



## **IMPROVING EU SCRUTINY**

*Report of the Committee to assess EU scrutiny procedures*

EDUSKUNNAN KANSLIAN JULKAISU 4/2005

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EDUSKUNNAN KANSLIAN JULKAISU 4/2005



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## TO THE SPEAKER'S COUNCIL

The Speaker's Council appointed on 21 November 2003 a committee to assess the procedural rules governing scrutiny of European Union business. The committee was given the following remit:

- 1) to evaluate the Eduskunta's existing procedures for dealing with proposals relating to the EU's primary and secondary law;
- 2) to assess how the EU's constitutional treaty will affect the scrutiny of EU business in the Eduskunta; and
- 3) make proposals for any changes that the committee may deem necessary. These proposals are to be formulated as a Proposal of the Speaker's Council.

The following persons were appointed to the committee: Secretary General Seppo TIITINEN (chair), the deputies Sirkka-Liisa ANTTILA, Liisa JAAKONSAARI, Kimmo SASI, Outi OJALA, Tuija BRAX, Roger JANSSON, Toimi KANKAANNIEMI and Raimo VISTBACKA, Counsellor Petri HELANDER (Prime Minister's Office), Director Jan STORE (Foreign Ministry) and Legislative Counsellor Jaana JÄÄSKELÄINEN (Ministry of Justice). Jan Store was appointed ambassador in October 2004 and was replaced by Section Head Sakari VUORENSOLA. Deputy Secretary General Jarmo VUORINEN and Committee Counsel Antti-Juha PELTTARI served the committee as experts. Committee Counsel Peter SARAMO was secretary.

The committee met 21 times.

The committee heard as experts the deputy Kimmo KILJUNEN and Professors Mikael HIDÉN and Tuomas OJANEN. Dr Teija TIILIKAINEN provided a written expert opinion.

The committee was originally due to report in March 2004, but its mandate was extended several times owing to the delay in finalising the constitutional treaty.

The committee considers that the information it has collected does not indicate any need to change the statutes concerning the Eduskunta's participation in the formulation of Finnish policy on EU matters. However, the system needs to be developed in its details through improved guidelines, training and technical arrangements. The committee also proposes that sector committees be given more freedom to decide what business they examine and to what degree.

The Treaty establishing a Constitution for Europe was signed on 29 October 2004. The treaty provisions affecting national parliaments are listed in the annex of this report. Of these provisions, the early warning system for supervision of the subsidiarity principle and national parliaments' veto in respect of treaty revisions by the European Council will require amendments to the Eduskunta's Rules of Procedure.

The subsidiarity control mechanism also necessitates arrangements in view of the status of the Åland regional parliament. The Åland parliament has given a statement to the committee.

The constitutional treaty makes the European Convention a permanent feature of the preparation of future treaty revisions. The Eduskunta has so far taken part in two conventions. When the convention becomes part of the constitutional treaty, the power to appoint members of the convention will shift from the Speaker's Council to the Eduskunta's plenary session. The committee proposes that when the Eduskunta appoints members of the convention, it shall also adopt guidelines regulating their duty to report to and consult with competent bodies of the Eduskunta.

A draft Proposal of the Speaker's Council to amend the Rules of Procedure is included in the annex of this report. The committee notes that the draft proposal will need to be harmonised with the Government Bill to approve and implement the constitutional treaty. The committee proposes that consultations within the Eduskunta about this report be arranged in such a manner that the Speaker's Council's Proposal can be submitted immediately after the Government Bill has arrived.

Having completed its assignment, the committee respectfully submits its report to the Speaker's Council.

Helsinki, 18 February 2005

Seppo Tiitinen, chairman

Sirkka-Liisa Anttila

Tuija Brax

Liisa Jaakonsaari

Roger Jansson

Toimi Kankaanniemi

Outi Ojala

Kimmo Sasi

Raimo Vistbacka

Jaana Jääskeläinen

Petri Helander

Sakari Vuorensola

Jarmo Vuorinen

Antti-Juha Pelttari

Peter Saramo, secretary

## EXECUTIVE SUMMARY

The Speaker's Council appointed the committee on 21 November 2003. The committee was to evaluate the functioning of the system of advance scrutiny of EU proposals that was introduced at Finland's accession to the EU and to assess the impact of the EU's constitutional treaty on this scrutiny system. The committee was also to draft any amendments it might deem necessary.

The committee finds that the Constitution's system for domestic policy formulation on EU matters works well. Thanks to this system, Finnish negotiators in Union preparatory bodies always represent a national position that has parliamentary backing. The committee's proposals have to do with technical details and can be implemented within the current system.

The committee finds that the abolition of the Union's pillar structure does not change decision making on foreign and security policy in any way that would necessarily affect the division of competences between the Eduskunta's Foreign Affairs Committee and Grand Committee. According to the constitutional treaty, foreign and security policy (the FAC's remit) remains a clearly defined entity that is subject to its own competence and procedural rules.

The committee finds that there is no need to change the rules governing committees' competence to deal with amendments of the EU's basic treaties. Government Bills to approve treaty amendments are the subject of reports by the Foreign Affairs Committee, which normally receives opinions from the Grand Committee and any sector committees that are affected by the treaty change. The plenary session decides, on the recommendation of the Speaker's Council, which committee shall report on Government Reports on preparations for Inter-governmental Conferences. The plenary session also decides which committees are to give their opinions to the reporting committee. The Speaker's Council's recommendation shall be based on the main content of the Government Report. The right of the Grand Committee and Foreign Affairs Committee to participate in Finland's policy formulation during IGCs follows directly from the Constitution.

On the committee's suggestion, the Speaker's Council has already adjusted the Eduskunta's sitting schedule to provide more time for Grand Committee meetings. The committee proposes that sector committees be given more discretion about whether to draft formal opinions on U-matters. Minimum standards for the handling of EU business should, however, be added to the Guidelines for Sector Committees. The report mentions practices of certain sector committees that could be adopted more widely.

The committee suggests that more plenary sessions should be devoted to the European Union and Finnish EU policy. The report mentions some types of business that should be debated in plenary session.

The report makes some suggestions for hearing MEPs in the Eduskunta more frequently.

The report makes some suggestions to improve the information content of EU documents and to develop technical document production. The committee draws particular attention to the need to evaluate EU proposals in terms of the Finnish Constitution.

Concerning the subsidiarity mechanism, the committee notes that the Eduskunta already receives all those EU documents that are of concern to the Eduskunta or that are otherwise of political interest. According to the protocols to the constitutional treaty, the Eduskunta will receive large numbers of legislative proposals that in Finland would have been delegated to the Government or the administration. Scrutiny of large numbers of frequently unimportant proposals would necessarily be formal and would consume time and resources that could be used for more important business. The current system, whereby documents are selected for scrutiny according to established criteria, guarantees the Eduskunta's control of its agenda.

The committee proposes that decisions to send a reasoned opinion about a violation of the subsidiarity principle are made by the plenary session on the initiative of the Grand Committee. A decision by the Grand Committee would thus be a sort of threshold for a subsidiarity objection. The Grand Committee's report would normally be based on an opinion of a sector committee and a hearing of the government.

The constitutional treaty makes the EU Court of Justice responsible for trying complaints made by member states, or brought by them on behalf of their national parliaments in accordance with national regulations, that legislative acts have been adopted in violation of the subsidiarity principle. The committee proposes that the plenary decides the Eduskunta's position on making such complaints on the initiative of the Grand Committee. This proposal is supported by the fact that early warnings about subsidiarity are also to be made by the plenary on the initiative of the Grand Committee.

The committee proposes that rules about the handling of proposals to change the constitutional treaty's decision-making procedures by a decision of the European Council are added to the Eduskunta's Rules of Procedure. After an initial debate, such proposals will be sent to either the Grand Committee or the Foreign Affairs Committee for report and to other committees for opinion as appropriate. The report shall contain a proposal to either approve or oppose the decision of the European Council. The plenary session will decide the matter in a single reading.

The committee notes that the constitutional treaty's procedure for adapting its rules about the EU's internal policies through a European decision does not require any changes to Finnish statutes. Such adaptations would be dealt with in the same procedure as other treaty changes.

The committee notes that when the constitutional treaty enters into force, the power to appoint the Eduskunta's representatives to conventions preparing future treaty changes will shift to the plenary session. The committee proposes that the Eduskunta, when appointing representatives to such conventions, also adopts guidelines about the representatives' duty to report to and consult with competent bodies of the Eduskunta.

The committee proposes that the hearing of the Åland regional parliament on subsidiarity (mentioned in the protocol on subsidiarity) is integrated with the subsidiarity mechanism in the Grand Committee. The Eduskunta's information systems need to be developed so

that information can be provided to the Åland regional parliament at the same time as within the Eduskunta.

## **I. THE EDUSKUNTA'S CURRENT SCRUTINY OF EU BUSINESS**

### ***I.1 The current procedure***

The Eduskunta's current system for scrutiny of EU business is based on a formal division into U-matters, which coincide with the Eduskunta's traditional powers and matters that result from the Eduskunta's right to receive information. The latter include written statements from the government on community and justice and home affairs proposals (E-matters), the Common Foreign and Security Policy (UTP-matters) and appearances by ministers in the Grand Committee and Foreign Affairs Committee before and after meetings of the EU Council. A special category is the prime minister's statements about European Councils and inter-governmental conferences to amend the treaties.

U-matters are those proposals, referred to in section 96 of the Constitution, for acts, treaties and other measures to be decided in the EU Council that would be decided by the Eduskunta, if Finland were not in the European Union. The government is obliged to despatch these matters to the Eduskunta for policy formulation as soon as they become known.

E- and UTP-matters are (usually) written statements resulting from the Eduskunta's right of information according to section 97, subsection 1 of the Constitution.

