Revised transcript of evidence taken before
The Select Committee on the European Union
Inquiry on
PRE-EUROPEAN COUNCIL MEETING
Evidence Session No. 1 Heard in Public Questions 1 - 14

MONDAY 23 JUNE 2014
3.30 pm
Witnesses: Rt Hon David Lidington MP, Vijay Rangarajan and Nick Heath

Members present
Lord Boswell of Aynho (Chairman)
Earl of Caithness
Lord Cameron of Dillington
Baroness Corston
Lord Foulkes of Cumnock
Lord Harrison
Baroness Hooper
Lord Kerr of Kinlochard
Lord Maclellan of Rogart
Baroness O’Cathain
Baroness Parminter
Earl of Sandwich
Baroness Scott of Needham Market
Lord Tugendhat
Lord Wilson of Tillyorn

Examination of Witnesses
Rt Hon David Lidington MP, Minister of State for Europe, Foreign and Commonwealth Office, Vijay Rangarajan, Director for Europe, Foreign and Commonwealth Office, and
Nick Heath, Deputy Head of Europe Directorate (Internal), Foreign and Commonwealth Office

Q1 The Chairman: We are very grateful, Minister. You know the rules of engagement: the meeting is being televised and a transcript will be made available for any factual corrections. It has not escaped us that this is the first occasion, perhaps a well chosen one, for an experiment in moving towards a pre-Council scrutiny process. We need to respect how we proceed with that, but it will change some of the modality of this. We shall continue to scrutinise whatever you and your colleagues and the Heads of Government come up with.

Other than that, unless you want to make a preliminary statement, I just suggest for the convenience of the Committee and those watching that you introduce your colleagues. Then I think we will kick straight off.

David Lidington MP: Thank you Lord Chairman. I am accompanied by Vijay Rangarajan, the director for Europe in the Foreign and Commonwealth Office, and by Nick Heath, the Deputy head of the Europe Directorate (Internal).

The Chairman: Question 1 is so obvious that some of my Committee suggested that I not waste time by putting it. There has been a lot of commentary on and interest in the choice of Commission President. Do you expect agreement to be reached at the European Council?

David Lidington MP: I should preface what I am going to say by noting that, as you said, this is the first experimental occasion on which we have tried out a pre-European Council evidence session. Inevitably, that means that there are a lot of moving parts, which are still under negotiation. President Van Rompuy was in No. 10 this afternoon, and there will be a General Affairs Council meeting in Luxembourg tomorrow, and no doubt other
conversations between leaders. There will be limits to what I am able to say on the record. As to whether agreement will be reached, we will have to wait and see what the Council Heads actually agree. Even now, one picks up reports of this or that leader suggesting that there might need to be further meetings rather than this decision being taken at the Ypres summit. The Prime Minister has made his own view very clear. It is important that I state, for the record, that for him and the Government this is not about individuals so much as about a point of principle. That is that the treaty lays down that it is for the Heads of Government to propose somebody to be the next President of the European Commission. The Parliament then has to vote to approve that nomination. Because there is nothing in the treaty that in any way limits the choice of candidates by the European Council, we feel strongly that the Heads should feel completely free to put forward the name of whichever man or woman they think is best for the future direction of the European Union.

The Chairman: They are required to take into account the opinions of the European Parliament but to make the decision themselves.

David Lidington MP: Since the treaty of Lisbon, they are required, when they name somebody, to take into account the outcome of the European Parliament elections. They are not constrained by the treaty in any way in the names that they consider or put forward; nor, indeed, is “taking account” defined in any way. One could certainly argue that one message that came through very strongly in many different European countries at the recent elections was of considerable discontent at the way in which the EU is currently organised.

The Chairman: I will bring in as many colleagues as I can into this area. I should perhaps say that you should not take it ill if a number of them leave before just before 4 pm, because they have sub-committee duties that coincide. We will perhaps try to bring them in if we can. I would like to begin with Lord Foulkes.
Q2 Lord Foulkes of Cumnock: Thank you Lord Chairman. Putting aside the individuals concerned, can you explain the negotiating strategy of the United Kingdom Government on the presidency? How is it designed to achieve what we want in terms of reform of the EU and getting a powerful portfolio for the UK Commissioner?

David Lidington MP: You cannot completely separate individuals and programme. The Government have consistently taken the position, over many months now, of making it clear that we do not agree with the so-called Spitzenkandidaten process. We believe that the freedom of the Heads to nominate to the Parliament the man or woman they think best suited to run the Commission for the next five years is untrammeled. We have also been taking part very actively in the discussions and the many bilateral conversations at different levels—I with my counterparts, the Foreign Secretary with his, the Prime Minister with his, the Deputy Prime Minister with his and so on—about the direction of the European Union over the next five years and the need for it to become both more competitive and more response and accountable to voters who expressed such powerful discontent so recently.

Lord Foulkes of Cumnock: Do you not think that the way we have gone about it, particularly in relation to Mr Juncker, has tended to alienate some of our potential allies, who we want to help us get changes in the European Union and a good, powerful portfolio? Have we not upset too many people?

