



Working with national parliaments on EU affairs: An overview (2009-2022)

European
implementation
assessment

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European implementation assessment

National parliaments' active participation in EU affairs and enhanced scrutiny of their national governments are instrumental in ensuring the democratic accountability and legitimacy of the EU institutional system. However, despite the inclusion of national parliaments in the text of the Treaties, their ability to impact EU affairs remains generally limited.

Nevertheless, national parliaments are willing to play a more active role in EU affairs by being more closely involved in the substance of EU policies and legislation, rather than on matters of subsidiarity alone. Discussions are intensifying on the need to give national parliaments the opportunity to intervene throughout the whole EU decision-making process, including on granting them the right to propose initiatives to the EU level.

The second (2023) edition of the study has been drawn up by Ekaterina Karamfilova, Ex-post Evaluation Unit of the Directorate for Impact Assessment and Foresight, within the Directorate-General for Parliamentary Research Services (EPRS) of the Secretariat of the European Parliament based on the first (2017) edition of the study prepared by Milan Remáč, Ex-Post Evaluation Unit of the Directorate for Impact Assessment and Foresight, within the Directorate-General for Parliamentary Research Services (EPRS) of the Secretariat of the European Parliament.

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Executive summary

The Committee on Constitutional Affairs (AFCO) of the European Parliament requested an own-initiative implementation report on the 'Implementation of Treaty provisions concerning national parliaments' on 17 April 2023. This request was approved by the Conference of Committee Chairs at its meeting of 9 May 2023. Paolo Rangel (EPP, Portugal) was appointed rapporteur.

This European implementation assessment (EIA) has been prepared by the Ex-Post Evaluation Unit of the Directorate for Impact Assessment and Foresight, within the European Parliament's Directorate-General for Parliamentary Research Services. It is an update of the first (2017) edition under the same title, prepared in support of a dedicated AFCO report on the same matter (rapporteur: Paolo Rangel, EPP/Portugal), adopted as a European Parliament resolution during the plenary session of 19 April 2018.

The EIA presents findings of publicly available documents adopted by the European Commission and the European Parliament, in which these EU institutions evaluate their relations with the national parliaments of the EU Member States. The Council of the EU does not issue annual reports assessing its relation with national parliaments. However, the Commission annual reports give some information (mostly statistics about the number of opinions and reasoned opinions received by the Council). In this regard, the study concentrates on the annual reports of the Commission on the application of the principles of subsidiarity and proportionality and relations with the national parliaments and on the annual reports of the European Parliament's Directorate for Relations with National Parliaments (DRNP). The analysis of these documents intends to provide an overview of the working methods employed by the EU institutions, mainly the European Parliament and the European Commission, in their relations with national parliaments. As such, the study does not provide a specific analysis or overview of the vast existing academic research, although it takes it into account.

Furthermore, the study provides an overview of the main European Parliament resolutions dealing with the subject of national parliaments, and analyses the body of research either requested by the European Parliament's committees, or carried out by the research bodies of the European Parliament on their own initiative.

It also presents the findings of relevant biannual reports of the Conference of Parliamentary Committees for Union Affairs (COSAC), which are based on contributions of national parliaments, and of recent conclusions of the Conference of Speakers of EU national parliaments (EUSC).

The study also presents the proposals/measures of the Conference on the Future of Europe (CoFoE) relevant to national parliaments and the follow-up they have been given by the European Parliament, the European Commission, the Council of the EU and the European Council.

The EIA is based on desk research of the above-mentioned documents. Due to the very short time available for the completion of this research project, predefined by the approaching end of the 9th legislature of the European Parliament, primary data collection was not possible. Although it draws various conclusions, the assessment does not however provide any specific recommendations. Nevertheless, many of the sources to which it refers make such recommendations. The main features of the legal (treaty) framework governing national parliament's involvement in EU affairs and some key conclusions are presented below.

National parliaments possess certain democratic qualities and responsibilities, including maintaining popular legitimacy, and scrutiny of the executive power. However, for decades the European Treaties neither regulated nor envisaged any substantive relations between national parliaments and the European Community/European Union institutions. The role of national parliaments in EU affairs was hitherto therefore rather marginal or overlooked. This situation changed significantly with the adoption of the Treaty of Lisbon (in force since 1 December 2009),

which enabled the active involvement of national parliaments in EU affairs, and strengthened and enhanced dialogue between national parliaments and the EU institutions.

Presently, the Treaty provisions allow for national parliaments' participation in EU affairs in several areas. The most substantial prerogative for national parliaments brought about by the Treaty of Lisbon was their ability to scrutinise compliance with the principle of subsidiarity in the early stages of EU legislative procedures. National parliaments' involvement in this 'early warning mechanism' can lead to a review of draft EU legislation to ensure respect of the subsidiarity principle, and theoretically also to a rejection of this legislative draft by the co-legislators.

Furthermore, various national parliaments' rights were acknowledged by the Treaty of Lisbon, including the right to receive information, the right to participate in various EU procedures, and to participate in Treaty revisions. The Treaty also acknowledges interparliamentary cooperation between the European Parliament and national parliaments, whether through the standing bodies such as the Conference of Parliamentary Committees for Union Affairs (COSAC), or various ad hoc meetings.

However, the impact of national parliaments on the EU legislative procedure remains generally limited. Their participation in the early warning mechanism is not absolute, as national parliaments can formally only assess the compliance of draft legislation with the subsidiarity principle. A need is noted – by political actors and researchers alike – for the early warning mechanism to also formally allow national parliaments to assess compliance with the principles of proportionality and conferral. Furthermore, national parliaments show interest in being involved more closely on the substance of EU policies and legislation, rather than in the framework of the early warning mechanism alone, which exclusively concerns subsidiarity.

National parliaments seem to interpret the subsidiarity principle differently, which is an issue in terms of implementing the early warning mechanism, as it decreases its effectiveness. Therefore, the establishment of a common understanding of the subsidiarity principle is needed to help national parliaments assess in a uniform way at which level of governance a decision is to be taken.

Procedures such as the 'yellow' or 'orange' card have not been used extensively. Additionally, national parliaments have to submit their reasoned opinions within a short deadline of only eight weeks from the date the European Commission submits its legislative proposal, which would need to be extended. Nonetheless, the application of national parliament powers does not prolong or halt the EU legislative processes, and their influence is generally considered as positive.

The idea that national parliaments need to be given the opportunity to intervene throughout the whole EU decision-making process gains speed, i.e. by providing forward-looking political input before the Commission submits a legislative proposal, or at a later stage of the legislative procedure, by using a 'late card' allowing them to express their opinions on the legislative proposal as agreed by the co-legislator and before it is adopted. In addition, an informal procedure intending to strengthen and broaden national parliaments' prerogatives and participation in EU affairs by allowing them to propose initiatives – a 'green card' procedure – is emerging and is generally supported by political actors at EU and national level, as well as citizens gathered within the Conference of the Future of Europe (CoFoE), which concluded its work in May 2022. However, the modalities of such a 'green card' procedure – for example, would it be a direct or indirect right of a legislative initiative – are still to be discussed and agreed.

Political dialogue with national parliaments and interparliamentary cooperation has considerably evolved over the period examined. There is a clear development towards specialised (where possible) committee-based meetings. Nevertheless, interparliamentary cooperation must remain manageable and worthwhile for national parliaments. Organisation and management of such meetings must not lead to 'interparliamentary cooperation fatigue'.