The basic structure of the system of scrutiny of EU business was created already through the constitutional amendments that were made for Finland's accession to the European Economic Area in 1993. The constitution was further adapted for membership of the European Union in 1994. The new Constitution of 2000 did not change the scrutiny system, which was taken over virtually unamended. The Eduskunta's and the Grand Committee's Rules of Procedure contain detailed procedural rules.

Detailed guidelines to ministries on involving the Eduskunta in national EU policy formulation are contained in circulars of the ministries of justice and foreign affairs and in the handbook for government presenting officers.

The Grand Committee adopted a statement to the government on the handling of EU business in the Grand Committee and sector committees in 1995. The contents of this statement were taken over in the then guidelines of the Ministry of Justice. The Grand Committee has opted not to update its statement, leaving instead the instruction of ministries to the Ministry of Justice in consultation with the committee's secretariat. The committee's secretariat has published some technical guidelines about hearings of ministers and the formalities of documents sent to the committee on the government's intranet site.

## **U-, E- and UTP-matters**

When the scrutiny system was adopted, it was assumed that the emphasis would lie on U-matters, i.e., the legislative business that falls within the Eduskunta's traditional prerogatives. In fact, E-matters have outnumbered U-matters every year. E-matters may include horizontal programmes that effectively decide the content of future EU legislation or they may be legislative proposals that do not strictly fall within the Eduskunta's traditional powers, but have been submitted to the Eduskunta because they raise questions of general interest.

The division of business into U- and E-matters could be considered somewhat theoretical. Whether or not something falls within the Eduskunta's traditional powers does not decide whether it is important. There are some very important and far-reaching E-matters and some quite marginal U-matters. The committee nonetheless supports the current arrangement because the existence of a category of business that must be submitted to the Eduskunta ensures that the government examines every item also in terms of whether the Eduskunta should be involved.

There are some differences in the technical preparation of U- and E-matters. By statute, the government communication introducing a new U-matter is approved by a full session of the government. This is a formal requirement as U-matters are official communications from the government to the Eduskunta. The requirement also serves a functional purpose as it promotes coordination between government departments. These government communications are delivered – in Finnish and Swedish – as printed parliamentary papers. The government communication introducing a new E-matter is in reality a word processed letter from a single ministry and is usually not translated into Swedish. Subsequent communications on pending U- and E-matters are delivered as word processed documents and in Finnish only.

Within the Eduskunta there are some procedural differences between U- and E-matters. For U-matters, the Speaker decides what committees provide opinions to the Grand Committee. These committees are then obliged to provide opinions. The arrival of a new U-matter and the responsible committees are formally announced in the plenary session. For E-matters, it is the Grand Committee that chooses the committees that provide opinions. The Grand Committee forwards the E-matter to sector committees "for possible action" leaving it up to the committee whether to write an opinion. The Grand Committee has developed a practice, whereby in U-matters it normally issues a formal statement of opinion to the government (usually as a statement in the minutes). In E-matters, the Grand Committee normally only forwards the opinions of the sector committees to the government for information. The formal opinions of the sector committees (addressed to the Grand Committee) and of the Grand Committee (addressed to the government) are printed as parliamentary papers in Finnish and Swedish. The Grand Committee's statement in its minutes take the form of brief resolutions and are communicated to the government as extracts from the minutes (in Finnish and Swedish). The minutes (in Finnish) are made public on the Eduskunta's website.

The procedure for UTP-matters (relating to foreign and security policy) approximates the procedure for E-matters, except that the Foreign Affairs Committee replaces the Grand Committee. The Foreign Affairs Committee can send UTP-matters to other committees for opinion; this usually means the Defence Committee.

The Eduskunta normally issues its statements of opinion on EU business early enough for them to be available when Finland's representatives in the Council's working groups need to indicate a national position. The Finnish system is based on the idea that national parliaments have real influence only when they participate in policy formulation from the start. Influence that is projected only on the eve of a Council meeting would be largely illusory.

### **Hearings with ministers**

It is established practice that ministers who are to attend a Council meeting appear before the Grand Committee to explain the business before the Council and the government's proposed plan of action. These hearings usually take place on the Friday before the Council meeting. The minister for foreign affairs presents the agenda of the General and External Affairs Council to both the Grand Committee and the Foreign Affairs Committee, because this Council composition decides business within the responsibility of both committees. If a minister is unable to attend, he or she is replaced by another member of the government or by a civil servant who has been authorised to represent the government position on the minister's behalf.

The concerned ministry provides the committee in advance with the Council's agenda and, for each agenda item, a standardized memo with background information and Finland's proposed line of action. The committee secretariat compares memos on U- and E-matters with its archives to see whether the memo corresponds to the committee's previous decisions. Any discrepancies are reported to the committee's chairperson, who may raise the matter in the committee.

After the Council meeting, the ministry sends a written report, usually within a few days. The minister is heard orally about the report, usually when he or she appears to give information on the next Council meeting. When required, the minister can be obliged to report earlier.

As a rule, items before the ministers at the EU Council have been decided by member states' representatives in the civil servants' working groups preparing the Council, leaving only a few contentious details for the ministers. It follows that hearing ministers is not sufficient to preserve the Eduskunta's influence. Hearings with ministers can be understood as applying the final gloss to a national position that the Eduskunta has otherwise approved as a U-matter. As the entire Council agenda is examined during hearings with ministers, any failure to involve the Eduskunta is bound to be discovered.

### **Procedures in the Foreign Affairs Committee**

According to the Constitution, the Foreign Affairs Committee determines on the Eduskunta's behalf the position on foreign and security policy issues decided by the EU Council, if they fall within the Eduskunta's prerogatives. The Foreign Affairs Committee's right to receive information concerning foreign and security policy extends also to the foreign and security policy of the Union.

Procedures in the Foreign Affairs Committee differ from those of the Grand Committee owing to differences in substance. The Foreign Affairs Committee has until now usually not based its decisions on preparatory work in other committees. Union legislative proposals (U-matters) are rare in the Foreign Affairs Committee.

The Foreign Affairs Committee is in the position of providing preparatory opinions to the Grand Committee when an issue within the Union's so-called Community pillar falls within the Foreign Affairs Committee's responsibilities according to the division of tasks within the Eduskunta. In practice, the boundary between the EU's foreign and security policy and other matters within the Foreign Affairs Committee's remit is not always clear.

### **Preparing treaty revisions**

The Eduskunta has had to deal with procedures aimed at changing the EU's basic treaties almost continuously since Finland joined the Union (preparations for the treaties of Amsterdam, Nice and Rome). The Eduskunta's involvement has followed the pattern described below.

Before each inter-governmental conference, the government has submitted a Report to the Eduskunta outlining the government's goals at the IGC. This Report has been sent to the Foreign Affairs Committee for report and to the Grand Committee and, usually, several sector committees for opinion. Also, the prime minister has appeared, as required by section 97 of the Constitution, before both the Foreign Affairs Committee and the Grand Committee before the opening of the IGC to discuss Finland's goals.

During the IGCs and Conventions, the Grand Committee and Foreign Affairs Committee requested and received from the government statements on various questions of current importance to the IGC or Convention. The Committees also issued Statements to the Government, by which the work of Finland's representatives was directed.

The results of the IGCs, i.e. the treaties of Amsterdam and Nice were submitted to the Eduskunta for approval and implementation as Government Bills. The Bills were sent to the Foreign Affairs Committee for report and to the Grand Committee and Constitution Committee for opinion. Other committees were also involved.

### ***1.2 Assessment of the current system***

The committee has requested and received statements on the functioning of and need to revise the EU scrutiny system from all parliamentary committees except the Committee for the Future, all ministries except the Ministry of Defence, and from the Chancellor of Justice at the Council of State. The statements agree that the current system functions well. The Eduskunta participates in the formulation of Finnish EU policy in the manner prescribed in the Constitution. The system has not compromised Finland's capacity for the rapid and flexible policy formulation needed in the EU. The system can be said to have enhanced coordination within the government and thus strengthened the negotiating capabilities of Finnish representatives in the Union's institutions. The system for

domestic policy formulation on EU matters has helped to keep domestic and European politics a single entity. Finland has thus been spared the segregation of European affairs from 'normal politics' that can be observed in some member states; such segregation occurs when European affairs are the preserve of a small group of specialists while domestic projects are carried out without reference to their European framework.

The committees' and ministries' statements did, however, indicate several areas where the details of the system could be improved.

### **Workloads and meeting times**

European Union business is about half the Eduskunta's workload. The workload of the committees has doubled after Finland joined the EU.

The time available to committees has not been increased as the workload has grown. Practically all the sector committees already used all available meeting times already before Finland joined the EU. The only possible response to the increased workload has been prioritisation and rationalised working methods. Also, some committees have had staff increases since 1995.

Pressures increase towards the end of the Autumn and Spring half-sessions, when the bulk of Government Bills are approved. The final months of each EU presidency (December and July) also see an increase in business before the Council, which further adds to the workload of the Eduskunta's committees.

The imbalance of meeting times and workload means that priorities have to be reassessed. According to current guidelines, sector committees handle U-matters after Government Bills but before Government Reports. E-matters are handled with necessary despatch but without delaying U-matters. When committee work is at its heaviest, it is occasionally possible that relevant E-matters are so delayed that the Eduskunta *de facto* misses the opportunity to influence, for example, a Union legislative programme.

*Table 1*

#### **Business before the Grand Committee 2002-2003**

	<b>2002</b>	<b>2003</b>
<b>New U-matters</b>	85	70
<b>New E-matters</b>	154	107
<b>EU Council meetings</b>	144	87
<b>Opinions from sector committees</b>	236	119

N.B. A general election was held in 2003.

