

HOUSE OF COMMONS - EUROPEAN SCRUTINY COMMITTEE

SUBSIDIARITY AND THE ROLE OF NATIONAL PARLIAMENTS

Monday 23 June 2008

MS MARGOT WALLSTRÖM, MR PATRICK COSTELLO, MR STEN RAMSTEDT and MR REIJO KEMPPINEN

Evidence heard in Public Questions 65 - 103

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Oral Evidence

Taken before the European Scrutiny Committee

on Monday 23 June 2008

Members present

Michael Connarty, in the Chair

Ms Katy Clark

Mr David Heathcoat-Amory

Kelvin Hopkins

Mr Lindsay Hoyle

Mr Anthony Steen

Witnesses: Ms Margot Wallström, Vice President, Commissioner for Institutional Relations and Communications Strategy, Mr Patrick Costello, Deputy Head of Cabinet, and Sten Ramstedt, Member of Cabinet, European Commission, and Mr Reijo Kemppinen, Head of the European Commission Representation in the UK, gave evidence.

Q65 Chairman: Vice President Wallström, to give you your full title, welcome to the European Scrutiny Committee. We are in, I think, a more pleasant room than we normally use. This is one of the more modern committee rooms, hopefully we can relax and be frank with each other. Did you intend making a statement of any kind before the questions?

Ms Wallström: No, I was advised not to. Only if you invite me to do so.

Q66 Chairman: Would you like to introduce your support team?

Ms Wallström: Yes, I would be happy to do so. Here is Sten Ramstedt who is a member of my cabinet responsible for especially this issue of contacts with national parliaments. This is Patrick Costello, who is British, but also the deputy head of cabinet. And Reijo Kemppinen you know, he is head of our delegation or our representation office here in London.

Q67 Chairman: I know your colleague at the end. Very well. Can I just move then into a very straight question: is compliance with the principle of subsidiarity capable of objective assessment against a set of criteria or is it essentially a matter of political opinion?

Ms Wallström: It is more a matter of political opinion, I would say, than possible to check against a list of criteria, so it is sort of built into the nature of a subsidiarity test. Still we do it on a daily basis in the Commission, every proposal in the impact assessment that we carry out is also a subsidiarity check.

Q68 Chairman: The definition in Article 5 of the Treaty seems to imply that there is, if you like, a range of responsibilities and achievements that you can match, ones that can be achieved by countries in their own jurisdiction, and ones that it is better or necessary to do on a much larger scale, that can only be done by European Union. You are saying really that that is just according to the political balance of the time, and not really an objective, so the people of a country are subject to a political whim, rather than an objective judgment?

Ms Wallström: No, but I think that the general assessment is a political one: at what level do we best take action, at what level are we most effective in taking action? This is really what the subsidiarity test is all about, and by now, we have some very useful experience, of course, in sending out also our proposals to the national parliaments, and the responses and opinions that we have received I think is as much a matter of national parliaments saying go as saying no, because in many cases, they have actually mentioned the fact that this is best dealt with at the European level rather than at the national level. So I think that the overall assessment has to be a kind of political one. Of course you can give some guiding principles for how to apply it, but in the end, it is more of a political commitment and a political rule than objective criteria.

Q69 Chairman: So what you are saying basically is political judgment is when it is better to do it at EU rather than when it is necessary, because if it was necessary, it would be a clear objective criteria.

Ms Wallström: Yes.

Q70 Mr Heathcoat-Amory: Commissioner, as you know, this Committee looks at proposals on subsidiarity grounds, so we try and check whether this principle is working. Over the years, we have looked at things like, just to take three examples, a programme to prevent violence to children and women, a programme on mental health and one on youth policy. Now all these things are very desirable, but it is not clear to me certainly why it is that the European Union is better at doing these things than Member States, because they are all quite expensive, and of course they all have budgetary amounts attached to them, and this country contributes large sums to the European Union budget, so we are paying people in Europe to suggest things that we do here on highly desirable things like mental health which we do anyway, so do you think the subsidiarity principle is actually working and has real meaning?