List of abbreviations

AFCO	European Parliament Committee on Constitutional Affairs
CoFoE	Conference on the Future of Europe
COSAC	Conference of Parliamentary Committees for Union Affairs and National Parliaments
CFSP	Common foreign and security policy
CSDP	Common security and defence policy
CWP	European Commission annual work programme
DRNP	European Parliament Directorate for Relations with National Parliaments
DG EPRS	European Parliament Directorate-General for Parliamentary Research Services
DG IPOL	European Parliament Directorate-General for Internal Policies of the Union
EC	European Communities
EIA	European Implementation Assessment
EP	European Parliament
EU	European Union
EWM	Early warning mechanism
IIA	Interinstitutional agreement
IPC	Interparliamentary cooperation
JURI	European Parliament Committee on Legal Affairs
MEP	Member of the European Parliament
MP	Member of a national parliament
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Table of contents

1. Introduction	1
1.1. The right to be informed and to receive information	2
1.2. The right to scrutinise draft legislation for compliance with the principle of subsidiarity – early warning mechanism	3
1.3. The right to participate in Treaty revision	8
1.4. The right to take part in interparliamentary cooperation	8
2. The European Commission and national parliaments	11
2.1. The European Commission annual reports	13
2.2. Findings of the Commission annual reports on opinions (including reasoned opinions) submitted by national parliaments	14
3. The European Parliament and national parliaments	24
3.1. European Parliament resolutions	24
3.2. Findings of the European Parliament's annual reports on relations between the European Parliament and national parliaments	34
3.3. Research publications of the relevant European Parliament services	41
4. The Council of the EU and national parliaments	60
5. Conference of Parliamentary Committees for Union Affairs	62
6. The Conference of Speakers of EU Parliaments	70
7. Follow-up to the Conference on the Future of Europe	71
7.1. The outcome of the Conference on the Future of Europe and its follow-up – background	71
7.2. Follow-up by the European Parliament and national parliaments	73
7.2.1. European Parliament	73
7.2.2. National parliaments in the context of the Conference of Parliamentary Committees for Union Affairs (COSAC)	79
7.3. EU Member States' follow-up – Council of the EU and European Council	82
7.4. Follow-up by the European Commission	84

8. Conclusions	87
9. References	90

Table of figures

Figure 1 – Evolution of submissions of national parliaments to the European Commission (2010-2021) _____ 15

Figure 2 – Evolution of national parliaments' submissions to the European Parliament (2009-2022) _____ 36

Table of tables

Table 1 – Early warning mechanism and 'cards' _____	7
Table 2 – The main fora for interparliamentary cooperation _____	9
Table 3 – Submissions of national parliaments to the European Commission (2010-2021) _____	14
Table 4 – Distribution of opinions received by the European Commission (2012-2021) – Top five parliaments/chambers _____	17
Table 5 – Distribution of reasoned opinions received by the European Commission (2012-2021) – Top three parliaments/chambers _____	18
Table 6 – Key topics for opinions/reasoned opinions (O/RO) of national parliaments submitted to the European Commission (2012-2021) _____	21
Table 7 – National parliament submissions to the European Parliament (2009-2022) _____	35
Table 8 – Distribution of contributions received by the European Parliament (2010-2022) – Top five parliaments/chambers _____	38
Table 9 – Distribution of reasoned opinions received by the European Parliament (2010-2022) – Top three parliaments/chambers _____	40
Table 10 – Strengths and weaknesses of interparliamentary cooperation channels (excerpt) _____	43
Table 11 – Number of national parliaments' reasoned opinions and opinions distributed by the Council Secretariat to delegations (2013-2021) _____	61

1. Introduction

For many years, the European Treaties neither regulated nor planned for any substantive relations between the national parliaments in European Union Member States and the European institutions. The role of national parliaments in European affairs was marginal or overlooked. The situation began to change with the adoption of the Treaty of Maastricht (1992),¹ and the adoption of the Treaty of Amsterdam (1997).² A more significant change to the national parliaments' position came with the adoption of the Treaty of Lisbon (2007).³ The Treaty of Lisbon has allowed national parliaments to become more actively involved in EU affairs, especially with regard to the EU legislative process, and has strengthened and enhanced an already developing dialogue between national parliaments and the EU institutions.

The Treaty of Lisbon recognised the democratic significance of national parliaments and their link with citizens, and formally provided them with various rights, including rights to information; to participate in various EU procedures; to scrutinise draft legislation in the field of freedom, security and justice; and the right to scrutinise compliance in draft EU legislation with the subsidiarity principle (**early warning mechanism**). In addition, the Treaty of Lisbon acknowledged national parliaments' right to cooperate among themselves and with the European Parliament.

Today, the position of EU Member State national parliaments⁴ is delimited by Article 12 of the Treaty on the European Union (TEU) and two protocols annexed to the Treaty on the Functioning of the European Union (TFEU): Protocol No 1 on the role of national parliaments in the European Union; and Protocol No 2 on the application of the principles of subsidiarity and proportionality; which create a legal framework for the work of the national parliaments within the EU system.⁵

¹ Two declarations related to national parliaments were attached to the Maastricht Treaty: the Declaration on the role of national Parliaments in the European Union and the Declaration on the Conference of the Parliaments ([\[1992\] OJ C191/1](#)).

² Two protocols related to national parliaments were annexed to the Amsterdam Treaty: the Protocol on the role of national Parliaments in the European Union and the Protocol on the application of the principles of subsidiarity and proportionality ([97/C 340/01](#)).

³ See details on the historical evolution pre-Lisbon of national parliaments' role in EU affairs and their relations with the European Parliament in M. Maciejewski and U. Bux, 'European Parliament: relations with national parliaments', [Fact Sheets on the European Union](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, May 2023

⁴ There are currently [39 chambers](#) of national parliaments in the EU. National parliaments in 15 Member States have only one chamber (unicameral system: Bulgaria, Denmark, Estonia, Greece, Croatia, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Portugal, Slovakia, Finland and Sweden), while the national parliaments of the remaining 12 Member States have two chambers (bicameral system: Belgium, Czech Republic, Germany, Ireland, Spain, France, Italy, the Netherlands, Austria, Poland, Romania, and Slovenia).

⁵ Other provisions also directly refer to national parliaments and/or their competences, such as Articles 5(3), 48 and 49 TEU and Articles 69-71, 81, 85, 88 and 352 TFEU. These provisions specify national parliaments' rights included in Article 12 TEU. According to several authors, these multiple references to national parliaments in the treaties 'legitimise' the direct participation of national parliaments in the EU decision-making processes. See, for example, Fasone, C. and Lupo, C., 'Conclusion. Interparliamentary Cooperation in the Framework of a Euro-national Parliamentary System', in Fasone, C., and Lupo, C., (eds.), *Interparliamentary Cooperation in the Composite European Constitution*, Hart Publishing, 2016, pp. 345-360.

Pursuant to Article 12 TEU, national parliaments **actively contribute to the good functioning of the Union**. Based on this provision, national parliaments:

- receive information and forwarded copies of draft EU legislative acts from the EU institutions,
- scrutinise compliance with the principle of subsidiarity,
- take part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for implementation of Union policies in that area,
- take part in revision of the Treaties pursuant to Article 48 TEU,
- receive notification of applications for accession to the Union pursuant to Article 49 TEU, and
- take part in interparliamentary cooperation between national parliaments and the European Parliament.

The provisions included in the two protocols partially specify the rights of national parliaments enumerated in Article 12 TEU, namely: (1) the right to be informed and to receive information; (2) the right to scrutinise draft legislation for compliance with the principle of subsidiarity; and (3) the right to take part in interparliamentary cooperation. These are presented below.

1.1. The right to be informed and to receive information

The right of national parliaments to be informed by and receive information from the European institutions stems from Article 12(a) TEU, as specified by Protocol No 1. Among other things, national parliaments should receive:

- The Commission's consultation documents (green and white papers and communications), 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;
- Draft legislative acts and their amended drafts, at the same time as the European Parliament and the Council;⁶ and
- Legislative resolutions of the European Parliament and positions of the Council.⁷

Furthermore, national parliaments should receive:

- The agendas for and the outcome of meetings of the Council, including the minutes of meetings where the Council deliberates on draft legislative acts;
- Initiatives of the European Council pursuant Article 48(7) TEU; and
- Annual reports of the Court of Auditors.⁸

The European Commission considers the exchange of information and opinions on policy issues with national parliaments as part of the political dialogue. Based on its website, the Commission systematically sends the necessary documents to national parliaments.⁹ The exchange of information between the European Parliament and national parliaments often takes place with the help of various tools, such as a platform for electronic exchange of information, the

⁶ Articles 1 and 2, Protocol No 1.

