

## **COMMITTEE ON EUROPEAN AFFAIRS**

**Date:** 17 October 2001

**Time:** 9.00 am

**Venue:** Committee Room 3

## **HOUSE OF COMMONS INQUIRY INTO DEMOCRACY AND ACCOUNTABILITY IN THE EU AND THE ROLE OF NATIONAL PARLIAMENTS**

### **Purpose**

To seek the Committee's response to an invitation to submit written evidence to the House of Commons European Scrutiny Committee's inquiry into democracy and accountability in the EU and the role of national parliaments.

### **Background**

On 26 July 2001, the Chairman of the European Scrutiny Committee, Jimmy Hood MP, wrote to the Chair of the European Affairs Committee inviting the Committee to submit written evidence to the inquiry by the end of October 2001 (Doc 1). On 15 August the Clerk to the European Affairs Committee invited members to submit comments to the questions raised by the inquiry.

Plaid Cymru submitted comments for consideration (Doc 2).

### **Issues**

The Committee is invited to decide whether it wishes to provide a submission to the European Scrutiny Committee inquiry and if so, the content of that submission.

The inquiry raises a number of complex questions for response by the end of October. Many of these issues will require more detailed consideration in the context of the Assembly's response to the European Commission's White Paper on Governance. The Committee might choose to defer coming to a view on these issues until its consideration of the White Paper (the process for this is to be discussed at the 17 October meeting).

### **Committee Secretariat**

### **Doc 1**





**Response of Plaid Cymru / The Party of Wales to the European Scrutiny Committee of the House of Commons' Inquiry into Democracy and Accountability in the EU and the role of National Parliaments.**

## **Introduction**

Plaid Cymru / The Party of Wales welcomes the opportunity to contribute to the process of constructing the views of the National Assembly, through its European Affairs Committee, on the issues raised by the above inquiry. We have always expressed the view that the Committee should be engaging in such matters and hope that this will lead to further opportunities to respond to major inquiries. For example, we believe that the Committee should prepare a direct response to the European Commission consultation on the White Paper on Governance. Further, we believe that the Committee should be holding its own inquiries into such issues, as the Scottish Parliament's European Committee's current inquiry into "Governance and the future of the European Union: what role for Scotland?".

This submission is twofold. First there will be comments on the questions that will be considered during the inquiry. In this section we will be suggesting additional questions that should be incorporated into the inquiry. Secondly we will present our views on the issues raised by the inquiry and the way forward for the European Union, Member States and the small nations and regions in relation to those issues. This section will also consider the opportunities emanating from this process for the National Assembly for Wales.

It seems that the European Scrutiny Committee has confused the two on-going debates in the European Union at present. The debate and consultation on the Commission's White Paper on Governance is the process that, amongst other things, considers the distribution of competencies between different levels of government. This has co-incided with the debate on the Future of Europe, entered into as a result of the December 2000 Nice European Council and which is currently referred to as the Laeken process, as the Belgian Presidency will issue a Declaration on the future of the European Union at the Laeken Summit during December 2001. This will provide the basis for discussion until the next scheduled IGC in 2004.

## **Comments on the questions to be considered:**

The overall nature of the questions in our view is too narrow as it fails to address the need to consider the role of small nations and regions in the European Union. Out of the 11 questions asked, only one refers specifically to these levels of government. As the majority of the scepticism and disillusionment with the European Union can be attributed to a democratic deficit at the heart of its Institutions, ways must be found of bringing Europe closer to the people by involving the level of government closest to them. Effective mechanisms for the involvement of small nations and regions in the European Union therefore must be established.

## **Suggested additional questions:**

As this is an UK-wide inquiry, there is need to ask more specific questions concerning the roles of the devolved administrations in this process.

**- The questions asked by the Scottish Parliaments' European Committee Inquiry into 'Governance and the future of the European Union: what role for Scotland?' could also form part of the wider UK inquiry. This would ensure that the views of the devolved administrations would contribute effectively to the UK inquiry. These questions are:**

- How can the subsidiarity principle be enacted in practice?
- How can competences and powers be defined and shared between the EU Institutions, the Member States and the sub-Member State regions/nations?
- What role might there be for a new 2<sup>nd</sup> Chamber in the EU, or a reformed Committee of the Regions or other measures being proposed to increase the powers of the nations/regions of the EU? How can regions or sub-Member State Institutions (such as

- the Scottish Parliament) be involved or are such new institutions to be limited to national parliaments and parliamentarians? How do other Member States involve regional and/or local institutions in decision-making on EU issues?
- What mechanisms are there to enable the Scottish Executive to play an increased role in developing policy within the UK in relation to EU issues, and how can effective parliamentary oversight be achieved?
  - What form will the proposed "active involvement" of Scotland and other constitutional regions/nations in the IGC process take? Secondly, if a 'Convention' is formed to take the IGC process forward, what role is there for Scotland and other regions/nations who are not Member States of the EU?
  - Once passed, how can legislation be transposed and implemented in a more efficient and transparent fashion, and what measures can the Scottish Executive adopt to make this so?
  - What 'rights' should sub-Member States regions/nations and their citizens enjoy in relation to say, for example, possible redress through the European Court of Justice, the right to cross-border collaboration with other territorial authorities in other member states and also to legally enforceable fundamental rights?
  - What status should the European Charter of Fundamental Rights have?

