

LIII COSAC

Riga, 31 May - 2 June 2015

Green Card: Towards an Enhanced Political Dialogue

**Speech by Paolo TANCREDI,
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Dear colleagues,

I would firstly like to thank Ms Cigane for having invited me, along with our colleague Hannigan, to introduce this session, which is a very delicate one from a political and institutional standpoint.

Indeed, the proposal to introduce the so-called "green card" raises issues relating to the role that the national parliaments are to play in the European constitutional architecture.

It will therefore be necessary to conduct a very thorough examination of the proposals that have thus far been presented by several of our colleagues with the aim of launching the initiative, so as to carefully assess all of the relevant legal and political aspects of the matter.

I believe that this will require answering three questions, in the following order:

- Is the green card consistent - and within what limits - with the role assigned to the national parliaments under the current treaties and with the current institutional equilibrium?
- Can the green card contribute effectively to enhancing the prerogatives of our assemblies, and to what extent?
- Who would be responsible for deciding on the application of the green card, and how?

To answer the first question, we must begin with Article 10, paragraph 2, of the Treaty on European Union, which states that the European Parliament and the national parliaments contribute to the democratic legitimacy of the EU through different channels (direct for the former, and indirect for the latter) with complementary roles.

In this context, the primary function of the national parliaments is to ensure the accountability of their respective governments for action taken within the European Council and the Council, through the guidance and oversight mechanisms provided for in each jurisdiction. The prerogatives of direct intervention of the national parliaments in the European decision-making process, laid down in Article 12 TEU, in addition to political dialogue, therefore represent an "extraordinary" channel of action, additional and auxiliary to the interaction between each parliament and its respective government.

Within this framework, Article 225 of the Treaty on the Functioning of the European Union grants only the European Parliament - as the direct institutional interlocutor of the Commission - the right to request that the Commission submit appropriate proposals on matters on which it considers that a Union act is required.

Can the green card be reconciled with the constitutional framework that I have outlined?

The initiative's supporters claim that there are no critical issues, arguing that it would essentially be implemented with the same methods of political dialogue and would therefore be consistent with both the role of the European Commission and the right of initiative attributed to the European Parliament.

In my opinion, this statement may only be considered partly accurate. No one denies that the national parliaments may, separately or, if they so wish, collectively, request that the Commission submit legislative proposals or take other initiatives in the context of political dialogue. The Italian Chamber of Deputies has also made use of this possibility on several occasions.

However, the political dialogue is an informal and flexible instrument, for the very reason that it is not provided for in the treaties. The proposals that we are

discussing conceive of the green card as a new procedure that may be activated, in a manner similar to subsidiarity checks, by qualified minorities of parliaments and according to specified terms. Moreover, the national parliaments would attribute various effects to this procedure, and in particular a political commitment for the Commission to provide a reasoned response by a pre-determined deadline.

If we are to be completely frank, in comparison to ordinary political dialogue, the green card has a clear goal: attributing to a request supported by a group of national parliaments - and a limited one at that - effects that are similar, in substantive if not in legal terms, to those of resolutions of the European Parliament pursuant to Article 225 TFEU.

This can only arouse strong doubts as to its compatibility with the existing institutional balance of powers.

Establishing that the green card is to be formally submitted by the lead parliament "in the context of political dialogue" to the Commission is not enough, dear colleagues, to ensure that it remains within the limits of that same political dialogue!

We therefore should not be surprised that Vice-President of the European Commission TIMMERMANS, in his February response to the letter sent to him on the subject by Ms CIGANE, while recognising the Commission's commitment to enhancing political dialogue, emphasised the need to avoid formalising new procedures that would require complex assessments of a legal nature, in the belief that it is preferable to make pragmatic use of the existing instruments.

Let us now turn to the second question: can the green card contribute effectively to enhancing the prerogatives of our assemblies, and to what extent?

In my opinion, the new procedure would add very little to the results that the national parliaments may already achieve through ordinary political dialogue.

Even if the Commission were to commit to responding to requests for new initiatives addressed to it by a group of parliaments, I do not believe that our ability to weigh on the merits of the Union's big political and legislative decisions would be strengthened as a result.

We are all aware that the Commission, despite its formal monopoly over legislative initiative, in reality must reckon with the European Council's powers of political and legislative policy-setting, which have emerged from the economic crisis even stronger than before.

And we have all witnessed the potential harm to the function of scrutiny performed by our parliaments caused by the speeding up of the European law-making process, which involves dialogues between the Parliament, Council and Commission.

The key to upholding the role of the national parliaments therefore lies not in creating new instruments for direct linkage with the Commission, but in enhancing their ability to influence through their respective governments the process of making major strategic decisions by the European Council and decisions in the Council's legislative procedure.

Turning to the final question that I posed in my introduction, I certainly agree that it will be appropriate to continue to discuss the green card and similar initiatives within COSAC. However, we must consider that our Conference is a venue for cooperation between EU Affairs Committees only and cannot take decisions that bind parliaments as a whole to launch a delicate new procedure such as the green card. The conclusions of our debate, whatever they may be, would thus need to be submitted to the Conference of Speakers of Parliaments, which, due to its composition and function of supervision and coordination of inter-parliamentary cooperation, is the appropriate venue for deciding on new forms of dialogue with EU institutions.

In this regard, it should be recalled that the Conference of Speakers held in Rome on 21 and 22 April 2015 took an interest in the debate on the role of institutions and parliaments in the EU being conducted within COSAC, including as regards the subject of the enhancement of political dialogue, emphasising that "discussion on these matters will be taken up again at the 2016 Conference of Speakers, at which the outcome of the discussions of the next COSAC will also be taken into consideration."

I will conclude, dear colleagues, with a consideration and a proposal.

We all agree in principle on the goal of enhancing the role of the national parliaments. Yet this goal is to be pursued in a manner consistent with the existing institutional framework and must not drive us to devise additional direct intervention procedures that require long and often pointless discussions and are of doubtful efficacy.

The constant search for new or stronger forms of direct intervention on the Commission would only be a way of bypassing the real problems that underlie the weakness of the position of the national parliaments at the European level, interfering with the role of the Parliament in the spirit of competition rather than of collaboration.

I therefore invite you to continue with your discussion of the green card with extreme caution, carefully considering the pragmatic solution evoked by Vice-President Timmermans, rather than defining detailed new procedures that would render existing practice more complex and "bureaucratic".

In my opinion, the most effective solution is the simplest and easiest to implement: parliaments that intend to share proposals and contributions should submit them directly to the Commission according to current practice, without observing predefined thresholds and deadlines.