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I would like to thank the Chair very much for this possibility to speak on the support of parliamentary administrations for parliamentary scrutiny and the quality of the EU legislation.

I believe that as Secretaries general of parliaments we all share one responsibility and that responsibility is to organise parliamentary democracy. We of course, all of us do this within given constitutional frame. But nevertheless, democracy can be strengthened through measures of organisation, innovation and - I would say - intelligent use of resources.

Given that we all are confronted with the same challenges, I believe that there is a chance for mutual learning. So, what I would like to outline is on the EU system, but I would not exclude that you might find ideas which could also be useful in your own national system.

What we have done is that we have conducted a systematic search for chances to strengthen the parliamentary democracy.

The method was to check the strengths and weaknesses of the European Parliament's involvement along the whole legislative cycle. You are just been receiving a paper which is called "Completing the legislative cycle". There, green means that we are happy with the current state of play of affairs, yellow means that we have to improve, red means that we should do something but that the action or the structure needed are not yet in place. The first version of this document occurred about 15 months ago, and I am happy to report to you that there is already much more green and yellow than this was the case at the beginning.

So, what are we doing if we identify weaknesses?

If we identify weaknesses, we try to set up new processes or new structures. The aim is to move step by step from red to yellow and from yellow to green.

In this document you will find on one page the four phases of the legislative cycle. We have defined them as follows:

1) **Agenda setting**, which is the first phase,

2) **Consultation**, which could be the second phase,

3) **Legislation**, which means the amendment process and the final adoption of the legislation. This is the third phase,

4) **Scrutiny**.

At the end of a process of about 20 years between the Maastricht Treaty in 1991 and Lisbon Treaty, which finally came into force in 2009, we believe to have become equal law-maker with the Council of Ministers in 90% of cases. For this reason, we have - step by step - added resources in what is our core business: legislation. But there are other areas which remain to develop if we want to play a role over the whole legislative cycle, from agenda setting to consultation, from legislation to scrutiny. And I would like to go through these issues one after one.
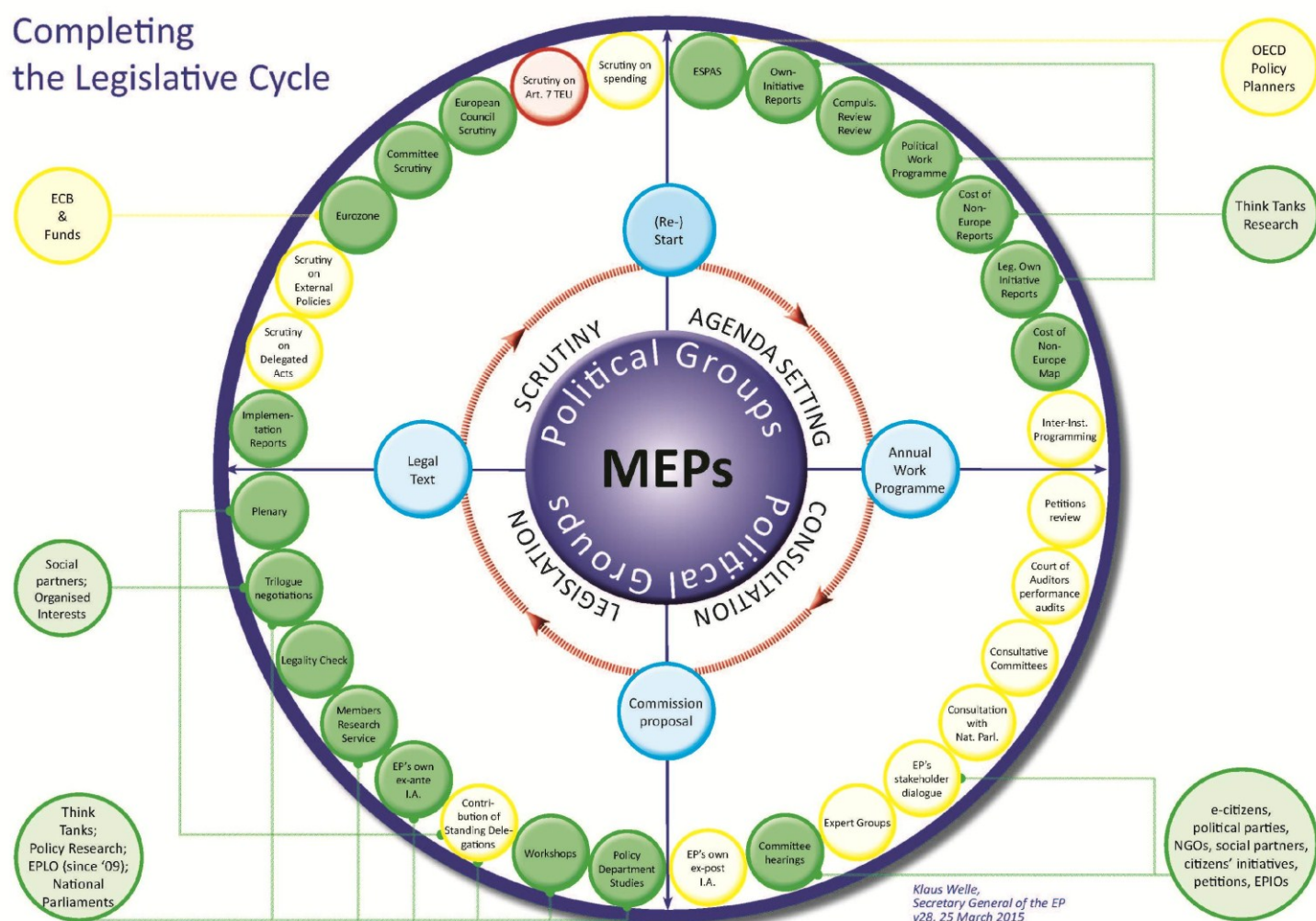

