

# The Parliaments of Europe: full part actors or powerless spectators?

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**A state of play 2010–2020**





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## **Abstract**

Since the Lisbon Treaty, EU national Parliaments have been recognized as relevant and legitimate players at the supranational level and given tools to be involved beyond the scrutiny of their national government. However, the last decade brought new challenges to the Europeanisation of national Parliaments, with several crises boosting intergovernmentalism. This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the AFCO Committee, examines how EU national Parliaments have adapted to all these challenges and assesses their involvement in EU affairs over the past decade.

This document was requested by the European Parliament's Committee on Citizens' Rights and Constitutional Affairs.

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## LIST OF ABBREVIATIONS

<b>AFCO</b>	Committee on Constitutional affairs
<b>AFET</b>	Committee on Foreign Affairs
<b>BUDG</b>	Committee on Budgets
<b>CFSP</b>	Common Foreign and Security Policy
<b>CSDP</b>	Common Security and Defence Policy
<b>COSAC</b>	Conference of Parliamentary Committees for Union Affairs
<b>ECON</b>	Committee on Economic and Monetary Affairs
<b>EMPL</b>	Committee on Employment and Social Affairs
<b>EMU</b>	Economic and Monetary Union
<b>Eurojust</b>	European Union Agency for Criminal Justice Cooperation
<b>Europol</b>	European Union Agency for Law Enforcement Cooperation
<b>EPW</b>	European Parliamentary Week
<b>EWS</b>	Early Warning System
<b>FEMM</b>	Committee on Women's Rights and Gender Equality
<b>ICM</b>	Interparliamentary Committee Meeting
<b>JPSG</b>	Joint Parliamentary Scrutiny Group
<b>JURI</b>	Committee on Legal Affairs
<b>LIBE</b>	Committee on Civil Liberties, Justice and Home Affairs
<b>MEPs</b>	Members of the European Parliament
<b>MPs</b>	Members of national parliaments
<b>NPs</b>	National Parliaments
<b>OLP</b>	Ordinary Legislative Procedure
<b>SCP</b>	Stability or Convergence Programme

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## EXECUTIVE SUMMARY

Parliaments play a key role in ensuring accountability and democratic legitimacy in Europe. The Lisbon Treaty was an essential step towards strengthening democracy in the EU, with the further empowerment of the European Parliament (EP) and the recognition of the contribution that the national Parliaments of the Member States (NPs) can make to democratize the decision-making process. For the first time, they have been acknowledged as active players at the supranational level, and they have since become “multi-arena” actors, having a fundamental role at both the national and supranational level. The Lisbon Treaty has had positive effects on NPs, as it has triggered their further Europeanization, upgraded their resources and led to an adaptation of their procedures and engagement in EU affairs.

However, in parallel with the implementation of the Lisbon Treaty, the EU and the Member States have had to face a decade of challenges and crises, which has left its mark on the relations between the institutions and on the decision-making process. Indeed, the so-called decade of crises increased the salience and politicization of EU issues. The economic and financial crisis in particular had tremendous consequences for the EU’s architecture and decision-making process. It accelerated ongoing trends in the EU, such as the empowerment of the executive, particularly the European Council, and the recourse to alternative procedures and non-legislative decisions. Whereas national Parliaments had just adapted their scrutiny procedures to monitor the ordinary legislative procedure with the new tools provided by the Lisbon Treaty, the crises acted as a boost for intergovernmentalism. There has not been any massive transfer of competences as such, but the supranational surveillance of national budgets and economic policies has greatly increased the constraints on national governments and has undermined parliamentary scrutiny. This has led to renewed debates on the democratic deficit in the EU and to new contestations, such as waves of Euroscepticism in many Member States.

This study aims at taking stock of the evolution of NPs in dealing with EU affairs during the last decade and at assessing the tools at their disposal. It focuses and makes recommendations on the following three main elements:

1. Relations between NPs and the European Commission;
2. Interparliamentary cooperation at the EU level;
3. The role of NPs in monitoring their government’s activities in the Council and European Council.

As regards relations with the European Commission, the study recommends introducing a “green card” so as to give NPs the opportunity to put forward positive ideas and suggest new pieces of legislation instead of being only the watchdogs of subsidiarity. It also suggests increasing the flexibility regarding the eight-week deadline set for sending reasoned opinions: this flexibility has been put in place informally over the last few years, including during the Covid-19 pandemic but could be formalised to give more room for manoeuvre to NPs. The study also suggests the possibility for NPs to intervene at a later stage of the decision-making process, through a “late card” or an informal tool.

Regarding the interparliamentary cooperation at the EU level, the study recommends an increased use of a committee-based approach in order to trigger a more consistent interest from Members of Parliament (MPs). It would be based on concrete problems or salient issues or specific documents to be monitored and discussed. It could take into account the main differentiated areas of integration as such a format would allow for differentiation in interparliamentary cooperation. The study also suggests a more political approach to interparliamentary cooperation through an increased focus on

political parties and more involvement of parliamentary minorities. A greater involvement of MPs and MEPs along political – rather than national – lines would make their cooperation more politicised and could trigger more public interest, as well as transnational alliances instead of national or inter-institutional patterns of cooperation. For instance, MPs and MEPs could sit by political families, national delegations should no longer be seen as unitary actors but as representatives of the diversity of opinions within each parliament, proceedings could reflect this diversity and parliamentary minorities could be guaranteed certain rights such as issuing an initiative for a green card or an official opinion to the Commission.

Finally, concerning the scrutiny of the Council and European Council, some improvements could be made. The involvement of NPs in the preparation of European Council meetings and in the preparation of the submission of the stability and national reform programmes before their submission could be increased. The chair of the committee dealing with EU affairs could be more closely involved in preparatory meetings and/or be part of the national delegations during European Council meetings. Furthermore, the strategic agendas of the EP and NPs could be better aligned to improve the monitoring of the European Semester. A better cooperation between NPs and the EP could trigger the emergence of transnational coalitions on macroeconomic policies rather than divisions between the national and European levels.



different political parties that must compete electorally. This constitutional and internal diversity limits their ability to act collectively at the EU level.

Furthermore, European integration has been a contributory factor in the “de-parliamentarisation” process, i.e. taking away traditional areas of intervention from national parliaments<sup>6</sup> at the EU and national level. The primacy of EU law is a constraint on the role of the national Parliaments as lawmakers. Also, the developments in the last decade to manage the consequences of the Eurozone crisis have led to a general trend of intergovernmental decision-making in the EU<sup>7</sup>, with a dominance of executives and new constraints for parliamentary action.

## Outline of the study

The aim of this study is to examine and assess the involvement of national parliaments in EU affairs over the past decade: Chapter 2 focuses on parliamentarisation and de-parliamentarisation in the EU by looking at the new opportunities offered by the Lisbon Treaty as well as by taking stock of the general evolution of the involvement of national parliaments in EU affairs. Chapter 3 concentrates on the relations between national Parliaments and the Commission, collectively (through the EWS) and individually (with the Political Dialogue). Chapter 4 examines the latest developments regarding interparliamentary cooperation, while Chapter 5 considers the role of Parliaments in scrutinizing their government, both in the Council and the European Council. The final Chapter concludes with an analysis of the challenges to the involvement of national Parliaments and formulates some recommendations.

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<sup>6</sup> Cygan, A. (2013), *Accountability, Parliamentarism and Transparency in the EU*, Cheltenham, Edward Elgar.

<sup>7</sup> Puetter, U. (2014) *The European Council and the Council: New intergovernmentalism and institutional change*. Oxford University Press; Curtin, D. (2014). Challenging Executive Dominance in European Democracy. *The Modern Law Review*, 77(1), 1-32.

## 2. PARLIAMENTARISATION AND DE-PARLIAMENTARISATION

National Parliaments remain the main representative bodies in the European Union. They provide a necessary link between secluded high-level bargaining and domestic audiences.<sup>8</sup> And despite the well-known crisis of representation contemporary democracies face, NPs remain overall better known (and sometimes better trusted) by citizens. However national parliaments have long been considered as the 'victims' of European integration.<sup>9</sup> Indeed, the integration process seemed to go hand in hand with a de-parliamentarisation process which deprived national Parliaments of their legislative influence over communitarised policies.<sup>10</sup> With national governments representing their countries at the EU level, informational asymmetries between the executive and the legislature seemed to be growing, and NPs seemed unable to properly scrutinize their government on EU affairs. As noted by De Ruiter and Neuhold, "the discrepancy between the need for parliamentary control at the national level and the inability of NPs to control the national executive branch in the complex EU legislative process seriously undermines the legitimacy of the representative democratic system in Europe".<sup>11</sup> But through treaty reforms and domestic changes, national parliaments have "fought back".<sup>12</sup> Through increased cooperation and several channels of parliamentary scrutiny, information and influence asymmetries have been partially reduced. In particular, an increased involvement of national Parliaments was codified after the Lisbon Treaty, leading some scholars to talk about a "multi-level parliamentary field" to describe parliamentary representation in the multi-level European polity<sup>13</sup> or about "a virtual third chamber"<sup>14</sup> to capture parliamentary involvement in subsidiarity monitoring.

### 2.1. The Lisbon Treaty

The Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon on 13 December 2007, is often referred to as the "Treaty of the parliaments". Indeed, while it further empowered Parliament, one of its key features was to formally recognize that NPs "contribute actively to the functioning" of the EU (Article 12) and to define, for the first time, specific mechanisms and instruments for this.

First, two protocols in which NPs are central were annexed to the treaty. Indeed, Protocol No 1 entitled "The role of National Parliaments in the European Union" defines the role and rights of NPs and more concretely, stipulates the information rights of NPs and highlights the role of interparliamentary

<sup>8</sup> Lindseth, P. L. (2010). *Power and legitimacy: Reconciling Europe and the nation-state*. Oxford University Press.

<sup>9</sup> Auel, K., Benz, A. (2005), "The Politics of Adaptation: Europeanisation of National Parliamentary Systems", *Journal of Legislative Studies*, 11 (3-4): 372-393; Raunio, T. (2011). The gatekeepers of European integration? The functions of national parliaments in the EU political system. *Journal of European Integration*, 33(3), 303-321.

<sup>10</sup> Maurer, A., Wessels, W., (2001) *National parliaments on their ways to Europe. Losers or latecomers?*, Nomos Verlag..

<sup>11</sup> de Ruiter, R., Neuhold, C. (2021), "Subsidiarity watchdogs and the kennel of trilogues: when do they bark? The role of National Parliaments in trilogue negotiations", *Journal of European Public Policy*, 28:1, 93-111.

<sup>12</sup> Raunio, T., Hix, S., (2000), "Backbenchers learn to fight back: European integration and parliamentary government", *West European Politics*, 23 (4): 142-168; Heffler, C., Neuhold, C., Rozenberg, O., Smith, J. (eds), *The Palgrave Handbook of National Parliaments*, London, Palgrave.

<sup>13</sup> Crum, B., & Fossum, J. E. (2009). The Multilevel Parliamentary Field: a framework for theorizing representative democracy in the EU. *European Political Science Review: EPSR*, 1(2), 249.

<sup>14</sup> Cooper, I. (2012), "A virtual third chamber for the European Union? National Parliaments after the Lisbon Treaty", *West European Politics*, 35(3): 441-465.

cooperation in the EU. Protocol No 2 on the application of the principles of subsidiarity and proportionality gives NPs' a key role as guardians of the subsidiarity principle through the so-called Early Warning System (EWS) and the possibility for them to bring action before the Court of Justice of the EU on the grounds of a breach of that principle.<sup>15</sup> In particular, the EWS can be seen as a "pre-legislative constitutional intervention device".<sup>16</sup>

Second, the Lisbon Treaty enhances the role of NPs in terms of treaty revisions. NPs have always been veto players when it comes to treaty ratifications (unless these were subjects to referendum) but this role has been extended to two other types of treaty changes, namely the simplified treaty revision procedure and the two *passerelle* clauses (Article 48 TEU and Article 81 TFEU). Furthermore, with the formalisation of the Convention method as the ordinary treaty revision procedure, Members of NPs are now sure to be included in future Conventions on equal footing with EU institutions and national executives. This gives a more active role to NPs. To date, the simplified treaty revision procedure has been used three times (for the Protocol on Transitional Provisions to the TOL- C263/1 – The so-called Irish Protocol – L/60) and to amend article 136 TFEU) and although none of these amendments has been vetoed, they have all been subject to parliamentary scrutiny.

Third, NPs are now involved in evaluation mechanisms for the implementation of EU policies in the area of freedom, security and justice and in the political monitoring of the activities of Europol and Eurojust.

As noted by scholars, the Lisbon Treaty granted a new collective role to NPs in EU politics.<sup>17</sup> In addition to their traditional role of scrutinizing their government, NPs have become "multi-level" players. Individually and collectively, they have become directly involved in the European decision-making process and are no longer formally dependent on their governments to take a position or be informed. But the fact that this increased role for NPs is in a separate provision than the institutions of the EU suggest for some that it is rather a symbolic gesture and that NPs are to remain secondary players.<sup>18</sup>

#### Box 1: Lisbon Treaty: provisions regarding national Parliaments

##### **A formal and symbolic recognition:**

**Article 10(3) TEU:** "[...] Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens."

##### **The control of the subsidiary principle**

**Article 12 TEU:** "National Parliaments contribute actively to the good functioning of the Union [...] by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality [...]."

<sup>15</sup> Kiiver, P. (2012), *The Early Warning System for the Principle of subsidiarity: constitutional Theory and Empirical Reality*, London, Routledge.

<sup>16</sup> Cygan, A. (2011). The parliamentarisation of EU decision-making? The impact of the Treaty of Lisbon on national parliaments. *European Law Review*, (4), 480-499.

<sup>17</sup> Auel, K., & Neuhold, C. (2017). Multi-arena players in the making? Conceptualizing the role of national parliaments since the Lisbon Treaty. *Journal of European Public Policy*, 24(10), 1547-1561.

<sup>18</sup> Chalmers, D., & Monti, G. (2008). *European union law*. Cambridge University Press, 42.

- Principle: Article 3 Protocol No. 1.
- Procedure: Articles 6-7 Protocol No. 2.

#### • Court of Justice

**Article 8 of Protocol No 2:** *"The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act, brought in accordance with the rules laid down in Article 263 of the Treaty on the Functioning of the European Union by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a Chamber thereof."*

#### An acknowledgment of interparliamentary cooperation

• **Article 12 TEU:** "National Parliaments contribute actively to the good functioning of the Union [...] by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national Parliaments in the European Union."

• Freedom: **Article 9 of Protocol No 1:** "The European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular interparliamentary cooperation within the Union."

• COSAC and CFSP/CSDP: Article 10 Protocol No. 1.

#### Information rights

• **Article 12 TEU:** *"National Parliaments contribute actively to the good functioning of the Union through being informed by the institutions of the Union and having draft legislative acts of the Union forwarded to them in accordance with the Protocol on the role of national Parliaments in the European Union [...]"* [...] *by being notified of applications for accession to the Union, in accordance with Article 49 of this Treaty [...]"*

Protocol n°1 specifies that national parliaments should receive:

- The Commission's consultation documents, upon publication
- The Commission's annual legislative programme and instruments of legislative planning or policy, at the same time as the European Parliament and the Council
- Legislative resolutions of the European Parliament and positions of the Council
- Draft legislative acts and their amended drafts at the same time as the European Parliament and the Council
- The agenda for and the outcome of the meetings of the Council, including the minutes of meetings where the council deliberates on draft legislative acts
- Initiatives of the European Council
- Annual reports of the Court of Auditors

#### Participation in the revision of the treaty

• **Convention: Article 12 TEU:** "National Parliaments contribute actively to the good functioning of the Union [...] by taking part in the revision procedures of the Treaties, in accordance with Article 48 of this Treaty [...]"

• **Convention: Article 48(3) TEU:** *"If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments,*



*the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission [...]."*

• **Passerelle clauses: Article 48(7) TEU:** *"[...] Any initiative taken by the European Council on the basis of the first or the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months."*

### **Area of Freedom, Security and Justice**

• **Article 12 TEU:** *"National Parliaments contribute actively to the good functioning of the Union [...] by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with Article 70 of the Treaty on the Functioning of the European Union, and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles 88 and 85 of that Treaty [...]."*

• **Article 85(1) TFEU:** *"[...] These regulations shall also determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities."*

• **Article 88(2) TFEU:** *"[...] These regulations shall also lay down the procedures for scrutiny of Europol's activities."*

Source: Rozenberg, O. (2017), "The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges", European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs, pp. 14–15.

## **2.2. The Eurozone crisis and National Parliaments**

While there was some optimism after the implementation of the Lisbon Treaty, with the formal recognition of the key role of NPs, there have been many discussions regarding the impact of the Eurozone crisis on their prerogatives. It has been argued that the measures taken within the framework of the reform of the EU's economic governance have actually endangered or even nullified the powers of NPs and that instead of being latecomers, they remain victims of the integration process. It seems indeed that the measures to tackle the Eurozone crisis have once again marginalized NPs. More specifically, a renewed intergovernmental dynamic took over as the European Council and the Eurogroup became central actors in the management of the crisis. The new budgetary procedures are designed by a complex interaction between domestic executives and supranational institutions, which are either intergovernmental or technocratic such as the European Central Bank. This makes it particularly difficult for NPs to exercise oversight and hold national governments accountable and to determine who is ultimately responsible for adopting structural reforms or budgetary decisions. There is a strong lack of democratic control of the European Council from a European-wide perspective.

There is no consensus among scholars on whether NPs did in fact lose prerogatives because of the Eurozone crisis. Some argue that it is indeed the case and that the role of NPs has been diminished on the back of more intense inter-state relations<sup>19</sup>. This has led some scholars to put forward ideas to

<sup>19</sup> De Wilde, P., & Raunio, T. (2018). Redirecting national parliaments: Setting priorities for involvement in EU affairs. *Comparative European Politics*, 16(2), 310-329; Crum, B. (2017). National parliaments and constitutional transformation in the EU.



democratize the economic governance in the EU such as “Eurozone Parliament” or a “Eurozone Assembly”<sup>20</sup>. Others consider that the picture is more nuanced. They highlight for instance that the impact on the rights of NPs depends on the financial situation of the country during the crisis and on the measures themselves. For instance, most Parliaments could adjust to the European Semester through existing procedures and could then oversee their government’s actions during the crisis. However, it was much more difficult for them to do so during the negotiation of intergovernmental agreements such as the rescue packages or the Fiscal Compact.<sup>21</sup> As was the case before the crisis, the rights of NPs also depend on the constitutional and institutional tools available domestically as well as the relationships between the legislature and the executive. Finally, scholars have stressed that two periods of time should be distinguished. The first one was a time of emergency which deeply affected parliamentary powers. Most Parliaments were not informed about ongoing negotiations and were forced to act under tight time constraints: “national parliaments have felt particularly uncomfortable in coping with the unconventional sources of the Euro-crisis law, such as the Memoranda of Understanding, ESM Treaty and the Fiscal Compact”.<sup>22</sup> But in a second period, strict conditionality came to an end, intergovernmental agreements were translated into domestic legislation and the role of NPs was gradually restored.