*Table 2*

## Business in the sector committees 2002-2003

Committee	2003			2002		
	EU business		non-EU business	EU business		non-EU business
	opened	opinions		opened	opinions	
<b>Constitution</b>	10	1	40	55	11	82
<b>Foreign Affairs</b>	55	4	17	79	8	36
<b>Finance</b>	42	19	42	n.a.	53	n.a.
<b>Administration</b>	28	5	25	43	25	50
<b>Law</b>	35	6	13	49	19	41
<b>Transport and Communications</b>	38	21	0	n.a.	n.a.	n.a.
<b>Agriculture and Forestry</b>	12	6	9	27	23	22
<b>Defence</b>	3	1	4	n.a.	n.a.	n.a.
<b>Education and Culture</b>	10	4	10	13	9	30
<b>Social Affairs and Health</b>	23	6	39	34	11	66
<b>Commerce</b>	45	17	18	55	18	31
<b>Labour and Equality</b>	13	3	18	n.a.	n.a.	n.a.
<b>Environment</b>		26	9	n.a.	26	29
	314	119	244			

The figures provided by the committees are not necessarily commensurate. "Non-EU business" includes those items that lead to a formal report or opinion.

The Grand Committee's meeting times were not adjusted when the committee was given its current role. Our committee noted that the Grand Committee's meeting times were insufficient for its workload. The Speaker's Council decided to revise the Eduskunta's sitting schedule to allow the Grand Committee to start its meeting 30 minutes earlier, at 1.30 pm. As a result Friday plenary sessions are restricted to announcements and votes. The revised schedule came into force on 14 May 2004 for Fridays and on 10 November 2004 for Wednesdays.

For ministries, EU membership increased significantly the volume of business to be submitted to the Eduskunta. The ministries' statements to the committee indicate, however, that the production of EU-related documents is already so streamlined that the need to communicate with the Eduskunta does not much increase their overall workload. The exception is the initial communications introducing new U-matters; these are considered taxing because they need to be translated, printed and presented to a full session of the government and because they necessitate working on two mutually incompatible government computer systems. The government's resource management is not within the committee's remit.

Table 3

## EU business and Government Bills by ministry, 2003

Ministry	U-matters	E- and UTP-matters	EU total	Government Bills
<b>PM's Office</b>	0	28	<b>28</b>	<b>1</b>
<b>Foreign Affairs</b>			<b>100+</b>	<b>15</b>
<b>Justice</b>	9	15	<b>24</b>	<b>15</b>
<b>Interior</b>	1	10	<b>11</b>	<b>8</b>
<b>Finance</b>	23	20	<b>43</b>	<b>42</b>
<b>Education and Culture</b>	2	29	<b>31</b>	<b>13</b>
<b>Agriculture and Forestry</b>	5	7	<b>12</b>	<b>7</b>
<b>Transport and Communications</b>	13	6	<b>19</b>	<b>18</b>
<b>Trade and Industry</b>	7	9	<b>16</b>	<b>7</b>
<b>Social Affairs and Health</b>	6	10	<b>16</b>	<b>36</b>
<b>Labour</b>	0	4	<b>4</b>	<b>19</b>
<b>Environment</b>	10	8	<b>18</b>	<b>8</b>

Figures are not commensurate. The Foreign Ministry has included hearings of ministers in its EU total.

### Information provided to committees

Generally, committees receive sufficient and timely information from the government. There have been occasional delays in submitting legislative proposals. In particular, ministry staff have occasionally failed to notice when a pending E-matter needs to be resubmitted as a U-matter. Ministries have communicated to the Grand Committee and sector committees any scheduling pressures affecting specific business items.

The content of government correspondence is an occasional problem. In the worst case, the Eduskunta may receive a copy of the government's instructions for Coreper, instead of an informative memorandum. There have also been cases where memoranda are overburdened with detail, and yet give very little information about the overall status of the proposal. This is a particular problem when files have not been before the committees for some time. Another occasional flaw is that communications do not always indicate the type of procedure within the EU, or the likely timeframe. This information would be most important for planning work in the Eduskunta, and it should be included as a rule. The Grand Committee has repeatedly had to remind ministries to include information on the file's handling in the European Parliament. This information is vital for policy formulation on business subject to the co-decision procedure.

The Constitution Committee has drawn attention to the need to assess EU matters in terms of their constitutionality. Such assessments have become quite rare and are often

lost among other explanatory information. The Constitution Committee reiterates that the standard format of government correspondence needs to be developed in this respect.

Consideration should be given to developing the structure and contents of basic memoranda and other standardized documents. Experience shows that providing identical memoranda both to parliamentarians and to ministers and their staff is not necessarily helpful.

The committees say that they receive sufficient information about overall European developments in their respective fields. Practically all sector committees have regular meetings with their counterpart ministries to discuss horizontal issues of mutual concern. A more systematic exchange of information between committees would both improve the handling of individual items and encourage the spread of best practices.

### **The division of competence between the Grand Committee and the Foreign Affairs Committee**

In their statements to the committee, both the Grand Committee and the Foreign Affairs Committee drew attention to how inter-governmental conferences to amend the EU's treaties are prepared in the Eduskunta. The Grand Committee's statement questioned the practice whereby the Foreign Affairs Committee writes the report on Government Reports about upcoming IGCs. The Foreign Affairs Committee defended the status quo<sup>1</sup>.

The committee's proposals to clarify this issue are given later in this report.

### **EU business in plenary sessions**

The Finnish Constitution and the Eduskunta's Rules of Procedure provide many opportunities to debate EU issues in the plenary session. Sections 96 and 97 of the Constitution allow the Speaker's Council to put any U-, E- or UTP-matter on the agenda for debate (but not for decision, which remains the prerogative of the Grand Committee and Foreign Affairs Committee). The prime minister's reports before and after European Councils and inter-governmental conferences can be presented to either the plenary session or a committee. Also, such procedures as Government Communications and Reports, topical debates, question hour and interpellations can address European issues.

Plenary debates on European issues have been rare in practice. Most related in some way to reform of the treaties. A Government Communication was the vehicle for seeking the Eduskunta's consent to join the Euro zone. The multi-year financial frameworks were debated in plenary session in accordance with section 97 of the Constitution.

It is often heard in the Eduskunta that there should be more plenary debates on European issues. This would promote the equal participation of all deputies in the handling of EU business. The statutes are not in the way of more frequent EU debates. The reasons for their scarcity are to be found rather in how the plenary schedule is prepared and in the flow of information between different bodies within the Eduskunta. The committee makes some proposals later in this report.

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<sup>1</sup> The rather technical arguments of the committees have been omitted from the translation.

### **The role of MEPs in the Eduskunta**

The Finnish system does not give MEPs any statutory or formal role in the work of the Eduskunta. In practice, however, Finnish MEPs do get special consideration. Finnish MEPs have simplified access to the Eduskunta's premises and they have the same access to the Eduskunta's information and other support services as national MPs. Finnish MEPs can be given workrooms in the Eduskunta. The Grand Committee gives Finnish MEPs a weekly report on work in the committee. The Grand Committee and Foreign Affairs Committee both meet the Finnish MEPs twice a year to discuss topics of mutual interest. The Eduskunta's representative in Brussels is based in the premises of the European Parliament. Assisting MEPs in their contacts with the Eduskunta is one of her core tasks.

Finland has not adopted the arrangement of some other parliaments, whereby MEPs have an automatic right to participate (in one case even to vote) in the work of the national parliament's EU Committee or in the plenary session when EU matters are debated. Such an arrangement would require a constitutional amendment in Finland. However committees have the discretion to enable MEPs to participate *de facto*. The committees can invite MEPs as experts or they can arrange meetings as informal hearings or seminars.

Although easily organised, the participation of MEPs in the work of the Eduskunta is felt to be insufficient. The European Parliament has much expertise that should be tapped by the Eduskunta. As the role of the European Parliament grows, it becomes more important to make known there the Finnish positions formed by the Eduskunta.

The committee believes that the insufficient contacts between Finnish MEPs and the Eduskunta are not due to statutory deficits. Rather, the challenge lies in the different schedules of the two parliaments and the exchange of information between them. The committee's proposals are given later in this report.

## **II. THE EFFECTS OF THE CONSTITUTIONAL TREATY**

### ***II.1 General observations***

Work on the EU Constitution started with the Declaration on the Future of Europe contained in the Treaty of Nice. This declaration lists the subjects that were not solved in the treaty and some themes raised in the debate on Europe's future that began in 2000. The Laeken European Council (14-15 December 2001) convened a Convention to examine questions related to the EU's future. The Union's upcoming enlargement, in particular, forced member states to address reform of the EU's institutional and decision-making structure.

The Convention was to debate the subjects in the Nice Declaration and present its findings to an inter-governmental conference to be convened in 2003. Power-sharing between the Union and the member states, treaty simplification, the role of the Charter of Fundamental Rights and the role of national parliaments were on the Convention's agenda from the start. The Convention had members from member states' governments and parliaments, the European Parliament and the European Commission.

The President of the Convention presented the Convention's proposal for a constitutional treaty to the European Council of Thessalonica (19-20 June 2003). The constitutional treaty, in four parts, is to replace the current basic treaties. Despite considerable disagreement, particularly on constitutional issues, the Convention could present proposals to clarify the Union's functioning. The new treaty and norm system is meant to simplify decision-making and render EU law more comprehensible. The Union will have legal personality and the Charter of Fundamental Rights will be incorporated in the treaty.

The inter-governmental conference that was convened to deliberate the Convention's proposals began in Rome on 4 October 2003 and was adjourned when the Heads of State and Governments assembled in Brussels on 12-13 December 2003 failed to reach agreement on the constitutional treaty. Agreement was reached at the European Council on 17-18 June 2004. The treaty was signed on 29 October 2004.

