrage, speakers Charles-Ferdinand Nothomb, Speaker of the Belgian Chamber of Representatives and Alain Poher, President of the Senate, who were both members of the European Parliament, expressed

their opinion in this respect: *'the cooperation measures between national parliaments and the European Parliament<sup>1</sup>, foreshadow in a certain way a representation of national interests at the European level, in the same way that in some federal States federal interests are expressed via bicameralism.'*

Alain Poher, who had been not only a member but also the President of the Parliamentary Assembly of the European Communities, recalled that Robert Schuman in his conception of Europe, *'had always defended the role and mission of national parliaments... I feel it is important that national parliaments should learn to speak in a single voice at the European institutions. In preparing the future, perhaps therefore a second assembly composed of representatives of the Member States should be envisaged, alongside the European Parliament.'*

Roughly at the same time, the former British conservative minister Michael Heseltine<sup>2</sup>, recommended the creation of a second chamber, the Senate, composed of members having the same powers as the present European Parliament to combat *'the widespread frustration raised by the existing structures'*. Far from favouring national interests, this second chamber could allow national politicians to *'take better account of the realities'* and *'participate in the life of Europe'*.

Shortly afterwards, Jacques Chirac and François Mitterrand, on the eve of the intergovernmental conference that was to draft the Maastricht Treaty, also stated they were in favour of this idea, in order, according to François Mitterrand *'to involve national parliaments to a greater extent in joint construction'*.

France was however subsequently to propose to its partners merely the setting in place of a Congress composed of delegates of national parliaments and of the European Parliament. According to Daniel Hoeffel, the author of an information report on a second European chamber, drafted on behalf of the Senate Delegation for European Affairs, the Congress would have been set up to express an opinion on the major policies of the European Union and on essential decisions in the foreign policy and security field. This idea had given rise to declaration no. 14 appended to the Maastricht Treaty and creating *'a conference of Parliaments'*.

After a succession of further, more precise declarations, in particular within the Senate<sup>3</sup>, another President of the Senate, René Monory stated, at the COSAC meeting at the Palais du Luxembourg in February 1995, that he was in favour of the setting in place, alongside the Council, *'of genuine parliamentary scrutiny'*.

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<sup>1</sup> Speaker Nothomb was referring to the proposals in this respect by Mr Laurent Fabius, then President of the French National Assembly.

<sup>2</sup> In a study on the *'democratic deficit'* of what was then called the second and third pillars in the form of a *'European Senate representing national parliaments'*. Other prominent British persons, for instance Sir Leon Brittan or Sir Christopher Patten later committed themselves along the same lines.

<sup>3</sup> Mr Michel Poniatowski proposed for instance in November 1992 that a conference of national parliaments should appoint a *'subsidiarity chamber'* tasked with censoring, before their entry into force, Community decisions breaching the subsidiarity principle.

**At the end of the 1990s, a new series of declarations were to more specifically attract attention:** those of Václav Havel, President of the Czech Republic, that of Joschka Fischer, German Minister for Foreign Affairs in Berlin in May 2000, Gerhard Schröder, German Chancellor on 30 April 2001, Ferdinando Cassini, Speaker of the Italian Chamber of Deputies, Christian Poncelet in Stockholm in 2001 before the Conference of Speakers of European Union Parliaments... and also Daniel Cohn-Bendit in Groningen in the Netherlands on 3 November 2000.

After this string of declarations at the beginning of the 2000s, there have been fewer in favour of a second chamber. This prospect was even explicitly dismissed during the proceedings of the Convention which recommended the convening of a Congress. The idea is however implicit in the meetings of the Association of European Senates which meets twice a year on average. It wasn't expressed again however until very recently by the speaker of the Czech Senate, in particular at the meeting in Paris of the speakers of European Union parliaments in March 2009. The reference to the proposal by Speaker Sobotka, *'to organise a debate on the idea of creating a European senate'* appears **explicitly in the Conference conclusions.**

This inclusion, albeit extremely timid, in an official document of a European meeting illustrates **the paradox of this idea which, although familiar, has never been the subject of official exchanges of view worthy of the name.**

## **I.2. ... but which has never managed to go beyond the stage of the public debate agenda**

This is the result of a **conjunction of reasons** inspired by highly contradictory considerations:

I.2.1 The most spontaneous reaction is **the refusal to envisage what many consider as an additional complication**, the decisional system already being very complex in itself.