Ms Wallström: I take it, Honourable Member, that these are examples of issues where Member States have the competence and that these are not legislative proposals, but rather voluntary programmes where Member States contribute. These are traditionally, and according to the treaties, not areas where the European Union has a competence or where the Commission can legislate; I guess in most cases, this would be the kind of programmes or co-operation between Member States.

Q71 Mr Heathcoat-Amory: No, these are suggestions for action, and certainly in the case of mental health, it was pointed out actually by this Committee that the World Health Organisation and the Council of Europe already have programmes dealing with these important matters, so my question to you is: why do we pay very talented officials in Europe to suggest that we do things which both ourselves in this Member State and also other international organisations are doing anyway, and when we have enquired, it is often said to us that the subsidiarity reason is that it is very good to exchange best practice at European Union level, so we tell each other how well we are all doing and this somehow validates the concept of European Union action, but to me, as a hard pressed taxpayer, I am unclear about this. So do you believe that social programmes in general, and I have

mentioned three, are really better or only done at European Union level, and if your answer to that is no, why are we bothered in this Committee by these endless proposals?

Ms Wallström: It is, of course, naturally very difficult to judge, because I do not know exactly the details of these proposals, and what kind of actions were proposed. I think very often, I guess, Member States can see also added value of exchanging best practices, for example, and I guess that can actually save a lot of money in most Member States. This is at least the experience we have. But if in these cases, the proposed action, what kind of nature that is, I guess it is not legislation, but maybe there are these type of co-operations or programmes where you exchange best practices, I think very often it is for practical reasons and also for the reasons of saving money, if we can learn from each other, this is effective. But I would have to look at these particular proposals to know exactly.

Q72 Mr Heathcoat-Amory: My question is really this: if the concept of exchanging best practice is a way of satisfying the subsidiarity test, then everything qualifies, because there is always some virtue in talking to other people in other countries, and therefore, the subsidiarity test seems to me without content, and everything qualifies. So to the ordinary citizen, they see this sort of endless progress of decision-making upwards because everything satisfies subsidiarity, so it is not a real division of responsibility that anyone can understand or make sense of.

Ms Wallström: No, but what we have introduced is the use of impact assessments in our better regulation programme, and I think this has been a very effective tool also allowing us to actually withdraw a number of proposals, those which have been sort of on our table for a long time, where Member States have not taken action, or we see that it has come to a stop, or things that have become obsolete. We actually have a couple of thousand of examples of these things that we simply take out of the EU agenda, and I think this is also important, but in the impact assessment that we carry out on a regular basis on all proposals that we have in our work programme, we also do a subsidiarity test. I would not say that we take it easy or that we regard this as something that can sort of allow anything to pass by, but then again, this is a political judgment, of whether you think this is at all something for the European Union to engage in, even non-legislative but maybe at programme level, where you have an exchange of best practices.

Q73 Chairman: Can I just ask, there are clearly differences of view, whether it is objective or political, in the nature of the area in which each country is working, and the proposals going forward. Given that there is a very short time for objections, eight weeks, from, I think, the final language version, which means we will probably get a few weeks extra as an English speaking nation, can you reassure the Committee that even those reasoned opinions that are given that are more interim in nature, in other words they are reactive on the political level, because of people's sense that the EU proposal is duplicating something which we may think is already being done, will these interim proposals or reasons be accepted by the Commission as going over the threshold for reaching the yellow card? Because it does seem in the beginning that is a necessary sensitivity required if there is to be any credibility that really subsidiarity matters.

Ms Wallström: I really sort of accept that as a very relevant question, but it is too early to respond to exactly the detailed rules of implementation, and I think that can only be sort of designed later on, and this is not clear exactly how this will be done. We have gathered some experience from working with the national parliaments over some time now, and sending them also all our proposals, but when we see that everything is clarified with ratification et cetera, we can start to prepare also for implementation. But that is too early to answer to exactly how this will be done, that will have to be planned in detail by the Commission in due time.