Figure 1: Completing the Legislative Cycle

I. AGENDA SETTING

In the Lisbon Treaty you find in the article 17 the following sentence, which reads: *"The European Commission initiates the annual and multiannual programming of the Union with a view to find an inter-institutional agreement"*. So, this is not the Commission alone which has the vocation to set the agenda. The Commission in fact is requested under the Lisbon Treaty to find an agreement with the other institutions, with the Council of Ministers and with the European Parliament.

In order for this provision of the Treaty to be finally established in practice three preconditions need to be fulfilled.

− The first is that we develop a viable procedure between the institutions, the Commission, the Parliament and the Council of Ministers.

− Secondly - that is our own homework - that within the European Parliament we need to be able to reach consensus on content. In other words: what would we like to see on the agenda in the coming years?

− And thirdly, we need to put ourselves into a position to reach a lasting consensus on content between the institutions, so between the Commission, the Council of Ministers and the European Parliament.

One contribution we have made to this process is a revival of the idea of cost of non-Europe. Cost of non-Europe is not a new concept; it is basically the idea which was at the basis of the Internal Market programme 25 years ago. The idea was that there are situations where it is more beneficial to replace 28 sets of different regulations by one set of regulation or legislation, and that there can be substantial potential benefits in this process. So, what we have been doing over the last 3 years is to start with important own-initiative reports that the Parliament has voted with large majorities - 500, 550, 600 votes. When this support indicates a large and potentially lasting consensus inside the House, we are asking for legislative initiatives to be taken and we are submitting these initiatives to a study addressing a very simple question: "is there a cost of non-Europe if the Commission decides not to act?" In other words, is there a European Added Value to do this together in Europe rather than 28 times separately? So, we have tried to determine the material benefit of additional European integration. In the sheet which is in front of you, you have an overview of how we currently estimate the potential benefits of additional European integration, so the cost of non-Europe.