After the first stage, the democratic legitimacy of economic governance was questioned and three types of measures were put forward. Firstly, the position of Parliament was strengthened through the economic Dialogue and the Monetary Dialogue. Secondly, ways of compensating the loss of budgetary rights by national Parliaments were sought and finally, mechanisms to create and stimulate interparliamentary cooperation have been created (Fromage and Van den Brink 2018). It seems that as the crisis touched upon politically controversial issues, NPs became more active, although in a very heterogeneous way, and debated more EU issues, both in plenary and committees.<sup>23</sup>

### 2.3. So where are we now and does all this matter?

Long seen as marginal actors in EU affairs, NPs are officially recognized as relevant players since the Lisbon Treaty, as the treaty has given them a comprehensive role. They now have the tools to be involved in EU affairs beyond the scrutiny of their national government, through the EWS, the Political Dialogue, and interparliamentary cooperation. This can be considered to be a major shift, in which the multiple references in the treaties to their direct participation are construed as desirable and legitimate.<sup>24</sup> The decade of crises has boosted intergovernmentalism in the EU, but NPs have tried to be (pro-)active and to adapt in different ways, changing their rules and /or practices to follow and monitor EU affairs. They have done so differently, depending on their national traditions, constitutional

<sup>20</sup> See Kreiling, V. and Larhant, M., 2016. Does the Eurozone need a Parliament? Jacques Delors Institut – Berlin, pp. 10-11 and the idea of a Treaty on the democratization of the Economic and Social government of the European Union <http://tdem.eu/en/manifesto/>

<sup>21</sup> Fasone, C. (2015), « Taking budgetary powers away from national parliaments? On parliamentary prerogatives in the Eurozone crisis », *EUI working papers*, 2015/37.

<sup>22</sup> Fasone, C. (2015), « Taking budgetary powers away from national parliaments? On parliamentary prerogatives in the Eurozone crisis », *EUI working papers*, 2015/37.

<sup>23</sup> Heffler, C., Neuhold, C., Rozenberg, O. and Smith, J. (eds) *The Palgrave Handbook of National Parliaments*, London: Palgrave Macmillan; Hallerberg, M., Marzotto, B., Wolff, G.B. (2018), “Explaining the evolving role of national parliaments under the European Semester”, *Journal of European Public Policy*, 25(2): 250-267.

<sup>24</sup> Lupo, N., Fasone, C. (2016), *Interparliamentary cooperation in the composite European Constitution*, Bloomsbury Publishing.

environment and the salience of EU affairs at the domestic level. Still, they remain confronted with significant challenges and the EU's various "representation deficits" persist.<sup>25</sup>

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<sup>25</sup> Bellamy, R., & Kröger, S. (2013). Representation deficits and surpluses in EU policy-making. *Journal of European Integration*, 35(5), 477-497.

### 3. RELATIONS BETWEEN NATIONAL PARLIAMENTS AND THE EUROPEAN COMMISSION

Since the Lisbon Treaty, NPs have become “multi-arena players”<sup>26</sup>: they can act, individually and collectively, at the EU level and can do so independently of the executive. The most direct way for NPs to influence decision-making processes at the EU level is through their relations with the Commission. More specifically, two tools are at their disposal: the EWS on one hand and the Political Dialogue on the other.

#### 3.1. Collective action at the EU level: the Early Warning System

One of the main substantive changes introduced by the Lisbon Treaty regarding the position of NPs is undoubtedly the Early Warning System. It allows NPs to scrutinize every draft legislative act and to examine whether it complies with the principle of subsidiarity. Each Member State parliament has two votes (one for each chamber in bicameral systems, two for unicameral systems)<sup>27</sup>.

If they consider a draft legislative act doesn't respect the principle of subsidiarity, they can send a reasoned opinion to the Presidents of Parliament, the Council, and the Commission. Such a reasoned opinion can be submitted by any chamber of a Member State's national parliament and in any official language of the Union. It must state the reasons why the national parliament considers that the draft legislative act does not comply with the subsidiarity principle and it must be submitted within eight weeks of the date of transmission of the draft legislative act<sup>28</sup>.

##### 3.1.1. Yellow and orange cards

The EWS provides for two types of 'cards': yellow and orange.

If at least one third (or one fourth on issues related to Justice, Freedom and Security) of all votes allocated to NPs send a reasoned opinion against the proposal, the yellow card procedure is triggered and the Commission must review its proposal. The Commission can decide whether it maintains, revises or withdraws it. This allows NPs to communicate their concerns about the EU's intervention on issues that citizens may consider to be purely domestic.

Since the adoption of the Lisbon Treaty, this procedure has only been used three times. The first was in 2012 on a proposal for a Regulation on the exercise of the right to take collective action (the so-called Monti II Regulation). Twelve out of 40 national Parliaments or chambers of Parliaments (19 out of 54 votes allocated) considered that the content of the proposal was not consistent with the principle of subsidiarity. The Commission reviewed its proposal but did not find it in breach of the principle of subsidiarity. However, because there was little support in Parliament and the Council for its proposal, the Commission withdrew it. The yellow card procedure was triggered a second time one year later, in

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<sup>26</sup> Auel, K., Neuhold, C. (2017), “Multi-arena players in the making? Conceptualizing the role of national parliaments since the Lisbon treaty”, *Journal of European Public Policy*, 24(10): 1547-1561.

<sup>27</sup> There are 15 unicameral parliaments and 12 bicameral parliaments in the EU. In federal and heavily decentralised Member States a procedure allows for the involvement of regional parliaments.

<sup>28</sup> See Article 6 of Protocol (No 2) on the application of the principles of subsidiarity and proportionality.

2013, on the Commission's proposal for a Regulation establishing the European Public Prosecutor's Office. Fourteen chambers of national Parliaments in 11 Member States (18 votes) issued a reasoned opinion. The Commission reviewed the reasoned opinion and decided to maintain the Regulation but published a Communication to explain its decision<sup>29</sup>. The last time the yellow card procedure was triggered was in 2016 in relation to the Commission's proposal to review the Posted Workers Directive. Fourteen chambers in 11 Member States objected to the Commission's draft proposal. The issue was very salient among Central and Eastern countries, whose Parliaments used the EWS to raise their concerns and back up their governments (Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia). The issue was also salient in certain Western European countries and some of their Parliaments also issued a reasoned opinion. Again, the Commission reviewed the reasoned opinions but decided that its proposal complied with the subsidiarity principle and decided to maintain it (see COM 2016/505)<sup>30</sup>.

If a simple majority of the votes allocated to NPs send a reasoned opinion regarding a piece of legislation, the orange card procedure is triggered. Again, this is limited to the respect of the subsidiarity principle, NPs cannot send reasoned opinions on the substantive issue at hand. The Commission must then review its proposal based on the reasoned opinions and may decide to maintain, withdraw or amend its draft. If the Commission decides to maintain its proposal, it has to justify this decision to the EP and the Council and explain why the draft complies with the subsidiarity principle. The co-legislators receive the reasoned opinions of NPs and the opinion of the Commission and if a simple majority of MEPs or 55% of the Council members consider that the proposal breaches the subsidiarity principle, the proposal is not given further consideration.

**Table 1: Yellow and orange cards**

	Legal basis	Threshold	Procedure	Consequence
Yellow card	Art. 7(2) Protocol No 2	1/3 of votes of NPs	The Commission may decide to maintain, amend or withdraw its proposal. Its decision must be reasoned	The draft proposal must be reviewed by the Commission.
		1/4 of votes of NPs in case of a proposal in the area of freedom, security and justice		

<sup>29</sup> [Communication from the Commission to the European Parliament, The Council And The National Parliaments on the review of the proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office with regard to the principle of subsidiarity, in accordance with Protocol No 2, 27.11.2013, COM\(2013\) 851 final.](#)

<sup>30</sup> [Communication from the commission to the European Parliament, the Council and the National Parliaments on the proposal for a Directive amending the Posting of Workers Directive, with regard to the principle of subsidiarity, in accordance with Protocol No 2, 20.7.2016 COM\(2016\) 505 final.](#)

Orange Card	Art. 7(3) Protocol No 2	Simple majority of votes (28 of 54 votes)	The Commission may decide to maintain, amend or withdraw its proposal. Its decision must be reasoned. The co-legislators assess this reasoned opinion together with the reasoned opinions of NPs and decide whether the proposal respects the subsidiarity principle or not	The draft proposal must be reviewed and it can be found incompatible with the principle of subsidiarity by the Council and the EP.
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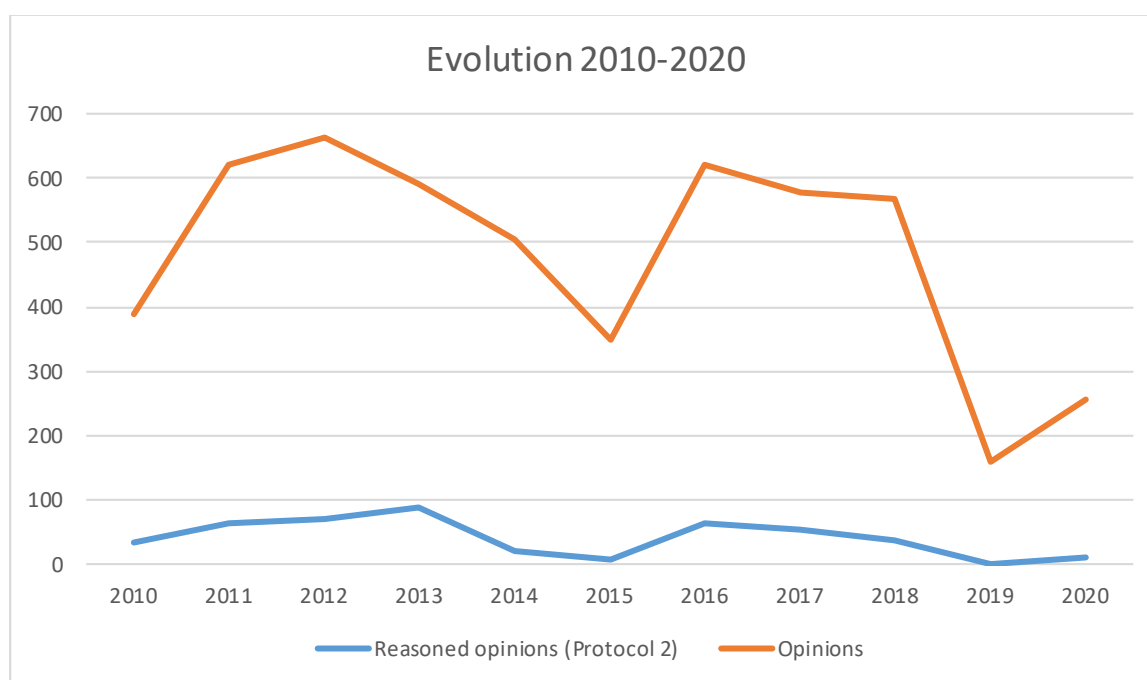
Source: Remáč M. (2017), Working with national parliaments on EU affairs, EPRS Study, PE.603-271

### 3.1.2. Assessment

The expectations regarding the EWS were high: this procedure is the only treaty-based tool of parliamentary control of EU legislation backed up with a potential sanction. Many hoped that it would lead to a greater involvement of NPs at the EU level and to a more democratic and legitimate decision-making process.

So far however, it has not been a huge success. On the positive side, it has encouraged NPs to become involved in EU issues and cooperate with each other. It has increased NPs' knowledge of the EU legislative process and has triggered NPs to be more active in scrutinizing European legislation. Studies also found that although NPs have not been able to block unwanted policies, their involvement through the EWS has had a positive impact on the quality of the European legislative process and on their scrutiny capacity.<sup>31</sup>

<sup>31</sup> Cooper, I. (2018). A New Form of Democratic Oversight in the EU: The Joint Parliamentary Scrutiny Group for Europol. *Perspectives on Federalism*, 10(3), 184-213; Miklin, E. (2017), "Beyond Subsidiarity: The Effect of the Early Warning System on National Parliamentary Scrutiny in European Union affairs", *Journal of European Public Policy* 24 (3): 366-385.

Figure 1: Number of opinions and reasoned opinions (2010–2020)<sup>32</sup>

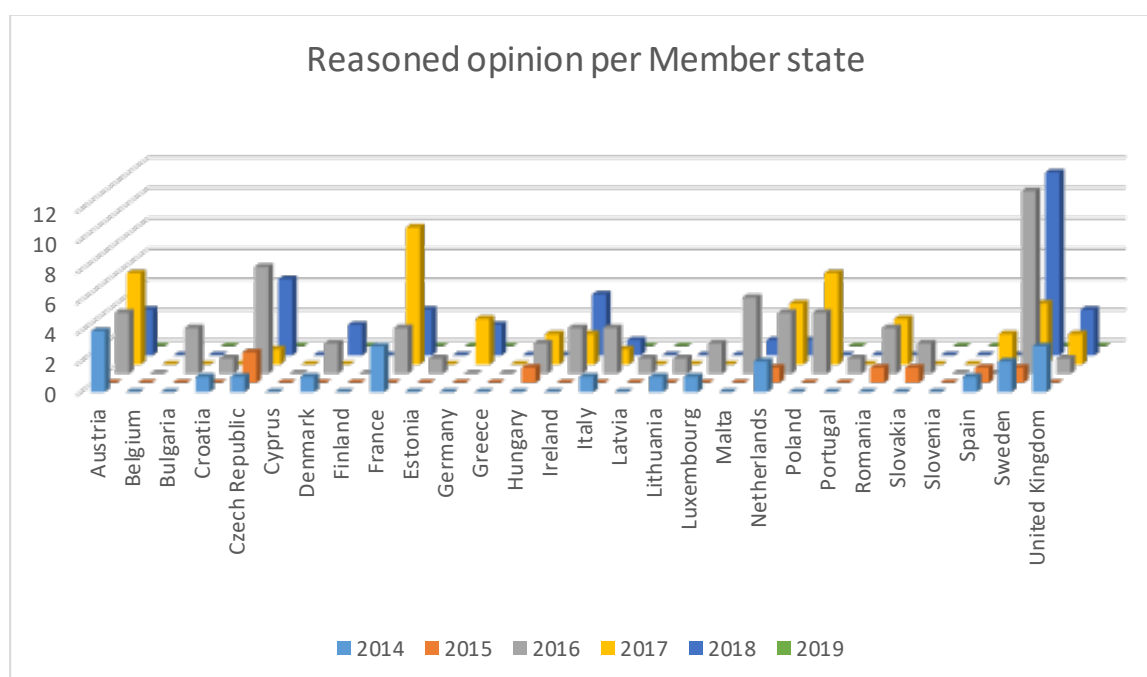
Source: European Commission, Annual Reports on the relations with National Parliaments, [https://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments\\_en](https://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments_en)

Overall though the record remains poor. The yellow card procedure has only been triggered three times, the orange card procedure has never been activated. As such, the very limited number of cases where the threshold has been reached is not very relevant and should not be interpreted as a sign of failure per se. As noted by scholars, partly because of the establishment of the EWS, the Commission might be more careful in its proposals when it comes to the subsidiarity principle and devotes more time and attention to explaining how this principle is respected in its proposals.<sup>33</sup> It can also be argued that because few proposals lead to triggering the yellow card procedure, when it is done, it is politically very relevant and significant and needs to be addressed.

Moreover, there are significant national disparities, as some Parliaments or even some chambers are much more active than others.

<sup>32</sup> This figure is based on the data available on the website of the Commission. Since the EP and the Commission report these data differently, it has been chosen to base the graph on one type of data, namely those reported by the Commission. The number of "opinions" included reasoned opinions and opinions.

<sup>33</sup> Kiiver, P. (2012), *The Early Warning System for the Principle of subsidiarity: constitutional Theory and Empirical Reality*, London, Routledge.

Figure 2: Number of reasoned opinions per Member state's parliament: 2014-2019<sup>34</sup>

Source<sup>35</sup>: European Commission, Annual Reports on the relations with National Parliaments, [https://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments\\_en](https://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments_en)

In the first six years after the creation of the EWS, the most active chambers were the Swedish parliament (56 opinions) followed by the French *Sénat* (25) and the Dutch lower (22)<sup>36</sup> and higher (18) assemblies (Auel and Neuhold 2016). Since then, they have been joined in the “active club” by Poland, the Czech Republic, the Austrian Bundesrat, and Ireland. Some Parliaments on the other hand seem to completely neglect this tool such as the Belgian, the Cypriot, Hellenic, and Slovenian Parliaments.

Two key elements should be considered to understand these national disparities: the chamber's conception of its role on the one hand and its organization when it comes to EU politics on the other. Indeed, NPs have different conceptions of their role in EU politics. As noted by Mastenbroek and his colleagues: “some parliaments, with the Finnish Eduskunta being the most notable example, do not regard direct control over EU policy-making as the responsibility of national parliaments”.<sup>37</sup> While other NPs, like the Swedish *Riksdag*, consider it a key duty to scrutinize the Commission's proposals and

<sup>34</sup> This figure is based on the data available on the website of the Commission. Since the EP and the Commission report these data differently, it has been chosen to base the graph on one type of data, namely those reported by the Commission.

<sup>35</sup> The Commission only counts an opinion as reasoned if it is submitted within the 8 weeks' time limit and it clearly states a breach in the subsidiarity principle.

<sup>36</sup> It is interesting to note that the Tweede Kamer not only uses the EWM to communicate its concerns regarding the subsidiarity principle but also to put forward improvements to the procedure. For instance, it has demanded more substantive responses from the Commission, more than 8 weeks to submit reasoned opinions, or lowering the threshold to trigger the yellow card (Mastenbroek et al. 2004).

<sup>37</sup> Mastenbroek, E., Zwaan, P., Groen, A., Van Meurs, W., Reiding, H., Dorrenbacher, N. and Neuhold, C. (2014), Engaging with Europe - Evaluating national parliamentary control of EU decision making after the Lisbon Treaty, Nijmegen: Radboud University: 24.

contribute to the EWS.<sup>38</sup> And some NPs have more defined and compelling rights when it comes to EU scrutiny and are therefore do not see the control of subsidiarity through the EWS or the Green card as relevant tools.<sup>39</sup>

However, it is not just a question of role conception. Some NPs have put in place tools and systems to be more efficient in scrutinizing EU documents and these elements have been emphasized as crucial by several studies. More particularly, there might be an overload of information coming from the EU level and some chambers have therefore put a system in place to select the documents that are to be subjected to parliamentary scrutiny. We can identify two broad ways in which some Parliaments have adapted to the EWS (and the Political Dialogue), to prioritize documents and streamline the monitoring process:

- **Mainstreaming EU affairs through committees**

In Sweden, the scrutiny of EU affairs is largely decentralized: committees (whose composition reflects the *Riksdag* as a whole) are in charge of monitoring EU documents that fall in their area of expertise. Each committee can ask the government to send within two weeks its assessment of the subsidiarity principle and make a statement advocating for a reasoned opinion of the *Riksdag*. Here, the European Affairs Committee does not play a role, whether of coordination or otherwise.<sup>40</sup> Similarly, the Dutch lower house also delegates the monitoring of EU documents to the relevant committee, after making a first prioritization on the basis of the work programme of the Commission. However in this case the European Affairs Committee does play a role as it invites the cabinet member assigned to EU affairs to discuss documents which are considered controversial.<sup>41</sup> The Italian *Senato della Repubblica* has also given a more central role to its committees, together with the European Affairs Committee in order to adapt to the EWS and the Political Dialogue.<sup>42</sup> In Romania as well, both chambers have increased their scrutinizing activities and begun playing a more active part in the EWS and the Political Dialogue. Standing committees are involved but play a rather advisory role while the European Affairs Committee is the key actor when adopting the final decision to issue a reasoned opinion.<sup>43</sup> In Bulgaria, the National Assembly (*Narodno Sabranie*) has developed the habit of adopting its own Annual working programme on EU affairs. Standing committees and the European Affairs Committee are involved and it allows the chamber to discuss its positions and preferences on relevant texts.<sup>44</sup>

<sup>38</sup> Hegeland (2015), "The Swedish Parliament and EU Affairs: From Reluctant Player to Europeanized Actor, in: Heffler, C., Neuhold, C., Rozenberg, O. and Smith, J. (eds) *The Palgrave Handbook of National Parliaments*, London: Palgrave Macmillan: 425-441.

<sup>39</sup> Borońska-Hryniewiecka, C. (2017), "From the Early Warning System to a 'Green Card' for National Parliaments: Resilience or Resignation?", in Jancic, D., *National Parliaments after the Lisbon Treaty and the Euro Crisis*, Oxford, Oxford University Press: 247-262.