Q74 Mr Steen: You will excuse me being a little facetious, but this idea of impact assessment, is it sort of men in white coats with test tubes who work out whether the assessment is working that much or that much, and if it is the right amount, you say subsidiarity, if you do not, you take control in Brussels; how does it all work? You have a lot of countries with individuality, they want to determine things themselves in areas that they feel they would like to, but it seems, in David Heathcoat-Amory's examples, you take on more and more and more, and I am wondering if I may ask you, Vice President, what is your view of subsidiarity? We may have a different definition, and I would like to know what your definition is.

Ms Wallström: Well, basically, my definition is to find out what is the right level for decision and action. Is the right level to leave it to Member States or is the right level to do it at the European level? I think that is the core of subsidiarity, the subsidiarity test.

Q75 Mr Steen: That is the men with the white coats.

Ms Wallström: Is it necessary to do it, so to say, at the European level, or should it be best done and most effectively done at the national level? But the impact assessment is, of course, an instrument for the European Union to do the sustainability test, so it is more than only the subsidiarity, but subsidiarity is part of our whole better regulation and impact assessment matter.

Q76 Mr Steen: You have a laboratory of people working out --

Ms Wallström: Well, they do not actually appear in white coats with test glasses but they --

Q77 Chairman: Social scientists.

Ms Wallström: They are an impact assessment board, and they check it against, as I mean, the sustainability criteria, environmental, economic and social criteria, is this effective, is it something that we can defend long-term and are we the right level to take action? I can use the emissions trading system as an example, and then you can say, when we started the emissions trading, and I was Environment Commissioner at the time, we chose to leave it to the national level to do the allocations of emissions trading, but we saw that this was not effective in the end, and Member States admit that this was not the most effective method. So actually you have to move it to the European level in order to have a fair and effective system, and you can see, after some time, with experience, that it would be better controlled and better carried out or exercised at the European level. So we have a number of examples where we can actually also change, we can say okay, we leave it to Member States, but if this is not most effective --

Q78 Chairman: I think you picked a very good example from your point of view, because that was really a scientific analysis, because it is about something you can quantify, but we did have an example, just in defence of the concerns of my Committee members, where the impact assessment showed an eleven times benefit for the EU, but when you looked at that impact assessment done by our Government, there was almost parity. There was very little for us in it, maybe a great deal for the EU in general, and I think that is where people see the concern, that where we do an impact assessment, it does not show these massive benefits, because you are talking about benefits across countries that maybe do not have the developed social systems that we have. Therefore on social policy, it is often much more difficult for a country that prides itself on trying to do its best in social policy to see why it should be subsumed into a scheme for the EU, and there is no flexibility, it is a scheme for everyone or a scheme for no one.

Ms Wallström: But Honourable Chairman, I have taken an oath on looking at the European project in all of this, to make sure that we as a Commission also exercise and work according to the existing treaties and that we look at the European interests. We are not there to defend a national interest or take instructions from a government, we are there to look at the European picture, of course, and this has to be the role of the Commission. I know that you have had Professor Dashwood here as well, who has been able to explain court cases, and you have asked also on court cases, for example, and he has explained the difficulty in sort of using all the subsidiarity test, because it is a broader concept which is also a political commitment, but I think we all would welcome court cases to see if -- and I am sure that in the future, this will be also probably tempting for a lot of Member States not least to see if -- and of course with such a big role for the national parliaments to play in all of this, and the whole idea with this, with consultation, is to find out. We do not pick things out of the blue. Very often, it is a procedure of two years before, in consulting different stakeholders, before we come to a conclusion that this could become a proposal or a piece of legislation or something like that. So it is not that we, in our chambers, closed up, make up all kinds of fantastic ideas.