David Lidington MP: The Prime Minister has always made it clear that he believes that this is, at root, an issue of principle. It is about the relative powers of the European Council and the Parliament in choosing the head of the Commission for the next term. He has also said that in his view Mr Juncker is not the best-qualified candidate, given the importance—to the whole of Europe—of successful reform over the next five years. The Prime Minister has also said publicly, including in what he has written, that this is not a personal battle. The Leader of the Opposition and the Deputy Prime Minister have both endorsed that approach.
Lord Foulkes of Cumnock: I am talking about the strategy—the way in which he has gone about it. Do you not think that has alienated potential friends?

David Lidington MP: If you look at what the Prime Minister has been doing in recent months, you will see that he has been engaged in many, many conversations with other European leaders over that period. I do not think anybody has been in any doubt about where he has been coming from. He has been completely consistent in this and has always argued that this is an issue of principle.

Baroness O'Cathain: A quick pointer for clarification. You said that under the treaty people could not influence the situation. Is there any reference in the treaty to the groupings in the European Parliament having particular views and being able to influence the choice of the President?

David Lidington MP: There is a reference in the treaty of Lisbon to transnational political parties\(^1\), but that is not in the context of the selection of the President of the European Commission. I will be corrected by my officials if I am wrong, but is laid down, I think, in Article 17 of the treaty, which says that the European Council—the Heads of State and Government—having taken “into account” the outcome of “elections to the European Parliament … shall propose” a name to serve as the next Commission President. The nomination will then be voted on by the European Parliament, which must approve it by an absolute majority.

Baroness O'Cathain: So it does not actually specify—

David Lidington MP: There is absolutely nothing specific in the treaties about groups in the European Parliament having any particular say. The Spitzenkandidaten process is something that has been invented subsequent to the treaties. My understanding is that, at the time of

\(^1\) There are two mentions of ‘political parties at the European level’ in the Treaty of Lisbon, but neither of these is in the context of the selection of the President of the European Commission.
the discussions at the convention on the constitutional treaty, the idea was put forward but was not accepted and did not find its way into the eventual text.

Baroness O’Cathain: Perhaps you ought to tell the press that.

The Chairman: As a matter of record, the Spitzenkandidaten never set foot in the United Kingdom to campaign or to present themselves. I do not necessarily say that forensically, but, to put it another way, would you agree that there was a lower exposure in the United Kingdom and some other member states than in some countries that, if I may put it in brackets, took the Spitzenkandidaten issue more seriously?

David Lidington MP: I certainly do not think that anybody in the United Kingdom, when they cast their votes, thought that they were voting for Mr Schulz, Mr Juncker, Mr Verhofstadt, Mr Tsipras or Ms Keller. That is also true even looking at countries where there was a greater focus—Germany would be the most obvious example. An opinion poll carried out by the newspaper Bild showed that 7%, I think, of German voters were aware that Mr Juncker was the lead candidate for the CDU/CSU. I have seen another opinion poll suggesting that it could have been as high as 15%, but it is a minority. In Italy, one of the debates between the candidates was watched by, I think, 127,000 people. That compares with 6.5 million—certainly some millions of people—who watched the debate between Mr Renzi and Mr Bersani when they were fighting it out to be leader of the Democratic Party.

Q3 Lord Kerr of Kinlochard: I entirely agree with the Minister’s reading of the treaty. The European Council is absolutely entitled to nominate whoever it chooses; that is completely correct. But I do not understand the point of principle that the Minister refers to. We know who they are going to nominate, because the members of the European Council have decided, in their groupings, on the person who they want to put forward. Ten of them agreed in Paris this weekend; the EPP had agreed in Dublin months ago. It is perfectly true that the British Conservatives were not represented—but that seems to me
to be the fundamental mistake at the core of all this. The British Conservatives left the EPP, so of course nobody campaigning in this country for election to the European Parliament as a Conservative had Mr Juncker’s face on his literature. The Conservatives have set themselves up in a different grouping, where they have now associated themselves with people who are strongly opposed to the policies of the members of the European Council: not one of them is in government. I do not understand the point of principle that says that it is undemocratic for the Heads of Government, in their political groupings, to put forward who they wish, but that it is democratic for them to decide in the European Council in Brussels, provided there has been no previous co-ordination. It seems to me that the European Parliament is going to ratify the choice by voting for it by an absolute majority, as the Minister wishes and describes, and the European Council is going to decide by a qualified majority. But I do not understand the point of principle that requires us to be in the minority.

**David Lidington MP:** First, I note in passing that it would also be true to say that neither the Labour Party nor the Liberal Democrat Party featured Mr Schulz or Mr Verhofstadt in their respective campaigns in the European parliamentary elections here. Not even in countries where greater prominence is given to that process were those personalities given a greater prominence than the national leaders of the respective political parties in those nations. There are two issues of principle here. First, the Spitzenkandidaten process is designed to try to turn the European Council decision into something almost like a rubber stamp of decisions that are taken initially by the groupings within the European Parliament itself. Secondly, there is a serious question about what the direction of this process might mean for the European Commission as an institution. The treaties—as Lord Kerr knows extremely well—provide that the Commission shall be completely independent and shall not
take instructions from any other institution, Government or organisation. The Commission has always portrayed itself as the impartial guardian of the treaties, and that is—

The Chairman: There is a rather helpful letter in the newspaper about this only today.