The constitutional treaty will enter into force if it is ratified by all member states according to their national constitutional requirements. Several member states will have referenda. In Finland, a Government Bill to approve and implement the constitutional treaty should be given to the Eduskunta in the course of 2005. The treaty is meant to enter into force on 1 November 2006.

Of the questions given to the Convention by the Laeken European Council, one was about increasing the EU's democracy, transparency and efficiency by developing the participation of national parliaments and simultaneously increasing the legitimacy of the

European project by simplifying decision-making and making the work of the institutions more transparent and comprehensible.

Broadly speaking, the constitutional treaty does not increase the Eduskunta's powers to deal with matters to be decided in the Union. The current system puts all EU business within the Eduskunta's powers or its right of information. In the Finnish system, the Eduskunta exercises its powers through the government, which it holds to account.

The main effect of the constitutional treaty on the Eduskunta is that in certain matters, the Eduskunta can address its opinions to the EU Institutions directly as well as through the government. The Eduskunta's current powers to direct the government give the Eduskunta more influence on EU matters than does the constitutional treaty. The constitutional treaty's procedures for involving national parliaments can thus be considered subsidiary and complementary to the Eduskunta's current powers.

## ***II.2 National parliaments' right to information and the subsidiarity principle***

### **The treaty's main provisions on the subsidiarity principle**

The constitutional treaty lists the principles of subsidiarity and proportionality as fundamental principles of the European Union. The subsidiarity principle means that the Union, in areas not within its exclusive competence, will act only if, and to the extent that, the goals of the proposed action cannot be better reached by action at the national, regional or local level. The proportionality principle means that the content and form of the Union's actions shall not exceed what is necessary to achieve the goals of the constitutional treaty.

To achieve the above-mentioned ideals, the constitutional treaty contains two mutually complementary protocols, one on the role of national parliaments in the European Union and the other on the application of the principles of subsidiarity and proportionality<sup>2</sup>. According to the protocols, the Union's main institutions will send to national parliaments the documents that are relevant to their competence. National parliaments have the right, in certain cases and under certain conditions, to make observations about the application of the subsidiarity principle, but not of the proportionality principle.

The European Commission will send to national parliaments all the Commission's preparatory documents (green and white papers and communications) when they are published. The commission will also send to national parliaments its annual legislative programme and other documents relating to legislative or strategic planning, at the same time as they are sent to the European Parliament and the Council. Legislative proposals addressed to the European Parliament and Council will also be sent to national parliaments. "Legislative proposals" means Commission proposals, initiatives by groups of member states, initiatives of the European Parliament and requests of the EU Court, recommendations of the European Central Bank and requests of the European

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<sup>2</sup> Referred to in the following as "the parliament protocol" and "the subsidiarity protocol".

Investment Bank that aim at the adoption of a European legal act through the legislative procedure. The Commission shall send its legislative proposals to national parliaments at the same time as to the European Parliament and the Council. The European Parliament shall send its proposals for European legal acts directly to national parliaments. The Council shall send to national parliaments the proposals of groups of member states, the EU Court, the European Central Bank and the European Investment Bank.

National parliaments can, in accordance with the procedure specified in the subsidiarity protocol, send to the Speaker of the European Parliament and the presidents of the Commission and Council, a reasoned opinion about whether a proposed European legal Act conforms to the subsidiarity principle. Proposals for European legal acts cannot be tabled in the Council until six weeks have passed from the proposal being sent to national parliaments in all official languages. Exceptions can be made in case of urgency. The agendas and minutes of Council meetings are sent to national parliaments.

Proposals for European legislative acts shall be justified in terms of subsidiarity and proportionality. All such proposals shall include a statement with the details necessary to assess the proposal's conformity with the subsidiarity and proportionality principles. National parliaments and chambers of bicameral parliaments have six weeks within which they can send the Speaker of the European Parliament and the presidents of the Commission and Council a reasoned statement of the reasons why they believe that the proposal does not conform to the principle of subsidiarity. National parliaments shall arrange for regional legislative assemblies to be heard where this is necessary. The European parliament, Council and Commission and other institutions with the right of initiative shall take note of the reasoned opinions of national parliaments or their chambers.

If at least one third of the votes<sup>3</sup> of the national parliaments say that the proposal is not in conformity with the subsidiarity principle, the proposal shall be re-examined. The operative number of votes is one fourth when the proposal is for a European legislative act relating to the area of liberty, security and justice, made under article III-264 of the treaty. Having re-examined its proposal, the Commission or other initiator may maintain, amend or withdraw its proposal. The justifications for this decision shall be stated.

### **What the subsidiarity clauses mean for the Eduskunta**

The subsidiarity protocol and parliament protocol create, in principle, two distinct procedures: the Union's institutions are obliged to send to national parliaments their legislative proposals and other documents, and national parliaments can state their objections to legislative proposals on the grounds that they violate the subsidiarity principle. This right applies only to legislative proposals, not to green or white papers or other preparatory documents or to proposed legal norms that can be adopted outside the legislative procedure. If one or a few parliaments makes an objection, the Commission or other initiator will take note. If the objection is made by one third (one quarter, if the proposal is based on article III-264) of the parliaments or chambers, the Commission or other initiator shall re-examine the proposal.

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<sup>3</sup> Unicameral parliaments have two votes. In bicameral parliaments, each chamber has one vote.

It should be stressed that national parliaments can express objections only on the grounds that the subsidiarity principle has been violated. The subsidiarity protocol gives national parliaments no say on the merits of the proposal or concerning violations of the proportionality principle.

The parliament and subsidiarity protocols have been greeted with satisfaction particularly by those national parliaments that have not received from their national governments the information they want on EU legislative proposals. For these parliaments, the constitutional treaty will much increase their access to information. At the time of writing, little is known of how national parliaments propose to amend their procedures because of the constitutional treaty. It is likely that the opportunity to examine and express opinions about EU legislative proposals will lead, in some countries, to new political activity that may extend beyond actual subsidiarity control.

Section 96 of the Finnish Constitution obliges the government to submit to the Eduskunta all European legislative proposals within its remit. Section 97 of the Constitution gives the Grand Committee and Foreign Affairs Committee an unlimited right to receive from the government information about matters being examined in or concerning the European Union. The committees' statements on U-, E- and UTP-matters are normative for the government's actions. Also, section 47, subsection 2 of the Constitution gives sector committees an unlimited right of information in their respective fields. The statutes do not require that all EU business is automatically sent to the Eduskunta. Instead, all business is submitted for a reason: either because the Eduskunta has original competence, or because a committee asks for information, or because the government believes that a matter raises issues of policy or principle that should be submitted to the Eduskunta. In the Finnish system, the Eduskunta receives for policy formulation the business that is within its remit or politically interesting, but the Eduskunta is not forced to examine every marginal matter, just because it relates to the EU.

The principles of subsidiarity and proportionality were added to the EU's statutory law through the Treaty of Maastricht. These principles have been central and permanent elements in the debate on the role of national parliaments. The subsidiarity principle should be understood as a means for some national parliaments to justify their wish to participate in the handling of EU matters, which in their countries was considered the preserve of the executive branch of government. The Eduskunta has never needed to use subsidiarity and proportionality as a justification for participating in EU business, because the Eduskunta has from the start had competence to deal with EU business as entities, of which the correct level of legislation (subsidiarity) and the usefulness of the proposed action (proportionality) were only part issues.

The application of the subsidiarity principle is more limited than public debate would lead one to believe. The constitutional treaty allows national parliaments to express objections on subsidiarity grounds if the following two requirements are met: (1) the proposed action is not within the Union's exclusive competence, and (2) the goals of the proposed action can be adequately met at the national, regional or local level. The practical importance of the subsidiarity protocol is limited also by the fact that the Union can in any case only take action that is authorised by the treaties and, in legislation, when it is supported by a qualified majority of the member states.

The total number of proposals by the institutions is vast. The European Commission produces every year on average 1.100 documents (27.000 pages), that should be sent to national parliaments according to the protocols to the constitutional treaty. No reliable figures are available for the other institutions, but 100 may be assumed for planning purposes.

The committee has studied the number of documents that will be sent to national parliaments according to the parliament protocol and subsidiarity protocol. The study was made by applying the protocols to the documents published by the European Commission in 2003 and the first quarter of 2004. The lists of documents received by the UK Parliament over several years were studied for comparison. The study suggests the following findings:

- Every year, the European Commission publishes 1.100 documents that, according to the protocols, should be sent to national parliaments. The combined volume of these documents is about 27.000 pages.
- Of these documents, some 70 percent are legislative proposals. The Commission publishes annually some 770 proposals that will be subject to the subsidiarity procedure when the constitutional treaty becomes effective. The remaining 330 documents are not subject to subsidiarity control.
- The number of documents subject to the subsidiarity procedure may decrease, if the Union starts to make more use of delegated legislation.
- Of the documents mentioned by the protocols, the Eduskunta receives because of the Finnish Constitution everything that in the Finnish view is within the Eduskunta's remit or of political interest. These proposals number around 210 annually. The remaining 900 or so items are either legislative proposals that in Finland would be delegated to the executive branch or the administration or else plans of only limited, specialist interest.

The constitutional treaty's provisions on national parliaments' right to information add nothing in practice to the Eduskunta's access to information. Existing statutes already require that the Eduskunta receives all legislative proposals within its traditional powers and all other business that is of political interest. The 900 additional items that the Eduskunta will receive because of the constitutional treaty have already been accessible, to anyone who is interested, in the EU Official Journal and on the websites of the institutions. The Eduskunta's committees can at any time invoke sections 97 or 47 of the constitution to raise any EU matter for their consideration.

The protocols' provisions on what documents are to be sent to national parliaments are very comprehensive. The outcome is that parliaments will receive for consideration many proposals that if they were national proposals, would have been delegated to the executive branch or the administration. Active consideration by the Eduskunta of such a volume of largely marginal documentation would necessarily be a formality, and would use up time and resources that could be devoted to politically important issues. The current system, whereby the Eduskunta deals only with business selected according to fixed criteria, guarantees the Eduskunta's control of its own agenda.