<sup>40</sup> Ibidem.

<sup>41</sup> Högenauer, Anna-Lena. "The Dutch parliament and EU affairs: decentralizing scrutiny." *The Palgrave Handbook of National Parliaments and the European Union*. Palgrave Macmillan, London, 2015. 252-271.

<sup>42</sup> Cavatorto, S. (2015) Italy: Still looking for a new Era in the Making of EU Policy, in: in: C. Heffler et al. (eds), *The Palgrave Handbook of National Parliaments*, London, Palgrave: 209-231.

<sup>43</sup> Tacea, A. (2015), "The Slow Adaptation of a New Member State: The Romanian Parliament and European Integration", in: Heffler, C., Neuhold, C., Rozenberg, O. and Smith, J. (eds) *The Palgrave Handbook of National Parliaments*, London: Palgrave Macmillan: 613-631.

<sup>44</sup> Kanev, D. (2015) The Bulgarian National Assembly and EU Affairs: Hesitant Steps in the European Arena", in: Heffler, C., Neuhold, C., Rozenberg, O. and Smith, J. (eds) *The Palgrave Handbook of National Parliaments*, London: Palgrave Macmillan: 449.



- **The creation of a specific body or coordinating function**

The French *Sénat*, for instance, set up a working group on subsidiarity in 2011 to adapt its scrutiny procedure. It has one representative per party and convenes before the meeting of the European Affairs Committee to select which documents should be monitored.<sup>45</sup> In the Czech Parliament, the role of the European Affairs Committee is key in both the lower and upper house, but a special body has been created (the Parliamentary Institute) which selects the documents which are then to be monitored for subsidiarity. The parliamentary staff also play a key role in the Senate to select relevant documents to be controlled.<sup>46</sup> Other Parliaments have chosen instead to work at the level of MPs by designating one responsible for EU affairs. For instance, in the Belgian *Chambre des Représentants de Belgique / Belgische Kamer van volksvertegenwoordigers*, every committee selects a Europromoter among its members. This MP is then in charge of following the EU policy process on areas that are relevant for the committee and to draft a reasoned opinion. In Portugal, a similar system is in place: a rapporteur is appointed on the basis of the agenda of the European Council and is supposed to monitor EU affairs on behalf of the parliament.<sup>47</sup> Finally, in Poland, the *Sejm* designates rapporteurs within the European Affairs Committee. The rapporteur closely follows the proposal under scrutiny, takes part in any relevant meetings where it is discussed (although he or she does not have a mandate to decide on behalf of the *Sejm*) and if necessary, drafts the reasoned opinions.<sup>48</sup>

Overall, the number of reasoned opinions remains relatively low for most chambers. Several factors have been put forward to explain this lack of success.

First, although NPs are supposed to be the watchdogs of subsidiarity, the salience of subsidiarity is low while the ex-ante review of the Commission's proposals is a very time-consuming task.<sup>49</sup> NPs have limited resources and have to make trade-offs as to how to spend them. If the review of subsidiarity is not salient and requires a lot of efforts and resources, it is quite likely it will not be a priority.

Second, this is reinforced by the fact that the procedure is difficult to trigger. NPs have a very short period of time – eight weeks – to analyse the draft proposal, send a reasoned opinion, coordinate their action, and trigger the procedure. This eight-week period is very short as not all NPs have the time and/or expertise to deal with EU affairs on a daily basis. This problem has been acknowledged by Parliament: the 2017 Bresso and Brok report<sup>50</sup> suggested more flexibility regarding the eight-week deadlines such a short period leaves limited time for coordination when cooperation with other chambers is key in the EWS. This flexibility has been applied during the Covid-19 pandemic as the Commission excluded the Christmas and New Year period from the 8 weeks limit and showed flexibility in general because of the practical issues NPs could be facing due to the pandemic. The collective

<sup>45</sup> Thomas, A., and A. Tacea (2015). "The French parliament and the European Union: 'Shadow Control' through the government majority." *The Palgrave Handbook of National Parliaments and the European Union*. Palgrave Macmillan, London: 70-190.

<sup>46</sup> Hrabalek, M., Strelkov, A. (2015), "The Czech Parliament and European Integration", in: Heffler, C., Neuhold, C., Rozenberg, O. and Smith, J. (eds) *The Palgrave Handbook of National Parliaments*, London: Palgrave Macmillan: 494-512.

<sup>47</sup> Jančić, D., (2012), "The Barroso Initiative: Window Dressing or Democracy Boost?", *Utrecht Law Review* 8(1): 78–91.

<sup>48</sup> Mastenbroek, E., Zwaan, P., Groen, A., Van Meurs, W., Reiding, H., Dorrenbacher, N. and Neuhold, C. (2014), *Engaging with Europe - Evaluating national parliamentary control of EU decision making after the Lisbon Treaty*, Nijmegen: Radboud University.

<sup>49</sup> Miklin, E. (2017), "Beyond Subsidiarity: The Effect of the Early Warning System on National Parliamentary Scrutiny in European Union affairs", *Journal of European Public Policy* 24 (3): 366-385.

<sup>50</sup> European Parliament resolution of 16 February 2017 on improving the functioning of the European Union building on the potential of the Lisbon Treaty, 2014/2249(INI), [https://www.europarl.europa.eu/doceo/document/TA-8-2017-0049\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2017-0049_EN.html)

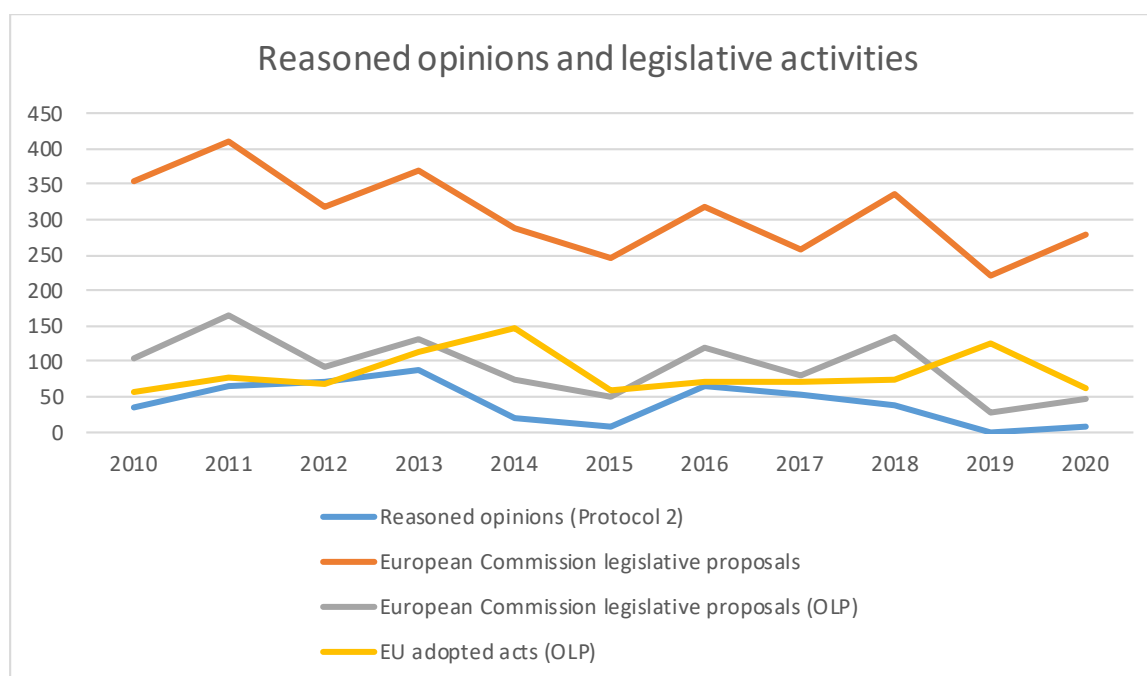
nature of the procedure is a further obstacle. NPs must coordinate and issue a reasoned opinion on the same proposal if they want to have any impact on the legislation. Coordination was essential in past yellow cards. The leadership of the Dutch parliament for one case and the Danish and British Parliaments in another case played a key role in triggering the yellow card procedure. Regarding the third yellow card, again, it is thanks to the coordination of a regional block (in Eastern and Central Europe) combined to the high salience of the issue (Posted Workers Directive) that the threshold was reached.<sup>51</sup>

Thirdly, some also argue that NPs might be discouraged by the attitude of the Commission, which gives the impression of not taking the Parliaments' views seriously. The Commission tried to reply to these concerns by committing itself to produce aggregate responses to reasoned opinions issued by NPs representing 7 or more votes, even though this does not reach the threshold for a yellow card procedure.

Fourthly, as mentioned, the disparities between chambers reflect the conception they have of their own role in EU affairs, and the systems they put in place to scrutinize EU documents efficiently.

Last but certainly not least, the number of reasoned opinions is also highly dependent on the legislative activities of the EU and the Commission in particular.

Figure 3: Reasoned opinions and legislative activities in the EU



Source: EUR-Lex, <https://eur-lex.europa.eu/statistics/2016/commission-proposals-statistics.html>

The number of subsidiarity opinions sent yearly depends on the number of legislative proposals that the Commission has made (see above Figure 3). By contrast, given the time needed to agree on a legislative proposal (almost two years), the number of subsidiarity opinions does not correlate with the number of adopted acts. The fact that the volume of subsidiarity opinions follows closely the number

<sup>51</sup> Fromage, D., Kreilinger, V. (2017), "National Parliaments' Third Yellow Card and the Struggle over the Revision of the Posted Workers Directive", *European Journal of Legal Studies*, 10(1): 125–60.

of legislative proposals partly explains their limited number. Indeed, legislative productivity has been decreasing since 2010: while the Commission proposed on average 271 texts every year between 2003 and 2010, the average for Ordinary Legislative Procedure (OLP) proposals fell to 97.8 texts on average per year between 2010 and 2019.<sup>52</sup> As noted by Rozenberg, “a system aiming at limiting an excess of legislation at the EU level was implemented precisely at a time when the EU system entered into a period of legislative slowdown”.<sup>53</sup> This slowdown is not the result of the EWS, it is rather a global evolution in the EU as highlighted in the Better Regulation agenda<sup>54</sup>. This it certainly contributed to the lower significance of the EWS and its lack of quantitative success.

### 3.1.3. Alternatives

As a result of the aforementioned shortcomings of the EWS, alternatives have been put forward and discussed over the past few years: a red card, a green card, and a late card.

The creation of a **red card** was proposed by David Cameron in November 2015 in his letter to the former President of the European Council, Donald Tusk. The idea was to allow NPs to veto collectively draft European legislative proposals. In its draft decision of February 2016<sup>55</sup>, a red card procedure was offered to the United Kingdom using the same voting system as for the EWS: if 55% of the national Parliaments were to challenge a draft legislative act, it would then be discussed in the Council and the draft legislative act would be discontinued – unless it were amended to accommodate the subsidiarity concerns of those national Parliaments behind the red card. Although the 27 Member States agreed on the principle, the idea of the red card was buried with Brexit. This red card would be limited to subsidiarity issues, which would not infringe on the competences of Parliament and such a powerful tool could potentially motivate NPs to be more involved in EU affairs. However, some, including the Parliament, argued that it would create a third chamber at the European level, that it would bring more confusion and increase the length of the decision-making process. Furthermore, NPs are able to influence the EU decision-making process indirectly through their national government and the red card procedure would make little difference in the EU decision-making process. As noted by Sara Hagemann and her colleagues: “Suppose that any proposal opposed by a member state government is also opposed by the parliament of that member state, and vice versa. It follows that any proposal opposed by 55% of Parliaments will also be opposed by 55% of member state governments. Under EU decision-making rules, any proposal that is opposed by 55% of member state governments will be rejected in the European council. Hence, any proposal that would be blocked by the new procedure would have been blocked in the Council anyway. (...) In practice, we suspect the red card will only ever be used once or twice over the next 20 years.”<sup>56</sup> Last but not least, it would reinforce the idea that NPs are solely veto-players, able only to block proposals and initiatives.

To counterbalance that idea, the principle of a green card was developed in the framework of the Conference of Parliamentary Committees for Union Affairs of Parliaments of the EU (COSAC). A COSAC working group was established in 2015 to discuss the possibility of introducing a green card. The survey conducted in preparation for the meeting of this working group showed that there was clear support

<sup>52</sup> Rozenberg, O. (2017), “The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges”, European Parliament, Policy Department for Citizens’ Rights and Constitutional Affairs.

<sup>53</sup> Ibid, p. 26.

<sup>54</sup> [https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how\\_en](https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how_en)

<sup>55</sup> European Council, Draft Decision of the Heads of State or Government, meeting within the European Council, concerning a New Settlement for the United Kingdom within the European Union. EUCO 4/16, Section C, February 2016.

<sup>56</sup> See [Red card, red herring: Introducing Cameron's EU 'red card procedure' will have limited impact | EUROPP \(lse.ac.uk\)](#)

for such an initiative from the vast majority of NPs as a proactive and non-binding instrument at their disposal.<sup>57</sup> This would give them an opportunity to express positive ideas and suggest legislation to the Commission, instead of being only the watchdogs of subsidiarity or of blocking draft legislation. In other words, NPs would be able to act as agenda-setters instead of blockers. The idea was also supported by Parliament through its 2018 resolution on the implementation of the Treaty provisions concerning national Parliaments<sup>58</sup> supporting the possibility for NPs to submit constructive proposals to the Commission in order to influence positively the European debate and the Commission's power of initiative.

As such, this idea does not solve every problem as initiatives through a green card procedure would also require coordination among national chambers and probably one or several Parliaments playing the role of entrepreneur to push for a specific initiative.<sup>59</sup> COSAC meetings could be used to discuss, coordinate, and assess green card initiatives for instance. Such a green card would allow NPs to bring input on substantive issues at the EU level and encourage them to be pro-active. Furthermore, it does not necessarily require a change in the Treaties if the Commission is committed to take green cards into account and discuss them publicly after a certain threshold is reached. Previous studies show however that while some Parliaments, such as the *French Assemblée nationale*, are eager to use such a tool and see it as a breakthrough mechanism to become policy-shapers at the EU level, others such as the Polish *Sejm* and *Senat* are more reluctant, in particular without a proper legal basis, as it would break the institutional balance.<sup>60</sup> Similarly, the survey conducted in preparation of the COSAC working group on the green card also revealed differences among NPs regarding the green card as 22 of them were in favour of the right to submit new legislative initiatives, while 20 were favorable to proposing amendments to existing legal texts, and 18 in favour of suggesting the withdrawal of existing laws<sup>61</sup>.

Finally, the idea of a **late card** has also been discussed within the framework of the COSAC as another way to incentivise NPs to become involved in the legislative process. In its current form, the EWS takes place at the very beginning of the decision-making process as a way to control whether draft proposals comply with the subsidiarity principle. The potential influence of NPs is thus restricted to the pre-legislation stage. But these draft proposals can undergo changes throughout the legislative process, as Parliament and the Council usually amend the initial proposal. As noted by the Commission, although the opinions of NPs are valuable, it is impossible to make a direct link between the position of individual Parliaments and the outcome of the legislative process<sup>62</sup>. A late card would allow NPs to give their

<sup>57</sup> Presidency of the Council of the European Union, Grand Duchy of Luxembourg, 2015. Information Note in relation to the COSAC Working Group, "Green card" (enhanced political dialogue).  
[http://www.eu2015parl.lu/Uploads/Documents/Doc/114\\_2\\_Information\\_note\\_Green\\_card\\_20151026.pdf](http://www.eu2015parl.lu/Uploads/Documents/Doc/114_2_Information_note_Green_card_20151026.pdf)

<sup>58</sup> [European Parliament resolution of 19 April 2018 on the implementation of the Treaty provisions concerning national parliaments \(2016/2149\(INI\)\)](#), OJ C 390, 18.11.2019, p. 121. See also paragraph 60 of [European Parliament resolution of 16 February 2017 on possible evolutions of and adjustments to the current institutional set-up of the European Union \(2014/2248\(INI\)\)](#), OJ C 252, 18.7.2018, p. 201.

<sup>59</sup> Kreilinger, V. (2018), "Scrutinising the European Semester in national parliaments: what are the drivers of parliamentary involvement?", *Journal of European Integration*, 40(3): 325-340, DOI: 10.1080/07036337.2018.1450402.

<sup>60</sup> Borońska-Hryniewiecka, K. (2017). From Legislative Controllers to Policy Proponents: The Evolving Role of National Parliaments in EU Multi-Level Governance. In *Democratic Legitimacy in the European Union and Global Governance* (pp. 65-86). Palgrave Macmillan, Cham.

<sup>61</sup> Fasone, C. and Fromage, D., 2016, From Veto Players to Agenda-Setters? National Parliaments and their 'Green Card' to the European Commission. *Maastricht Journal of European and Comparative Law*, 23 (2), p. 307.

<sup>62</sup> [Report from the Commission Annual Report 2016 on relations between the European Commission and national Parliaments](#), COM/2017/0601 final, point 2 d: "Due to the many actors involved, it is not possible to make a direct link between the position of an individual national Parliament and the outcome of the legislative process. Nevertheless, the opinions of national Parliaments constituted an invaluable source of insight and analysis for the Commission's interactions with the other institutions."

opinion on the last version of a legislative proposal, before its adoption. Another option would be to give full flexibility to NPs to intervene at any moment in the legislative process to raise their concerns regarding the subsidiarity principle. Instead of focusing solely on the initial stage, they would be encouraged to monitor the whole process and hold their government more accountable on the negotiations at the European level.

### 3.2. Political Dialogue: a more individual tool for national Parliaments

Known as the “Barroso initiative”<sup>63</sup>, the Political Dialogue was endorsed by the European Council and established in September 2006 in order to reinforce the role of NPs in EU affairs. More particularly, in the context of the failure of the European Constitution, the aim was to involve NPs to bridge the gap between the national and supranational level and to promote the idea that NPs should be involved in EU politics directly and not only through their respective national governments. NPs were invited to address questions and comments on the legislative initiatives of the Commission which the Commission committed to answer.<sup>64</sup> NPs have already been able to scrutinise whether the Commission’s actions comply with the principles of subsidiarity, proportionality, conferral, and political accountability before the establishment of the EWS. However, the Political Dialogue also allows NPs to assess any other legal and political aspect of proposed EU legislation, such as opportuneness and desirability of action, at any point in time. NPs can thereby express an opinion on the substance of EU draft acts and the Commission legislative planning, such as its annual policy strategies and work programmes. As Jančić noted, the political dialogue “allows parliamentarians to provide feedback to the Commission from the perspective of their Member State and to express any possible concerns about the direction that the Commission intends to take”.<sup>65</sup> Contrarily to the EWS, the Political Dialogue allows for an individual exchange of information between national chambers and the Commission.

The Political Dialogue works in a similar way as the EWS. Every NP has two votes, allocated according to their national constitutional rules, and receives the draft legislative acts from the Commission. But the scope, timing and effect differ. Whereas a national parliament has eight weeks to send a reasoned opinion regarding a potential breach of the subsidiarity principle, in theory, it could send a reasoned opinion at any moment regarding any other aspect of a legislative draft under the Political Dialogue. The EWS procedure is clearly stated in the Treaties, with clear effects in case the thresholds are met whereas the Political Dialogue depends on the will of the Commission to acknowledge and observe the positions of NPs. It is therefore less constraining for the Commission but gives NPs more leeway to voice their views.

In practice, there is little difference between the Political Dialogue and the EWS as NPs rarely send two different types of reasoned opinions. A first part of their reasoned opinion is dedicated to the subsidiarity principle (under the EWS) and the second to any other aspect of the draft legislation.