David Lidington MP: This is the letter from—

The Chairman: Professor Edward and others.

David Lidington MP: Exactly. There is a serious question here. The Commission sometimes acts in almost a quasi-judicial capacity when it makes rulings on state aid, competition policy and infraction questions. If we move to a situation in which the leadership and the direction of the Commission are assumed to depend on a partisan political result, then we are looking at the Commission in a different way. There is a coherent argument, which some around Europe champion, for taking precisely that step. Some people argue that the Commission should be more overtly political and that that is a way to connect Europe more with citizens. I do not share that view, but if one were to argue for it, it should be seriously thought through and the consequences assessed before we stumble into doing it almost by accident.

Lord Kerr of Kinlochard: I think that is a magnificent red herring. The treaty says that the European Parliament has to vote by an absolute majority—quite a high hurdle—for the President of the Commission, which creates the risk of making the European Commission subservient to the European Parliament. I agree with the Minister about the desirability of having the independent authority of the Commission as the guardian of the treaties. I completely agree, and do not want to see the Commission politicised, but I would point out that the European Parliament is going to decide on somebody who has never sat in the European Parliament. The European Council is going to decide on somebody who, for 19 years, has sat in the European Council. The European Parliament, when it is given the European Council’s nomination, will vote for that man and not for the man who was
President of the Parliament up to the European Parliament elections in May. I do not think it follows that electing Mr Juncker is going to make the Commission more subservient to the Parliament. The risk arises from the fact—which even the Minister, with his intriguing reading of “democratic”, is not criticising—that the right of the Parliament to approve the appointment by an absolute majority is in the treaty.

David Lidington MP: I am perfectly happy to engage in debate on the merits and demerits of particular articles of the Lisbon treaty, but that is probably going a bit beyond the scope of this afternoon’s conversation. The Government have accepted the Lisbon treaty as a given, but that does not mean that we applaud every one of its provisions. I do not want to make this personal about Mr Juncker or other individuals, but it is worth saying that he has publicly claimed the presidency of the European Commission for the European People’s Party. It does seem that we are slipping into a situation where we risk the presidency of the Commission being determined simply by whoever has the largest of the groups that manage to put themselves together after a new EP election. This time round, that was despite the fact that in 18 out of the 28 member states, the three large groups that were championing the Spitzenkandidaten process actually lost votes and lost seats quite significantly.

The Chairman: Thank you. In a moment, we will move on from the particular issue of the head of the Commission, but I think Lord Tugendhat has a question before we do that.

Q4 Lord Tugendhat: I suppose I should declare an interest as a former Commissioner, but I was very pleased with what the Minister said. There is a fundamental point of principle in the independence of the Commission, which means independence from national Governments and from other institutions. Obviously, no independence is going to be complete, and the Commission will always be subjected to a variety of different pressures, but the idea that the President of the Commission should be nominated by the European Council and approved by the Parliament provides that balance: the Commission is balanced
between the two institutions. I agree that this is not personal, but the fact that Mr Juncker, as you said, claimed the presidency for the European People’s Party and is claiming it on behalf of the European Parliament means that henceforth the Parliament will say to the President of the Commission, “You owe your job to us”. That is going to create a new situation in which the power and initiative of the Commission is very severely circumscribed.

There is a point of principle there, which needs to be put on the table. The British Government cannot stop other people doing whatever it is they intend to do, although I am not sure that the British Government have handled this matter in an absolutely skilful manner at all points. However, if they were to make it quite clear that there is a point of principle about the independence of the Commission and that the Commission should not be the creature either of the European Parliament or of national Governments, that would perhaps be a good thing.

**David Lidington MP**: I agree with a great deal of what Lord Tugendhat has said and his central analysis, although I would obviously exempt the implied strictures on the Government’s approach. We have observed, in the second Barroso Commission, a tendency for the Commission to steer more towards the Parliament than the Council, rather than equidistantly between the two. I have certainly observed, in the four years that I have been doing this job, the European Parliament using every opportunity for leverage to try to accrue additional institutional power. One thing I have concluded is that we need to discuss ways in which, without diminishing the power of other institutions necessarily, both the European Council and the sectoral Councils of Ministers can fully exercise their role as laid down. There is, for example, no inter-institutional agreement regarding the Council. There are arguments for and against having such an agreement, but it is one idea. The Council finds it difficult, for obvious reasons, to have a corporate institutional memory, and needs to try to find ways to act in a more cohesive fashion.
The Chairman: Colleagues, including those who have to leave, will appreciate that I am having to juggle with the timetable. I suggest that Lord Wilson comes in with his question now, even if it is slightly out of sequence.

Q5 Lord Wilson of Tillyorn: Another thing that is about to change is that we have an incoming Italian presidency. What priorities, Minister, do you think that incoming presidency has? How is the UK thinking about putting forward, supporting and getting through its own priorities during that presidency?