**- For the purpose of the UK-wide inquiry the references to the Scottish Parliament / Executive in the above questions should be replaced with 'devolved administrations'.**

## **How to address the issues raised?**

- **Applying the principle of Subsidiarity:**

We believe that the best way to bring Europe closer to its people is to promote a bottom-up approach to policy development and involvement. That is why the principle of Subsidiarity, which states that decisions must be taken at the most appropriate level of government, must include regional and local levels. The definition of this principle must therefore be extended within the Treaties to include regional and local levels of government. Only then will it fully encompass its meaning of actions and decisions to be taken at the level closest to the people.

- **A clearer allocation of powers:**

In a democratic society people have the right to know to whom they are allocating what power, and thus what responsibility, therefore there must be a clearer allocation of powers between the different levels of government and between the EU Institutions. There must be a more transparent framework for action for the different levels of government that allows people to distinguish more easily the responsible levels.

**- For this to happen a review of the division of political responsibilities amongst the EU Institutions on the one hand and the Member States and their small nations and regions on the other should be undertaken.**

**- Further, a European Constitution should be developed to define the competencies of the EU Institutions, Member States and small nations and regions. This is an essential element for guaranteeing the political and democratic character of the EU. It should recognise the role of the small nations and regions in the EU.**

- **Enhancing the role of small nations and regions in the EU:**

As small nations and regions have an important role in implementing legislation they must have a voice in preparing and determining European policies and legislation. This should be in the form of involvement at both the Member State and EU level.

**- At the Member State level, mechanisms must be established to ensure that the views of the small nations and regions are fed into the process. One way that the UK Government could foster this under current arrangements is to hold meetings of the Joint Ministerial Committee (JMC) in European format, or call meetings of the EU Official Sub-Committee of the JMC. Such a meeting should take place to discuss the response of all the nations of the UK to the European Commission White Paper on Governance.**

**- Further, Member States should be required to take into account the views of their small nations and regions when discussing issues that fall within the latter's policy areas.**

**- On the EU level, the small nations and regions must be given the opportunity to participate directly in the preparatory work for the IGC in 2004. This should entail their representation in the Convention, a body incorporating representatives from National Parliaments and the European Parliament, but which should also involve the small nations and regions.**

- **Further, mechanisms must be established to ensure the permanent and direct participation of small nations and regions in the EU. This could entail them being granted status in a second chamber of national and regional representatives. We would favour this kind of second chamber instead of the views expressed by the UK Government that a second chamber should only have Member States' representatives as its members.**
- **We also believe that a parallel process of internal enlargement should start within the EU. The possibility of internal enlargement must be acknowledged as a credible option for those small nations and regions, who are currently members of the EU through their Member States, but, which in the future, if they so wished, could become full members themselves. As the majority of these small nations and regions already meet the 'Copenhagen Criteria' set for condition of membership for the Central and Eastern European countries who wish to join, if they were external states applying for admission their path would be clear. It is important therefore that a doctrine is developed concerning the conditions and the possibility of internal enlargement.**

- **Amending the Treaties:**

**- The planned 2004 reform of the Treaties must include a recognition and underpinning of the political and legislative powers of small nations and regional levels of government within the Member States in their executive, legislative and judicial relations with the EU Institutions.**

**- There is a need for a thorough consideration if small nations and regions should have the right to appeal to the European Court of Justice when their powers are under threat, as the Member States can.**

**- Consideration must also be given to the possibility of setting up a constitutional tribunal of constitutional judges from the Member States, small nations and regional levels of government and the European Court of Justice to handle issues of constitutional conflict. This would be necessary if a European Constitution is developed.**

**- The Treaties should also be amended to extend the definition of the principle of subsidiarity to include the small nations and regional levels of governments, as referred to above.**

- **Further action at the EU level:**

**Address the democratic imbalance between the Institutions:**

A democratic balance must be established between the Institutions. Romano Prodi, the President of the Commission, in his

speech on the Commission's White Paper on Governance to the European Parliament in Strasbourg on the 4<sup>th</sup> of September 2001, acknowledged that the Council, which is supposed to be a legislative body, takes on an executive role while the Parliament, which is also a legislative institution, is excluded from this part of the procedure. He emphasised that a simple mechanism must be established to enable the Council and Parliament to act on an equal footing.