I.2.2 Imagining a second chamber with comparable powers to those of the European Parliament long appeared **a superfluous question, as the European Parliament itself had to – and still has to – assert itself.**

I.2.3. The third hesitation is **related to the analysis generally made of the European institutions:** a certain number of countries, and especially Germanic – but not only them – **tend to consider that the second chamber already exists in the form of the Council of Ministers** which is more or less like their *Bundesrat* since it is composed of representatives of national or even, since the Amsterdam Treaty, regional governments. This second chamber is **more of a third chamber for them!**

I.2.4. The fourth series of paradoxical objections concerns **the institutional significance that could be assumed by the inclusion in the European institutions of a body composed of representatives of States**, and, in particular, of national parliaments.

- Some see in it **the enshrinement of a federal organisation** where, alongside the Chamber

of Peoples, represented by the European Parliament, the European Senate, or second chamber, whatever its name, would represent the States. The idea of a federal organisation of the State, formerly at the heart of the founding fathers' project, **is barely supported by the States or even by public opinions**. We have seen that the mere fact of referring to the word Constitution sufficed to justify the French and Dutch nos in 2005 and led to going back over, at least formally, the presentation of the draft treaty.

- At the other end of the spectrum, the most committed proponents of European construction, and especially some members of the European Parliament, see in the second chamber, **a manner of representing national interests that could well harm the definition of a European interest**. They find, echoing their stance, the **position of the sovereignists** who, **for exactly opposite reasons**, want the concerns of States to be better taken into account in the drafting of European Union decisions.

I.2.5. Last, the idea of a second chamber encounters the **objections customarily put forward when there is talk of introducing elements of bicameralism**: a second chamber creates a risk of duplication, of delay in the elaboration of decisions and would pose the problem of its legitimacy when determining the sphere of its powers.

**II. Open the debate to determine objectively the relevance of the idea of a second chamber, how to give effect to it and its possible powers**

### **II.1. Relevance of the idea**

**II.1.1. A way to respond to a persistent remark: that of the 'democratic deficit' of the Union.**

- Failure of the referendums (Denmark, Ireland, France, Netherlands), multiplication of ratifications by the Parliament owing to fears the people will reject by referendum what the Lisbon Treaty has become. Just think of the British and Czech hesitations.

- **Persistence of a high abstention rate** at the last European elections.

- **Recurrent dissatisfaction in many countries over the procedures for electing European parliamentarians**, no doubt less favourable to the taking into account of field realities and less able to ensure representation of the internal diversity of the various countries than national parliaments.

**II.1.2. It could also be a response to the insufficient clarity of the Union's decisional process:**

Neither a federal State, nor a mere confederation of States, the European union is a **construction of its own kind whose institutional balance is finding it difficult to fit into the traditional vision of national democratic institutions**.

It gives **the image of a multiplication of bodies either too weakly interconnected between each other, or interconnected in such a complicated way that it is difficult to understand.**

While the **Court of Justice** can be likened to a federal court, **the Council of Ministers** is not a genuine executive, since it in fact held until the Lisbon Treaty, **most of the legislative power, in cooperation with the European Parliament.** The Lisbon Treaty has improved but not fundamentally changed this logic. At European level, '*co-legislation*' is 'constitutional'!

**The Commission** was long the only representative of the Community spirit, but is still having difficulty in being considered as a genuine executive. Moreover it still isn't one, even if its responsibility to parliament has already been called into question. The appointment processes of commissioners are more similar to that of sectoral officials than a genuine collegial appointment.