David Lidington MP: I am about to write to the Chairman specifically on this subject. Having had several meetings with my Italian opposite number in the past few weeks, I would say that they are looking, first, for economic growth and measures that will create employment. Secondly, they want an emphasis on the Mediterranean. Thirdly, they want to focus on the particular problems they have over migration from north Africa. There will be some areas where we agree, although we have to see what they propose as a presidency. To take the economic agenda, there we have a huge amount in common. There is an emphasis, for example, on completing the digital single market as soon as possible. The Italians want to make progress on energy, which we may come on to later this afternoon. There is an emphasis on competitiveness and on trade that chimes with everything the Prime Minister and the Government here are saying. There is quite a lot in common, and we have been very active, from the Prime Minister down, in talking to the Italians, particularly since the Renzi Government came into office, although it was happening even before then, to try to make sure that they understand our priorities. We have seconded one official, I think, is it, Vijay? Is it more than one?

Vijay Rangarajan: It is one.

David Lidington MP: We have seconded one official to Italy to help with their presidency, and obviously our embassy in Rome is very focused on this.
The Chairman: We will now loop back slightly, having largely gone through the issue of the Commission President, to some of the other relationships. I will ask Lord Kerr to come in first, then Lord Maclennan and then Lord Caithness.

Lord Kerr of Kinlochard: It has just occurred to me that perhaps it should be said for the record that the treaty has long given the Parliament the power to sack the Commission and that it has exercised that power. The Santer Commission was fired because the Parliament voted it out. What is happening now over the choice of the next President is not changing the balance between the Parliament and the Commission. I believe that the Parliament is too powerful over the Commission, but that is because it has exercised the power that the treaty has long given it. Personally, I would like to see the Council given the same power to fire an unsatisfactory Commission. I will now step back a bit and ask the Minister a more reflective question: why were we taken by surprise? Lord Maclennan and I can vouch for the fact that the idea of Spitzenkandidaten was discussed 11 years ago. It was made clear by all three groupings, five years ago, that they would do this. It was not clear until after the meetings of the various heads of the parties—such as the Dublin meeting, where Monsieur Barnier and Mr Kenny were also candidates—who the candidates were going to be. But it was written in the stars: we all knew it was going to happen. Why were we apparently taken by surprise and why are we suddenly jumping out of our box declaring that it is fundamentally undemocratic?

David Lidington MP: We knew that this process was under way and we had been extremely clear in expressing our opposition to it, from many months ago. I do not think there is any Government around the EU who could have been in any doubt about the position that we took. I do not want to pre-empt what will be decided by the Heads of Government when they meet—I am not going to make an assumption here about the outcome, nor am I going to get involved in recounting conversations between Ministers or
Prime Ministers and their counterparts in private session. But we have made our view perfectly clear, which is that the right way forward is for there to be a considered discussion of all potential candidates and an effort made to seek, as has always been the case in the past, a consensus among all 28 members about the right choice.

Q6 Lord Maclennan of Rogart: The declaration by the Prime Minister that he wants to have a vote hardly suggests that we are following the precedent of seeking consensus. It seems to me that this has a possibly damaging ripple effect on this country. In particular, we are looking to have a representative on the Commission who is powerful and has an important role. You yourself, Minister, have talked about the importance of the national parliaments playing a part in the decision-making of the European Union. Other Ministers have said the same. If we are to have a strong representative on the Commission, are we not damaging ourselves by the stance that we are taking? Secondly, can you give any indication as to what timescale might be used to nominate the national representatives on the Commission? Will we have an opportunity to see him—or her, if it is a lady—before he takes up office?

The Chairman: Perhaps before you answer that Minister, I could add that we would have an interest, in this Committee, in seeing the new British nominee for Commissioner at some stage. It would be for us to invite them, but I would just put that on the record. We would have an interest in the timing not only of our nomination but presumably, by the same token, of the nominations from other member states. Could he also give us a flavour, if he can give us an indication at all, about the timetable or progress in allocating portfolios?

David Lidington MP: Very briefly, in response to Lord Maclennan’s first point, I really would emphasise that the Prime Minister personally, and the Government collectively, has been very active in trying to explore ways in which a consensus could be reached about the presidency of the Commission. We will have to see what actually happens at the European
Council when it comes to a decision, which will perhaps be taken later this week. The Prime Minister has said that he intends to continue his opposition to the Spitzenkandidaten process right to the end of this. On the timescale for what happens next, it is up to each member state how soon they nominate individual national Commissioners. In turn, that depends a bit on when exactly the President of the Commission is both nominated by the European Council and then approved, assuming approval is given, by the European Parliament. It is only after that process has been completed that the formal proceedings can start on the other members of the Commission. It would be later this year: if there were an agreement on the President of the Commission fairly soon, we would probably be looking at the autumn for these procedures to take place. Under the treaty, portfolios are the responsibility of the President of the Commission. I am sure there will be all sorts of ideas coming in from various Governments and from other institutions about both the configuration of portfolios—which, as the Committee knows, do not stay the same—and who should get which particular slot. As far as the nominated British Commissioner going before the Committee, that would a matter for the man, or indeed the woman, in question. They would not be government officeholders, so it would, I suppose, be up to that individual to decide how to respond to the Committee's invitation. I should put on the record, for the sake of clarity, that this would not be regarded by the Government as any sort of confirmation hearing.