⁷ Article 4, Protocol No 2.

⁸ Articles 5-7, Protocol No 1.

⁹ Relations with national parliaments, European Commission [website](#)

Interparliamentary EU Information Exchange (IPEX),¹⁰ but also through the European Centre for Parliamentary Research and Documentation (ECPRD).¹¹

1.2. The right to scrutinise draft legislation for compliance with the principle of subsidiarity – early warning mechanism

The Treaty of Lisbon introduced a mechanism allowing national parliaments to scrutinise the compliance of draft EU legislation with the principle of subsidiarity, commonly referred to as 'the **early warning mechanism**'. This mechanism is considered to be the main substantive change introduced by the Treaty of Lisbon with regard to the position of national parliaments.¹² National parliaments have the possibility to scrutinise every draft legislative act.¹³ Should they consider that the draft legislative act in question does not comply with the principle of subsidiarity, they can send a reasoned opinion to the respective EU institutions. The following scheme shows the main characteristics of the reasoned opinion submitted by national parliaments.

The early warning mechanism can have several consequences for a draft legislative act. These consequences are described in Table 1. According to Protocol No 2, each national parliament possesses two votes.¹⁴ In bicameral parliamentary systems, each chamber of a national parliament has one vote. These votes are important to the ability of national parliaments to request a review of the draft legislation based on their collective action. One can distinguish several methods of collective action: the 'yellow card', 'orange card', 'green card' and 'red card' procedures. While the first two collective measures ('yellow' and 'orange' card) are presumed in Protocol No 2, the latter two are either used in practice ('green' card), or still only under discussion ('red' card).

Protocol No 2 (Article 6) also acknowledges that national parliaments may, where appropriate, consult regional parliaments with legislative powers. The votes mentioned above do not apply to regional parliaments. Furthermore, no prolongation of the eight week period is possible.¹⁵ Therefore, the role of regional parliaments is dependent on the national arrangements and very often remains advisory.

A reasoned opinion issued by a national parliament

- reacts to a draft EU legislative act
- can be submitted by any chamber of a Member State national parliament
- can be submitted within eight weeks starting from the date of transmission of a draft legislative act to a national parliament;
- can be submitted in any official language of the Union;
- must state an opinion as to why the national parliament considers that the draft EU legislative act does not comply with the principle of subsidiarity;
- can be sent to the presidents of the European Parliament, the Council, and the Commission.

¹⁰ Interparliamentary EU Information Exchange, IPEX [website](#)

¹¹ European Centre for Parliamentary Research and Documentation, ECPRD [website](#)

¹² See, for example, [The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, March 2017, p. 16.

¹³ Article 3, Protocol No 1 and Article 6, Protocol No 2.

¹⁴ Article 7, Protocol No 2. Together, there are 54 votes (2 per Member State).

¹⁵ There are currently 72 regional parliaments in 7 Member States: Austria, Belgium, Finland, Germany, Italy, Portugal, and Spain.

a) 'Yellow card'

This collective action on the part of national parliaments leads to **review of a draft legislative act**. If at least one third (or one fourth)¹⁶ of all the votes allocated to national parliaments send a reasoned opinion with regard to a particular piece of draft legislation, this draft legislation must be reviewed by the Commission. At present, as in all other cases, this review is **limited to the question of subsidiarity** and not to substantive issues. Following this review, the Commission¹⁷ may decide to maintain, amend, or withdraw the draft in a reasoned decision. In case a proposal has not triggered the required number of votes for a 'yellow card' procedure, the Commission may still reply by an 'aggregated response', provided the proposal triggers a significant number of reasoned opinions, i.e. at least 4 reasoned opinions representing at least 7 votes).¹⁸

Since the adoption of the Treaty of Lisbon, the 'yellow card' procedure has only been used three times:¹⁹ in 2012, with regards to the right to take collective action;²⁰ in 2013, with regards to establishing a European Public Prosecutor's Office;²¹ and in 2016, regarding the revision of the Posting of Workers Directive.²² In the first case, the Commission decided to withdraw its proposal, while denying any breach of the principle of subsidiarity.²³ In the second case, the Commission maintained its proposal unchanged.²⁴ Similarly, in the third case the Commission maintained its proposal unchanged while the legislative process is still ongoing.²⁵ In both latter cases, the Commission argued that the proposals complied with the principle of subsidiarity.

¹⁶ This is the case for draft legislative acts submitted on the basis of Article 76 TFEU in the area of freedom, security and justice.

¹⁷ Or the group of Member States, the European Parliament, the Court of Justice, the European Central Bank, or the European Investment Bank if that is where the draft legislative act originates (Article 7(2), Protocol No 2).

¹⁸ Annual Report 2021 on the application of the principles of subsidiarity and proportionality and on relations with national parliaments ([COM\(2022\) 366 final](#)), European Commission, July 2022, p. 7. The commitment for an aggregated response was taken by the Commission as a follow-up to the recommendations of the 2018 Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently'. See further details in sub-section 2.1. below.

¹⁹ Some authors consider that this low number 'is not itself a sign of failure' ([The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, March 2017, p. 28. The EPRS notes further that 'the sheer number of 'yellow cards' says little about effectiveness of the early warning mechanism in ensuring subsidiarity scrutiny. It is therefore important 'not to infer false causalities here as, for example, the low number of 'yellow cards' by no means shows that the early warning mechanism is ineffective but, as some have suggested, may be understood as a proof of the contrary, i.e. that subsidiarity control is working' (L. Tilindyte, Subsidiarity: Mechanisms for monitoring compliance, [In-depth analysis](#), European Parliamentary Research Service, European Parliament July 2018, p. 15).

²⁰ Annual Report 2012 on subsidiarity and proportionality, ([COM\(2013\) 566 final](#)), European Commission, 2013, p. 7.

²¹ Annual Report 2013 on subsidiarity and proportionality, ([COM\(2014\) 506 final](#)), European Commission, 2014, p. 8.

²² Annual Report 2016 on subsidiarity and proportionality, ([COM\(2017\) 600 final](#)), European Commission, 2017, p. 13.

²³ See European Commission decision to withdraw the Proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services ([2013/C 109/04](#)). See also, [Letter from Commission Vice-President Šefčovič to the presidents of national parliaments](#), 12 September 2012.

²⁴ Communication 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, [COM\(2013\) 851 final](#), European Commission, 2013. See also a proposal for a Council regulation implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office, from June 2017 ([9941/2017](#)).

²⁵ Communication on the review of the proposal for a directive amending the Posting of Workers Directive, with regard to the principle of subsidiarity, in accordance with Protocol No 2 ([COM\(2016\) 505 final](#), European Commission, 2016

b) 'Orange card'

Another collective action available to national parliaments pursuant to Article 7, Protocol No 2 **can lead to the refusal of a draft legislative act** by the co-legislators under the ordinary legislative procedure. If a simple majority of all the votes allocated to national parliaments (28 votes) send a reasoned opinion with regard to a particular piece of draft legislation, this draft legislation must be reviewed by the European Commission. Additionally, these reasoned opinions are **limited to compliance with the subsidiarity principle** and not to substantive issues. Following its review, the Commission may decide to maintain, amend or withdraw this draft. However, the Commission has to prepare an opinion in which it justifies the draft legislative act's compliance with the principle of subsidiarity. The Commission's opinion and the reasoned opinions of national parliaments are subsequently submitted to the co-legislators, who then consider whether the legislative proposal complies with the principle. If a majority of 55 % of the members of the Council, or a majority of the votes cast in the European Parliament, state that the proposal is incompatible with the principle, the proposal will not be given further consideration.