Cost of NON-EUROPE Map

TOTAL: ± € 1597 billion

Single Market for Consumers and Citizens
€ 615 billion

Digital Single Market
€ 415 billion

Integrated Energy Markets
€ 250 bn

Transatlantic Trade Agreement (TTIP)
€ 68 bn

Common Unemployment Insurance Scheme
€ 17 bn

Equal pay for equal work
€ 13 bn

Combatting violence against women
€ 7 bn

Single European Transport & Tourism Areas
€ 11 bn

Information and consultation of workers
€ 3 bn

Common Security and Defence
€ 26 bn

Water legislation
€ 25 bn

Improved coordination of fiscal policies
€ 7 bn*

Donor coordination
€ 0.8 bn

Banking Union to avert a new financial crisis
€ 21 bn*

European Research Area
€ 22 bn

Combatting VAT fraud
€ 9 bn

Common Deposit Guarantee Scheme
€ 5 bn*

Completing Reform of Financial Services Sector
€ 82 bn

OTHER AREAS:

Cross-border transfer of company seats
€ 0.04 bn

Codification of Private International Law
€ 0.1 bn

Codification of Passenger Rights
€ 0.355 bn

European Arrest Warrant
€ 0.043 bn

Cross-border Voluntary Activity
€ 0.065 bn

To be assessed:
- European Mutual Society
- EU Law of Administrative Procedure

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* annualised one-off losses in the event of a crisis

Figure 2: Mapping the Cost of Non-Europe

What such a synthetic document does is a little bit what you would expect from a map of oil fields in Saudi Arabia. So, it indicates the areas where it would be beneficial to dig, to invest, to invest work, to do something together. And it equally indicates where maybe such benefits of increased cooperation and integration are unlikely to be there. So, you see in the graphic presentation here that there is still enormous benefit in the completion of the Single Market; there is still enormous benefit to develop the Digital Single Market in Europe, to complete the framework of the Banking Union, to successfully establish a balanced TTiP, and other issues which are mentioned as well. So, on one page, you get an overview on where it may be especially beneficial to invest European efforts to further integrate.

The outcome of this is that digital should be a key priority; that completing the Single Market should be a key priority; that completing the legislative framework around the Euro and Banking Union should be a key priority; that energy should be a key priority, that also TTiP should be a key priority.

The first version of this document was available in March 2014, last year, when the decisive phase of the European election started. It was available for the lead candidates. And I think it is a very good sign that, when you have a look at the *10 Point Juncker Plan for Growth without Debt* - which Jean-Claude Juncker presented before the vote in the Plenary of the European Parliament which elected him as President of the European Commission - you will find that a lot of these lines of action have been identified and taken on board.

So, this means that we have moved forward - within Parliament as well as between Parliament and Council - in developing a common focus on those policy fields in which a clear potential European Added Value exists.

And I think there is one element which could be especially relevant in this forum. The cost of Non Europe approach may be after all - we have to discuss it together - a good tool to finally quantify the subsidiarity principle. Because we have been struggling with the subsidiarity principle in the past asking ourselves: is the subsidiarity principle met? Is the subsidiarity principle violated? I would personally argue that, if we can prove that there is a significant cost of non-Europe or additional European Added Value, the subsidiarity principle is respected, because it makes sense to do this together on the European level, because there is a clear additional benefit for citizens. But the opposite is also right: if it cannot be proven that there is additional European Added Value, if it cannot be proven that there is a cost of non-Europe, then there might be a strong argument to say that such an issue should rather be dealt with on the national level.

II. CONSULTATION

The second phase, we have called it <u>consultation</u>. So, what is the idea behind this 'consultation'?

The idea is the following: after the agenda has been set, after the European Commission has submitted the annual legislative and work programme, we still normally have between 6 and 9 months until the precise legislative proposal is submitted.

So, the question is: how can we make best use of these 6 to 9 months between the moment we know what is in the annual legislative and work programme and the actual proposal is on the table?