The parliament protocol's requirement that the institutions send to national parliaments all legislative proposals and all the Commission's documents relating to legislative and

strategic planning do not really improve the Eduskunta's information on those questions that in the Finnish view require parliamentary consideration. On the other hand, the parliament protocol does create a large group of items that the Eduskunta, if it wishes, can examine in the sense of the parliament and subsidiarity protocols. The parliament protocol does not specify any new tasks for national parliaments, but it does imply the creation of procedures that allow national parliaments and their members to make use of the protocol. The challenge is to create in the Eduskunta a procedure that serves the purposes of the parliament protocol without choking the existing EU scrutiny system with a flood of paper caused by a largely illusory political process.

The subsidiarity protocol obliges national parliaments to arrange for legislative regional parliaments to be heard on the issues referred to in the protocol.

It is impossible to say how often the Eduskunta may need to consider the subsidiarity principle. The opinions of the sector committees on U-matters frequently mention that some proposed piece of EU legislation contains unnecessary details that should rather be left to national discretion. As the Eduskunta deals with EU proposals as entities and not only in respect of subsidiarity, there has been no need to refer specifically to subsidiarity. It may be that how often national parliaments raise objections of subsidiarity will depend on how well the Commission fulfils its duty to justify its proposals also in terms of subsidiarity.

According to the subsidiarity protocol, if one third (or on fourth) of national parliaments makes an objection on subsidiarity grounds, the Commission must re-examine its proposal rather than just take note of the objection, as when a smaller number of national parliaments voice an objection. Parliaments raising objections thus have a strong incentive to get other parliaments to join in the objection. For the Eduskunta, this raises the question how to deal with other parliament's proposals to make subsidiarity objections and how to seek support for any objections made by the Eduskunta itself.

### **Ex-post subsidiarity control**

Article 8 of the subsidiarity protocol makes the Court of Justice of the European Union competent to adjudicate member states' complaints concerning violation of the subsidiarity principle in the EU's legislative procedure. The article extends this also to complaints brought by member states on behalf of their national parliaments in accordance with national legal systems.

The intention of the article is to give national parliaments a remedy on the level of the constitutional treaty against violations of the subsidiarity principle. Complaints are, however, made in the name of the respective member state. Complaints also require that national legal provisions allow parliaments to raise complaints.

The provision on national parliaments' right to litigate is alien both to the Finnish understanding of constitutional law and to our perception of the European Union. From the Finnish point of view, Finland is a member of the EU, the Eduskunta is Finland's supreme political organ, and Finland is represented in the EU by the government, which is accountable to the Eduskunta. Any litigation about subsidiarity would be an argument

between Finland and the European Union. Finland's national position is ultimately decided by the Eduskunta.

### ***II.3 Evaluation and supervision related to the area of liberty, security and justice***

Article I-42 paragraph 2 allows national parliaments to participate in the evaluation of the area of liberty, security and justice with respect to, *int. al.*, implementation of joint policies in member states and mutual recognition. National parliaments participate in the political supervision of Europol and the evaluation of Eurojust's activities. According to article III-261, national parliaments shall be informed of the work of the permanent committee to promote operational cooperation and the coordination of national authorities' activities that will be established in connection with the Council. How national parliaments are to participate in the supervision of Europol and Eurojust will be determined in subsequent European Laws.

The constitutional treaty's provisions on how national parliaments participate in the supervision of justice and home affairs will receive their substantive content only later, through European Laws. Possible forms of participation might include regular reporting to national parliaments, which may make statements about the reports, and the organisation of periodic parliamentary meetings. It is also possible that the above-mentioned articles of the constitutional treaty presage some procedure, in which the Eduskunta could take part through political statements addressed to the EU institutions. If this is the case, the procedures will need to be regulated in the Eduskunta's Rules of Procedure. Precise proposals about the need to revise the Rules of Procedure will only be possible when more is known about the proposed European Laws.

It is of relevance to national parliaments that article I-42 paragraph 3 gives member states the right of initiative concerning police cooperation and cooperation in criminal justice. In this sphere, the influence of national parliaments is a function of how relations between each parliament and its respective government have been organised.

Article I-42 of the constitutional treaty will have no significant importance for the Eduskunta's powers. The government's accountability already encompasses also justice and home affairs. The evaluation mentioned by the constitutional treaty is a more limited concept than the Eduskunta's current powers. It can therefore be assumed that Finland's existing system for parliamentary involvement in EU policy will remain the Eduskunta's primary source of influence.

### ***II.4 Passerelles***

Article IV-444 of the constitutional treaty states that when section III requires the Council to take decisions unanimously, the European Council can make a European Decision to allow qualified majority voting. This option is not available to decisions of military or defence importance. When section III requires that European Laws or

European Framework Laws are approved by a special legislative procedure, the European Council may make a European Decision to allow using the regular legislative procedure. The European Council's initiatives of this nature shall be sent to the national parliaments. If one national parliament signals its opposition within six months of receiving the initiative, the European Decision cannot be made. If there is no opposition, the European Council can make the decision. The European Decisions are made by a unanimous European Council after receiving the consent of the European Parliament, approved by a majority of the EP's members.

This article gives national parliaments a veto. A single national parliament can block the adoption of normal qualified majority voting in matters that the constitutional treaty makes subject to unanimity or to some other qualification.

According to the article, the European Council will forward proposals for adopting standard decision-making procedures directly to national parliaments, which will decide to approve or reject the proposal. This construction is somewhat alien to the Finnish constitutional system. The Finnish system is based on the idea that Finland has a single national position on every item to be decided in the EU. This position is expressed by the government, which is accountable to the Eduskunta. The government must take note of the Eduskunta's position, which becomes Finland's position. The constitutional treaty reflects the notion that governments and parliaments are separate.

The article raises the question how the Eduskunta decides whether to exercise its veto. The use of passerelles is not of the same nature as the Eduskunta's normal participation in the formulation of national EU policy. This is not decision-making within the EU, but decision-making about the EU's competences. It would thus seem most appropriate that decisions about whether to approve the adoption of QMV are made by the plenary session on the advice of a committee.

Article IV-445 of the constitutional treaty allows member states' governments, the European Parliament and the European Commission to propose to the European Council amendments of the rules concerning the Union's internal policies. The European Council can adopt a European Decision to make such a change by unanimity after hearing the European Parliament and the European Commission. The European Decision becomes effective when it has been ratified by the member states in accordance with national constitutional requirements. Such European Decisions cannot increase the competences of the Union.

According to the article, a European Decision to amend the internal policies of the Union requires the same kind of national approval as a traditional treaty. According to the Finnish Constitution a European Decision of this nature would need to be approved and implemented by Act of Parliament.

## ***II.5 Inter-parliamentary cooperation***

According to articles 9 and 10 of the protocol on the role of national parliaments, the European Parliament and the national parliaments shall agree on effective and regular inter-parliamentary cooperation in the European Union. The Conference of organs for

community affairs (COSAC) can bring to the attention of the European Parliament, the Council and the Commission any issue it considers to be of concern. COSAC shall promote the exchange of information and best practices between the European Parliament and national parliaments, including their sector committees. COSAC can arrange inter-parliamentary meetings to deliberate particular subjects, particularly the common foreign and security policy, including the common security and defence policy. The opinions of COSAC are not binding on the national parliaments and do not predetermine their positions.

The provisions of the protocol reiterate the recognition granted to COSAC in the present treaty. COSAC can continue to present its views to the institutions. The value of COSAC's contributions are, however, limited by the fact that they are not binding on national parliaments and do not predetermine their positions. The limitations inherent in COSAC's rules of procedure should also be noted: all member state delegations are the same size and have one vote; COSAC makes decisions by unanimity (constructive abstention possible); COSAC normally only meets twice a year, which limits its ability to act effectively on individual legislative proposals.

The parliament protocol gives COSAC the task of coordinating cooperation among foreign affairs committees and other sector committees. The protocol is based on the idea that the COSAC secretariat, founded in 2003, should coordinate the cooperation of national parliaments and the European Parliament.

The parliament protocol's provisions on inter-parliamentary cooperation do not significantly change the status quo and they do not require statutory adaptation in Finland.

In addition to COSAC, some attention should be paid to the model for inter-parliamentary cooperation sponsored at the Conference of EU Speakers by Sweden, the so-called Athens Process. This model calls for inter-parliamentary cooperation to be coordinated by the Speakers, with COSAC confined to the European affairs committees. Although several national speakers have given verbal support to the Athens process, it has not been raised in the preparation of the constitutional treaty. Once the constitutional treaty is in force, it will be the legal framework for inter-parliamentary cooperation. In view of this, the Athens process can be understood as an informal discussion about parliamentary cooperation that does not need to be implemented in statutes.

## ***II.6 Treaty changes and Conventions***

Amendments to the constitutional treaty are dealt with in article IV-443. If the European Council decides to examine a proposal to change the treaty, the president of the European Council will convene a Convention consisting of representatives of national parliaments and of heads of state or governments and of the European Parliament and Commission. The European Central Bank will be heard if institutional changes in the financial field are mooted. The Convention shall study the proposed amendments and deliver its recommendations to an inter-governmental conference.

The article effectively makes the Convention a permanent preparatory institution. The article converts the procedure for amending the treaty from an inter-governmental negotiation into some kind of intra-institutional procedure. This change will also have an effect on the division of competences between the Grand Committee and Foreign Affairs Committee, which was discussed in a previous section of this report.

Representatives of the Eduskunta have so far taken part in two Conventions. The first Convention drafted the Charter of fundamental rights and the second one, the constitutional treaty. The Eduskunta's representatives were appointed by the Speaker's Council. When the Convention has a treaty basis, the power to appoint representatives will shift to the plenary session.