Although this procedure has not yet been used it provides national parliaments with an additional control mechanism regarding the subsidiarity principle. It is however questionable, whether the draft EU legislation will ever be crafted so blatantly in a breach of this principle that a majority of national parliaments will express their concerns regarding the subsidiarity.

c) 'Green card'

National parliaments do not have formal competence to table a draft EU legislative proposal. Neither can they formally invite the European Commission to table a legislative proposal, or propose amendments to existing legislation. Nevertheless, since 2015, national parliaments have on at least three occasions addressed the Commission with an initiative that can be described as a 'green card'.²⁶

The first initiative - recognised by the Commission as a 'pilot green card' - came in 2015 from the United Kingdom House of Lords on a strategic approach to the reduction of food waste, and was co-signed by 16 parliamentary chambers.²⁷ It was subsequently supported by two other national parliaments and one chamber.²⁸ The second 'green card' initiative sent by the French *Assemblée Nationale* on 11 July 2016 was co-signed by eight parliamentary chambers.²⁹ It invited the Commission to table a legislative proposal dealing with corporate social responsibility principles at European level. A ninth parliamentary chamber later joined the initiative.³⁰

In both cases, the Commission thanked the chambers for their suggestions, which were viewed as 'a clear demonstration of their readiness to contribute in a proactive and constructive manner to the policy debate at European level',³¹ and provided an explanation. In the first case, the Commission acknowledged that some of the suggestions on food donations, data collection and monitoring were already 'reflected in the Circular Economy package adopted in December [2015]'.³² In the second case, the Commission informed the national chambers that many of their proposals were

²⁶ A 'green card' is often considered to be an enhanced form of political dialogue.

²⁷ See [Statement by the UK House of Lords](#) (July 2015) and the Commission's November 2015 reply ([C\(2015\) 7982 final](#)).

²⁸ Annual 2015 report on relations between the European Commission and national parliaments, [COM\(2016\) 471 final](#), European Commission, 2016, p. 10.

²⁹ See [Statement from the French Assemblée Nationale](#) (July 2016) and the Commission's December 2016 reply ([C\(2016\) 9597 final](#)).

³⁰ Annual 2016 report on relations between the European Commission and national parliaments, [COM\(2017\) 601 final](#), European Commission, 2017, p. 10.

³¹ *ibid.*, p. 10 - 11.

³² *ibid.*, p. 11.

already included in the existing European legislation and in general policy documents and voluntary guidance and consultation initiatives.³³ Apart from these two initiatives, a third 'green card' initiative was launched in November 2015 with regard to the revision of the Audiovisual Media Services Directive 2010/2013 by the Latvian *Saeima*.³⁴

The Commission's annual reports covering the period (2017-2021) refer to some joint own-initiatives. However, none of them is explicitly assessed by the Commission as an (informal) 'green card' initiative. It should be noted however that some of the opinions submitted by national parliaments to the Commission in 2019 were prepared on their own initiative (i.e. not in reaction to Commission non-legislative initiatives). This was also the case in 2020. Without calling them 'green cards', the Commission sees these submissions as the 'interest of some national parliaments in being actors in EU policy-making not only in the subsidiarity control exercise, but also earlier on and at other stages of the process, by providing forward-looking political input'.³⁵

Despite their anecdotal character, the above examples show that national parliaments are interested in making active contributions to EU affairs. Even though some authors claim that the 'green card' procedure 'might face difficulties to be implemented' as the latter two initiatives had insufficient national parliament support,³⁶ it cannot be denied that giving national parliaments this opportunity might increase their interest in becoming a more invested player at the EU level, and enable them to apply their 'national' knowledge more profoundly.

d) 'Red card' procedure, legislative amendments and trilogue participation

Today, the Treaties (or the Protocols) are silent regarding a procedure that would allow national parliaments, whether individually or together, to bar the European Commission from submitting a legislative proposal, or limit the power of the co-legislators from adopting a piece of EU legislation based on such a proposal.

Nevertheless, the introduction of a 'red card' procedure was considered in the February 2016 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.³⁷ Section C(3) of this draft decision required that if reasoned opinions by national parliaments on the non-compliance of a draft legislative act represent more than 55 % of all the votes allocated to them, this will be placed as an item on the Council's agenda, and the consequences drawn therefrom. Subsequently, the Council was supposed to discontinue the consideration of this draft legislative act unless it was amended. Some authors correctly argue that this draft decision has become obsolete following the

³³ Annual 2016 report on relations between the European Commission and national parliaments, [COM\(2017\) 601 final](#), European Commission, 2017, p. 10.

³⁴ Neither the Commission's 2016 annual report on relations between the European Commission and national parliaments (COM(2017)601 final), nor the other Commission annual reports recognise this initiative as a 'green card'. Similarly, the Commission's [database](#) of national parliament opinions and replies does not include any submission from the Latvian *Saeima* concerning the Audiovisual Media Services Directive. Nonetheless, see the [Letter from the Latvian Saeima](#) to national parliaments concerning this 'green card' (November 2015).

The latest [revision](#) of the directive is from 2018 upon a [legislative proposal](#) of the Commission submitted in 2016, which does not refer to the initiative of the Latvian *Saeima*. It is therefore unclear to what extent, and whether at all, the Latvian 'green card' influenced the Commission's decision.

³⁵ Annual 2020 report on the application of the principals of subsidiarity and proportionality and on relations with national parliaments, [COM\(2021\) 417 final](#), European Commission, 2021, p. 25-26

³⁶ The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges, [Study](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, March 2017, p. 38.

³⁷ A new settlement for the United Kingdom within the European Union, [Extract](#) of the conclusions of the European Council of 18-19 February 2016, European Council, February, 2016

results of the British referendum of 23 June 2016.³⁸ However, the 'red card' initiative has not completely disappeared from the national parliaments' agenda.³⁹

The Treaties are also silent on national parliaments' competence to submit amendments to proposed EU legislation that is discussed by the co-legislators. Similarly, national parliaments do not in any way participate in trilogue procedures.

A 'red card' procedure as noted above might strengthen the position of national parliaments with regard to crafting EU legislation. However, the introduction of this instrument might have an impact on the division of powers inside the EU and might raise questions concerning the inclusion of 'national' parliaments in 'extra-national', in this case EU level, issues that could potentially fall into the area of exclusive EU competences. Another concern is the legality of the introduction of this procedure without Treaty change.

Table 1 gives an overview of actual and presumed collective mechanisms of national parliaments linked to adoption of EU legislation.

Table 1 – Early warning mechanism and 'cards'

	Legal basis	Threshold	Consequences	Procedure
Green card	None	None	Initiate EU legislative procedure	None, but the 'green card' has been used three times.
Yellow card	Article 7(2) Protocol No 2	1/3 of votes of national parliaments	The draft legislative act must be reviewed.	The Commission may decide to maintain, amend or withdraw the draft. Its decision must be reasoned.
		1/4 of votes of national parliaments for a proposal in the area of freedom, security and justice.		
Orange card	Article 7(3) Protocol No 2	Simple majority of votes (28 out of 54 votes)	The draft legislative act must be reviewed. The draft legislative act can be pronounced incompatible with the principle of subsidiarity.	The Commission may decide to maintain, amend or withdraw the draft. It must reason its opinion. The co-legislators assess this reasoned opinion and decide whether the proposal is compatible with the subsidiarity principle.

³⁸ The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges, [Study](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, March 2017, p. 35.

³⁹ See, for example, the AFCEC [Working document](#) on the principles of subsidiarity and proportionality discussed in the spring of 2021 in the context of the Conference on the Future of Europe. The document is presented in detail in subsection 7.2.2 below.

⁴⁰ This issue was discussed, for example, by the [25th COSAC biannual report](#), 2022. In particular, a majority of the responding parliaments/chambers supported a threshold of either 1/4 or 1/3 of the parliaments/chamber to be able to activate a "green card" procedure.