As the above Figure 1 shows, there is a difference in the use of the Political Dialogue in comparison to the EWS. The former is used by national chambers much more than the EWS. Over the period of 11 years (2010–2020), on average 441 opinions a year were sent to the Commission (for only 41 on average for the EWS). This is probably due to the fact that the use of the Political Dialogue is not costly. It does

<sup>63</sup> European Commission, ‘A Citizens’ Agenda: Delivering Results for Europe’, COM(2006) 211.

<sup>64</sup> Jančić, D., (2012), “The Barroso Initiative: Window Dressing or Democracy Boost?”, *Utrecht Law Review* 8(1): 78–91.

<sup>65</sup> Jančić, D., (2012), “The Barroso Initiative: Window Dressing or Democracy Boost?”, *Utrecht Law Review* 8(1): 81.



not require any coordination among national chambers and there is no time limit. Moreover, the assumption behind the Political Dialogue is different from the EWS: it departs from the idea that national Parliaments are partners in a dialogue with the Commission rather than veto players. Indeed, sending an opinion through the Political Dialogue does not mean blocking EU legislative acts or European integration and the chamber may reply to the Commission's answer in order to continue the dialogue.

However, as for the EWS, the overall number of opinions hide national disparities. As Figure 4 below shows, there are differences between NPs in their use of the Political Dialogue. Whereas some chambers do not (or very seldom) use this opportunity, such as Finland, Belgium, Cyprus, Latvia, Malta, Luxembourg, Greece, Estonia, and Slovenia, some are much more active. Among the most active users of the Political Dialogue we find the Czech Republic, Italy, Portugal, and Romania, and to a lesser extent France, Germany, Spain, and the UK. For most of them, it is usually the higher chamber which is very active in the Political Dialogue: in particular the Czech *Senát*, the German *Bundesrat* are particularly active, probably to compensate their less active role in the "national accountability chain" (Neuhold and Strelkov: 21). However lower chambers are active too, such as the French *Assemblée nationale* and the Romanian *Camera Deputaţilor*. In the last two years, 10 chambers issued most of the opinions while 12 did not issue any opinion. Recently, the most active chambers have been the Portuguese *Assembleia da República*; the Italian *Camera dei Deputati*; the Romanian *Camera Deputaţilor* and *Senatul*; the Spanish *Cortes Generales*; the Czech *Poslanecká sněmovna* and *Senát* and the Swedish *Riksdag*.<sup>66</sup>

One of the main explanatory factors put forward by academic studies is how active a chamber is in issuing EU resolutions. Chambers that send many resolutions on EU issues to their government tend to be very active in the Political Dialogue and to send a lot of opinions to the Commission. In other words, chambers who emphasize close scrutiny of EU documents are more likely to let their views be known to the Commission.<sup>67</sup> However, the level of activity within the Political Dialogue is not correlated to a specific chamber's parliamentary strength in EU affairs.<sup>68</sup> Thus, even a National Parliament with comparatively less institutional strength in EU affairs can be involved in the Political dialogue, and since it is a way to influence the decision-making process independently from national government, the Political Dialogue can be used by a chamber to communicate directly with the Commission and bypass their government if needed. This has been the case for instance for the Portuguese *Assembleia da República* who used to send an opinion on almost every legislative proposal and in most cases, simply to indicate its support to the Commission but also to formulate its position independently from the national government.<sup>69</sup> It however stopped sending opinions only acknowledging the transmission of legislative proposals in 2015 which explains the drop between 2014 and the subsequent period.

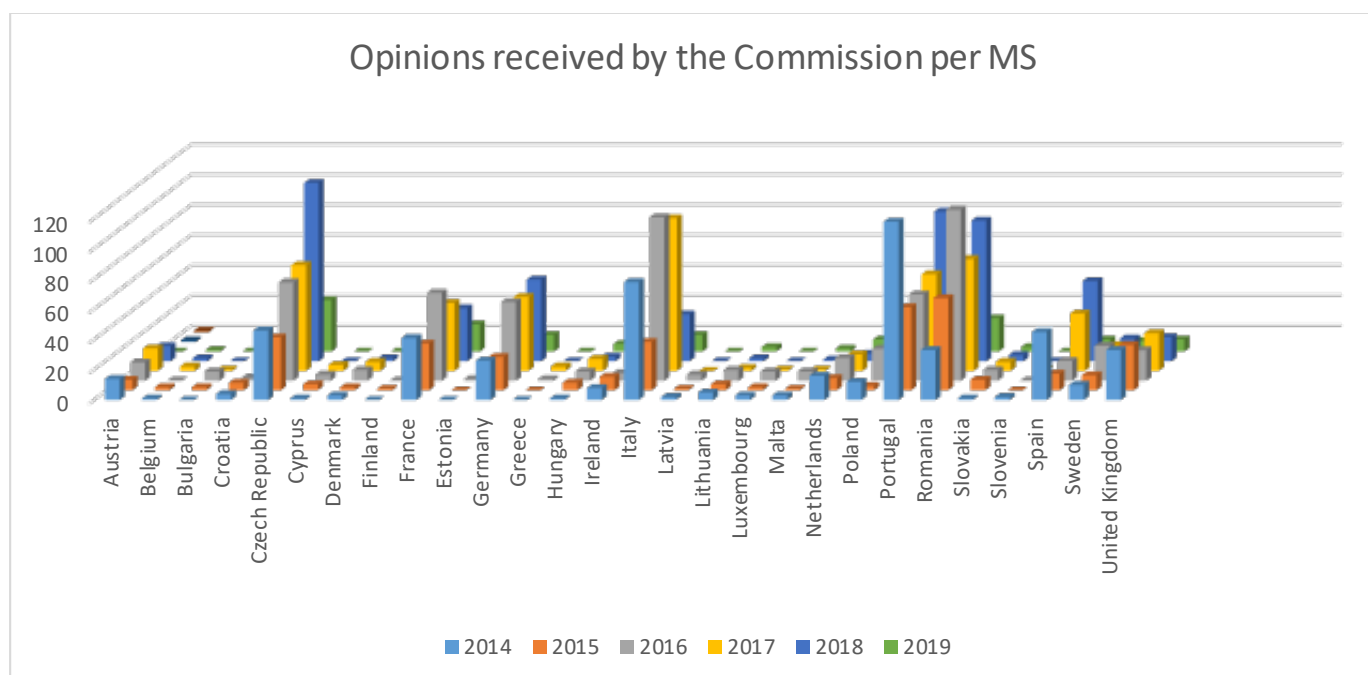
<sup>66</sup> [European Commission \(2021\). Annual Report 2020 on the application of the principles of subsidiarity and proportionality and on the relations with national parliaments](#), 23.7.2021 COM(2021) 417 final.

<sup>67</sup> Auel, K., Rozenberg, O., & Tacea, A. (2015). To scrutinise or not to scrutinise? Explaining variation in EU-related activities in national parliaments. *West European Politics*, 38(2), 282-304.

<sup>68</sup> Rozenberg, O. (2017), "The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges", European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs.

<sup>69</sup> Jančić, D., (2012), "The Barroso Initiative: Window Dressing or Democracy Boost?", *Utrecht Law Review* 8(1): 78–91.

Figure 4: Number of opinions received by the Commission per national Parliament (political dialogue and subsidiarity control mechanism): 2014–2019



Source <sup>70</sup>: European Commission, [Annual Reports on the relations with National Parliaments](#)

Another interesting aspect to look at is the topics which attract the most reaction from NPs. Most of them have been focused on legislative proposals. But as in the previous period<sup>71</sup>, an increasing number of opinions over the last few years deal with non-legislative documents such as green papers and communications. Since 2019, the top three documents generating the highest number of opinions tend to be non-legislative documents. In 2019, it was for instance namely the work programme of the Commission, a reflection paper on sustainable Europe, and a communication entitled "The principles of subsidiarity and proportionality: Strengthening their role in the EU's "policymaking". In 2020, the top three included the Proposal for a Regulation establishing the framework for achieving climate neutrality; the work programme of the Commission and the White Paper on artificial intelligence. It seems that NPs scrutinize more carefully all types of documents and are more active on key non-legislative documents as well.

<sup>70</sup> The Commission only counts an opinion as reasoned if it is submitted within the 8 week time limit and it clearly states a breach in the subsidiarity principle.

<sup>71</sup> Rozenberg, O. (2017), "The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges", European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs.

**Table 2: Top three documents generating the highest number of opinions (Political Dialogue and Early Warning System): 2014–2019**

	Commission document	Title	Number of opinions	Number of those which were reasoned opinions (Protocol No 2)
2014				
1	COM(2014) 397	Proposal for a Directive amending Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, 1999/31/EC on the landfill of waste, 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment	13	3
2	COM(2014) 180	Proposal for a Regulation on organic production and labelling of organic products	12	2
3	COM(2013) 534	Proposal for a Council Regulation on	10	0



		the establishment of the European Public Prosecutor's Office		
2015				
1	COM(2014) 910	Communication on the Commission Work Programme 2015: A New Start	26	0
2	COM(2015) 450	Proposal for a Regulation establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person	12	5
3	COM(2015) 177	Proposal for a Regulation amending Regulation (EC) No 1829/2003 as	12	2

		regards the possibility for the Member States to restrict or prohibit the use of genetically modified food and feed on their territory		
2016				
1	COM(2015) 610	Communication on the Commission Work Programme 2016: No time for business as usual	25	0
2	COM(2016) 128	Proposal for a Directive amending Directive 96/71/EC of The European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services	23	14
3	COM(2016) 270	Proposal for a Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international	14	8

		protection lodged in one of the Member States by a third-country national or a stateless person (recast)		
2017				
1	COM(2016)861	Proposal for a Regulation of the European Parliament and of the Council on the internal market for electricity (recast)	16	11
2	COM(2017) 253	Proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU	10	4
3	COM(2016) 864	Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast)	10	3
2018				
1	COM(2018) 51	Proposal for a Regulation of the	10	3

		European Parliament and of the Council on health technology assessment and amending Directive 2011/24/EU		
2	COM(2017) 753	Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast)	8	4
3	COM(2018) 148	Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services	8	4
2019				
1	COM (2018) 703	Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions 'The principles of	6	0

		subsidiarity and proportionality: Strengthening their role in the EU's policymaking'		
2	COM(2019) 22	Reflection Paper 'Towards a Sustainable Europe by 2030'	5	0
3	COM(2018) 800	Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Commission Work Programme 2019 Delivering what we promised and preparing for the future'	4	0
2020				
1	COM(2020) 80, amended by COM(2020) 563	Proposal for a Regulation of the European Parliament and of the Council establishing the framework for achieving climate neutrality and amending Regulation (EU) 2018/1999	12	3

		(European Climate Law)		
2	COM(2020) 37, adjusted by COM(2020) 440	Commission Work Programme 2020	7	0
3	COM(2020) 65	White Paper on artificial intelligence – A European approach to excellence and trust	6	0

Source: European Commission, Annual Reports on the relations with National Parliaments, [https://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments\\_en](https://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments_en)

### 3.2.1. Assessment

The high number of opinions shows the continued relevance of the Political Dialogue as well as the interest of NPs for this tool. As mentioned, it is not a costly procedure for NPs: it does not require interparliamentary cooperation, only limited intra-parliamentary coordination, each chamber can act on its own and there is no time limit. It is a flexible tool: contrarily to the EWS, the Political Dialogue is not restricted to subsidiarity. Opinions can be supportive or critical, they can be very general or very specific and NPs can address their concerns on any aspect of a document, including more political elements. It provides very useful information to the Commission, especially on the sensitivity of a legislative proposal for some Member States. And the Commission is also incentivized to give details to NPs about its strategies and objectives.

Although non-binding, it fosters a discussion between NPs and the Commission. For the latter, it has clearly been a positive development: the Commission has no obligation to change its choices because of parliamentary opposition while EU policies' legitimacy can be strengthened by the participation of NPs.<sup>72</sup> For NPs, this dialogue leads to more focus on what is happening at the EU level and an enhanced control of the 'European government'.<sup>73</sup> As argued by Jancic, not only does the Political Dialogue help bring Europe closer to the citizens through their respective NPs, but it is also "a sign of factual interdependence between the European and national decision-making processes and of the intricate relationships that bind the EU to its constituents".<sup>74</sup> Overall, the system works quite well and seems to meet its objective. The need for reform in this case is less obvious than for the EWS.

<sup>72</sup> Stuchlik, A., Buzogany, A. (2011). Paved with Good Intentions: Ambiguities of Empowering Parliaments after Lisbon. German Research Institute for Public Administration Speyer, FÖV Discussion Paper, (66).

<sup>73</sup> Jans, T., & Piedrafita, S. (2009). The role of national parliaments in European decision-making. *EIPAScope*, 2009(1): 22.

<sup>74</sup> Jančić, D., (2012), "The Barroso Initiative: Window Dressing or Democracy Boost?", *Utrecht Law Review* 8(1): 91.

## 4. INTERPARLIAMENTARY COOPERATION

In the early days of European integration, there was a clear link between the national and supranational level through Parliament. Indeed, MEPs were actually Members of national Parliaments. This link was broken by the first direct European elections in 1979. Since then, Parliament was supposed to scrutinise the EU executive while NPs were relegated to the national level only. As European integration progressed, it became clear that the process had empowered executives at the expense of the legislatures and that Parliaments at all levels could not scrutinize the executive properly. Indeed, neither Parliament nor NPs are able to fulfill the oversight function alone.<sup>75</sup> This has fed the debates on the so-called democratic deficit in the EU. A first solution was the gradual empowerment of Parliament but this seems insufficient to counterbalance the increased power of the executives. As mentioned earlier, the emphasis was gradually put on the involvement of NPs in EU affairs, including through interparliamentary cooperation. Although, for some time, the relation between NPs and Parliament was rather conflictual as each level tried to safeguard its prerogatives<sup>76</sup>, there has been a tendency to see interparliamentary cooperation increasingly as something desirable or even inevitable. Parliament has traditionally been favorable to the promotion of interparliamentary cooperation, with for instance the parliamentary dimension of the Council Presidency.<sup>77</sup>

The aims of interparliamentary cooperation are threefold. First, it should improve accountability in the multi-level system of the EU. Alone, each national Parliament can only control and sanction its respective government or executive body. NPs have also developed different approaches to the parliamentary scrutiny of EU affairs.<sup>78</sup> Similarly, the EP is not fully capable of monitoring the fragmented executive at the EU level as it often lacks the power to veto or modify intergovernmental decisions. Moreover, as noted by scholars, “gaps in the oversight circuit are emphasized by the fragmented nature of the EU executive and by the reliance of EU policy-making on responsibility arrangements that are not directly attributable to any one institution, but arise from inter-institutional interactions”<sup>79</sup>. Second, interparliamentary cooperation also aims at improving the flow of information between chambers and solving the issue of information asymmetry among Parliaments. Third, it is also supposed to foster the bilateral and multilateral relations between Parliaments in the EU and stimulate a greater awareness of the EU dimensions NPs’ activities.<sup>80</sup>

Nowadays, there is a great diversity in the format and constellations of cooperation between national MPs and MEPs. Some relations are formal and institutionalized, others, such as parliamentary networks, are more informal. For instance, one of the main indirect linkage between MPs and MEPs is obviously through their respective political parties. On average, MEPs are in contact with their national party once a week or at least once a month and with their national party leadership and MPs from their national

<sup>75</sup> Griglio, E., Lupo, N. (2018), “The Conference on Stability, Economic Coordination and Governance: Filling the Gaps of Parliamentary Oversight in the EU.” *Journal of European Integration*, 40(3): 358-373.

<sup>76</sup> Neunreither, K. (2005), “The European Parliament and National Parliaments: Conflict or cooperation?”, *The Journal of Legislative Studies*, 11 (3-4): 466-489; Raunio, T., Hix, S., (2000), “Backbenchers learn to fight back: European integration and parliamentary government”, *West European Politics*, 23 (4): 142-168.

<sup>77</sup> Fasone, C. (2019), “The Emergence of ‘Conflictual Cooperation’ amongst Parliaments in the Economic and Monetary Union”, Reconnect working paper 3.

<sup>78</sup> Auel, K., & Höing, O. (2014). Parliaments in the euro crisis: Can the losers of integration still fight back?. *JCMS: Journal of Common Market Studies*, 52(6), 1184-1193.

<sup>79</sup> Griglio, E., Lupo, N. (2018), “The Conference on Stability, Economic Coordination and Governance: Filling the Gaps of Parliamentary Oversight in the EU.” *Journal of European Integration*, 40(3): 358-373.

<sup>80</sup> Kelbel, C., Navarro, J. (2020), Working Paper on Interinstitutional Relations in the EU, Reconnect.

Parliaments at least once a month (Hix et al. 2016). This is not surprising since national parties are the key actors for the election of MEPs and national delegations in the EP political groups have specific policy goals throughout their term. Similarly, there are informal network between civil servants: for example, liaison officers of every NP in Brussels have weekly meetings, all hosted within the EP premises, to exchange views and hold a bridge building function. The Secretaries General of NPs meet twice a year.<sup>81</sup>

IPEX, the InterParliamentary EU information exchange<sup>82</sup> is also a useful tool as a platform for the exchange of information between NPs and the EP: it indicates all the deadlines for the subsidiarity check and includes very useful information such as the progress of scrutiny in the different Member States. In addition, it hosts the websites of all the interparliamentary conferences mentioned above. Another active interparliamentary platform is the European Center for Parliamentary Research and Documentation (ECPRD). It is a network between the European Parliament, the Parliamentary Assembly of the Council of Europe and those Parliaments where the President is a member of the European Conference of Presidents of Parliament. The EP and the Parliamentary Assembly of the Council of Europe chair ECPRD jointly, and the Directorate for Relations with National Parliaments of the EP hosts its Secretariat. The ECPRD network facilitates exchanging best practices between parliaments: it communicates requests for information made by one parliament to others, to compare the legislative activities and parliamentary practice across different countries and in different institutions, and it works as a platform for seminars organised between parliaments.<sup>83</sup> In addition, the Directorate for Relations with National Parliaments of the EP publishes yearly an Annual Report on the relations between the European Parliament and EU national Parliaments, containing information about activities and developments in interparliamentary cooperation in the EU<sup>84</sup>.

But there are also institutionalised forums and meetings whose goals are interparliamentary cooperation, such as interparliamentary conferences, the COSAC, interparliamentary meetings. They all share the objective of bringing together MEPs and MPs to discuss relevant topics and exchange best practices. Some are rather a one-time event such as the Conference of Parliaments of the Community (also known as 'European assizes'), others meet regularly such as the Joint Parliamentary Meetings. The past decade, with the EU facing a 'polycrisis', has triggered a multiplication of such forums for interparliamentary discussion and networking.

**Table 3: The main forum for interparliamentary cooperation**

	Creation	Legal basis	Role	Type	Composition
EU Speakers' Conference	1963	Not explicitly recognised	Exchange of information and experiences related to the role of	Standing body	1 per Member State + 1 European Parliament

<sup>81</sup> Högenauer, A.-L., Neuhold, C., Christiansen, T. (2016), "Transnational Bureaucratic Networks in the EU: The Role of Parliamentary Officials in Inter-Parliamentary Coordination and Control" In Parliamentary Administrations in the European Union. Palgrave Macmillan, pp. 51-68; Hogenauer, A.L., Christiansen, C. (2015), "Parliamentary Administrations in the Scrutiny of EU Decision-making, in: Heffler, C., Neuhold, C., Rozenberg, O. and Smith, J. (eds) The Palgrave Handbook of National Parliaments, London: Palgrave Macmillan: 116-132.