During the two Conventions, the Eduskunta's representatives regularly reported to and consulted with the Grand Committee, the Foreign Affairs Committee and the Constitution Committee. In retrospect, the competent committee's access to information was exemplary. The committees' views were brought into the Convention in a satisfactory manner.

As the Convention becomes a permanent fixture, some thought should be given to the formal position of the Eduskunta's delegates to the Convention. Particularly the Convention that drafted the constitutional treaty went through a gradual transformation: having started out as a reflection forum of independent experts it began to acquire some characteristics of an inter-governmental negotiation. This did not cause any difficulty for the Eduskunta or its delegates. It remains unsatisfactory, however, that the delegates' duty to report and their relationship to the Eduskunta's permanent organs has not been regulated. Regulation is all the more important as section 29 of the Constitution, which governs the independence of deputies, could be construed to conflict with the role of a delegate appointed to negotiate.

Section 29 of the Constitution, like its predecessors in earlier enactments, concerns the ban on imperative mandates. Deputies are not bound by any instructions given by their voters.

Section 29 does not mean that the Eduskunta couldn't appoint some of its members to negotiate on the basis of an approved mandate and instructions from a competent organ of the Eduskunta. Such an appointment is a position of trust, that is accepted voluntarily and from which one can resign or be removed. As it is impossible to foresee all possible situations, it is most appropriate that any regulations on convention delegate's duty to report to and consult with organs of the Eduskunta are defined at the time of each appointment. These regulations could be approved as General Guidelines of the Speaker's Council.

## ***II.7 Hearing the Åland regional parliament<sup>4</sup>***

Article 6 of the subsidiarity protocol requires that national parliaments arrange for the consultation of legislative regional assemblies on subsidiarity.

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<sup>4</sup> The translation of this chapter has been adapted for a non-Finnish readership.

The Province of Åland has an original competence in many legislative and administrative fields that is independent of the Finnish Republic. Both the Republic and the Province ceded power to the European Union on accession. European directives need to be implemented separately in the Republic and in the Province. The Province of Åland is represented by the provincial government, which is accountable to the provincial parliament. The provincial government defines Finnish policy on EU proposals within the province's competence. The Province has the right to participate in the preparation of Finnish positions on EU proposals, when they touch issues within the Province's competence. When national and provincial views can not be reconciled, the national government is obliged to express to the EU institutions also the provincial view, if the Province so requests. The provincial government also has the right to be represented in the Finnish team negotiating issues of provincial concern.

The Åland regional parliament participates in the formulation of the Province's EU policies in broadly the same way as the Eduskunta participates in national policy formulation. The current arrangement gives the provincial parliament greater influence than does the constitutional treaty: under existing law, the provincial parliament can instruct the provincial government to present a view that becomes part of the Finnish national position. Under the subsidiarity protocol, the provincial parliament will be consulted on subsidiarity by the national parliament.

### III. THE COMMITTEE'S PROPOSALS

#### *III.1 The foundations of the system for national policy formulation on EU matters*

According to section 93 subsection 2 of the Finnish Constitution, the Eduskunta participates in the national policy formulation and decision-making that relates to decisions made in the European institutions. Section 96 obliges the government to ensure the Eduskunta's ability to influence all those EU decisions that would have been made by the Eduskunta if Finland were not in the EU. Section 97 gives the Grand Committee and Foreign Affairs Committee an unlimited right to be informed about matters being dealt with in the EU and to state their opinion on these matters. The government has a corresponding right to submit to the Eduskunta's committees any EU business that the government deems to require parliamentary input.

The constitutional arrangement whereby the Eduskunta participates in national policy formulation on EU matters can be deemed a success. Thanks to this arrangement, Finland's representatives in the institutions always represent a national position that also has parliamentary backing. The system guarantees the parliamentary accountability of national policy formulation and of Finland's representatives. National policy formulation is provably fast and certain.

The system can be considered completely satisfactory from the Eduskunta's standpoint. The Eduskunta has the *de facto* power to set national policy in those questions before the EU that the Finnish constitution assigns to the Eduskunta. The Eduskunta itself decides what the constitutional limits to its powers are. The proposals made in the following deal with technical matters and can be implemented within the current system.

The treaty creating a Constitution for Europe creates no need to change the current system for national policy formulation on EU matters. The constitutional treaty does not affect relations between the Eduskunta and the government. The treaty's provisions on national parliaments can be understood as subsidiary and complementary to the existing Finnish system.

*The committee considers that the system for national policy formulation on EU matters that is ordained in sections 93, 96 and 97 of the Finnish Constitution is functional and will remain so after the constitutional treaty becomes effective.*

### ***III.2 Effects of abolishing the pillar structure***

The division of competences between the Grand Committee and the Foreign Affairs Committee is based on the wording of section 96 subsection 2 of the Constitution. The Grand Committee has the general competence to deliberate on the Eduskunta's behalf questions that are decided in the EU and otherwise (without the EU) would be decided by the Eduskunta. The Foreign Affairs Committee's competence to deliberate proposals related to foreign and security policy has been phrased as an exception from the Grand Committee's general competence. According to the *travaux préparatoires*, the wording of the section refers to the Union's Common Foreign and Security Policy. The division of competence between the committees was linked to the Maastricht Treaty's pillar structure, that is, proposals related to foreign and security policy is understood to mean proposals that the Union will deal with according to section V of the Treaty Establishing the European Union.

This division means that the Union's external actions are divided into two groups for the Eduskunta's internal purposes. The Common Foreign and Security Policy (including the Common Security and Defence Policy) are the exclusive preserve of the Foreign Affairs Committee. Other external action (common trade policy, cooperation with third countries, including development cooperation, and humanitarian aid) belong to the competence of the Grand Committee, to which the Foreign Affairs Committee may present its opinions. When some external action involves the competence both of the Union and the member states, the Foreign Affairs Committee has primary responsibility for the national component, while the community element is the responsibility of the Grand Committee, to which the Foreign Affairs Committee may present an opinion.

The work of the Grand Committee and Foreign Affairs Committee in the external relations field is largely parallel and mutually complementary. When the Foreign Affairs Committee deliberates foreign and security policy, which is its prerogative, trade policy, development cooperation and humanitarian aid naturally come up in this context. Correspondingly, when the Grand Committee examines trade policy, third country cooperation, development cooperation or humanitarian aid, the focus will be on the legislative and budgetary decisions through which the Union carries out its external actions.

The treaty creating a Constitution for Europe abolishes the Maastricht Treaty's pillar structure. As the division of competence between the Grand Committee and the Foreign Affairs Committee is linked to the pillar structure, the interpretation of section 96 of the Finnish Constitution needs to be examined.

Although the pillar structure will disappear, the constitutional treaty continues to identify the Common Foreign and Security Policy as a distinct concept in a separate chapter in the section of the treaty dealing with the Union's external activities. The Union's external activities become a distinct entity of which CFSP is a part. The Common Foreign and Security Policy, like other sector policies, is based on strategic goals defined by the European Council. The Union's external actions are decided by the external relations composition of the Council. According to the constitutional treaty, foreign and security policy decisions are made in the form of European Decisions, whereas other external activities may be the subject also of European Laws and European Framework Laws.

*The committee observes that the abolition of the Union's pillar structure through the constitutional treaty does not change the Union's decision-making on foreign and security policy in a way that would necessarily affect the interpretation of section 96 of the Finnish Constitution. The foreign and security policy that section 96 defines as the preserve of the Foreign Affairs Committee remains a clearly delimited entity with special rules about competence and decision-making.*

### ***III.3 The committees' competence in treaty revisions***

The competence of the Grand Committee and Foreign Affairs Committee to deliberate changes to the EU's fundamental treaties is multifaceted. Government Bills to approve and implement treaties are subject to preliminary deliberation in a (sector) committee. The basic treaties of the EU are without doubt the kind of treaties of foreign policy significance that should be deliberated by the Foreign Affairs Committee.

The committees' competence to deliberate preparations to change the treaties has not been regulated in detail. The Government Reports that are submitted before IGCs have to be deliberated in committee. Both the Grand Committee and Foreign Affairs Committee would be involved in handling a Report on the IGC. The Speaker's Council's General Guidelines do not say clearly which committee writes the report. The Speaker's Council can propose that the Report is sent for report to the Grand Committee, the Foreign Affairs Committee or any other committee.

Government Reports on amending the treaties have so far always been sent to the Foreign Affairs Committee for report. In theory, the Eduskunta's and the committee's influence is at its peak when dealing with a Report. Thus transferring such Reports from the Foreign Affairs Committee to the Grand Committee could be seen as diminishing the FAC's competence to deliberate important treaties. It also needs to be considered whether the Grand Committee can easily assume the role of a sector committee dealing with non-EU business. The Grand Committee has so far twice acted as a reporting committee in an EU-related matter; both reports had to do with Finland's entry into the third phase of economic and monetary union.

When assessing the importance of committee reports on Government Reports about IGCs, it should be recalled that the Government Report contains the government's advance notions of the IGC's agenda. In practice, the positions adopted in response to these Government Reports have needed modification from the first sitting of the IGC.

During the treaty negotiations, section 97, subsections 1 and 2 of the Constitution are the prime vehicles for parliamentary influence. The prime minister reports before and after the IGC either to the plenary session or to one or more committees. The Foreign Affairs Committee's right of information is guaranteed in the first sentence of subsection 1, because the negotiations concern Finland's foreign and security policy. Negotiations to amend the treaties take place in a separate inter-governmental conference that is formally outside the Union's institutional structure. The Grand Committee's right of information is covered by the second sentence, which is interpreted to include negotiations about the Union among member states. When the Convention becomes a permanent treaty fixture,

the Grand Committee's competence will have a direct constitutional basis. Nonetheless, the constitutional treaty will remain a treaty between the member states.