	Legal basis	Threshold	Consequences	Procedure
Red card	None	None ⁴¹	Block the Commission's legislative initiative	None
Legislative amendments	None	None	Submit legislative amendments to the EU level co-legislators	None

1.3. The right to participate in Treaty revision

National parliaments now officially and directly participate in the revision of the EU Treaties.⁴² Firstly, according to the TEU, national parliaments play their role during the ordinary revision procedure of the Treaties. Any proposals for the amendment of the Treaties should also be notified to national parliaments. Furthermore, if these proposals are adopted by the European Council, national parliaments take part at the Convention that examines the proposals and adopts a recommendation for a draft treaty text for an intergovernmental conference.

Secondly, national parliaments are also active with regard to a simplified revision procedure under the general '*passerelle* clause' included in Article 48(7) TEU. Pursuant to this provision, the European Council can (by unanimity): (1) authorise the Council to act by a qualified majority instead of unanimity; and/or (2) turn a special legislative procedure into an ordinary legislative procedure. In both cases, national parliaments have to be notified of this European Council initiative and any of the national parliaments can object and prevent this clause from being activated.⁴³

National parliaments have not yet had a chance to use this constitutional prerogative.

1.4. The right to take part in interparliamentary cooperation

Interparliamentary cooperation among national parliaments and between national parliaments and the European Parliament is formally acknowledged by Article 12(f) TEU and by Protocol No 1. According to the TEU, by taking part in interparliamentary cooperation, national parliaments contribute actively to the good functioning of the Union. The Protocol's Article 9 requires the European Parliament and national parliaments to determine the organisation and promotion of effective and regular interparliamentary cooperation together. In this context, Protocol No 1 also mentions a Conference of Parliamentary Committees for Union Affairs (COSAC), which should promote the exchange of information and best practice between the European Parliament and national parliaments (Article 10).

Since the adoption of the Treaty of Lisbon, and even before that, several interparliamentary conferences and other fora for the exchange of information have been created. Interparliamentary cooperation happens vertically, between the European Parliament and national parliaments, and horizontally, among national parliaments. Table 2 provides an overview of the main fora for the

⁴¹ The draft decision of the European Council from February 2016 discussed above required 55 % of all the votes allocated to national parliaments.

⁴² Article 12(b), TEU.

⁴³ In its [resolution](#) of 11 July 2023 on the implementation of passerelle clauses in the EU Treaties, the European Parliament notes that have only been used once – in 2004 – to move to QMV and co-decision for specific decisions on visas, asylum, migration and the free movement of persons (Letter K). Indeed, 'passerelle clauses' have not yet been used in their 'Lisbon form'. See further details in S. Kotanidis, *Passerelle clauses in the EU Treaties Opportunities for more flexible supranational decision-making*, [Study](#), European Parliamentary Research Service, 2020

exchange of information and interparliamentary cooperation, including their role and type and the frequency of meetings.

Table 2 – The main fora for interparliamentary cooperation

Forum	Role	Type	Meeting frequency
EU Speakers' Conference (EUSC)	<ul style="list-style-type: none"> - exchange of information and experiences related to the role of parliaments and the organisation of parliamentary functions - promote research activities and common actions - oversee the coordination of interparliamentary EU activities 	Standing body	Annually
Conference of Parliamentary Committees for Union Affairs (COSAC)	<ul style="list-style-type: none"> - exchange of information and best practices between European affairs committees - networking forum 	Standing body	Biannually
Interparliamentary Conference on CFSP and CSDP (IPC CFSP/CSDP)	<ul style="list-style-type: none"> - exchange of information and best practices on the EU foreign, security and defence policy 	Standing body	Biannually
Interparliamentary Conference on Stability, Economic Coordination and Governance in the EU and European Semester Conference (IPC SECG)	<ul style="list-style-type: none"> - the two conferences bring together parliamentarians from all over the EU to discuss economic, budgetary and social matters. 	Standing body	Annually (European Parliamentary Week)
Joint Parliamentary Scrutiny Group on Europol	<ul style="list-style-type: none"> - monitor the activities of Europol in fulfilling its mission, including the impact of these activities on the fundamental rights and freedoms 	Standing body	Biannually (Constituent meeting in October 2017)
Interparliamentary Committee Meeting on the Evaluation of Eurojust	<ul style="list-style-type: none"> - to increase the transparency and democratic oversight of Eurojust, the 2018 Eurojust regulation provides for a mechanism for the joint evaluation of Eurojust's activities by the European Parliament and national Parliaments.⁴⁴ The evaluation takes place in the framework of this ICM. 	Standing body	Annually (First ICM in December 2020)
Joint Committee Meetings	<ul style="list-style-type: none"> - exchange of thematically focused information and experiences between respective specific committees 	Ad hoc	Ad hoc basis

⁴⁴ [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

Forum	Role	Type	Meeting frequency
Joint Parliamentary Meetings	- exchange of thematically focused information and experiences that are of concern to more than one committee	Ad hoc	Ad hoc basis
Interparliamentary Committee Meetings (ICMs)	- exchange of thematically focused information and experiences that are of concern to more than one committee	Ad hoc	17 meetings in 2022 ⁴⁵

Apart from the conferences and discussion fora, there are also various bilateral visits between the European Parliament and national parliaments. At the same time, national parliaments have their own representatives in the European Parliament.⁴⁶

In addition to the interparliamentary cooperation between parliaments, the European Commission takes part in a 'political dialogue' with national parliaments. While the dialogue does not have any standing bodies that would enhance it, there are however various visits and bilateral contacts at political or administrative level between the Commission and national parliaments. Furthermore, the Commission attends several of the abovementioned interparliamentary meetings and conferences.⁴⁷ The Commission considers the exchange of information with national parliaments and opinions of national parliaments to be a part of the political dialogue.⁴⁸

National parliaments also make active use of 'informal political dialogue' with relation to the European Parliament, and send Parliament various legislative and non-legislative documents.⁴⁹

The Treaty of Lisbon introduced or acknowledged several rights and prerogatives for national parliaments in European affairs. It seems that national parliaments are prepared to use these rights and apply them in practice. Nonetheless, the most outstanding right given to national parliaments is their ability to influence the EU legislative process by raising the issue of non-compliance of draft EU legislation with the principle of subsidiarity. However, it may be argued that a fixation on subsidiarity overly restricts national parliaments, and that their knowledge of and link with citizens could be further explored if they also tackled more substantive issues.

⁴⁵ [Annual report 2022](#) on relations between the European Parliament and national parliaments, Directorate for Relations with National Parliaments, European Parliament, 2023, p. 36.

⁴⁶ Representatives of National Parliaments to the European Parliament [website](#)

⁴⁷ For example, during the COSAC meetings the Commission has observer status.

⁴⁸ See section 2.

⁴⁹ See sub-section 3.2.

2. The European Commission and national parliaments

Two main areas in which the European Commission cooperates with national parliaments concern national parliaments' power to scrutinise compliance with the principle of subsidiarity in draft legislative acts and at the level of political dialogue.

At the first level, the European Commission receives national parliaments' reasoned opinions on draft EU legislative acts. The Commission is obliged to react to these reasoned opinions and in the cases described in Section 1, to provide its own reasoned opinion explaining its action.

Political dialogue is the second level of cooperation. As perceived by the Commission, it includes (1) the exchange of information between the Commission and national parliaments, including alerts about public consultations started by the Commission, and (2) national parliaments' submission of opinions to the Commission on policy issues, legislative and non-legislative EU initiatives.⁵⁰ A closer relation between the European Commission and national parliaments began to form as early as in 2006, when the Commission launched an initiative under which it recommended that all new proposals and consultation papers be transmitted directly to national parliaments and acknowledged that national parliaments must be more closely involved with the development of European policy.⁵¹

The opinions of national parliaments, including these reasoned opinions, and the European Commission's replies are accessible via the Commission's database of national parliaments' opinions and its replies.⁵²

A key development during 2018-2022, was the Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently' announced by Commission President Jean-Claude Juncker in his 2017 State of the Union Speech. The Task Force, which was formally established in November 2017, had to answer the following three questions: i. how to better apply subsidiarity and proportionality in the work of the EU institutions, especially in its legislative work; ii. how to identify any policy areas where, over time, decision-making and/or implementation could be delegated in whole or in part, or definitively returned, to the Member States; and iii. how to better involve regional and local authorities in preparing and following up on EU policies.