- Our conclusion is that this time could be used, especially when we are discussing amending legislation, to understand what went well and what went wrong with the existing legislation in a specific field. In fact, revision is increasingly what we are doing. In the 2014 Work Programme of the European Commission, there were 43 files of amending legislation. This means that there was already legislation in place, which in turn means that we have had experience with European legislation in that specific domain. So the suggestion which we are making is that we could use these 6 to 9 months between programme and legislative initiative in order to find out what went wrong with the existing legislation.

How can we learn? How can we improve? How can we do better? And how can we systematically draw in experience with existing legislation to make use of it in the process of amending and establishing the new legislation?

- You'll find here a number of suggestions about what we could do in order to get additional expertise into the process of amending legislation. And the suggestions here are:

1) first - **petitions.** If we have thousands of petitions from citizens on an existing legislative act, probably there is something wrong with that legislation. So, we have to systematically draw this experience into the legislative committees. So now our Petitions Committee has been organised to be able to provide us - as soon as we know the annual work programme - with a specific assessment of each piece of legislation proposed to be revised: has this been problematic for citizens as they have expressed themselves through the petitions?

2) secondly - we have made an agreement with the **Committee of the Regions** and **the Economic and Social Committee**. And we are asking them now, on all the pieces of amending legislation: do you have any relevant experience from your regional and local actors and from economic and social actors, relevant experience and assessment which you want us to take into account when amending the legislation?

3) the third point is **national parliaments**. You have seen last year - maybe to your surprise - that the President of the European Parliament addressed to your parliaments asking you: is there any experience you might wish to share with us on existing legislation that now goes into the process of amendment by the European Parliament? And if you have such experience, we would be extremely happy to receive it. This means that national parliaments are now invited to contribute with their own experience on existing legislation, in order to have an impact in the legislative process directly.

4) the fourth point is the **Court of Auditors**. The European Court of Auditors has traditionally been focusing very much on error rates. The question with them is: have spending programmes been correctly implemented and what are the error rates in implementation?

- We know now, after 20 years, that the error rate is always between 3 and 4%: 3.2, 3.7, 3, 4, 3½ ... And the novelty to know that this year the error rates was 3.6 and not 3.2 is relatively limited. So, we would be better off receiving from the European Court of Auditors more and more performance audits. So, not only the question - have there been errors but, more bluntly, is the legislation working? Or is the legislation not working? Is the spending programme producing the intended benefits? Or is it not producing the intended benefits? Why is this important?

- Because if it is not producing the intended benefits, even if the error rate is very low, we shouldn't continue that programme.

That is, by the way, the methodology that is already applied since the 1960's in the Government Accountability Office of the United States. They are cooperating very closely with the US Congress in determining the performance of the various spending programmes and the overall performance of legislation, before the spending programme and before the legislation is being amended. So, we are hoping that the Court of Auditors more and more goes into this direction taken by the US Government Accountability Office with their performance audits, and will provide us with precise expertise once a spending programme and once the legislation is up for amendments.

5) We are also participating in **experts groups** gathered by the European Commission. This is very useful because that is the place where the governments of Member States and their specialised experts have their 'honest moment' and can explain why they want the legislation to be changed.

6) We have started in a pilot programme on **stakeholder consultation**, not only in Brussels but also through our Information Offices in the Member States. Because it is not only interesting how associations and lobbies centrally in Brussels feel about the revision of an existing piece of legislation, it is also interesting how organised

interests and policy networks in the Member States feel about it. So, we are inviting legislative rapporteurs who are delivering the legislation on a specific file to not only consult in Brussels but also to consult wherever there is a direct interest in one of the Member States.

7) Of course, the collection of documents resulting from the consultation phase, when fully in operation, will produce a lot of material. There might be one or the other Member of Parliament ready to go through the hundreds of pages gathered, but I fear that this will rather be the exception to the rule. So, what we are going to do with all that material?