As a practical matter it may be noted that the progress and agenda of conventions and IGCs are standard features on the agenda of the different compositions of the EU Council. This means that treaty negotiations regularly appear on the agendas of the Grand Committee and Foreign Affairs Committee also on this basis.

Government Reports of this sort are a relatively rare occurrence. The political interest in the reports about them is based on their being the first comprehensive and normative statement of Finland's negotiating goals. Usually they are also the only negotiating mandate that is given by a full session of parliament. Concerned committees that don't write the report will in practice still write an opinion that is appended to the report. There is thus no real danger that any important opinion or view is not stated.

The importance of the choice of the reporting committee should not be overstated. The question can be approached from a practical point of view. It would be overly simplistic to view every treaty amendment as a foreign and security policy issue. Now that Finland's EU membership is an established fact, the internal administration of the Union is hardly foreign policy. It is impossible to guess beforehand what the next treaty amendments will be about, it might be internal policies or external relations. Practicality favours the solution that the reporting committee is chosen according to the subject of each treaty revision. Some overlap may be unavoidable, but this need not be very serious.

*The committee finds that there is no need to change current statutes and guidelines concerning committees' competence to deal with changes of the EU treaties. Government Bills to approve and implement such treaty changes will be sent to the Foreign Affairs Committee for report and usually for opinion to the Grand Committee and any sector committee, whose area of concern is affected by the treaty change.*

*The plenary session decides, on the advice of the Speaker's Council, which committee writes the report on Government Reports concerning preparations to change the treaties. The plenary session also decides which committees are to give their opinion to the reporting committee. The Speaker's Council's proposal shall be based on the main content of the Government Report.*

### **III.4 Committees' time use and procedures<sup>5</sup>**

*The committee proposes that when sending U-matters to sector committees, the Speaker leaves to each committee's discretion whether a formal written opinion to the Grand Committee is necessary. The Speaker and the Grand Committee can still require a formal opinion, when this is deemed necessary.*

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<sup>5</sup> In view of their technical nature, the arguments of the committee have been omitted from the translation. The recommendations have been abbreviated for the same reason.

*The committee recommends that guidelines on the minimum requirements for the handling of U- and E-matters be added to the General Guidelines for Sector Committees. When sector committees decide not to issue a formal opinion, they shall inform the Grand Committee of this and also indicate for the record what experts have been heard.*

*The committee suggests that sector committees and their clerks be reminded that section 42 of the Eduskunta's Rules of Procedure requires opinions to be written concisely. To promote brevity, the committee suggests that new templates for "short format" opinions be added to the collection of model texts.*

*The committee draws attention to the best practices of certain sector committees and recommends that they be adopted elsewhere:*

- *The Committee for Agriculture and Forestry arranges a weekly hearing with its counterpart ministry to form an overall view of the EU's activities and plans in the committee's sphere of interest.*
- *The Committee for Transport and Communications hears its counterpart ministry before each EU Council dealing with issues in the committee's sphere. This allows the committee to prepare any last minute refinements of national positions that might be needed before the Grand Committee hears the minister.*
- *The Committees for Finance, Administration and Agriculture and Forestry agreed among themselves a distribution of tasks in handling the EU's 2007-2013 Financial Frameworks, thus avoiding considerable duplication of effort.*

### ***III.5 Handling EU matters in plenary session***

It was noted in the descriptive section of this report that the number of plenary debates on EU issues is small in relation to their importance. It was further noted that the existing Rules of Procedure offer numerous opportunities for organising such debates.

The current situation is clearly unsatisfactory. If EU issues are almost half of the Eduskunta's docket, this should be reflected in the plenary agenda. Most European legislation and projects are quite narrow in scope and are thus not promising material for a parliamentary debate. Even so, the Grand Committee and Foreign Affairs Committee handle every year subjects that raise questions of principle or are of national importance. Mention could be made of the European draft legislation on biotechnology and genetic engineering, negotiations within the WTO and, for example, the commitment of certain large member states to the growth and stability pact. The plenary session would also be a natural forum for debates on such nationally vital issues as the Lisbon competitiveness strategy.

A central goal when reforming the plenary session in recent years was to enliven debates by increasing their topicality. On the other hand, the plenary agenda is fixed well in

advance and it is often difficult to add "extra" items within three weeks. The Eduskunta should develop its ability to take up for plenary debate at short notice EU-related subjects of general interest.

The Rules of Procedure contain all the procedures necessary to allow plenary debate of any EU issue.<sup>6</sup>

The committee remarks that, although more EU debates are welcome, they are useful only when they are genuinely topical and interesting. This is one reason why most European Councils and, for example the Commission's legislative programmes have not been debated in plenary session. The constitutional treaty should increase the value of the legislative programmes.

For the same reason, the proposal to arrange simultaneous EU debates in all national parliaments should be approached with caution. The proposal is good if it leads to genuine debate. However, if the debate is perceived as artificial, it may seriously harm the Union's credibility.

*The Speaker's Council is central in developing plenary debates. Matters to be decided by the Eduskunta are prepared by committees. These matters are dealt with elsewhere in this report. In addition to actual decisions it is important that the plenary session debates European issues as often as their importance dictates.*

*The committee proposes that the number of plenary debates on European issues is increased. To this end, the committee suggests*

- *that the agenda of each European Council should be examined with an eye to whether it merits a plenary debate;*
- *that the European Commission's annual legislative programme, the multi-year financial frameworks and other proposals that will commit the Union to given policies are debated in plenary session in accordance with section 97 of the Constitution;*
- *that the Speaker's Council considers favourably proposals from the Grand Committee or Foreign Affairs Committee to arrange at short notice plenary debates on EU issues that have arisen in the committees;*
- *that the Speaker's Council looks into ways to develop Question Hour, for example by devoting certain Question Hours or parts thereof to European issues.*

### ***III.6 Hearing MEPs in the Eduskunta***

It was noted elsewhere in this report that members of the European Parliament do not participate in the Eduskunta's handling of EU matters as much as could be desired. The

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<sup>6</sup> The committee's analysis of the Rules of Procedure, following this paragraph, has been omitted from the translation in view of its technical nature.

Rules of Procedure give MEPs no formal position in the Eduskunta. To give MEPs a formal role, *i.e.*, allow them to attend committee meetings on a permanent basis, would probably require amending the Constitution. This is, however, not necessary, as the needed interaction between national deputies and the MEPs can be achieved within the existing statutes.

*The committee suggests that in addition to the regular meetings of the Grand Committee and Foreign Affairs Committee with Finnish MEPs, the sector committees should arrange periodic meetings with Finnish MEPs serving on committees with similar terms of reference. At the discretion of the committees, representatives of the relevant ministries and other interested parties might also be invited.*

*The Eduskunta's EU Secretariat maintains a register of the rapporteurships of Finnish MEPs. The committee suggests that sector committees, when handling more important U- or E-matters, give consideration to hearing the EP rapporteur. This needs not necessarily be limited to Finnish MEPs.*

### ***III.7 Developing EU documents<sup>7</sup>***

### ***III.8 Subsidiarity control and handling documents received from the EU institutions***

According to articles 1 and 2 of the parliament protocol and article 3 of the subsidiarity protocol, the EU institutions will send to national parliaments all their legislative proposals, the European Commission will also send all preparatory documents relating to legislation.

The subsidiarity protocol allows national parliaments to present to the Speaker of the European Parliament and the Presidents of the Council and Commission reasoned statements about whether a legislative proposal conforms with the subsidiarity principle. The deadline for such statements is six weeks from the despatch of the legislative proposal in all official languages. The initiator of the proposal will take note of the objections of national parliaments. If the same objection is supported by at least one third of national parliaments (one fourth for justice and home affairs), the initiator will reconsider the proposal. After reconsidering, the initiator can maintain, amend or withdraw the proposal.

The subsidiarity principle has been European law since the Treaty of Maastricht became effective in 1993. A violation of the subsidiarity principle can be claimed, both under

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<sup>7</sup> In view of its technical nature, this chapter has been omitted from the English translation.

existing European law and under the constitutional treaty, if the following requirements are met: (1) the proposed EU action is not in the Union's exclusive competence and (2) the goals of the proposed action can be adequately achieved by national, regional or local measures.

The constitutional treaty should be understood to necessitate the creation of a procedure, whereby the Eduskunta, if it wishes, can raise an objection on subsidiarity grounds.

Subsidiarity is one of the issues that the Eduskunta's committees have routinely examined in EU proposals since 1995. The constitutional treaty only adds two new elements: (1) the Eduskunta can address any objections directly to the author of the proposal, and not just to the Council through the Finnish government, as now; (2) in addition to the current average of 90 – 100 U-matters per year, the Eduskunta will receive potentially hundreds of proposals that in Finnish practice would have been delegated to the government or the administration as not requiring parliamentary input. This number may be smaller if the EU makes greater use of the option to delegate legislation to the Commission.

The committee considers that it would be most appropriate for the Grand Committee to carry out the subsidiarity control. The Grand Committee would normally draw on the inputs of sector committees. If the Grand Committee deems it appropriate to raise an objection on subsidiarity grounds, it would propose this to the plenary session in a report. The foreign and security policy decisions handled by the Foreign Affairs Committee are not subject to the legislative procedure and hence not subject to subsidiarity control.

The committee does not think it necessary nor, given their numbers, even possible for every EU proposal to be automatically examined in committee. The committee suggests that documents received from the EU institutions are distributed electronically by the EU Secretariat to the appropriate committees. The Grand Committee will put a proposal on its agenda only on the suggestion of a member or of a sector committee. The Grand Committee may impose deadlines for such suggestions.