<sup>82</sup> For more information, see <https://secure.ipex.eu/IPEXL-WEB/home/home.do>

<sup>83</sup> For more information, see <https://ecprd.secure.europarl.europa.eu/ecprd/public/page/about>

<sup>84</sup> For more information, see <https://www.europarl.europa.eu/relnatparl/en/home/annual-reports>



		by the EU Treaties	parliaments and the organization of parliamentary functions  Promote research activities and common actions  Oversee the coordination of interparliamentary EU activities		
Conference of parliamentary Committees for Union Affairs (COSAC)	1989	Protocol No. 1 annexed to the EU Treaties, Title II	Exchange of information and best practices between European Affairs Committees  Networking forum	Standing body	6 MPs per Member State + 6 MEPs
Interparliamentary Conference on CFSP and CSDP	2012	Protocol No. 1 annexed to the EU Treaties, Title II	Exchange of information and best practices on the EU foreign, security and defense policy	Standing body	6 MPs per Member State + 16 MEPs
Interparliamentary Conference on Stability, Economic Coordination and Governance	2013	Article 13 TSCG; Protocol No. 1 annexed to the EU Treaties, Title II	Exchange of information and best practices in implementing the provisions of the Treaty on Stability, Coordination, and Governance in the EMU	Standing body	Composition and size of delegations determined by each Parliament
Joint Parliamentary Scrutiny Group for Europol	2017	Article 88 TFEU; Article 51 of the Regulation (EU) 2016/794	Monitor the activities of Europol in fulfilling its mission, including the impact of these activities on fundamental rights and freedoms	Standing body	4 MPs per Member States + 16 MEPs

Joint Committee Meetings			Exchange of thematically focused information and experiences between respective specific committees	Ad hoc	
Interparliamentary Committee Meetings			Exchange of thematically focused information and experiences that are of concern to more than one committee	Ad hoc	

Sources: information based on Rozenberg 2017 (p. 42) and DG for external policies (2014), Enhancing cooperation between the European Parliament and EU national parliaments on EU human rights policy, p. 29.

#### 4.1. Conference of Parliamentary Committees for Union Affairs of the Parliaments of the European Union — COSAC

The COSAC is one of the central and most established forums for interparliamentary cooperation in the EU. Based on an initiative put forward by the French Assemblée nationale, the Conference has taken place twice a year since 1989. It is organized and chaired by the parliament of the country holding the rotating presidency of the EU but it is prepared jointly with the EP and the Parliaments of the presidency troika. It brings together MPs from the EU affairs committees and MEPs in order to discuss major issues related to European integration. It plays a role as show-casing the importance of the rotating Presidency as it usually takes place in the capital of the country holding the Presidency. It does not constitute a decision-making body as its contributions are not binding in any way. Its aim is to foster coordination among NPs, and it may submit any contribution it deems appropriate to the EU institutions. Over the years, the COSAC has played a role in narrowing differences in parliamentary scrutiny between NPs and has improved the diffusion of complete and timely information to NPs for subsidiarity control. It has also had a key role in garnering support for yellow cards and serves as a forum for the discussion of potential reforms to improve coordination between NPs.<sup>85</sup>

For instance, the COSAC plenary meeting of 31 May to 1 June 2021 reviewed the achievements of the Portuguese Presidency, and discussed several key topics such as Social Europe, the role of NPs in the implementation of national recovery and resilience plans and the Conference on the future of Europe<sup>86</sup>. This allows NPs to be informed of the actions of their colleagues. For example, regarding the Conference on the Future of Europe, NPs could discuss how they would prepare their delegations, the format of these delegations and specific topics to be addressed during the Conference. Similarly, the

<sup>85</sup> Auel, K., Neuhold, C. (2018), "Europeanisation of National Parliaments in European Union Member States: Experiences and best practices", Study for the European Parliament's Greens/EFA Group; Rozenberg, O. (2017), "The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges", European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs.

<sup>86</sup> For more info, please see the website [LXV COSAC Plenary Meeting, 31 May-1 June 2021](#)

34<sup>th</sup> bi-annual report also showed that NPs discussed the Conference on the Future of Europe, more specifically, their role, the role of the COSAC and of representatives of civil society as well as the institutional reforms to be addressed during the Conference: two thirds expressed the view that the Conference should deal with institutional issues and the majority hoped the debates would not be constrained by existing Treaties, some identifying possible treaty changes or areas that could be amended. Another topic of interest was the rule of law, topic on which most NPs consider that they should have an exchange of views on the rule of law reports issued by the Commission and most of them intend to debate these at the committee level.<sup>87</sup>

## 4.2. Interparliamentary conferences

Since 2012, interparliamentary conferences have flourished. Indeed, in 2012, the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy (CFSP/CSDP) was established, followed by the Interparliamentary Conference on Stability, Economic Coordination, and Governance in 2013 and then, the Joint Parliamentary Scrutiny Group for Europol in 2017. In 2020, the first High Level Interparliamentary Conference on Migration and Asylum took place to analyse the Commission's proposals for a new migration and asylum package and discuss migration as a whole (a second meeting took place in June 2021). The aim of these joint bodies is to foster cooperation between the EP and NP "on the basis of the principles of consensus, information-sharing and consultation"<sup>88</sup>. Contrarily to the COSAC, these interparliamentary conferences focus on specific policy fields and are composed of MPs from sectoral committees (not necessarily the European Affairs Committee) who have usually been less involved in EU affairs.

### 4.2.1. The Inter-Parliamentary Conference for CFSP/CSDP

The Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy (CFSP/CSDP)<sup>89</sup> was created after the meeting of the EU Speakers Conference held in Warsaw in April 2012 with the aim of strengthening cooperation between NPs and the EP in the field of foreign policy. Indeed, both the CFSP and the CSDP involve mixed methods, in the sense that they combine intergovernmentalism and supranationalism (Butler 2015).<sup>90</sup> Therefore, a multi-level scrutiny through a specific forum involving NPs and the EP was deemed necessary for these policy fields traditionally considered to be dominated by the executives. However, the meetings can also address other topics related to foreign policy such as migration, trade, and neighborhood policy.

Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy (CFSP/CSDP) meets twice a year in the Member State holding the Council Presidency or in Parliament. It is composed of delegations of six members for each NP and 16 MEPs.

<sup>87</sup> 34<sup>th</sup> Bi-annual Report Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, Prepared by the COSAC Secretariat and presented to: LXIV Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union 30 November-1 December 2020.

<sup>88</sup> European Parliament, 2017. Resolution of 16 February 2017 on improving the functioning of the European Union building on the potential of the Lisbon Treaty (2014/2249(INI)). P8\_TA-PROV(2017)0049, para. 21.

<sup>89</sup> For more information, see <https://www.europarl.europa.eu/relnatparl/en/conferences/conference-for-cfsp-csdp>.

<sup>90</sup> Butler, G. (2015), "The Interparliamentary Conference on the CFSP/CSDP: A new forum for the Oireachtas in Irish and EU foreign policy?", *Irish Studies in International Affairs*, 26 :163-186.

National Parliaments of EU candidate countries and European member countries of NATO can be represented by a delegation of four observers.

The Conference may adopt non-binding conclusions on CFSP and CSDP matters related to its areas of competence. The 18th Inter-Parliamentary Conference (March 2021) discusses varied topics, ranging from EU-NATO cooperation, the need to strengthen EU's global influence, the EU-Africa partnership to the situation in Belarus, the relations with the US, the UK and China. The most recent meeting (September 2021 under Slovenian Presidency) will also address current international challenges in the wake of the pandemic.

It should be noted that "the Inter-Parliamentary Conference is not the only parliamentary forum that brings together MPs and MEPs in this policy area; the Foreign Affairs Committee of the European Parliament regularly organises inter-parliamentary meetings on specific topics in Brussels".<sup>91</sup>

#### 4.2.2. Joint Parliamentary Scrutiny Group on Europol

The Joint Parliamentary Scrutiny Group on Europol (JPSG) was created in 2017 on the basis of Article 88 TFEU. Its aim is to provide for inter-parliamentary control over the European Union Agency for Law Enforcement Cooperation (Europol). Security is indeed one of the key responsibilities of Parliaments and is an area where competence is shared between the EU and its Member States. Europol has played a major role in the cooperation between Member States on security issues and the JPSG has a central role in monitoring the agency.

The JPSG meets at least twice a year. It is co-chaired by Parliament and the country holding the rotating Presidency of the Council. The tasks and responsibilities of the JPSG are set out in Article 51 of the Regulation (EU) 2016/794<sup>92</sup> and in its Rules of Procedure.<sup>93</sup> They include the right to question the Chairperson of the Management Board of Europol, the Executive Director of Europol or their deputies as well as the European Data Protection Supervisor, and the right to be consulted in relation to Europol's multiannual programming. It associates the LIBE committee and national Parliaments to politically scrutinize Europol's activities and make sure there is parliamentary control in key areas related to fundamental rights and freedoms.

The agendas of JPSG meetings traditionally feature standing items, namely in-depth exchanges of views with the Executive Director of Europol on Europol's activities and challenges, as well as on its multi-annual work programme. These exchanges are complemented by presentations by the Chairperson of the Europol Management Board and a report by the JPSG representative to the Management Board meetings. Other regular keynote speakers include the European Data Protection Supervisor and the Chair of the Europol Cooperation Board, who inform delegates on the latest developments in the protection of personal data with regard to Europol's activities. The presentations are followed by Q&A sessions.<sup>94</sup> Its last meeting took place in February 2021 to discuss topical issues

<sup>91</sup> Rozenberg, O. (2017), "The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges", European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs: p. 39.

<sup>92</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53.

<sup>93</sup> Rules of Procedure of the Joint Parliamentary Scrutiny Group on Europol. Available at: [https://www.europarl.europa.eu/doceo/document/LIBE-DT-618214\\_EN.pdf?redirect](https://www.europarl.europa.eu/doceo/document/LIBE-DT-618214_EN.pdf?redirect).

<sup>94</sup> European Parliament, Annual Report on the relations between the EP and national Parliaments, 2019, p.26.

such as cybercrime, digital resilience, police cooperation in times of Covid-19 as well as the mandate of Europol.

Still in the area of Freedom, Justice and Security, the EP and NPs cooperate to evaluate the activities of the European Union Agency for Criminal Justice Cooperation (Eurojust). Indeed, the 2018 Regulation on Eurojust<sup>95</sup> not only provides a single and renewed legal framework for the Agency but also strengthens the role of the EP and NPs in the democratic oversight of Eurojust's activities. The aim is to increase the transparency and accountability of Eurojust through a joint evaluation of its activities by the EP and NPs. This evaluation takes place within the framework of an Interparliamentary Committee Meeting. The first Interparliamentary Committee Meeting with the Committee on Civil Liberties, Justice and Home Affairs took place in December 2020 to evaluate Eurojust Activities.<sup>96</sup>

The latest development in this field is connected to the Interparliamentary cooperation on the scrutiny of the European Border and Coast Guard Agency (also known as Frontex). The 2019 Regulation<sup>97</sup> that transformed Frontex foresees interparliamentary cooperation to oversee its activities. The interparliamentary cooperation envisaged for Frontex has a different, narrower scope than the JPSG on Europol or the Interparliamentary Committee Meeting (ICM)<sup>98</sup> for the evaluation of the activities of Eurojust.

#### 4.2.3. European Parliamentary Week, the Interparliamentary Conference on Stability, Economic Coordination and Governance in the European Union and the European Semester Conference

The economic and financial crisis of the past decade has had a major impact on the EU and its Member States, including at the institutional level. Governance reforms have been implemented regarding the Economic and Monetary Union (EMU) and new rules have been put in place which have changed the environment for NPs in the fields of economic and budgetary policies. Indeed, with the further strengthening of the EU level monitoring of national policies and the increased influence of the Commission on national budgets, the debate on the democratic deficit of the EU resurfaced. The contemporary EU economic governance, especially the European Semester has extended the influence of the EU over national choices and decisions in core national policies such as national budgets and at the same time, there has been a lack of accountability and legitimization mechanisms to justify these decisions to public opinion. Economic governance has been dominated by the executive while Parliaments were relegated to a secondary role: Parliament has limited powers in the European Semester procedure and the potential for a stronger interparliamentary scrutiny of the procedure is yet to be fully developed.

So far, NPs' involvement in the multilevel economic governance mainly takes place through their engagement in the European Semester on the one hand and the Interparliamentary Conference on Stability, Economic Coordination and Governance on the other hand.

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<sup>95</sup> Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA, OJ L 295, 21.11.2018, p. 138.

<sup>96</sup> See <https://www.europarl.europa.eu/committees/en/inter-parliamentary-committee-meeting-on/product-details/20201123MNP00641>.

<sup>97</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019, p. 1

<sup>98</sup> For the organisation and role of ICMs, please see below point 4.2.4.

## a. European Semester

The European Semester procedure is a key part of the EMU reforms undertaken in response to the Eurozone crisis. It is an institutionalized and permanent instrument of the enhanced system of economic governance in the EU, which aims to ensure consistency among wide areas of economic policy in the EU. The procedure rests upon an intensified cooperation between the Commission, national governments, and the Council in planning domestic fiscal and structural policies and foresees an enhanced EU monitoring of their implementation. Since 2010, the European Semester has consisted of an annual cycle of policy guidance, coordination, and surveillance of national economic and social policies. Since the very beginning of the crisis, the EP and NPs have been called upon to take an active role in the European Semester, in order to enhance democratic accountability in the EU. For instance, Recital 16 of Regulation No 1175/2011 on strengthening of the surveillance of budgetary positions<sup>99</sup> stipulates that “while taking into account the legal and political arrangements of each Member State, national Parliaments should be duly involved in the European Semester and in the preparation of stability programmes, convergence programmes and national reform programmes in order to increase the transparency and ownership of, and accountability for the decisions taken as set out in”.

NPs can exert their scrutiny at three stages of the European semester procedure:

1) **The Annual Growth Survey:** every year in November starts a new cycle of the European Semester with the Annual Growth Survey and the Alert Mechanism Report. This stage takes place at the EU level and it is the EP that scrutinizes the documents. However, some NPs are involved at the national level through their relation with their government. Indeed, a survey shows that in 2018, 17 national governments had presented the Semester's guidelines to their national Parliaments before their adoption in early spring by the European Council, while in six cases, the priorities had been presented to national Parliaments only after their adoption by the European Council.<sup>100</sup> Moreover, 11 Parliaments issued an opinion or mandate to their national government regarding the priorities of the next European Semester.

Since 2013, an interparliamentary committee meeting is organised by the European Parliament's Committee on Economic and Monetary Affairs (ECON) for an exchange of views between the EP and NPs on structural reforms proposed by the Member States and the priorities set by the Annual Growth survey.

2) **Preparation and drafting of Stability or Convergence Programmes and National Reform Programmes:** The Five Presidents' Report stipulated in 2015 that as “a rule, national parliaments should be closely involved in the adoption of National Reform and Stability Programmes.”<sup>101</sup> The National Reform Programmes outline the Member States' structural reform plans, focused on promoting growth and employment, which are very sensitive issues at the national level. However, the involvement of NPs varies quite substantially across the EU. The 2018 survey among NPs shows that only eight of them received a presentation of their National Reform Programmes before their adoption by the

<sup>99</sup> Regulation (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies. OJ L 306, 23.11.2011, p. 12. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011R1175>.

<sup>100</sup> Hagelstam, Lehofer and Ciucci, The role of national parliaments in the European Semester for economic policy coordination, EGOV, European Parliament, 5 April 2018.

<sup>101</sup> Juncker, J.-C., et al., 2015. Completing Europe's Economic and Monetary Union. Five Presidents' Report. European Commission, p. 17.



government, 13 received a presentation of the NRP after their adoption by the government and in eight cases NRPs were only presented to national Parliaments after they had been submitted to the Commission. Similarly, there were very few cases in which the national government presented their Stability or Convergence programme (SCP) to their NP before their adoption by the government but a majority (17 cases) presented their SCP before submitted it to the Commission. However, the table below shows that there is an increasing involvement of the budget committee in the discussion on the Stability or Convergence Programmes and the National Reform Programmes over time. This may be a sign of the mainstreaming of EU affairs among the relevant committees within NPs, with economic specialists now debating the European Semester, but it mainly reflects the growing significance of the Finance Ministries domestically under the European Semester.<sup>102</sup>

3) **Country-specific recommendations:** within the framework of the European Semester, the Commission proposes country-specific recommendations which are then endorsed by the European Council and adopted by the Council. These recommendations provide guidance to Member States regarding structural, budgetary, and macroeconomic policies. Here the involvement of NPs seems higher: in 19 Member States, national governments presented their country-specific recommendations to their NPs before their adoption by the Council in June/July and 12 NPs delivered an opinion while 20 NPs discussed the Commission's assessment of the progress the country made in the implementation of the recommendation from the previous year.<sup>103</sup>

Several studies have pointed out a significant cross-country variation when it comes to the involvement of NPs in the European Semester.<sup>104</sup> Indeed, NPs have progressively taken ownership in many areas following the Eurozone crisis<sup>105</sup> but they have adapted in an asymmetric way due to several factors. Firstly, the formal powers and tools of NPs matter: Parliaments with more institutional strength are more likely to react to EU events and be involved in the European Semester, through their EU affairs and/or budget committee.<sup>106</sup> In other words, "if neither in EU affairs nor in the budgetary process significant parliamentary powers exist, a national parliament is unlikely to be substantially involved in the European Semester".<sup>107</sup> Secondly, the economic situation and strength of a country also plays a role: the more the EU's recommendations are intrusive, the more the European Semester is likely to become politicized and the more incentives this creates for MPs to become active. In Southern Member States, where the crisis hit the hardest, NPs have become significantly more assertive in extending their involvement in the budgetary process for instance.<sup>108</sup> Partially related to that, NPs of Member States whose currency is the euro are less active in scrutinizing the European Semester than NPs of non-euro

<sup>102</sup> Kreilinger, V. (2018), "Scrutinising the European Semester in national parliaments: what are the drivers of parliamentary involvement?", *Journal of European Integration*, 40(3): 325-340, DOI: 10.1080/07036337.2018.1450402; Maricut, A., Puetter, U. (2018). Deciding on the European Semester: the European Council, the Council and the enduring asymmetry between economic and social policy issues. *Journal of European Public Policy*, 25(2), 193-211.

<sup>103</sup> Hagelstam, Lehofer and Ciucci, The role of national parliaments in the European Semester for economic policy coordination, EGOV, European Parliament, 5 April 2018: 14-15.

<sup>104</sup> Similar disparities seem to emerge from the responses of NPs regarding their scrutiny of the national recovery and resilience plan in the framework of the Next Generation EU, see COSAC (2021), 35<sup>th</sup> Bi-Annual Report, available at <https://parleu2021.parlamento.pt/ficheiros/12/35th%20Bi-annual%20Report%20of%20COSAC%20EN.pdf>

<sup>105</sup> Auel, K., & Höing, O. (2015). National parliaments and the Eurozone crisis: Taking ownership in difficult times?. *West European Politics*, 38(2), 375-395.

<sup>106</sup> Rittberger, B., & Winzen, T. (2015). *The EU's Multilevel Parliamentary System* (pp. 107-134). Abingdon: Routledge.

<sup>107</sup> Kreilinger, V. (2018), "Scrutinising the European Semester in national parliaments: what are the drivers of parliamentary involvement?", *Journal of European Integration*, 40(3): 335.