Q79 Mr Heathcoat-Amory: Just on a specific, I mentioned an example about violence against women and children. I am associated with a charity that does what it can, and the sum of money here is €50 million a year being spent on this programme to set up a helpdesk, apparently, in the EU. Now my charity had certainly never heard of that helpdesk, and nobody in trouble in my constituency has to my knowledge ever telephoned the helpdesk in Brussels when they are in trouble. So it just adds to the feeling at Member State level that there is a sort of layer of well-meaning bureaucracy up there that nobody really can grapple with, nobody knows about it, but we are all paying for it. I think this is a breach of the subsidiarity principle which is not working, it is too general, because it can always be said, "Oh we must discuss these things on a Continental level, I am sure we can all gain from it", but to the ordinary person at the receiving end of this sort of violence, and it is very serious, this is really no help at all, quite frankly.

Ms Wallström: I would like to say --

Q80 Chairman: I do not think this is a question, he is just giving an example to emphasise his earlier point.

Ms Wallström: But can I just say, I am absolutely convinced that you might find other examples of things that are not necessary, things that I would even think are wasteful, of where we could save money at the European level, I absolutely share that view, that there are things that we have to be very vigilant, we have to look at all of these examples, are they really helpful? I think we have in the Barroso Commission actually introduced a number of working methods, both when it comes to auditing, when it comes to the internal procedures of checking, are we really doing the right things? Do we have to do them at the European level or can we leave it to Member States, and is this not a waste of money? I am sure you can find examples of that. I do not know if this is an example of it, but I am sure that if we look very carefully, we will find it, and we have to continue to look out for those things, and we have to be more effective and spend money in a way which shows the added value of Europe. So I can only agree that you will probably find examples of this, but it does not say that we are not carrying out sort of good impact assessments, so that we are not improving things. I think we can show that we have improved our own impact assessment and the subsidiarity test, and this will be even better with national parliaments keeping control also over what we are doing.

Q81 Ms Clark: We were told by one witness last week that it will be rare for measures to be adopted by the Council if only three Member States object. Do you broadly agree with that statement?

Ms Wallström: I do not know if I understood your question.

Q82 Ms Clark: We heard evidence last week that it is rare for measures to be adopted by the Council if only three Member States object to the proposal, whatever that proposal may be.

Ms Wallström: Well, I think what you refer to is the so-called Ioannina clause, that if a significant number of Member States disagree or if you can find sort of a convincing majority, then Council will not be willing to take a decision. Of course with the debate on the new treaty, the Ioannina clause was debated a lot, because the Polish also wanted this to be sort of written into the rules, and this is just to make sure that they will not be run over, that even if you have formally a majority, that there is the respect for minority position also on important issues. I think this is the kind of flexibility you need in a very diverse European Union such as the one we have today, with 27 Member States with different democratic traditions and decision-making procedures and sometimes very diverging views, so I think this just reflects a respect for the minority, if you want to.

Q83 Ms Clark: If that is the case, that there is going to be respect for minority views, and that if, say, three Member States object then a proposal would not proceed, do you think it is necessary to require one third of parliaments to express an opinion, which I understand is the rule, before the yellow card procedure begins?

Ms Wallström: I think, as I said, the implementation rules for all of this, how to count, how to tally, how to register the whole timing, et cetera, has to be worked out when we see that ratification is ready, and I think it is too early to say anything on the details of it, but just to say that the rules are clear of course from the rulebook. I think also we have already shown by starting to transmit all the proposals to the national parliaments that we take this again as a political commitment, and we are willing to listen to the opinions, and not only on the subsidiarity test but on the substance issues as well. So I think we should not start by sort of questioning -- these are the rules that have been agreed, and then it is a matter of implementing rules that have to be put in place later on.

Q84 Ms Clark: But you do understand there is a great deal of concern about the rules, because potentially Britain, for example, could be put in a position where proposals proceed which perhaps are not proposals that Britain agrees with, and that is the implication of the new rules.

Ms Wallström: Well, this is for the national parliaments, it is an opportunity for the national parliaments to express their views, and of course it takes a lot of work, I think, also, between the national parliaments to agree on how should they deliberate on this and how should they decide on actions. So it is still a long way before the system is sort of fully up and running, and I think there are still a lot of discussions between the national parliaments as well, on the process.