To ensure that subsidiarity control is systematic, the committee proposes that the EU Secretariat be directed to maintain a running subsidiarity examination of documents received and to report any findings to the Grand Committee. The EU Secretariat shall also monitor preparatory work in the institutions and keep the Grand Committee informed of developments. The need to strengthen the secretariat's staff will be evaluated separately. The government is obliged to notify the Eduskunta of any legislation being prepared in the EU that may raise questions of subsidiarity.

Subsidiarity control according to the constitutional treaty is different in kind from the current scrutiny method, which is based on the government's accountability to the Eduskunta. It would be in accordance with the Finnish system for the Grand Committee to consult with the government on subsidiarity issues. Subsidiarity will continue to be an element of the scrutiny of U- and E-matters.

The Grand Committee will need to deal with subsidiarity objections raised by other national parliaments. The Grand Committee may also ask other national parliaments to support its objections. The committee does not consider that these situations require any special regulation; the Grand Committee can act in accordance with its own lights and whatever practice evolves.

## **Legal questions related to subsidiarity control**

The constitutional treaty's provisions about national parliaments raise questions related to the Finnish constitution. An international treaty gives the Eduskunta tasks that are not foreseen in the Constitution. This is one of the questions that the Constitution Committee will need to address when assessing the treaty's conformity with the Finnish Constitution on the basis of the Government Bill to approve and implement the treaty. The Constitution Committee will also need to decide what type of national legislative measures are needed to implement the national arrangements implied by the treaty. It is sufficient for this committee to indicate a few salient points.

The constitutional treaty's arrangement, whereby the Eduskunta directly participates in the EU's decision-making through decisions made in its own name (rather than of the Finnish Republic), is a constitutional novelty. As the Eduskunta could act on all EU legislative proposals, this implies a broadening of the Eduskunta's current terms of reference, which are limited to issues not delegated to the executive branch.

The committee suggested above that the Grand Committee take charge of subsidiarity control. The final decision to lodge an objection on subsidiarity grounds would be made by the plenary session on the advice of the Grand Committee.

The committee's proposal can be implemented through an amendment of the Eduskunta's Rules of Procedure. The committee's remit does not include the question whether the new tasks created by the constitutional treaty will also need to be regulated in the Act implementing the constitutional treaty.

One of the leading ideas behind the Constitution of 2000 was that the Constitution should contain only those regulations about the Eduskunta that concern the Eduskunta's role as the supreme organ of state and have application outside the Eduskunta itself. The intention was also to improve the Eduskunta's ability to take up new kinds of business. Section 39, subsection 1 of the Constitution allows the Eduskunta to decide to take up new issues by a simple amendment of its Rules of Procedure.

The role of the Rules of Procedure was strengthened with the new Constitution, as many of the regulations governing the Eduskunta in the old constitutional enactment were shifted to the Rules of Procedure. At that time the procedure for amending the Rules of Procedure was made similar to the procedure for adopting an Act of Parliament.

The decision to lodge a subsidiarity objection with the EU institutions is different in kind from other decisions that the Eduskunta makes as an organ of state. A subsidiarity objection is rather like a procedural objection in a court of law: a national parliament says that the competence to decide some issue rests with national, regional or local authorities, not the European Union. The Union institutions must examine this claim and draw the appropriate conclusions. A subsidiarity objection by a national parliament should not, in principle, say anything about the merits of the proposal.

For the Eduskunta, sections 96 and 97 will remain the only effective means to address the substance and merits of EU proposals. The opportunity to exert influence through the government is available for as long as each proposal is pending in the European institutions. Subsidiarity claims neither add to nor subtract from the Eduskunta's powers.

The subsidiarity procedure also does not commit the Eduskunta concerning the substance of European proposals.

*The committee proposes that the decision to make an objection to the EU institutions on the grounds that the subsidiarity principle has been violated should be made by the plenary session on the initiative of the Grand Committee. The Grand Committee would thus be a kind of threshold for subsidiarity objections. The Grand Committee's report should normally be based on the opinion of the appropriate sector committee and a hearing of the government.*

### ***III.9 Subsidiarity control ex-post***

Article 8 of the subsidiarity protocol states that the Court of Justice of the EU is competent to adjudicate complaints about non-conformity with the subsidiarity principle that have been laid by member states or forwarded by member states on behalf of their national parliaments (or chambers) in accordance with national legislation.

The meaning of article 8 is open to interpretation. It is unclear, for instance, whether the EU Court would examine the actual conformity of EU legislation with the subsidiarity principle, or only whether procedural rules were applied correctly. It is also unclear what the article means by complaints laid by member states on behalf of a national parliament in accordance with national legislation.

Under current rules, the Eduskunta has several ways to compel the government to take a particular action. The Eduskunta can express its wishes, for example, in a resolution appended to report on a Government Bill or Government Report. The resolution will be communicated to the government with the underlying report.

The committee believes that complaints to the EU Court by national parliaments will be rare. Article 8 of the subsidiarity protocol nonetheless creates a new category of business that needs to be accommodated in the Rules of Procedure.

The committee proposes that the Eduskunta's position in respect of laying complaints to the EU Court is decided by the plenary session on the initiative of the Grand Committee. This would be consistent with the proposal for *ex ante* subsidiarity control.

*The committee proposes that the Eduskunta's position in respect of laying complaints to the EU Court in accordance with article 8 of the subsidiarity protocol is decided by the plenary session on the initiative of the Grand Committee.*

### ***III.10 Procedures related to passerelle clauses***

Section IV-444 of the constitutional treaty states that national parliaments shall receive proposals for European Decisions authorizing the use of qualified majority voting or the general legislative procedure in cases where the treaty specifies unanimity or some

special legislative procedure. If a single parliament opposes the proposal within six months, the European Decision cannot be adopted. This article gives national parliaments a veto.

In part II of this report, the committee observed that decisions under article IV-444 are effectively treaty amendments. The committee believes that these issues should be decided by the Eduskunta's plenary session on the advice of a committee.

The Finnish Constitution does not know the possibility that the Eduskunta would deal with amendments to an international treaty other than on the basis of a Government Bill. The constitutional treaty calls for these proposals to be sent directly to national parliaments. The Eduskunta would decide to accept or oppose the proposed change. Changing the constitutional treaty clearly deserves as thorough a procedure as, for example, a Government Bill. The Eduskunta's decision should thus be based on the advice of a committee.

When the constitutional treaty becomes effective, it – including article IV-444 – will be directly applicable in Finland. The Eduskunta only has to decide the procedural details, which can be regulated in the Rules of Procedure. The procedure should be as similar as possible to other Eduskunta decisions that require preparatory work in committee. The proposal of the European Council should be subjected to an initial debate and then sent to either the Grand Committee or the Foreign Affairs Committee for report and possibly to other committees for opinion. The committee report would contain a proposal for the Eduskunta's decision to approve or oppose the European Council's initiative to change the constitutional treaty. The matter would be decided by the plenary session in a single reading.

Article IV-445 of the constitutional treaty states that the European Council may decide to change the provisions in part III of the treaty, concerning internal policies. Such a decision requires ratification in each member state, like a traditional treaty arrangement. The Eduskunta would deal with such changes on the basis of a Government Bill.

*The committee proposes that provisions for the handling of treaty changes in the sense of article IV-444 of the constitutional treaty be appended to the Rules of Procedure.*

*The committee notes that treaty changes in the sense of article IV-445 do not require any adaptation of current procedures. They can be dealt with in the standard procedure for treaties.*

### ***III.11 External representation of the Eduskunta***

The constitutional treaty's provisions on national parliaments will somewhat increase the number of inter-parliamentary meetings, joint hearings and similar events. COSAC will continue much as before. The common denominator of the treaty's provisions on parliamentary cooperation is that no decisions will be made in the name of participating parliaments and no constitutional powers will be exercised. Despite being mentioned in the treaty, such cooperation can be likened to informal contacts between parliaments.

Participation can be approved by the Speaker's Council or the Grand Committee's working sub-committee, as the case may be.

Article IV-443 makes the Convention a permanent and compulsory preparatory body for treaty changes. The Eduskunta will also appoint delegates to future Conventions. When the constitutional treaty becomes effective, these delegates will be elected by the plenary session. The Convention delegation can be replaced during its mandate, if the Eduskunta so decides.

The duty of convention delegates to report to and consult with competent organs of the Eduskunta should be regulated in General Guidelines. As the agenda and composition of future conventions is unknown, the committee believes it most appropriate for the General Guidelines to be approved at the time of appointing Convention delegates.

The committee proposes that a provision authorising the Speaker's Council to adopt such guidelines is added to the Rules of Procedure.

*The committee notes that when the constitutional treaty becomes effective, the power to appoint the Eduskunta's delegates to Conventions drafting treaty changes will shift to the plenary session.*

*The committee proposes that when Convention delegates are appointed, Guidelines outlining their duty to report to and consult with competent organs of the Eduskunta are approved.*

### ***III.12 Hearing of the Åland regional parliament<sup>8</sup>***

*The committee proposes that the hearing of the Åland regional parliament on subsidiarity issues be arranged as part of the subsidiarity control activities of the Grand Committee. The Rules of Procedure need to be amended.*

*The Eduskunta's information management systems need to be adapted to allow information (on subsidiarity related issues) to be sent to the Åland regional parliament at the same time as it is disseminated in the Eduskunta.*

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<sup>8</sup> The technical arguments of the committee have been omitted from this translation.

## ANNEXES

The following annexes to the report have been omitted from the English translation:

1. A draft Speaker's Council proposal for amending the Eduskunta's Rules of Procedure.
2. The full text of the articles in the constitutional treaty referring to national parliaments.
3. A compilation of the statements received from the Eduskunta's committees about the current scrutiny procedures.
4. A compilation of the statements received from government ministries and the Chancellor of Justice about the current scrutiny procedures.