The Chairman: Nor would we seek that.

David Lidington MP: However, I am sure that the designated candidate would take the invitation very seriously.

Lord Foulkes of Cumnock: I have one point to ask about. Minister, you said that the Prime Minister has been seeking a consensus. Is that around a particular name?

David Lidington MP: I am not going to get drawn into that kind of detail.
Lord Foulkes of Cumnock: So it was sort of an “ABJ” consensus—anyone but Juncker?

David Lidington MP: Many names have been—

Lord Foulkes of Cumnock: Anyone but Juncker?

David Lidington MP: Many names have been discussed in the media and by think tanks in all 28 countries—

Lord Foulkes of Cumnock: I do not want to know the name, but was there any particular name?

David Lidington MP: I am sorry to have to be so tantalising in answer to Lord Foulkes, but I cannot help him further.

The Chairman: We are moving on in a moment from institutional questions to small, specific areas of interest, but Lord Caithness has a final point on this.

Earl of Caithness: On the issue of portfolios, do you think it is possible for a country that is not a member of the eurozone to take on the economic portfolio in future, or is that something that we can forget about?

David Lidington MP: There is nothing in the treaties that stops a Commissioner from any particular member state taking on any particular portfolio. The term “economic portfolio” can be defined in a number of different ways. If we look at the current Commission, Mr Rehn’s portfolio, which deals particularly with matters involving the single currency, is held by a eurozone member, but there are other economic portfolios in the Commission that cover probably a very large part of the Commission’s areas of responsibility.

The Chairman: Thank you. That leads us nicely to Lord Harrison’s question.

Q7 Lord Harrison: Minister Lидington is always well received by this Committee. As part of my continuing campaign to undermine his future political career, can I say that if he were in charge of the strategy—and, more importantly, the practical implications of developing a strategy—we would not be in the Juncker bunker that we are in at the moment? I will turn
to something prospective, where perhaps his skills rise to the top: the European Semester, which has had a rather dusty answer here in the United Kingdom from the Business Secretary. Mr Lidington, would you agree with me that it is the golden opportunity where the Commission actually looks at the economic strengths and weaknesses of our partner countries and us to be able to develop the very things that you would outline in a strategy for strengthening Europe and making it more competitive, especially through the development of the single market? What are you going to do now, over the next few weeks and months, about developing that proper basis for going forward? What have you achieved on the example of the single market, which has always been a United Kingdom desire? What are you going to achieve, for example, on the digital economy or on implementing the services directive, which would give so many opportunities for businesses in the United Kingdom?

David Lidington MP: As Lord Harrison knows, as a Government, we have always supported the process of the European Semester because it provides a transparent means for offering an assessment of every member state. It has provided a useful point of reference, in particular, for some of those countries that have been in the excessive deficit procedure and have needed to make some quite profound structural reforms. That does not mean that we, as a Government, accept every last comment from the Commission in respect of the United Kingdom. Discussions are still going on, as the Committee knows, about the country-specific recommendations, which are due to be concluded at ECOFIN on 7 July. I do not want to prejudice those discussions, but we look at the Commission recommendations about restoring sound public finances, promoting jobs, sustainable growth, their continued emphasis on the Europe 2020 agenda—which, again, is something that we endorse—the positive acknowledgement the Commission gives of the universal credit scheme to
streamline the government welfare system, and the extension of the childcare tax incentives. We have expressed some concern about one or two other aspects—

**Lord Harrison:** Do you see what I am driving at? We should not be defensive about it but should see it as a shared enterprise with the other 27 member states. It would then be to our advantage and to the European Union’s advantage if we shared that enterprise to make Europe sharper and more competitive.

**David Lidington MP:** I would agree with that point. The EU would do itself a lot of good, in both economic policy and other areas of its activity, if it sometimes legislated less and did more to share and disseminate best practice. The Business Secretary was right to point out that the UK economy is expected to grow faster than that of any other G7 country this year, because the Government’s long-term economic plan is demonstrating some impact. On the other points that Lord Harrison made, the Italian presidency seem very determined to pursue the digital single market to a successful conclusion during their term. Simply because of the scale of the change that digital technology is making to the way in which we do business, I suspect there will be further outworking of the digital single market, but I think the Italians are determined to put the building blocks in place. On services, we are keen to see, first of all, the full implementation of the current services directive. It has been a long-standing United Kingdom ambition to go further than that as well. There are still, for example, too many restricted professions around Europe, and we think that the Commission should be pretty robust in challenging protectionist measures that prevent newcomers from coming in and competing alongside existing service businesses.

**Lord Harrison:** Could we hear more about the practical steps that might be taken to improve the situation within the European Union and the single market rather than some of the fruitless approaches which the Prime Minister has demonstrated over recent weeks?
**David Lidington MP:** I am very happy to send Lord Harrison a volume of the Prime Minister’s speeches and statements, in which he makes all those points about the need for economic reform. It is sometimes a frustration to us in government that those are not instantly picked up and highlighted by our media. But we will persist.