Q85 Chairman: The point is well made, I think, by Katy Clark, if the reality is that the Council is a consensual organisation, and does not even like to take a forced decision if it cannot convince others to at least accept the logic of the proposal, it does seem that parliaments are being required to do something that is much more conflict-based, "Stop us if you dare", rather than, "We must convince you before we move on". So it does appear that there is a threshold, that threshold must be reached, but if it is clear a number of parliaments are beginning to express disquiet, it is as if the Council and the Commission, because the Commission will run this, are not prepared to see this and react to it by amending the proposals or withdrawing the proposals, but they are saying, "Force us, get 25% or get 33% or get 55% for a yellow card or an orange card". That does not seem to be giving the same status to parliaments' opinion as you would appear to be giving to the Ministers in the Council, and I think that is the point being made.

Ms Wallström: I kind of disagree, because really if they wanted to, they could count votes, which they rarely do in the Council, but they are allocated a number of votes, specific votes, and if they wanted to, they could say, "Okay, you can say whatever you like, but we take it to vote". But you are absolutely right in saying that most of the time, the Council tries to agree, because it is better to have a consensus, a way forward, implementation is very often more effective that way, if you agree. Again, the rules are clear, but then it is a matter of the practice and sort of the whole attitude, and I think the attitude behind giving the national parliaments a voice in all of this is the democratic anchoring of the European agenda, that we actually think it is more democratic if national parliaments, the democratic tradition in this particular country or in any other country, is also involved in the background of developing a proposal, and we will have your views, and it is an opportunity for national parliaments, and then, of course, also for you to impress your national government and their position, and where you already have a role to play, so I think all these elements that have to be seen together to be effective. To me it is more democratic to give also the national parliaments this opportunity. The rules have to be clear in case they have to be used, maybe it will turn out that we do not have to count votes in that way, because it should send a signal to us at an early stage also if we design a proposal, if so many of the national parliaments react, of course, we would.

Q86 Chairman: Even if they do not get to the threshold?

Ms Wallström: Even if they do not get to the threshold, yes.

Q87 Kelvin Hopkins: Does subsidiarity cover sovereignty? For example, a national parliament might want to object to a proposal for EU legislation on the burden of proof in criminal prosecutions, on the grounds that a proposal might intrude unacceptably on its national sovereignty. Could such an objection be made under the yellow or orange card procedures?

Ms Wallström: It sounds as if this is not the type of issue that would go under the subsidiarity test, because if this is on legislation or that a Member State would have to change its legislation or to implement existing legislation, that would have come up in another way, or before that.

Q88 Kelvin Hopkins: At some point, there might come a serious clash between a Member State government and the Union, especially given the rising levels of Euroscepticism across the whole of Europe. You have lost three referendums now, possibly four, if you include the Swedish referendum on the Euro membership, and at a point, a Member State government might become more Eurosceptic and might dig its heels in and say, "No, this is sovereignty, we are not going to move on this", and at what point does the thing start to fracture?

Ms Wallström: Well, this is part of the everyday working of the European institutions, the kind of clash, if you like, or the kind of different views that we have, and this is how we prepare proposals as well. We would get a signal very early on if there was a problem that had to do with constitutional issues in a certain Member State, they would signal that at an early stage from their diplomats or whatever to say that this goes totally against our legislation, it would not be an unknown issue to us, but the other issue that has to do with Euroscepticism or the atmosphere right now, I think that is part of the discussion we are having. It is a good debate in a democracy, and sometimes controversy makes a more lively debate, and it is good for democratic functioning, so I think this is only natural. You have that kind of tension sometimes also between the national level and the European level, I think this is good, because it makes us think, do we have to do it at the European level or is it better done at the national?