- We have set up a specific unit on **ex-post impact assessment**. The responsibility of that unit is - only where we are going to amend existing legislation - to put down on 4 to 8 pages, 'easy-to-read' and 'content-rich', the experiences with the existing legislation and make this summary available to those legislators which are going to change the legislation. That is what we call 'consultation'.

III. LEGISLATION

The third phase is our traditional phase of <u>amending and adopting legislation</u>.

There is more green in that part of circle than in the rest, but not everything is green nor has been 'greened'.

What is the main problem there ?

- Increasingly, legislation is passed in first reading. Nearly 90% of European legislation now, between 80 and 90% is passed in first reading, which means there is a large number of trilogue sessions, but, there, a limited group of Members strikes a deal with Member States.

We believe that the generalisation of such a process has to be made more visible that also Members who are not sitting at the table of negotiations need to have the information at every stage of the process on what are the issues, what is at stake, what is the motivation of the different actors. Such information is decisive to enable them to take a position in their political group, to vote in the Plenary, to answer to the citizens, or also to speak to the press. So, we had to widen the information available, and this is why we have established on the 1st of November 2013 our new Parliamentary Research Service with a Members' Research Service at its core which has as a mission to provide easy-to-read, content-rich analysis on all legislative files in all stages of the procedures.

IV. SCUTINY

The fourth phase is <u>scrutiny</u>.

I would like to especially stress the issue of Delegated and Implementing Acts.

When you think about the issues which make individual citizens feeling annoyed by the EU - I guarantee you - you will very, very rarely find a piece of European legislation. Citizens are not annoyed by the legislation passed by the Parliament and the Council of Ministers, but they are annoyed by the effects of Delegated and Implementing Acts coming from the Commission and national experts gathered by the Commission. Delegated Acts are legislation. So, as a legislator the European Parliament cannot afford to pass them through unnoticed. We have the right to veto Delegated Acts. This means that we need to put us into a position through additional expertise and the most concerned parliamentary committees to take a view on Delegated Acts on the basis of detailed expertise. This is even more relevant for Committees in which there is a large number of complex Delegated Acts, such as the Economic Affairs Committee, the Environment Committee, the Transport Committee and the Industry Committee. In the Economic Affairs Committee, for instance, after the enormous wave of legislation we have seen in the last legislature following the financial crisis, we are expecting 480 Delegated and Implementing Acts to come. It would not be responsible to not to set up a screening mechanism which allows our Members to take position which is based on detailed expertise.

I would also like to raise your attention to a bullet which is called 'European Council Scrutiny'. Many of the issues being discussed in the European Council finally find their way in the European Council Conclusions. But not all the European Council Conclusions find their way into implementation at the national level. A large number of them stay exactly where they are - in the European Council Conclusions. This becomes problematic, and more and more, given the central role the European Council is playing in the management of the Eurozone for instance. Let's face it: the genuine implementation of commitments taken in the European Council, for example on national reform programmes, will finally decide on the future of the single currency in the middle and long-term. So, we have to be interested whether commitments made in the context of the European Council on national reform programmes are actually implemented or not implemented. Under the Treaty, the President of the European Council is under the obligation after every European Council to report back to the plenary of the Parliament. So, we are trying to put our Members into a position to have a debate with him on implementation. And such a debate should be based on serious knowledge and not prejudices.

Finally, I would like to say the following: in the European Union we are in a system of multi-level governance, which means it can only function properly if the European Union level, the national level, the regional level and also the citizens are properly involved.

No single level can successfully manage these operations on its own.

Yes, we are passing legislation on the European level but the implementation is taking place nationally, or, according to some constitutional systems, even regionally. So, we will not be successful in what we are doing if we don't develop the full linkages which are necessary between the European level, the national level and the regional level and also the citizens throughout the legislative process. We have the responsibility to effectively link the European level, the national level, the regional level and also the citizens throughout the whole legislative cycle.

Thank you very much!

Klaus Welle