On 10 July 2018, the Task Force delivered a report with nine recommendations, broadly summarized as follows: i. 'a new way of working' is needed to make better laws based on a common understanding of subsidiarity and proportionality; ii. 'active subsidiarity' is needed to give a stronger voice to local and regional authorities and to national parliaments to promote ownership of what the EU does; and iii. the EU should use its resources more efficiently and prioritise its actions, but there are no reasons to delegate Treaty competences or entire policy areas to the Member States.⁵³ The Commission responded to the recommendations of the Task Force with a Communication adopted on 23 October 2018.⁵⁴ It followed up on its commitments in subsequent years, evidenced in the Commission reports discussed in this study. As regards national parliaments in particular, the Commission intended to:

⁵⁰ According to the European Commission [website](#), 'the Commission aims to reply to such opinions within 3 months'.

⁵¹ Communication: A Citizens' Agenda: Delivering Results for Europe ([COM \(2016\) 211 final](#)), European Commission, 2016.

⁵² European Commission database of [national parliaments' opinions and its replies](#).

⁵³ Active subsidiarity - a new way of working, [Report](#) of the Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently', July 2018.

⁵⁴ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the regions 'The principles of subsidiarity and proportionality: Strengthening their role in the EU's policymaking', [COM\(2018\) 703 final](#), European Commission, October 2018.

- present assessments of subsidiarity and proportionality in a standard structured way, using the common assessment grid proposed by the Task Force and called upon the European Parliament, the Council and national parliaments do the same;
- help national parliaments to execute their role more effectively by discounting, in agreement with the European Parliament and the Council, the Christmas/New Year holiday period from the eight-week period during which they can send reasoned opinions;
- produce aggregate responses, if four or more national parliaments issue reasoned opinions on a Commission legislative proposal, but their number falls short of the threshold required to trigger a 'yellow card'. This would give more prominence to the opinions of national parliaments and a comprehensive picture of the concerns raised, as well as the Commission's considerations, which will also be made available to the public and the co-legislators.

The 2018 Commission Communication received a few opinions from Member States' parliaments/chambers at national and regional level. The 2019 Commission annual report notes the following suggestions: a) the Commission could improve its interaction with national parliaments when preparing its proposals, by improving the planning of its initiatives to better allow the parliaments to plan their subsidiarity checks and/or by improving the quality of impact assessments and providing more information on them in all official languages; b) improvements during the legislative phase, and in case a proposal has triggered a number of reasoned opinions, would require the organisation of debates with representatives of national parliaments and of the European Parliament, or discussions on the observations of national parliaments in Council working parties; c) some parliaments submitting opinions to the Communication suggested measures that would require Treaty change (such as extending the period to issue reasoned opinions to 12 weeks), a reduction of the number of reasoned opinions needed to trigger a 'yellow card', the possibility for reasoned opinions to comment on proportionality, a formal deadline for the Commission to submit replies to the reasoned opinions received and a right for the European Parliament to initiate legislation. The report further notes that, in its replies to the relevant opinion, the Commission has agreed on the need to provide information on how the proposals comply with the principles of subsidiarity and proportionality and has stressed that executive summaries of impact assessments were already published in all EU languages. The Commission emphasised its work to increase the level of detail and reliability of information on initiatives announced in its annual work programme, and took note 'with interest' of the ideas to organise debates on the proposals. The Commission took note of the suggestions requiring a Treaty change, but pointed out that 'no such change was envisaged in the near future'.⁵⁵

- As regards deliverables, in its report for 2019, the Commission announced that in March 2019, it officially proposed to the European Parliament and the Council to exclude the period between 20 December and 10 January of each calendar year when setting the eight-week period for national parliaments to send reasoned opinions and to implement this step as of December 2019.⁵⁶ This arrangement was implemented for the first time over the 2019/2020 holiday period. Furthermore, in the context of the updated Better Regulation guidelines and toolbox,⁵⁷ the Commission noted that the simplification of public consultations by introducing a single 'call for evidence' are of direct relevance to national parliaments.⁵⁸ In particular, the new approach replaces several previous

⁵⁵ Annual report 2019 on the application of the principles of subsidiarity and proportionality and on relations with national parliaments, [COM\(2020\) 272 final](#), European Commission, 2020, p. 14.

⁵⁶ Ibid.

⁵⁷ [Better regulation: guidelines and toolbox](#), November 2021.

⁵⁸ Annual report 2021 on the application of the principles of subsidiarity and proportionality and on relations with national parliaments, [COM\(2022\) 366 final](#), European Commission, 2022.

consultations at different stages of policy preparation, on the improved 'Have Your Say' portal, and the input that national and regional parliaments or national, regional and local authorities may decide to give is clearly identified and distinguished from input submitted by other stakeholders.⁵⁹ It is however noted that 'only a small number of national parliaments' used the portal in 2021.

2.1. The European Commission annual reports

Relations between the European Commission and national parliaments are described and assessed by the Commission every year.

From 2005 to 2017, the Commission published annual reports on relations with national parliaments, focused on the Commission's political dialogue with national parliaments. This dialogue was initiated in 2006 with the aim of 'promoting the involvement of national parliaments in the shaping and implementation of EU policy'.⁶⁰ These annual reports discussed the issue of opinions from national parliaments, among other things, including their development, scope, key topics and the outcomes of the political dialogue. They also often discussed issues such as policy developments or the role of regional parliaments. In addition, the annual reports reported on bilateral contacts and visits between the Commission and national parliaments and meetings and conferences attended by the Commission. The annual reports on relations between the Commission and national parliaments can be found on the European Commission website.⁶¹

The annual reports on relations with national parliaments provide several statistics with regard to the number of written opinions received from national parliaments. The Commission uses the term 'opinion' as a generic term for any submission from national parliaments. The term 'reasoned opinion' is used for those opinions in which national parliaments address the issue of subsidiarity of draft legislative acts according to Protocol No 2.

Until 2017, separate annual reports on the application of the principles of subsidiarity and proportionality commented on the application of the principles of subsidiarity and proportionality by the EU institutions and bodies and national parliament's role therein – i.e. the submission of 'reasoned options' in particular. These reports also commented on relevant national parliament activities. However, given that national parliaments play an important role in monitoring the application of the principles of subsidiarity, the Commission merged the annual report on relations with national parliaments with the annual report on the application of the principles of subsidiarity and proportionality in 2018. Thus, the last separate reports were published in 2018 and covered developments in the course of 2017. The first merged report was published in 2019 and covered developments in the course of 2018. The next sub-section presents the key findings of the relevant Commission reports.⁶²

⁵⁹ [Have Your Say Portal](#)

⁶⁰ Annual report 2016 on relations between the European Commission and national parliaments ([COM\(2017\) 601 final](#)), European Commission, 2017, p. 2.

⁶¹ [Relations with national parliaments](#), European Commission website.

⁶² As of the date of publication of this paper, the Commission report for 2022 is not yet available, and therefore the latest data available used in this sub-section is for 2021.

2.2. Findings of the Commission annual reports on opinions (including reasoned opinions) submitted by national parliaments

Table 3 and Figure 1 below describe the number of submissions – opinions and reasoned opinions – made by national parliaments to the European Commission between 2010 and 2021 and their follow-up.