The Committee became inquorate from 3.02 pm to 3.10 pm

Mr Steen: We have not had an opportunity to have a full and frank exchange and we are shadow boxing a bit, but the point is that the French said no, so what do you do, you get rid of the constitution, call it a treaty, and call it the Treaty of Lisbon. The Irish then say, "We do not like it". You say, well, there is something wrong with the Irish. There is never a thought that there is something wrong with the Commission, or something wrong with Europe, it is always something wrong with the people who say they do not like Europe, as if the machine has to keep running on because it cannot ever face criticism and it certainly will not listen, and what is happening is every European country that has a referendum says no and yet every time they say no, the Commission just goes on regardless, and that is our concern, I think, many of us who are not Eurosceptic, who are quite Eurorealist, are worried about Europe not listening, and having listened, they do not want to act.

Q89 Chairman: I think we have already been through that.

Ms Wallström: Could I just give a very short answer, because the fact is 19 Member States have ratified --

Mr Steen: By parliament.

Q90 Mr Hoyle: Not by the people.

Ms Wallström: But I guess in the parliament, also here, that you would consider a vote by national parliament as democratically legitimate as a referendum, at least that is the Commission's view, that it is as democratically legitimate as a referendum, and Member States choose the method for ratification, so 19 Member States have ratified by now. Also all the 27 leaders signed the Lisbon Treaty and that means also that they have an international obligation to do everything in their power to make sure that they can come to ratification. So this is, of course, what they are considering right now, if so many Member States have ratified already, can we identify the problems or the reasons why the Irish people said no, so that we can do something about it? I do not think that is less democratic in analysing the problems and looking at how you can do something about it, as was done after the French and the Dutch no's, they looked at the reasons and they were able to find a solution to allow them to go ahead. I think people want to move on to do the real business, to engage in the issues that are of concern to citizens, so the high food prices, the high oil prices, the energy crisis, all of those things that we know, growth in jobs in Europe, and we think we can do it more effectively without --

Q91 Chairman: None of them require the Lisbon Treaty, that is the point. Business as usual, as someone said, after the French and German referenda, it is the institutions that want the change, not the issues.

Ms Wallström: Two Member States have also had positive referenda.

Q92 Mr Heathcoat-Amory: You mentioned the seven year reform process, started by the Laeken declaration. As it happened, I was on the Convention on the Future of Europe that took the instructions to simplify and to create a Europe closer to its citizens, they were the instructions we were given. They were completely ignored. We created a constitution and now a treaty which is even more complicated and decisions are taken not nearer the citizen but further away, in new policy areas. So they did not just ignore, they completely contradicted the instructions given to them seven years ago. So is it not a little bit late to now suddenly say, well, we must now find out why

people are voting no. You, Vice President, are in charge of communication strategy. What do you think the Irish are trying to communicate to you, and to the European Union, when they vote no?

Ms Wallström: Well, we know fairly well already, we have carried out, as we did after the French and the Dutch no, we of course interviewed people, to know, to better understand. A lot of them, of course, say, "Well, you present such a complex text, like a treaty text", they will say, "We had too little information or we did not fully get sort of the content of the proposal", and they ask for more information. Other mentioned Irish neutrality, they mentioned taxes, they mentioned a number of individual issues behind, even those that are not sort of in the treaty, including abortion, and they mentioned a number of different reasons why they voted no. Of course, part of the campaign was if you do not know, vote no, the same as last time they had a referendum. This is, of course, always problematic, but we do take it seriously and we try to analyse, is there then a way forward? These concerns on neutrality or what have you, how can the European Union respond to that, but I think this is the process the Irish are in right now.

Q93 Kelvin Hopkins: A very quick question, people are voting no not just about the treaty, they are voting no shortly about the direction of travel from democratic nation state parliaments towards the European Union, and they are saying this is too far and we want to stop here or actually raise up again the powers of democratic national parliaments.

Ms Wallström: I am afraid you cannot make that interpretation about the Irish, because both the yes side and the no voters declared that they were clearly in favour of the European Union and the membership, and they were not against the European Union.