<sup>108</sup> Crum, B. (2018), "Parliamentary accountability in multilevel governance: what role for parliaments in post-crisis EU economic governance?", *Journal of European Public Policy*, 25(2): 275. See also Fasone, C. (2015), « Taking budgetary powers away from national parliaments? On parliamentary prerogatives in the Eurozone crisis », *EUI working papers*, 2015/37.

area members as the intrusion of “Europe” may be met with more reluctance or attention.<sup>109</sup> Last but not least, political dynamics between the majority and opposition in NPs also play a role in the intensity of the European scrutiny: “opposition parties try to push scrutinising the European Semester while governing parties want to limit it. (...) and whether the parliamentary procedures and control possibilities in the European Semester are being fully used often depends on the willingness of the parliamentary majority and the government”.<sup>110</sup>

Figure 5 : Involvement of European Affairs and Budget Committee in the European Semester

Committee involvement in Stability or Convergence Programmes		
Budget Committee Debate SCP?		EU Affairs Committee Debate SCP?
2012	No	Yes
No	AT, CY, DK, ES, IE, MT, NL, PL, RO, SK, UK	
Yes	FR, LU, PT, SE	BE, CZ, DE, EE, FI, IT, LV, LT, HU, SI
2015	No	Yes
No	DE, HU, MT, NL, SI, RO, UK	
Yes	AT, BU, FR, ES, IE, LT, PT, SE	BE, DK, EE, FI, LV, LU, IT, PL, SI, SK
Committee involvement in National Reform Programmes		
Budget Committee Debate NPR?		EU Affairs Committee Debate SCP?
2012	No	Yes
No	AT, DK, EL, ES, FI, IE, MT, NL, PL	BE, CY, CZ, EE, LV, PT, RO, SK, UK
Yes	LU, SE	DE, FR, IT, LT, HU, SI
2015	No	Yes
No	CY, EL, MT, NL, RO, UK	DE
Yes	AT, BU, ES, LT, PT, SE, SI	BE, DK, EE, FI, FR, HU, IE, IT, LU, LV, PL, SK
Committee involvement in ex post Monitoring		
Budget Committee Debate?		EU Affairs Committee Debate SCP?
2012	No	Yes
No	AT, DE, ES, FR, IT, MT, PL, PT, RO, SI, SK, FI	DK, EE, HU, NL, UK, CY, CZ, SK
Yes	LU, IE, CY, LT, LV	BE, SE, CZ, FI, LT
2015	No	Yes
No	AT, CY, DE, FR, IT, EL, IE, MT, LU, SI	
Yes	BG, EE, ES, FR, LU, NL, PT	BE, DK, FI, HU, LV, LT, PL, RO, SE, SK, SI

Source: Hallerberg, M., Marzinotto, B., Wolff, G.B. (2018), “Explaining the evolving role of national parliaments under the European Semester”, *Journal of European Public Policy*, 25(2): 250-267.

<sup>109</sup> Hallerberg, M., Marzinotto, B., Wolff, G.B. (2018), “Explaining the evolving role of national parliaments under the European Semester”, *Journal of European Public Policy*, 25(2): 250-267.

<sup>110</sup> Kreiling, V. (2018), “Scrutinising the European Semester in national parliaments: what are the drivers of parliamentary involvement?”, *Journal of European Integration*, 40(3) : 335.



## b. Interparliamentary Conference on Stability, Economic Coordination and Governance

Following the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union of 2 March 2012<sup>111</sup> (also called Fiscal Compact), the Interparliamentary Conference on Stability, Economic Coordination and Governance in the EU was established in order to strengthen the cooperation between NPs and the EP on Economic governance. As the issues covered by the Fiscal Compact fall between intergovernmentalism and supranationalism, both levels of Parliaments need to be involved in order to scrutinize the executives. The Interparliamentary Conference on Stability, Economic Coordination and Governance therefore provides a forum for debate and the exchange of information as well as best practices so as to contribute to ensuring democratic accountability in the area of economic governance and budgetary policy in the EU, especially the EMU.<sup>112</sup>

It meets twice a year. The first meeting is held in Parliament and is connected to the European Parliamentary Week (EPW) which consists of the European Semester Conference and the Interparliamentary Conference on Stability, Economic Coordination and Governance in the European Union. The second meeting takes place in the Member State holding the Council Presidency.

Its institutionalization has been difficult, mainly for two reasons. First, there were disagreements on its size and composition, which remains a major stumbling block for the institutionalization of this body.<sup>113</sup> In 2015, it was finally decided not to define the size and composition of the parliamentary delegations and to leave it up to the choice of each national delegation, thus rejecting the "16+6" format of the CFSP/CSDP. The aim was to promote the autonomy of each parliament, but it resulted in a lack of balance between the EP and NP in the organization of the Conference and an overall "weak solution potentially suited to endanger the stability and internal homogeneity of the interparliamentary Conference"<sup>114</sup> (Lupo and Griglio 2018, Fromage 2016: 11). On average, between 60 and 80 MPs attend the meetings of the Interparliamentary Conference on Stability, Economic Coordination and Governance, with considerable divergences in the size and composition of each national delegation. On the positive side, many delegations are mixed in terms of committee affiliation, which again testifies to a mainstreaming of EU affairs among MPs: half of the participating MPs are affiliated to Budget or Finance Committees, one third to European Affairs Committees and the rest to other committees.<sup>115</sup> Second, there were disagreements about the purpose of the Interparliamentary Conference, with overlapping authority claims between NPs and the EP. As such, this is not surprising given the history of latent competition between NPs and the EP, but these conflicts were very much at the forefront when deciding the nature, scope, and aims of the Conference within the overall interparliamentary cooperation framework. Parliament tends to be more favorable to a centralized scrutiny approach, in

<sup>111</sup> See . Available at: [Article 13 of the Treaty](#): "As provided for in Title II of Protocol (No 1) on the role of national Parliaments in the European Union annexed to the European Union Treaties, the European Parliament and the national Parliaments of the Contracting Parties will together determine the organisation and promotion of a conference of representatives of the relevant committees of the European Parliament and representatives of the relevant committees of national Parliaments in order to discuss budgetary policies and other issues covered by this Treaty."

<sup>112</sup> For more information, see also <https://europa.eu/newsroom/events/interparliamentary-conference-stability-economic-coordination-and-governance-eu>.

<sup>113</sup> See also Rozenberg, O. (2017), "The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges", European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs.

<sup>114</sup> Griglio, E., Lupo, N. (2018), "The Conference on Stability, Economic Coordination and Governance: Filling the Gaps of Parliamentary Oversight in the EU." *Journal of European Integration*, 40(3): 358-373; Fasone, C. (2018), "Towards a strengthened coordination between the EU and national budgets. A complementary role and a joint control for parliaments?", *Journal of European Integration*, 40:3 : 265-279.

<sup>115</sup> Kreilinger, V., 2016. National parliaments, surveillance mechanisms and ownership in the Euro Area. Jacques Delors Institut – Berlin, p. 30, pp. 47-49.

which the EP prevails and assumes alone the scrutiny of the EU executive whereas some NPs favour a joint scrutiny approach and advocate for the involvement of all Parliaments in the EU to hold the fragmented executive of the EU accountable. As noted by Lupo and Griglio, "due to these competing visions, the 'multilevel parliamentary fields' transforms itself into a battlefield where relations between national Parliaments and the EP are driven by patterns of competition rather than of cooperation".<sup>116</sup> However, it seems that a settlement has been reached over the last few years since the EU Speakers' Conference has adopted the role of arbitrator. A recent review revealed that a majority of the MEPs surveyed declared their relations with NPs to be cooperative.<sup>117</sup> Scholars have highlighted that although there has been a learning curve towards some form of peaceful co-existence between the EP and NPs there unfortunately is not yet a genuine co-scrutiny.<sup>118</sup>

#### 4.2.4. Other forums for interparliamentary cooperation

In addition to the above-mentioned bodies, there are several other forums for interparliamentary cooperation that have flourished over the past few years. For instance, MEPs and MPs can meet through the ICM. Since 2005, such meetings have taken place to discuss important issues affecting Parliaments in the context of the process of EU policy-making and institution-building or specific EU issues within the field of competences of particular committees. They allow for less diplomatic meetings, focused on specific topics.

There were five ICMs in 2019 which is less than the previous years due to the organization of the EP elections. In the first half of 2020, events were cancelled due to the pandemic but in the second half of 2020, three ICMs were able to take place:

- ICM by the Committee on Legal Affairs (JURI) on "Better Law Making from a digital perspective" (27 October 2020);
- ICM by the Committee on Civil Liberties, Justice and Home Affairs (LIBE) on "The first Annual Rule of Law Report by the Commission and the role of national Parliaments" (10 November 2020);
- ICM by LIBE on "Inter-parliamentary Committee meeting on "The Evaluation of Eurojust Activities" (1 December 2020); and
- ICM by the Committee on Foreign Affairs (AFET) on "Western Balkans: 25 years after the Dayton Accords and the issue of A united EU response in support of democratic change in Belarus" (2 December 2020).

In 2021, to date, there have been two ICMs organised:

- ICM by the Committee on Women's Rights and Gender Equality (FEMM) on the occasion of International Women's Day (4 March 2021); and
- ICM by the Committee on Constitutional affairs (AFCO) on "Reform of the European Electoral Law and Parliament's Right of Inquiry" (22 June 2021).
- Meetings also took place between the Fisc subcommittee and national Parliaments.

<sup>116</sup> Griglio, E., Lupo, N. (2018), "The Conference on Stability, Economic Coordination and Governance: Filling the Gaps of Parliamentary Oversight in the EU." *Journal of European Integration*, 40(3): 366.

<sup>117</sup> Kelbel, C., Navarro, J. (2020), Working Paper on Interinstitutional Relations in the EU, Reconnect.

<sup>118</sup> Crum, B. (2020), "Patterns of contestation across EU parliaments: four modes of inter-parliamentary relations compared", *West European Politics*, DOI: 10.1080/01402382.2020.1848137; Fasone, C. (2019), "The Emergence of 'Conflictual Cooperation' amongst Parliaments in the Economic and Monetary Union", Reconnect working paper 3; Fasone, C. (2019), "Economic Governance: A Field of 'Conflictual Cooperation'?", paper presented at the Workshop on 'Inter-parliamentary Relations in the post- Lisbon European Union', University of Luxembourg (3-4 October 2019).

**Table 4: Inter-parliamentary Committee Meetings in 2019**

Date	European Parliament committee	Event		Number of participants:			
				National Parliaments			EP
		Type of meeting	Title of meeting	Members	Parliaments	Chambers	Members
18-19 February 2019	ECON EMPL BUDG	European Parliamentary Week: • Conference on the European Semester	Interparliamentary Conference on Stability, Economic Coordination and Governance in the European Union	128	27	35	Plenary day 1: 11 Plenary day 2: 21 ECON ICM: 13 BUDG ICM: 9 EMPL ICM: 5
7 March 2019	FEMM	Interparliamentary Committee Meeting	Women's power in politics	23	17	19	15
1-2 April 2019	AFET	Interparliamentary Committee Meeting	EU foreign policy and security	31	27	32	41
24 September 2019	ECON	Interparliamentary Committee Meeting	Country-specific recommendations	12	7	9	43
4 December 2019	AFET	Interparliamentary Committee Meeting	EU foreign policy priorities for the new institutional cycle	38	19	25	32
<b>Total number of participants</b>				<b>232</b>			<b>190</b>

Source: European Parliament, Annual Report on the relations between the EP and national Parliaments, 2019, p. 52.

Other events include High Level Conferences organised at Parliament, and the bilateral visits between NPs and the EP, which allow discussions on specific items and areas of concern of a particular parliament. There were 90 bilateral visits organized in 2018 and 62 in 2019.<sup>119</sup>

### 4.3. Assessment

Interparliamentary cooperation is essential in the EU and helps both NPs and the EP to carry out their scrutinizing duties more effectively. The various forums and networks of interparliamentary cooperation have fostered a mutual influence between the EP and NPs, and it has raised among national parliamentarians awareness of the European dimension of the multilevel decision-making process they are actually part of. Through this cooperation, there are exchanges of information and best practices, as well as coordination for scrutinizing the EU executives, including through the EWS.

However, it seems that interparliamentary cooperation has not yet reached its full potential as many see its outputs as marginal.<sup>120</sup> After years of competitive relations between NPs and the EP, the so-called decade of crisis and the sidelining of Parliaments in the management of the various crises over the past few years seem to have been a wake-up call for Parliaments in the EU. In particular, the reforms of the economic governance have empowered executives and have given more say to the EU institutions on issues such as the budget that are typically domestic. As the European (economic) governance has been moving towards a closer intermeshing of EU and national policy-making, even in areas of national legislative competence, there is a need for the EP and NPs to be involved in monitoring

<sup>119</sup> For more information, see <https://www.europarl.europa.eu/committees/en/events/events-nationalparl>

<sup>120</sup> Kelbel, C., Navarro, J. (2020), Working Paper on Interinstitutional Relations in the EU, Reconnect.

these activities. Indeed, they have opposite but complementary positions as budgetary authorities in the EU.<sup>121</sup> And simply empowering the EP does not automatically lead to a stronger legitimacy of the decision-making process as it does not fully compensate the perceived weakening of NPs among public opinion<sup>122</sup>. A multilevel parliamentary field is needed.

Although there has been a learning curve, the **divergence of views** among NPs and between NPs and the EP has contributed to the lack of influence of Parliaments and the relative weakness of joint scrutiny. Indeed, as explained above, there is a diversity of views among NPs and the EP about the role and purpose of forums of interparliamentary cooperation. This has led to a difficult institutionalisation of the Interparliamentary Conference on Stability, Economic Coordination and Governance. In the case of the COSAC, the same type of divergences has appeared. While some NPs such as the French chambers support a more (pro)active role for the Conference as a 'supervisory body', other Parliaments prefer focusing on the exchange of information, and good practices as well as on debates over broad issues.<sup>123</sup> The EP has traditionally favoured a more centralized approach to scrutiny where it assumes alone the scrutiny of the EU executive whereas some chambers advocate for a joint scrutiny approach with the involvement of national and regional Parliaments.<sup>124</sup> If recent data show that MEPs describe the relations with NPs as cooperative, they also show that "many MEPs do not take part in the interparliamentary proceedings, whichever their format"<sup>125</sup>. It seems that instead of a genuine co-scrutiny, the current state of affairs is more of a "peaceful co-existence"<sup>126</sup> between NPs and the EP. As a result, there is an implicit strategy of "damage limitation", with agendas devoted to debating broad issues rather than scrutinizing the executives.<sup>127</sup>

Furthermore, the **format** of most forums of interparliamentary cooperation is also a weakness. Most of them are composed of hundreds of MPs and MEPs, with limited participation of representatives from the EU executives. There is little room for spontaneous discussions as the plenary sessions are mainly made up of prepared speeches.<sup>128</sup> Moreover, the decision-making is rather consensual and the conclusions adopted by interparliamentary conferences are non-binding. As recommended by Rozenberg<sup>129</sup>, it would be possible to adapt the working methods of the COSAC and other interparliamentary conferences in order to increase the interactions between participants. Some others

<sup>121</sup> Fasone, C. (2018), "Towards a strengthened coordination between the EU and national budgets. A complementary role and a joint control for parliaments?", *Journal of European Integration*, 40(3): 265-279.

<sup>122</sup> Best, E. and Vissers, N. (2020), "The Parliamentary Dimension in EU Governance". Available at: <https://www.eipa.eu/wp-content/uploads/2020/11/EIPA-Briefing-EIPA-Briefing-2020-7docx.pdf>.

<sup>123</sup> Rozenberg, O. (2017), "The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges", European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs.

<sup>124</sup> Cooper, Ian. "Parliamentary Oversight of the EU after the Crisis: On the Creation of the 'Article 13' Interparliamentary Conference." LUISS Guido Carli School of Government Working Paper No. SOG-WP21/2014 (2014).

<sup>125</sup> Kelbel, C., Navarro, J. (2020), Working Paper on Interinstitutional Relations in the EU, Reconnect.

<sup>126</sup> Crum, B. (2020), "Patterns of contestation across EU parliaments: four modes of inter-parliamentary relations compared", *West European Politics*, DOI: 10.1080/01402382.2020.1848137.

<sup>127</sup> Griglio, E., Lupo, N. (2018), "The Conference on Stability, Economic Coordination and Governance: Filling the Gaps of Parliamentary Oversight in the EU." *Journal of European Integration*, 40(3): 363.

<sup>128</sup> Cooper, Ian. "Parliamentary Oversight of the EU after the Crisis: On the Creation of the 'Article 13' Interparliamentary Conference." LUISS Guido Carli School of Government Working Paper No. SOG-WP21/2014 (2014); Griglio, E., Lupo, N. (2018), "The Conference on Stability, Economic Coordination and Governance: Filling the Gaps of Parliamentary Oversight in the EU." *Journal of European Integration*, 40(3): 358-373; Griglio, E., & Lupo, N. (2018), "Inter-parliamentary Cooperation in the EU and outside the Union: Distinctive Features and Limits of the European Experience", *Perspectives on Federalism*, 10(3): 56-82.

<sup>129</sup> Rozenberg, O. (2017), "The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges", European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs.

have advocated for a “(inter)parliamentarism by committee”<sup>130</sup> or a document-based approach.<sup>131</sup> That would have several advantages:

- It would involve a less diplomatic style during the events and allow more interactions between the participants;
- More regular meetings could be planned, virtually or in person, between smaller and more stable teams of committee members, based on specific documents or topics, with a clearer agenda and substantive discussions of priorities and policy objectives. It would allow these meetings to be more specialized and more responsive to events.
- It would foster specialization and the further Europeanization of NPs, with a more micro-politics approach. This could stimulate the interest of MPs, especially if given enough public attention, and could contribute to building a sense of community and solidarity among parliamentarians on specific issues or concerns.
- It would partially solve one key issue for NPs: the asymmetric information they have, which could be alleviated through their consistent involvement in interparliamentary cooperation on specific documents or issues.

The parallel working groups organized by ECON, the Committee on Budgets (BUDG) and the Committee on Employment and Social Affairs (EMPL) are examples of greater specialization within interparliamentary conferences.

Finally, the partisan dimension of interparliamentary cooperation seems largely missing. Parliaments are not unitary actors but structured along party lines but interparliamentary cooperation seems to neglect that key aspect. Indeed, as noted by Bartolucci and his colleagues, “perhaps the most important added value of having national Parliaments involved at the supranational level – and what makes them different from national governments, acting within the Council’s formations and the European Council –, is precisely the ability to publicly express and represent also the viewpoints of the opposition and the of political minorities beyond them.”<sup>132</sup> Their recent study highlights that opposition parties are well represented among the national delegations participating in interparliamentary cooperation, which is a strong asset for the representativeness of the process. Indeed, the participation of opposition actors, including Eurosceptic parties, allows them to be heard by the EU executives and contribute to the agenda setting. Their participation can help make interparliamentary conferences “a window of democracy”.<sup>133</sup> But this is not yet the case as it seems these actors do not take the floor enough, potentially because of the current format of these conferences. Indeed, NPs are represented by national delegations, which are then supposed to speak with one voice. The summaries of the interparliamentary meetings refer to the position of national delegations rather than the diversity within them and give the impression there were no lively or intense debates.<sup>134</sup> Instead of sitting by nationality, delegations from NPs could be encouraged to ally with other members of their party family.

<sup>130</sup> This committee-based approach was already recommended by the AFCO committee final report (ref). 2016/2149 INI.

<sup>131</sup> Crum, B. (2020), “Patterns of contestation across EU parliaments: four modes of inter-parliamentary relations compared”, West European Politics, DOI: 10.1080/01402382.2020.1848137; Manzella, Andrea. “Is the EP legitimate as a parliamentary body in EU multi-tier governance?” European parliament: Directorate General for Internal Policy Department C, Challenges of multi-tier governance in the European Union: Effectiveness, efficiency and legitimacy (2012): 138-151.

<sup>132</sup> Kelbel, C., Navarro, J. (2020), Working Paper on Interinstitutional Relations in the EU, Reconnect: p. 54.

<sup>133</sup> Pernice, I. (2013). What future (s) of democratic governance in Europe: learning from the crisis. European Parliament, Directorate-General for Internal Policies–Policy Department C, Challenges of Multi-Tier Governance in the European Union: Effectiveness, Efficiency and Legitimacy, PE, 474, 4-25.

<sup>134</sup> Kelbel, C., Navarro, J. (2020), Working Paper on Interinstitutional Relations in the EU, Reconnect.

This may encourage livelier debates, through an accentuation of party cleavages and could stimulate the active participation of opposition parties, which is not yet the case.