The White Paper itself refers to the need to separate the roles of legislature and executive within the EU. It states that this would make it easier to apply the principles of subsidiarity and proportionality. Further, in relation to the co-decision procedure, where decisions are taken jointly by the Council and Parliament, the two institutions should enjoy equal roles. The White Paper acknowledges that this is not the case under the current Treaty and that the clarification of roles must allow the Commission to assume full executive responsibility.

**- We believe that extending the co-decision procedure to all areas will eventually address the democratic deficit at the heart of the decision-making process of the EU. Further, the democratic balance to be established between the Institutions must originate from the democratic will of the people.**

#### **Fairer Parliamentary representation:**

Another issue that must be considered is the need for a fairer Parliamentary representation. At present, the European Parliament constitutes national delegations that, in proportions, reflect the populations and influence of the Member States, with smaller States enjoying greater per-head representation than larger ones under the principle of degressive proportionality.

**- We believe that the democratic principle of equally weighted votes for all citizens should be more nearly implemented than at present (for example, under the current system, Denmark has twice as many representatives as Scotland for roughly the same population). If degressive proportionality is retained as a principle it must be applied region by region, not state by state.**

A question of unfair representation also arises in the context of the Committee of the Regions which means that the Committee simply replicates with proportionately reduced numbers and shares of the states in Parliamentary seats. This means, for example, that Luxembourg has more members than small nations such as Flanders, Galicia or Wales. This means that far from giving the small nations and regions a forum that enables them to compensate for proportional disadvantages in other Institutions, the Committee simply reinforces the disadvantage.

#### **Other actions:**

**- An effective timetable and procedure for securing public access to Council documents must be introduced. This would address to some extent the perception that it acts in secrecy.**

**- A root and branch assessment of the various policy-making instruments should also take place to ensure that EU decisions are made and implemented in the most appropriate and effective way.**

#### **Opportunities for the National Assembly for Wales:**

There are numerous opportunities for the National Assembly emanating from this process, such as the greater involvement of the 'regional' level of government; scope for differentiated implementation of EU Directives and the opportunity for the Assembly to enter into contractual agreements with Whitehall and the EU over some policy areas. Many policy areas could be administered at the 'regional' level; this already happens with the Structural Funds.

- **Greater involvement of the 'regional' level:**

There are numerous references to increasing the involvement of the 'regional' level in the EU in the White Paper, such as

1. proposals to make greater use of the skills and practical experiences of regional and local actors;
  2. more effective involvement of national and regional actors in the shaping, application and enforcement of Community rules and programmes;
  3. more flexible implementation of EU Directives and Regulations;
  4. central governments to adopt an inclusive approach when developing and implementing EU policies;
  5. the Commission to organise a systematic dialogue with European and National associations of regional and local government.
- This is why the National Assembly should become a full member of organisations such as the Assembly of European Regions.**

**The National Assembly should ensure that every effort is made to make the most of these opportunities. It could do this in a number of ways:**

1. During its Presidency of the EU in the first six months of 2001 the Swedish Government issued a report to the Council in relation to the debate on the future of the EU. This refers to the establishment of a '*Conference of European Affairs Committees of National Parliaments and the European Parliament*'. The purpose of this is to ensure that parliamentary bodies function as a link between the citizens and the debate at the EU level. The majority of the German Länder have already assigned representatives from their European Affairs Committees to attend these Conferences.

**- The National Assembly for Wales' European Affairs Committee should ensure that it participates in these meetings.**

## **2. Contractual agreements:**

There are references to the possibility of introducing target-based, tripartite contracts between the Commission, the Member State and the regional and local levels of government in the White Paper on Governance. This would provide that the 'region' or local authority undertakes to implement identified actions in order to realise particular objectives. The term 'contractual agreement' is deployed within one of the Action Points:

"The Member State should examine how to improve the involvement of local and regional actors in EU policy-making and promote the use of contractual agreements with their regions and localities".

The idea of having contractual agreements between the National Assembly, Whitehall and the EU on some policy areas, such as those devolved to the Assembly, is an attractive one. For example, as up to 75-80% of legislation in the field of Environment derives from the EU, and that this policy area has been devolved to the Assembly, there is a strong case for establishing an agreement on this subject area. Agriculture could be one of the other main areas along with Minority Languages and Culture. There could also be agreements on specific issues, such as the Habitats Directive and State Aid; a contractual agreement between the Assembly, Whitehall and the EU in relation to State Aid would give flexibility on how they could be implemented and focused for specific purposes in Wales.

The National Assembly itself would have to consider what exactly it would want from such agreements and which policy areas it would be most beneficial to have them adopted. It would be sensible to start with those policy areas that have been devolved to the Assembly.