**The European Parliament is still not a genuine parliament**, since it does not hold the totality of legislative power and since **its representation is completed by several consultative bodies which try, each in its way, to assert themselves as a Union body:** the Economic and Social Committee (the oldest), but also the Committee of the Regions and local authorities which **groups as best as it can the very great variety of European territorial communities without possessing any genuine decisional power.**

**The appearance of a second chamber would help increase the global visibility of European institutions** by bringing them closer to a genuine system built on the separation of functions: **by completing** what we could call **legislative power**; and by making the Council of Ministers appear more for what it is, in other other words a representative of governments operating under the aegis of the Council of heads of State and Governments.

II.1.3 It can also be considered that the second chamber, far from becoming a factor of deadlock organising the coalition of national interests, would contribute **to a better acceptance of the European decisional system at a time when it is seeing the qualified majority principle prevail.** If a body composed of national parliaments were set in place, it could perhaps play a role of a moderator of the European Parliament – but that would not be the main goal –, but it would above all **allow the latter to assert itself more as the bearer of a Community spirit in the making,** opposite a chamber **which would reassure public opinions** as to the realistic and concrete nature of the opinions expressed in the institutional system.

Also it cannot be ruled out that the second chamber, owing to **its nature further away from immediate issues, and the mixing it would bring about between personalities with experience,** would not promote to a greater extent **the taking into account of the Union's long term joint interests,** and therefore **its visibility internationally.**

## **II.2. The various hypotheses present for its constitution:**

II.2.1. **It is first necessary to 'flush out' the oldest debate opposing supporters of the Europe of regions and those of the Europe of States.**

The idea of a second chamber is, for the first category of supporters of European construction, very largely likenable to **a chamber of regions.** For the upholders of this theory, any idea of a second chamber composed of national parliaments is therefore, on the face of it, to be combated.

It is this theory which gave birth to the Committee of the Regions, but which has not come to fruition, since the name 'Committee of the Regions' is very far from describing the reality of its composition. This committee reflects the diversity of European structures, and it has therefore been

necessary to make room within it for all the other categories of territorial communities. There is therefore a very great gap between the capacity of some members of the Committee of the Regions (for instance federal or quasi-federal states whatever their name) and the powers possessed by the assembly in which they sit. These powers are mainly consultative and are therefore trivial in comparison with what can exist in federal or composite States members of the Union.

Conversely, **the proponents of a second chamber of States**, who would be ready to accept the idea of representation from national parliaments, dispute the very idea of a chamber of regions, on the grounds of the absence of homogeneity and of organisation of the member countries of the European Union in this respect. The European regional policy has admittedly been able to serve as a pretext or condition for several countries, and not only among the new entrants, to sketch the creation of regions or of areas of regional action, but this effect of the regional policy has not been as far as leading to a uniform organisation of elected assemblies.

### **II.2.2. Method of election**

The use of direct universal suffrage, which does not belong to pure federal theory, is generally excluded, except in the most utopian conceptions. **The idea of election by national parliaments appears on the other hand quite natural.**

This was the idea – the fact is too often forgotten – which existed at the beginning of the American Federation until the middle of the 19<sup>th</sup> century. This is how the Assembly of the European Communities was composed at the outset, and this is how the parliamentary assembly of the Council of Europe operates.

Some elements of diversification could be found in the German federal model where the executives, admittedly accountable to the regional parliaments, but executives all the same, make up the second chamber. Only this conception would be incoherent precisely with the existence of the Council of European Ministers.

### **II.2.3. Number of members**

In this respect, all the methods are envisageable, even if can be considered that an equality in number corresponds more to the pure federal model as it exists in the United States and also in Switzerland. There are in fact no rules in this respect, but it would be entirely possible to determine, for the diversity of European States, balanced allocation scales, as does the German Constitution.