**The Chairman:** At least we have the benefit of a media presence here, so who knows, Minister. We will move on straightaway to the rather complex area of justice and home affairs. Baroness Corston.

**Baroness Corston:** Minister, in their response to the report we published in April on the European Union’s next justice and home affairs programme, we understood that the Government expressed disappointment that the Greek presidency had not given the Justice and Home Affairs Council the opportunity to produce a contribution to the new programme. We understood that the Government were working with member states and the Cabinet to ensure that our priorities were reflected in the final text. Can you give us an assessment of that final text?

**David Lidington MP:** I have to be careful with this. There is a text in circulation ahead of the General Affairs Council tomorrow, which is limité and which I am therefore unable to share with the Committee. That text itself may well be subject to change before or during the General Affairs Council. Then, obviously, that would go on to the European Council conclusions as well. Yes, we were disappointed that there was no formal opportunity for the Justice and Home Affairs Council, which after all is made up of the Ministers specialising in the field, to contribute, but we are encouraged by the progress that is being made. We have been talking a lot to the Van Rompuy Cabinet and to other member state Governments to try to make sure that the finalised guidelines reflect our own priorities and that there are clear strategic objectives for the future. Clearly one of the issues that we have on our list is action about the abuse of freedom of movement. We are also pretty confident that the
programme for the next five years will have an increased focus on implementation and the consolidation of existing legislation, and an effective review mechanism. That would actually also reflect the recommendations coming from this Committee about the shape of justice and home affairs policy over the next quinquennial.

Q8  Baroness Corston: We have been corresponding ad nauseam for about a year over Protocol 36. It is obviously incumbent on the Government now to get agreement between the European institutions and other member states about us rejoining the list of 35 measures from which we have, on the face of it, opted out by the end of June. What is the likelihood of that timeline being met?

David Lidington MP: Again, we—primarily the Home Secretary, the Justice Secretary and their officials—have been talking intensively to the Commission, where President Barroso, and the other member state Governments, has been very engaged himself and very helpful in trying to take negotiations forward. The issue is on the agenda of the General Affairs Council tomorrow. I cannot yet say whether we will get agreement in principle there—we would like to get agreement in principle to a political package as soon as possible. Legally, the formal decisions of Commission and Council will have to wait until late in this year—I think until November or December. Nick tells me it is 1 December.

Baroness Corston: If the Government are keen to avoid the possible of an operational gap, looking at the timetable to 1 December, what is your fallback position if that does not materialise?

David Lidington MP: At the moment, we are working on the assumption that everybody in the EU has a very clear interest in avoiding that operational gap. The work that our police forces do, for example, against organised crime and terrorists is something that nobody has an interest in disturbing. We make it very clear that we do not want to see that operational gap happen. Every effort is being made to make sure that we do not get to that stage.
The Chairman: Perhaps a simple way of putting that would be to ask you to confirm, at least so far, that there is no sign of any other member state—I am not asking for a name—playing politics over this. Is there a common endeavour to find an answer to what I think you have indicated might be a common problem?

David Lidington MP: At the moment, every other Government are saying to us that they want to see a successful outcome to this. I hope that that is indeed demonstrated in the remaining stages of these discussions.

The Chairman: Thank you. I think we will move on now to climate and energy.

Q9 Lord Cameron of Dillington: And the dilemma between the two, which is best summed up by a growing nervousness about energy generation and the dependence in many European countries on Russian gas, which obviously has increased in recent months. Poland is a very good example: its energy generation is over 90% dependent on coal and it has very few renewables. They have the possibility of fracking in the future, but that is much more long-term and uncertain. They would, of course, be very averse to becoming more dependent on Russian gas and therefore oppose any form of climate change controls over them. Germany has rejected nuclear and gone more towards renewables, although it too is going more into coal—lignite even, which is worse than other coal for climate change. Is there a feeling in favour of continuing to promote the climate change agenda, vis-à-vis energy, in Europe. Is Europe still going to go for its 40% target in 2030? Will a clear position be arrived at in the October Council, here and will it be in line with what Britain might require? Interconnectivity comes into it, too, and the desire to put money and resources into interconnectivity, which might be a partial solution.

David Lidington MP: Lord Cameron put his finger on it when he pointed to the complexity and the many different aspects of the energy dossier. It is, frankly, too early for me to predict with any certainty the outcome in October. There are certainly some countries
which say they are currently unable to support the 40% domestic greenhouse gas target, and the European Council has already asked the Commission to provide further analysis on the impact of the proposed 2030 package on individual member states, so that we can have this discussion on the basis of definite facts. Our view is that we need to deal with energy and climate change together. We have a responsibility to future generations and to the countries of the world that would be very vulnerable indeed to climate change to continue to pursue that agenda.

It is also worth saying that some of the measures that would help most in terms of climate change would help enormously to improve energy security, energy efficiency being the classic example. Everybody in this room can recall how the oil shocks of the 1970s led to changes to the design of buildings, both domestic and commercial, which allowed for more limited use of energy and for more effective energy conservation.