This process would entail re-visiting the Concordat between the National Assembly and Whitehall as currently the Assembly



shares all competencies with the UK Government as far as European Policy is concerned. It would mean developing a situation, such as that which exists within federal states such as Belgium and Germany, where the 'regional' level has responsibility for some policy areas.

Likewise, local authorities need to consider in what areas they could enter into such agreements with the regional, Member State and European level.

**- The National Assembly and Local Authorities within Wales must ensure that they will be participating in the pilot target-based contracts within some policy areas that will be launched from 2002 onwards.**

### 3. Information and Communication:

The National Assembly does not have the powers under the Government of Wales Act to inform, or to raise awareness of European issues amongst the people of Wales. This was exposed in an answer given by the First Secretary (as the term was then) to an oral question tabled by Janet Ryder AM on the 28<sup>th</sup> of March 2000. She specifically asked what plans had the First Secretary to respond to the UK Foreign Office's encouragement for the National Assembly to organise Regional Roadshows to promote the benefits of our membership of the EU. The answer given was that the National Assembly does not have the legal powers to stage such a roadshow. A letter was sent by the First Secretary to the AM to further explain that the National Assembly's powers in this area are limited to implementing EU Legislation in designated areas.

Another example is that the National Assembly has made it clear to the *Wales European Information Network*, run by the European Commission's Representation Office in Cardiff, that it has no role in this kind of initiative as it has not got the legal powers to inform, or raise public awareness of European issues amongst the people of Wales.

However, the National Assembly is responsible for the *Wales European Forum*, where efforts are made to bring together policy actors from numerous sectors to learn about issues such as the introduction of the EURO and the role of the European Investment Bank. There seems to be a contradiction in the National Assembly's stance on promoting the *Wales European Forum* and rejecting calls for assistance and co-operation in relation to the *Wales European Information Network*.

The inability of the National Assembly to inform the public about EU issues under current arrangements is contradictory to the spirit of the *Commission's Communication on A New Framework For Co-operation on Activities Concerning the Information and Communication Policy of the European Union*. This aims to establish a new inter-institutional relationship to enable joint implementation of information policies and management arrangements that are easy to handle and are decentralised through partnership arrangements with National and Regional institutions. Point 1.1.3 on the Co-operation on the ground states that:

"In the new framework for co-operation a high degree of local co-ordination, exchange of information and co-operation is both necessary as it enhances the efficiency of the actions".

This must lead to fostering a better relationship between the Commission's Representation Office in Wales and the National Assembly's European and External Affairs Directorate in relation to communication and information issues.

The inability of the National Assembly to inform the public about EU issues under current arrangements is also contradictory to the *Commission's White Paper on Governance*, which states that:

"The European and national parliaments should play

a central role in stimulating public debate on the

future Europe and its policies".

and that:

"...the greater the participation in European policies

of national and regional actors, the more they will be

prepared to inform the public about those policies".

**- We believe that the European Parliament should open an office in Wales, or at least set up an information stand in the National Assembly.**

**- As far as the inability of the National Assembly to inform, and raise awareness amongst the public about EU issues is concerned, ways must be found to amend the current arrangements which hinders the ability of the Assembly to inform the public in this area.**

4. Currently, the First Minister of the National Assembly for Wales can only attend meetings of the '*Conference of European Regions with Legislative Powers*' as an observer. When these regions made the case for regional involvement in the preparations for the next IGC in the Flanders Declaration issued in Brussels on the 28<sup>th</sup> of May 2001, the First Minister could not sign it on behalf of Wales. These regions are the gatekeepers of regional representation. The danger is that 'regions' such as Wales, which have no legislative or budgetary powers will be left behind. This scenario would create a two-track system for regional participation in the EU. This demonstrates the need for the National Assembly for Wales to have legislative powers as the failure of the First Minister to sign this Declaration demonstrates the inability of an Assembly, which has no legislative powers, to fully engage with the constitutional regions of the EU.

**- We call on the First Minister to sign the Flanders Declaration during the next meeting of the *Conference of European Regions with Legislative Powers* in Liege in November 2001.**

## **Conclusion**

We share the vision expressed by Romano Prodi, President of the European Commission, of a Europe where all levels of governance are involved in shaping, implementing and monitoring EU policies and that this requires better contacts with national, regional and local authorities to enable them to shape and implement EU decisions.

We hope that this process leads to an increased role for small nations and regions within the EU so that the principle of subsidiarity is properly implemented.

We believe that there are many opportunities emanating from this process for the National Assembly and Local Authorities in Wales and thus look forward to see what will be their response to this process.

We also look forward to consider the views and proposals of other political parties to these opportunities, and hope that the issues raised by us in this paper contribute to a constructive debate on how we can take these issues forward.