Q94 Kelvin Hopkins: It is a matter of degree, not absolute in or out.

Ms Wallström: I mean, they of course can do much more of an analysis, but this is not at all the interpretation, even in Ireland, because they have basically a very positive view on the EU membership and the European Union, so it was much more on some of these particular substance issues and also the fact that the yes side was seen to be much more effective and also creating sort of a fear of changing the status quo.

Q95 Kelvin Hopkins: Was there not strong opposition on the left in the light of the ECJ ruling on Viking Line, for example, apparently giving more power to employers rather than employees?

Ms Wallström: It was one of the elements mentioned, absolutely. There were a number of elements behind the no vote, so this is important to analyse, and this is what the Irish have asked for, give us some more time to make the analysis and see, is there a way forward, when so many Member States have already concluded their ratification, and the fact that we want to move on to sort of the substance issues, and the business that we are expected by our citizens to deal with, and that is, I think, what we all hope for.

Q96 Ms Clark: As you said, it would seem that what happened in Ireland and indeed what happened in Holland and in France was that people voted not necessarily only on the text of the treaty in front of them, but a whole range of other issues.

Ms Wallström: On the context.

Q97 Ms Clark: On the context, and basically, it was concerns about the thrust of many of Europe's policies. It has already been said that there is a lot of concern on the left around issues about workers' rights, and what is called the neo-liberal agenda of Europe, the sort of move towards

privatising everything, and of course Britain has been at the forefront of that, so that may be less of an issue here because we are already so far down that path. Do you not think there is something really quite fundamental we have to learn, that people feel they have to vote against a treaty because it is the only way they feel they have an influence, to actually have a say over European policy?

Ms Wallström: I do not think you can have such a far-reaching interpretation, because I think it is important that we do the follow-up and the interviews and get to know better exactly what is behind, and is very comfortable for all of us to try to interpret it the way we want, but we have already asked, in the Eurobarometer follow-up survey, and the Irish may themselves do that kind of analysis, and I think we have to give them time to do it, but this is true for all these referenda or even for the national ratification, that the bigger picture of course plays into any decision and into any vote, and this is something you always have to counter, but we also had a couple of referenda with yes, and I think they, of course, constantly insist on also being respected, that they have referenda saying yes to the treaty. So this is exactly where we are, can we find a way out, and only the Irish can give us an idea of how that could be done, and they want some more time and that has been given to them.

Q98 Mr Hoyle: I think you have answered my question in one sense, that a yes in Europe means yes, a no has to mean yes, I think that is what is coming across loud and clear. The other issue is that the difference this time is that nations have not allowed referenda, because if we had had a referendum right across -- the reason people were not allowed a referendum was because they would have said no and unfortunately they are opposed to the federalisation of their own states. This is a federal agenda that is not acceptable, and therefore really what should happen, it should go to the public and let them decide whether they want to become a federal state of Europe or whether they want to remain within their own sovereign parliaments, and that will be the way forward. If it all came out as a vote yes, no arguments, but when it is no, please accept people do mean no and it does not mean yes.

Ms Wallström: No, but as I said, no is an answer but it is not a solution to the problems that are behind and the problems we are trying to solve, through a co-operation and a discussion and a procedure that has been going on for so many years, and this is what the leaders feel a responsibility to do. I think the other thing has to do with the nature of any referendum, and it is for Member States to decide if they use the national parliament procedure or if they use a referendum, but the nature of a referendum means that when you put a text, of course, that is so complex and that can be interpreted in so many different ways, it adds an element of uncertainty. It is always very difficult to interpret the result --

Q99 Mr Hoyle: Why do you not go back to the people who said yes and say, "We do not really think you have got this right, why don't you have another look at it and why don't you have another rethink?" You are happy to accept a yes but never a no.

Ms Wallström: The basic provision is of course that all Member States have to ratify, they have to come to a yes in one way or the other, if this is to be accepted as a new treaty, and that is why of course they want to continue to analyse, to see, is there a way to get over these problems, can we solve the Irish concerns in one way or the other? I think that is also part of the democratic tradition.