**Lord Cameron of Dillington:** Do you think that mood is reflected throughout Europe?

**David Lidington MP:** The Russian intervention in Ukraine has focused minds in a way that they were perhaps not focused before. I would be misleading the Committee if I said that we were yet in a situation where there was unanimous agreement on the way forward, but I think that Russian intervention in Ukraine exposed the vulnerability of many European countries and the need for us to co-ordinate much more effectively than in the past the different elements of a comprehensive energy and climate change policy. Part of this is indeed about energy efficiency; part of it is indeed, as Lord Cameron said, about interconnectors and trying to use European structural funds to get better interconnected, particularly in central and eastern Europe. Partly it is about renewables, partly it is about fracking, partly it is about a proper internal market in energy, partly it is about persuading our friends in the United States that they should relax their restrictions on the export of
hydrocarbons, and partly it is about things such as the BP pipeline through Azerbaijan and Anatolia into Greece to provide alternative sources of gas to Russia.

Q10 Baroness Scott of Needham Market: This question just builds on that. While the energy security problem is being thought of and discussed as part of a diplomatic problem with regard to Ukraine, the solutions are actually technical ones to do with energy policy, which my Committee, about this time last year, set out very well in its report. It requires a European energy policy, but what has bedevilled that is member states’ insistence on all pursuing different policies. I do not think that the energy trilemma—the balance between climate change, cost and security—is actually a problem. If they are done properly, in the way you describe, you can have all three. The real barrier, it seems to me, is the willingness of member states to genuinely co-operate to create a European energy market. I just wondered whether you pick up any sense that it has focused minds in that regard.

David Lidington MP: There is of course a recent Commission communication on this theme, which is trying to pull threads together. There is a greater acceptance now of the need for a more coherent European strategy on energy, but I also think that that strategy has to recognise the different energy mixes that are going to be appropriate in different member states. To take the most blindingly obvious example, a landlocked country is not going to have the same opportunities for certain types of renewables as those of us who have a significant coastline. It is right that it should remain for member states to determine the precise energy mix that they use, but we need to find ways in which we can co-operate more intensively—a proper internal market in energy is part of this—to provide a more effective strategic response.

Baroness Scott of Needham Market: Briefly, it is entirely feasible to have a European energy grid that operates in the same way as the internet or the telephone network currently does. You have countries, such as Norway, that have hydropower, the south of
Europe has solar power, the North Sea has wind power and the French nuclear. It is possible to put all those together and provide security for all of us, which plays to the strengths of individual countries. But it does require a level of co-operation between member states that we have simply not seen in the past.

**David Lidington MP:** There is a greater chance of that co-operation taking place now than seemed the case six months ago.

**Q11 Baroness Parminter:** In the past three weeks, Minister, Germany has outlined its energy position and, like the UK, is supporting a 40% target on greenhouse gases. But unlike the UK, it is supporting a binding target on energy efficiency. So there are now 14 members in favour of that, including France and Germany, with the UK acting as the only significant blocking minority. You yourself just cited energy efficiency as being important and gave the new numbers. Is the UK considering its blanket opposition to energy efficiency targets, given that energy efficiency can contribute both to our energy security and to tackling climate change?

**David Lidington MP:** We do not think that national renewables targets are appropriate, precisely because the circumstances of individual member states can vary so much. The objective in climate change terms is to secure the relevant reduction in greenhouse gas emissions. How an individual member state can most quickly and effectively achieve that is going to be down to national policymakers. Some have made the choice to go all out for renewables. Germany is the classic example, although that has led in the short term to the problem that Baroness Scott or Lord Cameron described about the use of lignite. Energy efficiency can provide big gains, but it does not of course show up in meeting renewables targets. The Government also have a commitment to a new generation of nuclear power stations, which would result in a significant reduction in greenhouse gas emissions, but that does not count as renewable energy under the present definition. It is a better, or more
flexible, response to allow individual countries to work out how they deliver on the
greenhouse gas targets that they have committed themselves to.

The Chairman: The final area, appropriately enough perhaps, is external affairs. Lord
Tugendhat.

Q12 Lord Tugendhat: The questions the Minister has just been asked lead on easily to
the question I intend to ask you. At its last meeting in March, the Council requested the
Commission to prepare further targeted measures against Russia in the event that it
destabilised the situation in Ukraine. Russia has cut off its gas supply to Ukraine and appears
to be active militarily in various parts of the country, including around Sevastopol. Against
that background, does the UK intend to ask the Council to take further measures against
Russia?

David Lidington MP: As the Committee knows, as we speak the Foreign Secretary is in
Luxembourg at the Foreign Affairs Council, which is due to meet the newly appointed
Foreign Minister of Ukraine. I cannot pre-empt the outcome of those discussions today,
although we will obviously make an announcement about the conclusions of the Foreign
Affairs Council to Parliament in the normal way. The Government's position is that we need
to be resolute in being prepared to introduce further sectoral sanctions—so-called tear-free
sanctions—against Russia, if it persists with the destabilisation of Ukraine or aggravates the
situation further. At the same time, we are committed to continuing to talk directly to the
Russians, as the Prime Minister did with President Putin on the margins of the Normandy
commemorations, to urge them to step back and to explain to them that we do not think
that Russia's interests are being threatened by a democratic and reformist Government in
Kiev. We want to see Russia stop arms crossing its border into Ukraine and cease support
for separatist groups. If those things do not happen, stronger sanctions will need to follow. I
do not think I can be much more specific than that about the nature of sanctions. I should
add that President Poroshenko has of course announced a peace plan, which is something we support. We are urging President Putin, Foreign Minister Lavrov and the Russian Government to accept that and work with it.