## 5. SCRUTINIZING THE EXECUTIVE ON EU AFFAIRS

When it comes to EU issues, scrutinizing the national government is the most traditional task and it remains seen as the main one for NPs.<sup>135</sup> National Parliaments still consider that it is their primary duty to scrutinize their own government, before the Commission, the European Council and the Council.<sup>136</sup> Over time, NPs have adapted to European integration in order to be able to be involved in EU affairs within the domestic arena. The Lisbon Treaty combined with interparliamentary cooperation have further triggered the need to 'Europeanize'. All Parliaments have gone through some form of institutional adaptation in order to follow EU affairs: all have for instance established one or several committees dealing with European Affairs and changed their rule to take into account the monitoring of what their government is doing at the EU level. But although experiences are shared between NPs, one cannot speak of uniformity when it comes to the way NPs scrutinize the actions of their government in the Council or the European Council. There is still a huge diversity of practices across Parliaments on many aspects ranging from the frequency of meetings of their European Affairs Committees, the relation between the respective committee and the other committees to the rights NPs have towards their government. But all Parliaments face similar difficulties. First, the decision-making process in the Council and the European Council is rather opaque. This lack of transparency is an obstacle for NPs to obtain the relevant documents, information and follow the process. Second, trilogues are used increasingly, since they may lead to an early agreement in the first reading between the Commission, Parliament and the Council. However, trilogue meetings have been kept secluded, which makes them difficult to follow for NPs and reinforces de-parliamentarisation at the national level. Finally, the last decade has seen an empowerment of the European Council, and although NPs have been active, the scrutiny mechanisms put in place tend to focus on policies and on the legislative procedure and were not conceived to monitor the political decisions of heads of state and of government.

### 5.1. Scrutinizing national governments in the EU

NPs have adapted to the European integration process is similar but far from uniform way and different institutional arrangements have been put in place by NPs to be involved in EU affairs. Several typologies have been elaborated over the last 10 years to classify Parliaments in that regard.

One way to classify NPs is according to their institutional strength depending on specific institutional provisions.<sup>137</sup> One can then differentiate between:

- Parliaments with much institutional strength in EU affairs: for example Austria, Denmark, Finland, Germany, the Netherlands, Sweden and most of the Central and Eastern European;
- Parliaments with intermediate institutional strength: for example France and Italy; and

<sup>135</sup> Kinski, L. (2020), "What role for national parliaments in EU governance? A view by members of parliament", *Journal of European Integration*, DOI: 10.1080/07036337.2020.1817000.

<sup>136</sup> COSAC (2013), 20<sup>th</sup> Bi-Annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, <file:///C:/Users/natha/Downloads/d9-20th%20Bi-annual%20Report%20of%20COSAC%20EN%20-%20corrected%2024%20October.pdf>

<sup>137</sup> Auel, K., O. Rozenberg, and A. Tacea (2015), "To Scrutinize or Not to Scrutinize? Explaining Variation in EU-related Activities in National Parliaments." *West European Politics* 38 (2): 282–304; Winzen, T. (2012), "National Parliamentary Control of European Union Affairs: A Cross-national and Longitudinal Comparison" *West European Politics* 35 (3): 657–672.

- Parliaments with comparatively weaker institutional strength in EU affairs: for example Belgium, Cyprus, Greece, Luxembourg, Malta, Portugal and Spain.

Another way to classify Parliaments in EU affairs refers to their activities. For instance, the OPAL research project<sup>138</sup> looked at several parliamentary activities such as parliamentary statements, plenary debates on EU issues, hearing with the Prime Minister, meetings of the European Affairs Committee, opinions issued in the framework of the EWS and the Political Dialogue between 2010 and 2012. They distinguish three categories of Parliaments:

- The most active: Austria, Denmark, Estonia, Finland, Germany, Italy, Lithuania, the Netherlands, Portugal Sweden,;
- The intermediate: Belgium, France, Ireland, Latvia, Luxembourg, Romania, Slovakia, Slovenia, Spain;
- The least active: Bulgaria, Cyprus, the Czech Republic, Greece, Hungary and Malta.

Another way to look at the involvement of NPs in EU affairs is through their internal organisation and the powers they have towards the government. A first group, called the mandating or procedural system) focuses its scrutiny on the government's position in the Council and the European Affairs Committee (or the Committee that serves as European Affairs Committee, such as the Grand Committee in Finland) can often give a mandate to the minister or approve its position before the negotiation of a legislative act in the Council. This group includes Austria, Denmark, Estonia, Finland, Hungary, Latvia, Slovenia and Sweden. The second group has a document-based scrutiny system in which the parliament concentrates its scrutiny on EU legislative acts and documents, collecting additional information and adopting resolutions. This group includes Belgium, France, Germany, Ireland, Italy and the Netherlands. The third and final group identified focuses on questioning the government, adopting reports and motions on politically relevant issues without systematic examination of their government's actions in the Council. In this group, we find Greece, Portugal and Spain.<sup>139</sup>

Most NPs are generally positive regarding their rights of participation and influence in European policies but if we zoom in, the differences can be quite marked, in terms of their institutional prerogatives and capacities. In 2019, several NPs, such as the Dutch *Eerste Kamer*, the Finnish *Eduskunta*, the Italian *Senato della Repubblica*, the Swedish *Riksdag* and the Luxembourg *Chambre des Députés* pointed out scrutiny over their national government as an instrument to influence indirectly European policies and legislation.<sup>140</sup>

When it comes to access to information, most NPs do not follow up regularly the meetings of the Council<sup>141</sup> but most NPs (30 chambers out of 34) consider being adequately informed by their government on EU policies thanks to internal and/or legal provisions that enable them to be informed

<sup>138</sup> Winzen, T. (2012), "National Parliamentary Control of European Union Affairs: A Cross-national and Longitudinal Comparison" *West European Politics* 35 (3): 657–672; Heffler, C., Neuhold, C., Rozenberg, O., Smith, J. (eds), *The Palgrave Handbook of National Parliaments*, London, Palgrave.

<sup>139</sup> Karlas, J. (2011). Parliamentary control of EU affairs in Central and Eastern Europe: explaining the variation. *Journal of European Public Policy*, 18(2), 258-273; Kiiver, Philipp. "National and Regional Parliaments in the European Constitutional Order." (2006).

<sup>140</sup> COSAC (2019), "32nd bi-annual Report", available at <https://ipexl.secure.europarl.europa.eu/IPEXL-WEB/conference/getconference.do?type=082dbcc564afa0210164b2da9f5102f8>

<sup>141</sup> COSAC (2017), "27th Bi-annual Report", available at <http://www.cosac.eu/documents/bi-annual-reports-of-cosac/k2%2027th%20Bi-annual%20Report%20of%20COSAC%20-EN.pdf>



on the government's position during the Council.<sup>142</sup> In some Member states such as in Denmark, Estonia, Finland, Latvia, Lithuania, Slovakia, Slovenia, Romania and Sweden, the government must obtain a mandate from parliament before taking a position in the Council.<sup>143</sup> The Danish *Folketing* was the first parliament in Europe to set up a negotiating mandate system, which requires the government to obtain a negotiating mandate from a parliamentary committee before important deliberations in the Council. The government presents the proposed negotiation position orally at the European Affairs Committee before a Council meeting. The increased use of trilogues and first reading agreements at the EU level led to an adaptation: the European Affairs committee is included in the decision-making process at an earlier stage. Since 2006, the government must seek a mandate in the European Affairs Committee on proposals on major significance before the Danish position is established and the Government may be required to ask for a new mandate if the proposal changes fundamentally during the negotiations.<sup>144</sup>

In other countries, "parliament may decide to issue a mandate and must be given adequate time to do so (often ensure through the scrutiny reserve)".<sup>145</sup> For instance, if the Czech *Senát* decides to scrutinize a draft legislative act, the government is obliged to maintain a parliamentary scrutiny reservation which, until lifted, precludes a member of the government from participating in final voting in the Council.<sup>146</sup> Similarly, the Law 234/2012 in Italy introduced the prerogative of Parliament to scrutinize EU proposal and legislative acts. When the prerogative is invoked by either House of Parliament, the government must invite the parliamentary scrutiny reserve before the Council and may not proceed with the drafting of the relevant acts, until the parliamentary scrutiny has been concluded or 30 days have elapsed from when Parliament was informed that the reserve had been invoked.<sup>147</sup>

This type of mandate is not always necessarily legally binding<sup>148</sup> but can be politically relevant and have a binding effect if the government has to justify its position and potential deviation from the mandate. For instance, such a system exists in Lithuania, Poland, Romania, Slovenia and Sweden. Some Parliaments also organize regular debates with government officials and ministers during plenary sessions such as the Dutch *Eerste Kamer*, the Austrian *Nationalrat* and the Romanian *Senatul*. Other chambers do this at the committee level such as the Austrian *Nationalrat* and *Bundesrat*, the Belgian *Chambre des Représentants*, the French *Sénat*, the Romanian *Camera Deputaţilor* and *Senatul* and the Portuguese *Assembleia da República*. In a majority of chambers, the relevant minister is obliged to appear before the parliamentary committee on issues related to scrutiny of the government's position due to constitutional provisions (such as in the French *Sénat* or Dutch *Eerste Kamer*), rules of procedure/standing orders, internal rules or parliamentary practices (the Slovenian *Državni zbor*, Italian *Camera dei Deputati*, Greek *Voulí ton Ellínon*, Romanian *Camera Deputaţilor*, Irish Houses of *Oireachtas*), an agreement between the government and the European Affairs Committee (Danish *Folketing*), legislative acts (Portuguese *Assembleia da República*) or a combination of several of the above (like in

<sup>142</sup> COSAC (2019), "32nd bi-annual Report", available at <https://ipexl.secure.europarl.europa.eu/IPEXL-WEB/conference/getconference.do?type=082dbcc564afa0210164b2da9f5102f8>

<sup>143</sup> COSAC (2017), "27th Bi-annual Report", available at <http://www.cosac.eu/documents/bi-annual-reports-of-cosac/k2%2027th%20Bi-annual%20Report%20of%20COSAC%20-EN.pdf>

<sup>144</sup> Website from the Folketing, [www.thedanishparliament.de/en/committees/committees/euu](http://www.thedanishparliament.de/en/committees/committees/euu)

<sup>145</sup> Auel, K., Neuhold, C. (2018), "Europeanisation of National Parliaments in European Union Member States: Experiences and best practices", Study for the European Parliament's Greens/EFA Group: 17.

<sup>146</sup> [https://www.senat.cz/senat/evropa/dokumenty\\_ke\\_stazeni/projednavani\\_evropske\\_agendy-eng.php?ke\\_dni=28.6.2021&O=13](https://www.senat.cz/senat/evropa/dokumenty_ke_stazeni/projednavani_evropske_agendy-eng.php?ke_dni=28.6.2021&O=13)

<sup>147</sup> [https://en.camera.it/4?scheda\\_informazioni=17](https://en.camera.it/4?scheda_informazioni=17)

<sup>148</sup> Except in the Austrian *Nationalrat*, the Estonian *Riigikogu* and the German *Bundesrat* in areas falling into the jurisdiction of the *Länder*.

the Finnish *Eduskunta*, the Croatian *Hrvatski Sabor*, the Polish *Sejm* and *Senat*).<sup>149</sup> For instance, in the Czech Republic, the procedure for oversight of Council meetings as established by the *Poslanecká sněmovna* stipulates that a member of the government attends the meeting of the Committee for European Affairs if so requested and provides information on the position of the country.<sup>150</sup>

In addition, a few Parliaments also have an obligation of their government to report and provide not only *ex ante* but also *ex post* information. This is the case for example in the Austrian Parliament, where the Information Rules Act organizes the responsibilities of the Austrian Federal government with respect to the provision of information to Parliament. This reporting is also the case in the German *Bundestag*, the Greek *Voulíton Ellínion*, the Swedish *Riksdag* and the Italian *Senato della Repubblica*.<sup>151</sup> In Hungary, the government is expected to send briefings and reports on EU proposals selected for scrutiny while the Czech *Poslanecká sněmovna* receives from the government its framework position on all EU draft legislative acts. In Cyprus, the government gives the necessary information when requested by the Parliament before and after a Council meeting.<sup>152</sup> A few Parliaments also have access to specific databases or to additional information and document upon request such as the Czech *Senát*, the Dutch *Eerste Kamer* and the German *Bundestag*.<sup>153</sup>

Several studies pointed out that there is a relation between the formal powers of a chamber and its involvement in EU affairs. In other words, a parliament with great institutional strength tend to be more active and engaged in EU affairs.<sup>154</sup> But it also depends on the motivation of individual MPs to be involved (or not) in EU affairs and on the relations between the parliament and the government. Although Denmark for instance is often used as an example of a parliament with strong formal powers in EU affairs, namely with a mandate system to scrutiny the government's actions at the EU level, its effect is strongly related to the fact that the country often has minority governments.<sup>155</sup> The same can be said for Sweden, although there is a more continuous scrutiny of the parliament than in the Danish case.<sup>156</sup> Moreover, as noted by Neuhold and Auel<sup>157</sup>, the effect of a mandate should not be overestimated. Strong Parliaments usually tend to define broad red lines or acceptable outcomes, as a too narrow mandate has little chance of being accepted at the EU level.<sup>158</sup> Furthermore, governments can circumvent a too narrow mandate by abstaining from a vote in the Council or re-interpret the

<sup>149</sup> COSAC (2017), "27th Bi-annual Report", available at <http://www.cosac.eu/documents/bi-annual-reports-of-cosac/k2%2027th%20Bi-annual%20Report%20of%20COSAC%20-EN.pdf>.

<sup>150</sup> <https://public.psp.cz/en/docs/laws/1995/90.html#s15a>

<sup>151</sup> COSAC (2019), "32nd bi-annual Report", available at <https://ipexl.secure.europarl.europa.eu/IPEXL-WEB/conference/getconference.do?type=082dbcc564afa0210164b2da9f5102f8>

<sup>152</sup> COSAC (2017), "27th Bi-annual Report", available at <http://www.cosac.eu/documents/bi-annual-reports-of-cosac/k2%2027th%20Bi-annual%20Report%20of%20COSAC%20-EN.pdf>.

<sup>153</sup> The Czech *Poslanecká sněmovna* has access to a governmental database where all documents and Government's positions are accessible.

<sup>154</sup> Auel, K., Neuhold, C. (2018), "Europeanisation of National Parliaments in European Union Member States: Experiences and best practices", Study for the European Parliament's Greens/EFA Group; Auel, K., O. Rozenberg, and A. Tacea (2015), "To Scrutinize or Not to Scrutinize? Explaining Variation in EU-related Activities in National Parliaments." *West European Politics* 38 (2): 282–304.

<sup>155</sup> Christensen, M. (2015), "Is the Danish model of parliamentary scrutiny still best practice?" in Heffler, C., Neuhold, C., Rozenberg, O., Smith, J. (eds), *The Palgrave Handbook of National Parliaments*, London, Palgrave: 275–289.

<sup>156</sup> Auel, K., O. Rozenberg, and A. Tacea (2015), "To Scrutinize or Not to Scrutinize? Explaining Variation in EU-related Activities in National Parliaments." *West European Politics* 38 (2): 282–304.

<sup>157</sup> Auel, K., Neuhold, C. (2018), "Europeanisation of National Parliaments in European Union Member States: Experiences and best practices", Study for the European Parliament's Greens/EFA Group, p. 18.

<sup>158</sup> Christensen, M. (2015), "Is the Danish model of parliamentary scrutiny still best practice?" in Heffler, C., Neuhold, C., Rozenberg, O., Smith, J. (eds), *The Palgrave Handbook of National Parliaments*, London, Palgrave: 275–289.

mandate strategically.<sup>159</sup> Finally, while some NPs issue statements or a mandate that is legally binding, others publish opinions or positions that can put political pressure on the government. The Dutch *Tweede Kamer* can place a parliamentary reserve on a document, forcing a debate with the government before a Council meeting. But it can also adopt (as a whole or through its committees) resolutions or positions which are not legally binding but are politically very relevant. As a result, the government usually reports to the chamber after the Council meetings on the outcomes based on the chamber's position.<sup>160</sup> Another practice comes from the French *Assemblée nationale*. The chamber can issue resolutions, but these are neither legally nor politically binding. The European Affairs Committee publishes public information reports, providing in-depth studies on specific EU topics to exercise an indirect influence on the government's position.<sup>161</sup>

The same level of diversity among NPs is also found when one looks at the frequency of the meetings of their Committee in charge of European Affairs. Most meet once a week and sometimes more, depending on the agenda. For instance, the Finnish Eduskunta reports that its Grand Committee which also serves as European Affairs Committee meets twice weekly to discuss EU affairs.<sup>162</sup> But many chambers also organize the work depending on the workload.

## 5.2. Monitoring the European Council's activities

The European Council has become a central institution in the EU. Since its institutionalisation with the Lisbon Treaty and the economic crisis onwards, the heads of States and of government have been increasingly involved in the decision-making process (Puetter 2012, 2014). The European Council has become less and less a talking shop and has taken decisions affecting the sovereignty of the Member States and their Parliaments.<sup>163</sup> As the frequency of the meetings of the heads of states and of governments (formal, informal and Euro Summits) has increased, so has its saliency at the domestic level, especially as these meetings often focus on very controversial political issues.

This evolution poses specific challenges for NPs. More specifically, the meetings of the European Council are far from transparent and few documents are available to prepare the meeting or scrutinize the actions of the heads of states and of government. Moreover, the European Council as a whole is not accountable, only its individual members are accountable to their respective parliament. And finally, the tools developed by NPs to adapt to European integration are mostly designed to monitor the legislative decision-making and the ordinary legislative procedure in particular. However, NPs have

<sup>159</sup> Auel, K., Neuhold, C. (2018), "Europeanisation of National Parliaments in European Union Member States: Experiences and best practices", Study for the European Parliament's Greens/EFA Group: p. 18.

<sup>160</sup> Högenauer, A. L. (2015). The Dutch parliament and EU affairs: decentralizing scrutiny. In *The Palgrave Handbook of National Parliaments and the European Union* (pp. 252-271). Palgrave Macmillan, London.

<sup>161</sup> Auel, K., Benz, A.. (2005), "The Politics of Adaptation: Europeanisation of National Parliamentary Systems", *Journal of Legislative Studies*, 11 (3-4): 372-393; Auel, K., Neuhold, C. (2018), "Europeanisation of National Parliaments in European Union Member States: Experiences and best practices", Study for the European Parliament's Greens/EFA Gro.

<sup>162</sup>

[https://www.eduskunta.fi/EN/naineduskuntatoimii/eduskunnan\\_tehtavat/euasiat/euasiat\\_valiokunnissa/Pages/default.aspx](https://www.eduskunta.fi/EN/naineduskuntatoimii/eduskunnan_tehtavat/euasiat/euasiat_valiokunnissa/Pages/default.aspx)

<sup>163</sup> Wessels, W., Rozenberg, O., Van Den Berge, M., Hefftlar, C., Kreilinger, V. and Ventura, L. (2013), "Democratic Control in the Member States of the European Council and the Euro zone summits". European Parliament, <https://op.europa.eu/en/publication-detail/-/publication/df5981f2-c4ec-4e07-9c02-47a1304d7d26/language-en/format-PDF/source-206787629>

adapted their practices and rules have changed in order to be able to monitor the actions of the European Council.