This allocation should be made with regard to **the notion of balance between the integration or integrative aspect of the European Union and compliance with the specific characteristics of national States**. It can indeed be believed that this second chamber would be **experienced as an assurance for the least populated European States** and would perhaps make it **easier to address** some other weighting criteria such as those for voting at the Committee of Ministers, and also as regards the composition of the Commission. It would no doubt be easier to gain acceptance for the evolution of the Commission towards a genuine European executive if there was a second chamber, rather than making it, as today, a kind of conference of representatives of countries.

Last, even the relationship between the Court of Justice, the other powers and the Member States could be affected by it. It can indeed be believed that a certain number of conflicts related to reciprocal incomprehension between national systems and the European system could be smoothed

away as a result and the frontier between the two systems could be better explored.

### **II.3. The debate on powers**

**II.3.1 At no moment have the various projects on the second chamber envisaged giving it comparable power to that of the 'chamber of peoples'.** All were heedful of the need to preserve the European dynamic to be built and not overload it with additional obstacles.

The projects were therefore in harmony with the general situation of the second chambers of the European Union member countries, where very few, unlike the French Senate, have powers comparable to the first chamber.

Most second chambers, especially those of federal or composite countries have a blocking capacity (for instance, the Bundesrat), but with respect to a highly specific area of competence (in this case, the power of the Länder). It is therefore **around these important but specific competences** that it would be necessary to seek the most suitable perimeter for the future European second chamber.

Rather than making an obstacle of it, this analysis should **make it the guardian of institutional balance.**

### **II.3.2. The various hypotheses proposed**

Several proponents of the second chamber **have made original proposals as to the sphere of its powers:**

- The most natural idea centred on **scrutiny of the implementation of the subsidiarity principle** on which the debate between unity and diversity, and technocracy and democracy has focused. This was the case for most of the French proposals, but also, for example, for Sir Christopher Patten's proposal.

- **A quite wide variety of suggestions** also followed:

The concern to give limited competence also transpired in the proposal by the Belgian Senate to give the second chamber **a mere power of mentioning** any Community legislation.

Another idea common to several contributions **is that of the organisation of a debate at regular intervals on the 'state of the Union'.**

The greatest number and also the most pragmatic saw in the second chamber **a sort of**

**enshrinement of the work by COSAC and of a genuine parliamentary network.**

**A third category of ideas** led to suggesting that **it should be entrusted with one-off but quite solemn tasks**: these can range from the right to participate in the revision of the treaties so as to avoid in the future separate ratifications by the 27 national parliaments, to a specialised competence **in everything that would not already be included in the strictly community sphere.**

President Monory's proposal concerned the second and third pillars; other contributions mention matters relating to cooperation in the defence and foreign policy area. This could be particularly opportune, whenever for example the heritage of the assembly of the Western European Union is being considered.

**III.  
today?**

**Is it possible**

III-1 The first conclusion that can be drawn from these various reminders is **first of all the need to hold for the first time a genuine debate because such a debate has never really taken place.** Not speaking about it leads, as we have seen, **to retreating into a series of unmentioned things or a priori ideas, which prevent genuine dialogue from being started.**

**Among the practical means to make a start on this debate,** mention could be made indifferently of the organisation of a symposium, a greater number of arguments being presented by several national assemblies, the intervention of your own association and, generally speaking, the dissemination of the idea but **provided care is taken to dispel a certain number of matters beforehand:**

- The incorrect likening between the second chamber and the Council of Ministers,

- Ambiguities relating to the representation of national parliaments or regional authorities which should not be seen as an 'impassable' alternative.

- Regarding the format and powers of the second assembly, ensure that while having to focus on a few essential or symbolic aspects to be defined it could in no way have to block a real joint determination of the European Parliament and Council of Ministers.