**Lord Tugendhat:** I will certainly not press you on what the United Kingdom might do, for the reasons that you have outlined, but I will ask you this. The Commission was asked to prepare further targeted measures. Is your view—the British Government’s view—that the Commission has fulfilled that role and that these measures are available, should they be required?

**David Lidington MP:** The Commission came forward with some initial thinking on this. That initial analysis is still the subject of further refinement and discussion.

**Q13 Earl of Sandwich:** You will remember that this Committee has been very supportive of enlargement.

**David Lidington MP:** Yes.

**Earl of Sandwich:** I note that it is business as usual with enlargement. I will not pass any comment on that at the moment in view of Ukraine being a bigger issue, but I will ask about Albania. We know that Albania has had a chequered background and is very different from Yugoslavia. The Government were hesitating, or were last week when I read the Explanatory Memorandum, on whether to bring Albania into line for membership. Can you just rehearse some of the arguments, even if you cannot commit yourself to where we are? Has being supportive of Kosovo at the same time been helpful?

**David Lidington MP:** This is a decision that will have to be taken at the General Affairs Council tomorrow. The key point is whether Albania has made sufficient progress in its programme of domestic reform, in particular on justice and home affairs reforms and reform of governance—anti-corruption measures and so on—to merit candidate status. The Rama Government have given very strong commitments since they came to office and have
introduced a number of very welcome reforms. The decision that the General Affairs Council will have to take tomorrow is whether those have been sufficiently ambitious and successful to justify the further stage of candidate status. Of course, candidate status in itself is really just a symbolic step. There is a completely separate exercise about opening negotiations with any candidate country. After the opening, the setting of benchmarks and the closing of the individual chapters on negotiations are things that, again, have to be agreed at each stage by unanimity. It fair to say—I think the Albanian Government realise this—that even in the best case for Albania this week, it will be many, many years before Albania would be able to undertake the responsibilities of EU membership. One would be looking, perhaps, at the very late 2020s or early 2030s—that sort of rough timescale. As far as Kosovo is concerned, it has been helpful in the difficult process of trying to encourage the Kosovan Government to introduce reforms and effective governance in their very new, small country to have the Commission’s work taking place and that prospect, however distant, of a European perspective available to it. It is true of the western Balkans as a whole that our interest in seeing effective action against organised crime, illegal migration, corruption, and ethnic tension and conflict is best secured through an EU accession process that seeks to institutionalise the rule of law, democratic institutions and human rights. That is the lesson from central Europe so far. It is a much more difficult task when we are dealing with the remaining countries of the western Balkans, and I do not want to say that it is going to be either quick or easy. I do not believe that. But that accession process is the best available mechanism that we have for securing changes that are going to be in our interests.

**Earl of Sandwich:** I will just add that the news from Kosovo is surely much better. That is encouraging.
**David Lidington MP**: The news is better from both Kosovo and Serbia. I was in Belgrade a couple of weeks ago and saw Prime Minister Vučić, who assured me that they remain very committed to the dialogue and to the process of internal reform within Serbia.

**Q14 The Chairman**: Minister, as we close this, I am sure you will not wish to forget Macedonia. Although that is not perhaps something for this time, because of the difficulties, I would just add a personal comment on something you said about justice and the rule of law. You will remember that we reported last year on future enlargement, and it is increasingly borne in on me that issues of justice and home affairs and of the rule of law are also central to economic development in these countries. I notice that the Commission has picked up some of that. You may not want to comment at this stage, but that seems to be increasingly clear, I think.

**David Lidington MP**: That is very definitely the case. I saw the Foreign Minister of Macedonia on the margins of the summit at Lancaster House on ending sexual violence as an instrument of war. I reaffirmed our support for Macedonia’s European ambitions but also urged progress not just on the name issue but on the reforms programme within Macedonia. I expressed the disquiet that is felt here about some of the developments that we have seen in Macedonia that appear to call into question the Government’s commitment to human rights and to the freedom of the press, and so on. It is important for Macedonia to be able to continue to demonstrate progress.

**The Chairman**: Minister, we have come to our hour—or rather exceeded it—and would like to express our thanks to you for attending and for the characteristic frankness and fullness of your answers in a somewhat difficult or unusual situation. We have not deliberated on it, but I think the Committee would feel that it has been extremely helpful to us to have this perspective. It is an experiment that we might well wish to return to. No great collateral damage has been done. We are very grateful. With that, we close the formal
evidence session and I invite the general public to withdraw so that we can get on with a short deliberative session. We wish you and your colleagues well in the events of this week.