Table 3 – Submissions of national parliaments to the European Commission (2010-2021)

Year	All submissions	Opinions	Reasoned opinions	Percentage of reasoned opinions
2021	360	344	16	4.4 %
2020	255	246	9	3.5 %
2019	159	159	0	0 %
2018	569	532	37	6.5 %
2017	576	524	52	9 %
2016	620	555	65	10.5 %
2015	350	342	8	2.3 %
2014	506	485	21	4.1 %
2013	621	533	88	14.2 %
2012	663	593	70	10.5 %
2011	622	558	64	10.3 %
2010	387	353	34	8.8 %

Source: Commission annual reports, 2010-2021

Figure 1 – Evolution of submissions of national parliaments to the European Commission (2010-2021)

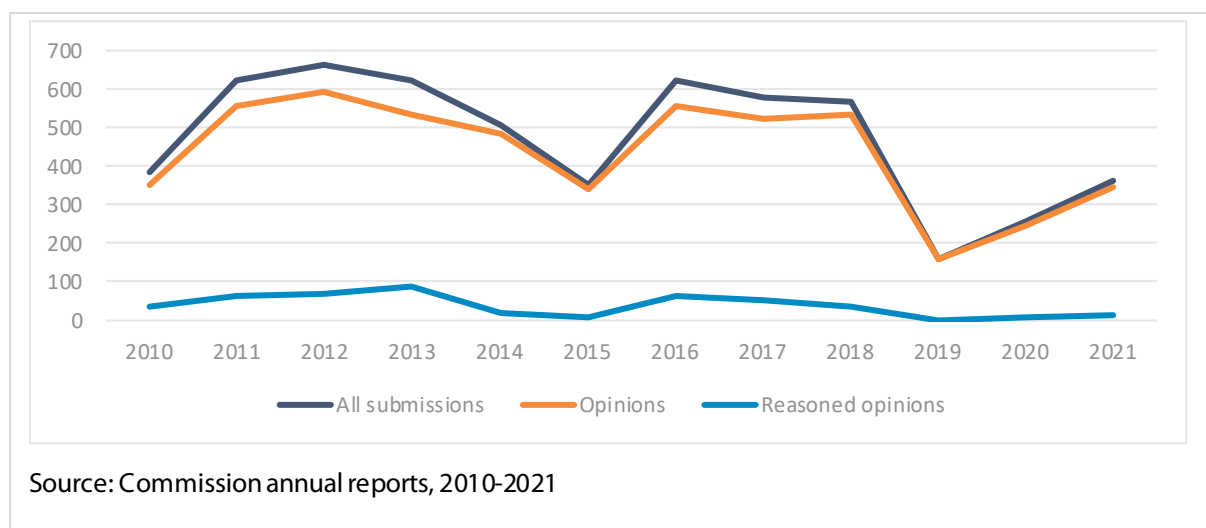


Table 3 shows that there was a gradual growth of submissions from national parliaments until 2012, when the number began to fall.⁶³ In 2015, the number of all submissions from national parliaments fell substantially. In comparison to 2014, this reduction is approximately 44 %. National parliament submissions rose again in 2016, by 77 % compared to 2015. A gradual decrease in 2017 and 2018 (as compared to 2016) was followed by a significant fall in 2019, followed in turn by a slight but gradual increase in 2020 and 2021. In its report for 2021, the Commission notes that, although national parliaments submitted 360 (including reasoned) opinions in total in 2021 (a significant increase compared to 159 in 2019 and 255 in 2020) – it is still fewer than in the middle years of the 2014-2019 Commission's mandate (569 in 2018, 576 in 2017 and 620 in 2016).⁶⁴ Without making any conclusive statements, these fluctuations could be assumed to be linked with the process of installation of a new College of Commissioners in 2014 and in 2019, which impacted the rhythm of legislative proposal preparation. The lower number of reasoned opinions in 2018 (as compared to 2017), and the total lack of reasoned opinions in 2019, is likely due to the fact that the Juncker Commission (2014-2019) did not submit legislative proposals during most of 2018 and 2019, as well as to the delay in the von der Leyen Commission taking office (on 1 November 2019). National parliaments did not therefore have an opportunity to submit reasoned opinions to draft legislative proposals. The constraints and change of focus to the national level that the coronavirus pandemic placed on the work of national parliaments might also be a factor for the relatively low number of opinions, including reasoned opinions, submitted in 2020 and 2021. Nevertheless, the Commission notes⁶⁵ that there was closer cooperation with national parliaments in 2020 than during the 2019 institutional transition year. Furthermore, a quarter of the 255 opinions submitted by national parliaments in 2020 concerned the EU response to the pandemic, thus demonstrating national parliaments' strong EU engagement in times of crisis.

The relatively low number of 'political dialogue' opinions (344) and reasoned opinions (16), submitted in 2021 – a year where the Commission submitted a high number of legislative proposals, is notable. In particular, 9 out of the 16 reasoned opinions submitted in 2021, concerned 13

⁶³ The Commission's annual reports on relations with national parliaments for 2006-2010 provide only limited information on the division between opinions and reasoned opinions submitted by national parliaments.

⁶⁴ 2021 annual report on the application of the principles of subsidiarity and proportionality and on relations with national parliaments, [COM\(2022\) 366 final](#), European Commission, 2022.

⁶⁵ 2020 annual report on the application of the principles of subsidiarity and proportionality and on relations with national parliaments, [COM\(2021\) 417 final](#), European Commission, 2021.

legislative proposals included in the comprehensive 'Fit for 55 package' submitted in July 2021. Their authors were only four national parliaments: the Czech Senát, the Irish Houses of the Oireachtas, the Swedish Riksdag and the French Sénat. However, no individual proposal received more than three reasoned opinions, and thus none reached the threshold for a Commission 'aggregated response' or for a 'yellow card' that would require the Commission to give reasons for maintaining, changing or withdrawing its proposal.

The annual reports also enumerate the most active national parliament chambers in submitting opinions and/or reasoned opinions. For example, in 2021, the most active national chambers in making submissions were the Spanish Cortes Generales, the Portuguese Assembleia da República, the Czech Senát, the Romanian Camera Deputaţilor and the German Bundesrat. The reports also repeatedly note that there is a large imbalance between the number of opinions or reasoned opinions coming from individual chambers, including the chambers of national parliaments that submitted no opinions in the last five years (2017-2021).⁶⁶

The size of the Member State appears to have no bearing on the number of national parliament opinions submitted. The Portuguese *Assembleia da República* and the Czech *Senát* are frequently in the top five chambers submitting opinions, and the Swedish *Riksdag* and the Austrian *Bundesrat* in the top three chambers submitting reasoned opinions. These developments and the distribution of opinions received by the European Commission are noted in Table 4.

⁶⁶ Based on the Commission's annual reports, the Slovenian *Državni svet* submitted no opinions between 2012 and 2016 and the Belgian *Sénat de Belgique/Belgische Senaat* none between 2014 and 2016. The Slovenian *Državni zbor*, the Estonian *Riigikogu* and the Latvian *Saeima* submitted no opinions between 2017 and 2021.

Table 4 – Distribution of opinions received by the European Commission (2012-2021) – Top five parliaments/chambers