III- 2 The second question is to **determine whether the state of the Union resulting from the Lisbon Treaty is likely to promote the achievement of the idea.**

1) It can be considered that by a taking a new step towards the deepening of the Union, the Lisbon Treaty adds **more credibility to additional thought, but in the medium term, IN THE DIRECTION OF institutions that are better integrated and at the same time that take account of the diversity of the States.**

2) The creation of the post of a European president and high representative are calls for scrutiny of a new type allowing these two essential institutions to emerge more in the institutional system.

3) **The taking into account – at last! – of national parliaments** in the decisional system of the Union can be, from the viewpoint of the creation of a second chamber, **the best and the worst of things**.

- As it offers national parliaments a framework going beyond the simple COSAC framework and allowing more joint initiatives to be taken, precisely in one of the special fields where it was desired to attribute competence to the second chamber, **in other words scrutiny of subsidiarity and of proportionality, it can be feared that the creation of the latter may appear less necessary and lack 'a basis'**.

- On the other hand, it can be believed that **more exchanges can promote interactions and a joint awareness**. The exhibition organised by the Senate on the occasion of the holding of the last Conference of Speakers of European Union Parliaments proposed an analysis of European institutions likely to promote this type of awareness. Named '*European Identities*' it endeavoured to show, by means of images, and by basing itself on the forty parliamentary assemblies, the various facets of European society today.

- This situation can also be taken into consideration to relaunch the idea and uphold that **the entry into force of the Lisbon Treaty with the many hesitations it brought to light, makes a second chamber all the more necessary, and for three reasons:**

a/ The new institutions aimed at fleshing out the Union **need support** which, as seen, the European Parliament or the Council of Ministers, or even the Commission, will not readily grant them. These two new institutions are in effect, when all is said and done, a matter for a State logic and for unity of action in an area which has always refused, to date, to behave like a State and has often favoured minimum consensus.

b/ The second chamber could be **a place of coordination between the competences of national parliaments with respect to their governments and the new collective competences that have just been entrusted to them**; the whole could therefore acquire a far stronger dynamic making it possible to involve in a lasting manner prestigious personalities from the various national political lives. The second chamber could thus appear as that of the '**wise men of Europe**'.

c/ A third reason why the second chamber would be necessary is **the perceptible difficulty to affirm, owing to their diversity, the specific and collective force of national parliaments opposite a European Parliament** little inclined to leave them an independent place in the institutional system.

All in all, the second chamber could **flesh out the conceptualisation of the ongoing Lisbon Treaty process.**

### **III-3 A few realistic and sufficiently exalting avenues**

1) As for its **composition**, a dogma should probably not be made of election by national parliaments alone, or in any case, as is the case for the Council of Ministers, **the possibility should be reserved for States, which so desire, to be represented in their delegation by a certain proportion of regional parliamentarians representing regions with legislative power.** This way, reconciliation could be achieved for the first time between national parliaments and regional assemblies whose rivalry has long blurred the horizon of the most convinced Europeans.

2) Given the fears that could be raised by the development of this second chamber, the mandate of the members could, in a first stage, **be compatible with the holding of national mandates.**

#### **3) Three avenues to be looked into for its competences and its role:**

- **For want of being a genuine legislative assembly**, the second chamber could, at least in a first stage, be **the chamber warning** against untimely decisions of the European system; it could thus play the role of a **moderating counter-power, but without the possibility of vetoing.**

- In the second place, it could be **the assembly of great debates on the future of Europe** (foreign policy, defence, energy, climate, etc.) and serve as a framework, where applicable in a joint session with the European Parliament, for a speech on the state of the Union pronounced by the new President of the Council of Ministers so as to give all its impact to this new institution.

- Last it could be **the assembly of European awareness**, by means of a specialised committee tasked with **permanently analysing the adaptations to the European institutions to ensure their efficacy and visibility on the scale of continents, which scale today forms the normal horizon of the countries forming the Union and which makes the cost of their dispersion be painfully felt.**

Alain DELCAMP