Q100 Mr Heathcoat-Amory: You mentioned that people want to get on with policy matters, such as energy and climate change. Can you explain why one needs a new treaty for climate change, to take an example? There is lots going through at the minute on renewable energy and carbon reduction on the existing treaty base, and there are only six words in the Treaty of Lisbon dealing with climate change. So why is it that you are so obsessed with changing the powers all the time, and getting

more influence and powers and majority voting and a bigger budget and new policy instruments in Brussels, when it seems to be working perfectly well at the minute? We have enlarged twice, there is no paralysis, this Committee is deluged with weekly documents of new initiatives in Brussels, so I do not quite understand why -- these problems you keep referring to, what are they? Why can you not just accept that people do not want any more and get on with it?

Ms Wallström: I am glad if you think that we are effective and sending proposals, and that we are dealing also with issues like climate change, but is it not significant that these would be -- actually the two new areas that would be added to a treaty would be climate change and energy, that we point out that these --

Q101 Mr Heathcoat-Amory: Six words.

Ms Wallström: Yes, but the most important, I would say for our generation, that we actually add, it is not in there, it is not in the treaties, and it would give us that as an overall objective for the European Union, so I think this is very significant. I think the problem is that it is too easy to block decisions with a provision of unanimity on so many policy areas, and this is why maybe this is not the best example, because now there is a political will, we can write on that, but you have in the area of co-operation in judicial matters or what have you, where things have been blocked for years and years and years, where we have not been able to be effective, and if we have 27 Member States, we should not play according to the rules that were designed for 12 or 15, it is evident. I will miss most of all the chapter that is called participatory democracy, allowing actually for citizens to have a voice in all of this as well, and the role for national parliaments. I think this is a very strong signal, and Council having to meet in public, not being able to meet behind closed doors. I think these are some of the examples that are evident and would help us a lot in the future.

Q102 Chairman: Can I thank you? I hope we can sum up in one minute, I have to say that the conundrum or the lack of logic in the present situation where we say 27 countries must ratify, and I think formally only 10 have deposited their instruments, not 19. We have had in the past some yes referendums, for Mr Hoyle's benefit, in the last constitutional vote, there was one in Spain and one in Luxembourg, so not everyone is necessarily going to go for a no, but we do have one country where it has been said they will not go back for a second referendum, their constitution under the Crotty case is quite clear, to get the treaty through they must have a referendum, so they are not going to have a referendum, so it is never going to be 27 countries, and I just cannot understand where we are going and what this analysis and flash opinion polls are all about. There is something fundamentally blocking the road. You can either drive a new road or turn back, and I just cannot understand why that is not being talked about publicly and honestly, because we are talking about subsidiarity on issues, the Commission appears to be saying the most fundamental issue, the democratic right of the people, we are going to ignore it, and I cannot see how there is any other conclusion can be drawn.

Ms Wallström: But nobody ignores it and I think it is for the Irish, it is only them who can say, no, we have come to the end of the road, this will never be possible, so we just have to leave it with that, or they will come back and say, we think that this is the way forward, this is how we can contribute to the European institutional block that we have created now, this is how we can overcome, this is how we can remedy the concerns of the Irish people, it is only them, so let us not prejudge --

Q103 Chairman: So you are saying drive a new road, which means more amendments to the constitution, 27 other ratification processes.

Ms Wallström: It is for them to tell us, it is really for the Irish, and we respect the no vote, and they have to tell us if there is a way forward, but I do not think it is something to be surprised over, that they want to find out more what was behind the no, since they know they have all the political parties and a society which is EU friendly basically, and have enjoyed the EU membership so much and benefitted from it.

Chairman: Can I thank you for coming along and giving your evidence, both formal and informal. I think we are all now wishing to get into the Chamber to hear the statement. The ruling here is if you do not hear the beginning of the statement, you do not get called for a question. So thank you for your attendance.