Indeed, in many Member states, the European Council is now mentioned in formal rules, either through constitutional arrangements or rules of procedure. In a few Parliaments, such as the Danish, Finnish and Swedish Parliaments, the procedures to monitor the European Council are rather similar to the ones used to scrutinize the Council meetings, except for a greater involvement of the Prime Minister. For instance in Finland, the Eduskunta reports that before and immediately after a European Council meeting, the Prime Minister provides the Grand Committee and the Foreign Affairs Committee information regarding the agenda. Many others have adapted their rules and developed specific procedures to scrutinise the European Council meetings.<sup>164</sup>

Nowadays, most chambers have formal rules stipulating the right of information of NPs regarding the European Council meetings, with the government being obliged to provide specific documents (draft agenda, reports on the results, position of the government, etc.) or to give an oral explanation. But there is a great diversity of practices and in the types of documents the government is supposed to share. In some countries, the rules stipulates in a detailed manner which documents should be sent (like in Germany or Italy for instance) or have clear rules on information sharing (such as in Finland, Denmark and Sweden). But even though the openness and timing of the information vary, most Parliaments are informed on the government's position, in written or oral form. One of the main adaptations over the last decade is the increased involvement of the Prime Minister, either before or after (or both) European Council meetings. In Portugal for instance, since 2012, a plenary debate is organized before the European Council with the presence of the Prime Minister. In Croatia, the Prime Minister is obliged to report to parliament on the European Council meetings and if invited by the President of the parliament, will attend the plenary session to explain the Croatian position. After each meeting of the European Council, the parliament also receives a report within a fortnight and this report is discussed by the plenary.<sup>165</sup> In Estonia, the Prime Minister meets with the European Affairs Committee before the European Council meetings<sup>166</sup> and in Sweden, the Committee on EU Affairs also meets with the Prime Minister before European Council meetings and after the meetings, the Prime Minister reports back from the meetings in the Chamber of the Riksdag.<sup>167</sup> In Hungary, the Government fulfils its obligation to supply information regarding the meeting of the European Council in a specific way. Before the meetings, the Prime Minister is under obligation to appear before a special committee – the Consultative Body on European Union Affairs - with the aim of reaching the widest possible consensus with Parliament. By law, members of the Body are the Speaker of the National Assembly, the leaders of parliamentary groups, the chairman and vice-chairman of the Committee on European Affairs, the chairman of the Committee dealing with Constitutional Affairs and the chairman of the Committee on Foreign Affairs as well as other persons invited by the Speaker. The Prime Minister gives a briefing in camera on the position he wishes to represent at the European Council. The briefing is followed by a debate.<sup>168</sup> In some countries, the scrutiny is much less intensive. For instance, in Bulgaria,

<sup>164</sup> Auel, K., Neuhold, C. (2018), "Europeanisation of National Parliaments in European Union Member States: Experiences and best practices", Study for the European Parliament's Greens/EFA Group.

<sup>165</sup> Butkovic, H. (2015), "The Croatian parliament in the European Union", in Hefftl, C., Neuhold, C., Rozenberg, O., Smith, J. (eds), *The Palgrave Handbook of National Parliaments*, London, Palgrave: 462-478.

<sup>166</sup> <https://www.riigikogu.ee/en/parliament-of-estonia/committees/european-union-affairs-committee/>.

<sup>167</sup> <https://www.riksdagen.se/globalassets/07-dokument-lagar/the-riksdag-act-2015.pdf>.

<sup>168</sup> Website of Országgyűlés, <https://www.parlament.hu/web/house-of-the-national-assembly/parliamentary-control-over-the-government-in-eu-affairs>

the Prime Minister is not obliged to report to the Assembly, which is not involved in the preparations of the European Council meetings and there is no regular ex-post control.<sup>169</sup>

### 5.3. Assessment

The last decade, also known as the decade of crises, has had a great impact on the institutional architecture of the EU. While the Lisbon Treaty was seen as the 'treaty of the Parliaments', the various crises have led to an empowerment of the executives. The Council and the European Council have become key actors<sup>170</sup> with especially the latter has seen its position strengthened. The European Council has indeed increased the frequency of its meetings, with more informal gatherings and Euro-summits to take controversial political decisions but also to intervene as collective leader of the EU in sensitive matters. National Parliaments had to adapt to be able to perform one of their essential tasks: scrutinizing their government. But while the Lisbon Treaty gave new tools to NPs, these tools were mainly destined for the scrutiny of the EU legislative activity and decision-making process. It is much more complicated for NPs to hold their head of state or of government into account for their activities inside the Council and the European Council, as these meetings are less transparent, there are less documents available and these are often confidential due to their sensitive nature.

However, it seems that, although there are diverging patterns, NPs have adapted to the new situation and have developed formal and informal tools to hold their executive into account on EU issues. There is indeed more regularity in the control of European Councils. The various crises have indeed increased the political saliency of EU affairs in many Member states as they have attracted much attention from the media and have affected areas considered at the heart of national sovereignty, like budgetary, social and economic policies. There is also an increasing trend towards more control of the executive before European meetings, instead of only debriefings after the meetings. NPs have also been able to be more involved in the debates on key issues and to discuss directly with the Prime Minister, either in committees or in plenary sessions. The political salience of EU affairs seems to have incentivized MPs to be more engaged and informed about what is happening in the EU and what their government is doing during Council and European Council meetings. But there are still a lot of divergences between NPs as to their level of information and their formal power to constrain their government. And as noted by Wessels and his colleagues, "the Europeanisation of national parliaments – understood as the way national parliamentary assemblies adapted to the EU – is largely and mostly unfitted for controlling European summits"<sup>171</sup> as it was designed for the ordinary legislative procedure. European summits are still a grey zone as a result, which is critical given the fact that the decision-making seems more and more to rely on the participation of the heads of state and of government in the EU. Similarly, trilogues are often 'off the radar' of members of NPs. They are secluded and opaque meetings and NPs have very limited capacity to follow them.<sup>172</sup> There are exceptions with for instance the Romanian parliament

<sup>169</sup> Kanev, D. (2015) 'The Bulgarian National Assembly and EU Affairs: Hesitant Steps in the European Arena', in: Heffler, C., Neuhold, C., Rozenberg, O. and Smith, J. (eds) *The Palgrave Handbook of National Parliaments*, London: Palgrave Macmillan: 445-461.

<sup>170</sup> Bickerton, C. J., Hodson, D., & Puetter, U. (Eds.). (2015). *The new intergovernmentalism: states and supranational actors in the post-Maastricht era*. Oxford University Press, USA.

<sup>171</sup> Wessels, W., Rozenberg, O., Van Den Berge, M., Heffler, C., Kreilinger, V. and Ventura, L. (2013), "Democratic Control in the Member States of the European Council and the Euro zone summits". European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs.

<sup>172</sup> De Ruiter, R. (2013). "Under the radar? National parliaments and the ordinary legislative procedure in the European Union". *Journal of European Public Policy*, 20(8), 1196-1212.

which sends its opinions on specific dossiers to the EP rapporteurs, the Portuguese parliament which can invite MEPs, the Italian Senato della Repubblica which organizes hearings with the EP (shadow) rapporteurs and the Dutch parliament which appoints national rapporteur for highly salient dossiers to closely monitor the developments at the EU level.<sup>173</sup> But generally, while trilogues have become more central and frequent, NPs lack the resources and the information to follow them on time. There is room for improvement: key documents could be made available to NPs and their committees dealing with European affairs could be notified about the latest developments a few days before each European Council Summit so that debates or exchanges can take place formally or informally between NPs and their government.<sup>174</sup> Similarly, exchanges between MPs and MEPs from the same political family could be enhanced as to improve the knowledge of NPs regarding salient issues discussed in trilogues. Although transparency and information-sharing might be improved, for trilogues as for the European Council meetings, a more realistic approach is to acknowledge that NPs do not have the (bureaucratic) capacity to manage all the information on time. Moreover, some confidentiality is often needed to reach an agreement at the EU level and it is likely that if (trilogue or European Council) meetings would become fully transparent, the discussions and bargaining would take place elsewhere.

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<sup>173</sup> De Ruiter, R., Neuhold, C. (2021), "Subsidiarity watchdogs and the kennel of trilogues: when do they bark? The role of National Parliaments in trilogue negotiations", *Journal of European Public Policy*, 28:1, 93-111.

<sup>174</sup> Wessels, W., Rozenberg, O., Van Den Berge, M., Heftler, C., Kreilinger, V. and Ventura, L. (2013), "Democratic Control in the Member States of the European Council and the Euro zone summits". European Parliament.



## 6. CONCLUSION: CHALLENGES, OPPORTUNITIES AND RECOMMENDATIONS

Parliaments play a key role in ensuring accountability and democratic legitimacy in Europe. The Lisbon Treaty was an essential step towards strengthening democracy in the EU, with the further empowerment of Parliament and the recognition of the contribution NPs can make to democratize the decision-making process. For the first time, they have been acknowledged as active players at the supranational level and they have since become “multi-arena” actors<sup>175</sup>, having a fundamental role at both the national and supranational level. The Lisbon Treaty has had positive effects on NPs<sup>176</sup>, as it triggered their further Europeanization, upgraded their resources and led to an adaptation of their procedures and engagement in EU affairs.

However, while the Lisbon treaty was implemented, the EU and the Member States have had to face a decade of challenges and crises, which left its mark on the relations between the institutions and on the decision-making process. Indeed, the so-called decade of crises<sup>177</sup> increased the salience and politicisation of EU issues. The economic and financial crisis in particular had tremendous consequences for the EU’s architecture and the decision-making process. It accelerated ongoing trends in the EU, such as the empowerment of the executive, particularly the European Council, and the recourse to alternative procedures and non-legislative decisions<sup>178</sup>. Whereas national Parliaments have just adapted their scrutiny procedures to monitor the ordinary legislative procedure with the new tools provided by the Lisbon treaty, the crises acted as a boost for intergovernmentalism.<sup>179</sup> There was no massive transfer of competences as such, but the supranational surveillance of national budgets and economic policies has greatly increased the constraints on national governments and has undermined parliamentary scrutiny.<sup>180</sup> This has led to renewed debates on the democratic deficit in the EU and to new contestations, such as waves of Euroscepticism in many Member states.

As this study has shown, national Parliaments have adapted, each in their own way, depending on their constitutional and political environment. They have been active and involved in EU affairs, including on the new challenges posed by the crises.<sup>181</sup> To conclude, this study will focus on three challenges and potential ways to turn them into opportunities: the monitoring of the European Council meetings, the Early Warning System and interparliamentary cooperation.

<sup>175</sup> Auel, K., Neuhold, C. (2017), “Multi-arena players in the making? Conceptualizing the role of national parliaments since the Lisbon treaty”, *Journal of European Public Policy*, 24(10): 1547-1561.

<sup>176</sup> Cooper, I. (2019). “National parliaments in the democratic politics of the EU: the subsidiarity early warning mechanism, 2009–2017”. *Comparative European Politics*, 17(6), 919-939.

<sup>177</sup> Coman, R., Crespy, A., & Schmidt, V. A. (Eds.). (2020). *Governance and Politics in the Post-crisis European Union*. Cambridge University Press.

<sup>178</sup> Bickerton, C. J., Hodson, D., & Puetter, U. (Eds.). (2015). *The new intergovernmentalism: states and supranational actors in the post-Maastricht era*. Oxford University Press, USA.

<sup>179</sup> Fabbri, S. (2016). “The constitutional conundrum of the European Union”. *Journal of European public policy*, 23(1), 84-100.

<sup>180</sup> Crum, B. (2018), “Parliamentary accountability in multilevel governance: what role for parliaments in post-crisis EU economic governance?”, *Journal of European Public Policy*, 25(2): 268-286.

<sup>181</sup> Fasone, C. (2015), « Taking budgetary powers away from national parliaments? On parliamentary prerogatives in the Eurozone crisis », EUI working papers, 2015/37.

## 6.1. Monitoring the European Council

The various crises have altered the institutional architecture of the EU. The European Council has become a central institution over the last 10 years and is now taking part in most politically salient decisions. At the same time, the institution is not under EU-wide control. Parliament still lacks formal power to prevent, veto, modify or assess intergovernmental decisions.<sup>182</sup> The NPs control their own national government and have been trying to monitor the action of their head of state or of government in the European Council but mostly through their information and consultation rights. They are focused on the national interest and are for instance reluctant to interfere in the exchanges between their government and the Commission when it comes to economic and budgetary decisions.<sup>183</sup>

Parliaments need to be more involved, especially as budgetary authorities. To do so, the level of information and transparency relate to EU policy-making could be improved:

- While some informality is needed to reach compromise, **NPs could be better involved** in the preparation of European Council meetings and in the preparation of the submission of the stability and reform national programmes before their submission.<sup>184</sup> The European Affairs Committee of each chamber should be systematically notified about the latest developments during the last week before the Council meeting. The chair of that committee (or of the relevant committee) could be invited to participate to preparatory meetings as well as be part of the national delegation during the European Council meeting.<sup>185</sup>
- A **better alignment of the strategic agendas** of NPs and the EP is needed to improve the parliamentary scrutiny of the European Semester. Instead of a peaceful coexistence, the EP and NPs could deepen their cooperation on economic issues, through for instance the involvement of NPs in the economic dialogue the EP has with EU economic executives.<sup>186</sup> So far, there is more a division of tasks, with the EP focusing on the February meeting of the Conference on Stability, Economic Coordination and Governance while NPs use this interparliamentary conference as a way to collect information that they can then use in their national scrutiny. A better cooperation between NPs and the EP could foster the emergence of transnational coalitions on macroeconomic policy rather than a division between the national and European arenas.<sup>187</sup>

<sup>182</sup> Griglio, E., Lupo, N. (2018), "The Conference on Stability, Economic Coordination and Governance: Filling the Gaps of Parliamentary Oversight in the EU." *Journal of European Integration*, 40(3): 359.

<sup>183</sup> Crum, B. (2018), "Parliamentary accountability in multilevel governance: what role for parliaments in post-crisis EU economic governance?", *Journal of European Public Policy*, 25(2): 281.

<sup>184</sup> Hallerberg, M., Marzinotto, B., Wolff, G.B. (2018), "Explaining the evolving role of national parliaments under the European Semester", *Journal of European Public Policy*, 25(2): 250-267; See Kreilinger, V. and Larhant, M., 2016. Does the Eurozone need a Parliament? Jacques Delors Institut – Berlin.

<sup>185</sup> Wessels, W., Rozenberg, O., Van Den Berge, M., Heffler, C., Kreilinger, V. and Ventura, L. (2013), "Democratic Control in the Member States of the European Council and the Euro zone summits". European Parliament, <https://op.europa.eu/en/publication-detail/-/publication/df5981f2-c4ec-4e07-9c02-47a1304d7d26/language-en/format-PDF/source-206787629>.

<sup>186</sup> Fasone, C. (2019), "The Emergence of 'Conflictual Cooperation' amongst Parliaments in the Economic and Monetary Union", Reconnect working paper 3, p.18.

<sup>187</sup> Crum, B. (2020), "Patterns of contestation across EU parliaments: four modes of inter-parliamentary relations compared", *West European Politics*: 12.



## 6.2. The Early Warning System: more flexibility needed

As mentioned in the study, the EWS has not been a tremendous success so far for many reasons. All of these reasons cannot be addressed but a few improvements could be envisaged, all leading to more flexibility:

- The idea of a **green card** is promising. It would give NPs the opportunity to express positive ideas and suggest legislation to the Commission instead of being only the watchdogs of subsidiarity. NPs could thereby submit constructive proposals to the Commission in order to influence positively the European debate and the Commission's power of initiative.
- The **eight-week deadline** is very short for NPs to analyze the draft proposal, send a reasoned opinion and coordinate their actions with other NPs to trigger the procedure. This problem has been acknowledged by the EU institutions, notably the EP. A greater flexibility (either through the way to calculate the 8 weeks, on excluding holidays, or through a more formal extension of the period of time NPs have) in that respect would certainly help NPs to contribute and play their role on salient issues.
- Finally, it has been pointed out that there is big difference of rhythm between EU and national politics.<sup>188</sup> In addition to a slow-down of the EU legislative process, the longer duration of the legislative procedures makes it difficult for NPs to follow up closely what is happening but also calls for an involvement of NPs at other moments in time than at the very beginning of the process. A more flexible approach is needed, be it through a **late card** or another informal way to allow NPs to give, either individually or collectively, some input at a later stage of the decision-making process.

## 6.3. A more politicised and differentiated interparliamentary cooperation

Interparliamentary cooperation has increased over time and has triggered not only a better cooperation between the EP and the NPs but also a higher interest and involvements of national parliamentarians in EU affairs. Each of the forums for interparliamentary cooperation has its advantages and challenges but a few recommendations could be applied to most of them:

- Using a **committee-based approach** for interparliamentary cooperation would have several positive aspects:  
Instead of having large events of an almost diplomatic nature with prepared speeches, more frequent meetings could take place and that would lead to more socialization and networking among MPs and MEPs. The discussions would be more focused on specific issues related to a specific committee, and would be based on concrete problems or salient issues or specific documents to be monitored and debated. Such an approach is more likely to trigger a more consistent interest from MPs to engage in EU affairs. Indeed, as studies have showed, beyond institutional capacity, it is the motivation of national parliamentarians which is key in the success of interparliamentary cooperation.<sup>189</sup> Finally, such a format would allow for

<sup>188</sup> Rozenberg, O. (2017), "The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges", European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs: 54–55.

<sup>189</sup> Gatterman, K., Heftler, C. (2015), "Beyond Institutional Capacity: Political Motivation and Parliamentary Behaviour in the Early Warning System", *West European Politics*, 38(2): 305–334.

differentiation in interparliamentary cooperation, to follow the main differentiated areas of integration.<sup>190</sup>

- More room should be made for **political parties** in interparliamentary cooperation as a way to politicize these meetings. MPs and MEPs could sit by political families instead of by national (or European) delegations. Preparatory meetings could happen within political families, to increase the link between national parties and the European political parties. Some political groups in the EP are already promoting cooperation with the NPs but others much less.<sup>191</sup> Moreover, opposition parties should be incentivised to participate more actively during interparliamentary cooperation. National delegations should no longer be treated as unitary actors but as representatives of the diversity of political opinions of a given parliament. Proceedings could also reflect this diversity of opinions instead of emphasizing the initial speeches and the position of a NP as a whole. Especially now that Eurosceptic actors have been successful over the last decade, it would be detrimental for democracy at the EU not to take into account their viewpoint in interparliamentary cooperation as well as in EU affairs more generally.<sup>192</sup> As suggested by Kröger and Bellamy a few years ago, parliamentary minorities could be guaranteed certain rights, such as issuing an initiative for a green card or an official opinion to the Commission.<sup>193</sup> Overall, a greater involvement of MPs and MEPs along political rather than national lines would politicize more interparliamentary cooperation and could trigger more public and political interest. It could also trigger transnational alliances and patterns of contestation instead of national or inter-institutional ones.

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<sup>190</sup> On multi-speed cooperation, see Griglio, E., Lupo, N. (2018), "The Conference on Stability, Economic Coordination and Governance: Filling the Gaps of Parliamentary Oversight in the EU." *Journal of European Integration*, 40(3): 358-373.

<sup>191</sup> Brack, N., & Deruelle, T. (2016). 'Towards a More Politicised Interparliamentary Cooperation? The European Parliament's Political Groups and the European Parliamentary Week': in Lupo, N., Fasone, C. (eds), *Interparliamentary Cooperation in the Composite European Constitution*. S: 131-146.

<sup>192</sup> Brack, N. (2018), *Opposing Europe in the European Parliament*, London, Palgrave.

<sup>193</sup> Kröger, S., Bellamy, R. (2016), "Beyond a constraining dissensus: The role of national parliaments in domesticating and normalizing the politicization of European integration", *Comparative European Politics*, 14(2): 131-153.

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Since the Lisbon Treaty, EU national Parliaments have been recognized as relevant and legitimate players at the supranational level and given tools to be involved beyond the scrutiny of their national government. However, the last decade brought new challenges to the Europeanisation of national Parliaments, with several crises boosting intergovernmentalism. This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the AFCO Committee, examines how EU national Parliaments have adapted to all these challenges and assesses their involvement in EU affairs over the past decade.

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