	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012
1	<i>Cortes Generales (ES) - 57</i>	<i>Assembleia da República (PT) - 40</i>	<i>Senát (CZ) - 21</i>	<i>Assembleia da República (PT) - 99</i>	<i>Assembleia da República (PT) - 64</i>	<i>Senato della Repubblica (IT) - 81</i>	<i>Assembleia da República (PT) - 55</i>	<i>Assembleia da República (PT) - 118</i>	<i>Assembleia da República (PT) - 192</i>	<i>Assembleia da República (PT) - 227</i>
2	<i>Assembleia da República (PT) - 54</i>	<i>Cortes Generales (ES) and Senat (RO) - 28</i>	<i>Camera Deputaților (RO) - 15</i>	<i>Senát (CZ) - 81</i>	<i>Senato della Repubblica (IT) - 56</i>	<i>Camera Deputaților (RO) - 70</i>	<i>Camera Deputaților (RO) - 47</i>	<i>Senato della Repubblica (IT) - 63</i>	<i>Senát (CZ) - 64</i>	<i>Senato della Repubblica (IT) - 96</i>
3	<i>Senát (CZ) - 47</i>	<i>Senát (CZ) and Camera Deputaților (RO) - 22</i>	<i>Assembleia da República (PT) - 14</i>	<i>Cortes Generales (ES) - 53</i>	<i>Senát (CZ) - 53</i>	<i>Assembleia da República (PT) - 57</i>	<i>Senát (CZ) - 25</i>	<i>Congreso de los Diputados and Senado (ES) - 45</i>	<i>Bundesrat (DE) - 40</i>	<i>Bundesrat (DE) - 59</i>
4	<i>Camera Deputaților (RO) - 27</i>	<i>Bundesrat (DE) - 21</i>	<i>Poslanecká sněmovna (CZ) - 13</i>	<i>Bundesrat (DE) - 52</i>	<i>Italian Camera dei Deputati (IT) - 45</i>	<i>Bundesrat (DE) - 47</i>	<i>Senato della Repubblica (IT) - 25</i>	<i>Senát (CZ) - 41</i>	<i>Assemblée nationale (FR) - 40</i>	<i>Senát (CZ) - 46</i>
5	<i>Bundesrat (DE) - 24</i>	<i>Sénat (FR) - 19</i>	<i>Sénat (FR) - 12</i>	<i>Camera Deputaților (RO) - 48</i>	<i>Bundesrat (DE) - 43</i>	<i>Senát (CZ) - 25</i>	<i>Assemblée nationale (FR) - 23</i>	<i>Assemblée nationale (FR) - 35</i>	<i>Camera Deputaților (RO) - 38</i>	<i>Riksdag (SE) - 33</i>

Source: Commission annual reports (2012-2021)

The Commission's annual reports also show a considerable difference between the number of reasoned opinions submitted by various chambers of national parliaments in comparison to the amount of 'ordinary'/'political dialogue' opinions. During the seven years (2010-2016) analysed by the first

edition of this study, the reasoned opinions only represented approximately 9 % (350 out of 3 769) of all opinions of national parliaments. For the years 2017 to 2021 (analysed by the updated edition of the study), the share of reasoned opinions is approximately 6 % (114 out of 1 919), which is a considerable decrease as compared to the 2010-2016 period. Table 5 shows the distribution of reasoned opinions among the top three most active chambers/national parliaments between 2012 and 2021.

Table 5 – Distribution of reasoned opinions received by the European Commission (2012-2021) – Top three parliaments/chambers

	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012
1	<i>Sénat (FR) and Senát (CZ) - 4</i>	<i>Riksdag (SE) - 2</i>	<i>No reasoned opinions</i>	<i>Riksdag (SE) - 12</i>	<i>Sénat (FR) - 7</i>	<i>Riksdag (SE) - 12</i>	8 chambers submitted 1 reasoned opinion ⁶⁷	<i>House of Commons (UK) and Bundesrat (AT) - 3</i>	<i>Riksdag (SE) - 9 reasoned opinions</i>	<i>Riksdag (SE) - 20</i>
2	<i>Riksdag (SE) - 3</i>	7 chambers submitted 1 reasoned opinion ⁶⁸	<i>No reasoned opinions</i>	<i>Poslanecká sněmovna (CZ), Oireachtas - Dáil and Seanad Éireann (IE) - 4</i>	<i>Bundestag (DE) and Bundesrat (AT) - 6</i>	<i>Kamra tad-Deputati (MT) - 5</i>	-	<i>Tweede Kamer (NL), Riksdag (SE) and Sénat (FR) - 2</i>	<i>Bundesrat (AT), Seimas (LT) - 6</i>	<i>Sénat (FR) - 7</i>
3	<i>Oireachtas - Dáil and Seanad Éireann (IE) - 2</i>	-	<i>No reasoned opinions</i>	<i>Bundesrat (AT) - 3</i>	<i>Senat (PL) and Riksdag (SE) - 4</i>	<i>Poslanecká sněmovna (CZ) and Bundesrat (AT) - 4</i>	-	9 chambers submitted 1	4 chambers submitted 4	<i>Bundesrat (DE) - 5</i>

⁶⁷ Camera Deputaţilor (RO), Senát (CZ), Congreso de los Diputados and Senado (ES), Poslanecká sněmovna (CZ), Riksdag (SE), Národní Rada (SK), Tweede Kamer (NL) and Országgyűlés (HU).

⁶⁸ Bundesrat (AT), Sénat (FR), Eerste Kamer (NL), Folketing (DK), Kamra tad-Deputati (MT), Poslanecká sněmovna (CZ) and Országgyűlés (HU).

	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012
								reasoned opinion ⁶⁹	reasoned opinions ⁷⁰	

Source: Commission annual reports (2012-2021)

The key topics to which national parliaments reacted in their opinions or reasoned opinions vary from year to year and reflect the political situation and the interests of chambers/national parliaments. The European Commission's annual reports provide details of the key topics and the outcome of the political dialogue.

⁶⁹ Senato della Repubblica (IT), Congreso de los Diputados and Senado (ES), Senát (CZ), Assemblée nationale (FR), Seimas (LT), Hrvatski Sabor (HR), Nationalrat (AT), Folketing (DK) and Chambre des Députés (LU).

⁷⁰ Congreso de los Diputados and Senado (ES), Kamra tad-Deputati (MT), Tweede Kamer (NL), House of Commons (UK).

Table 6 shows that, between 2012 and 2021, national parliaments' opinions and reasoned opinions focused on draft legislative proposals, i.e. proposals for new or revision of existing EU legislation. Non-legislative proposals, such as communications or white (or other reflection) papers are not often targeted, with the exception of communications on the Commission annual work programme (CWP) which attracted the highest number of opinions in 2015 and 2016. Nonetheless, in its 2015 annual report on relations with the national parliaments, the Commission notes that 'a growing number of chambers chose to issue opinions on non-legislative proposals'.⁷¹ As shown in Table 6, this was also the case in the 2019 transitional year, when national parliaments commented, on the Commission's Communication on subsidiarity and proportionality, among other things. In 2020, they also submitted opinions on the Commission White Paper on artificial intelligence, next to opinions on legislative proposals.

It is worth reiterating that some of the opinions submitted by national parliaments in 2019 and 2020 were prepared on their own initiative (i.e. not in reaction to Commission's non-legislative initiatives). According to the Commission, this demonstrates the interest of some national parliaments in being involved earlier in the process, 'by providing forward-looking political input'.⁷²

With regard to regional parliaments' position within the national parliaments' scrutiny of the subsidiarity principle, the Commission notes that there is no explicit provision in the Treaties for direct interaction between the Commission and regional parliaments. Nonetheless, between 2012 and 2021, regional parliaments from several Member States submitted comments on Commission legislative and non-legislative initiatives.

Regarding bilateral contacts with national parliaments and the various meetings and conferences, the annual reports enumerate the main meetings and their main goal. In 2021, Members of the Commission took part in 130 visits (72 physical and 58 remote by videoconference) to national parliaments or meetings with delegations of national parliaments, thus meeting with almost all national parliaments and chambers. This is a significant increase compared to 2020 (101) and 2019 (55). In 2021, the topic discussed most at these events was the 'rule of law' report. The European Pillar of Social Rights, the Conference on the Future of Europe and the Commission's work programme for 2022 were also frequently addressed in 2021.

⁷¹ 2015 annual report on relations between the European Commission and national parliaments, [COM\(2016\) 471 final](#), European Commission, 2016.

⁷² 2020 annual report on the application of the principals of subsidiarity and proportionality and on relations with national parliaments, [COM\(2021\) 417 final](#), European commission, 2021, p. 25-26.

Table 6 – Key topics for opinions/reasoned opinions (O/RO) of national parliaments submitted to the European Commission (2012-2021)

	Commission document	O/RO	Commission document	O/RO	Commission document	O/RO
2021	Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC COM(2020)825	10/0	Proposal for a directive of the European Parliament and of the Council on adequate minimum wages in the European Union COM(2020)682	8/1	Proposal for a regulation of the European Parliament and of the Council on a framework for the issuance, verification and acceptance of inter-operable certificates on vaccination, testing and recovery to facilitate free movement during the COVID-19 pandemic (Digital Green Certificate) COM(2021)130	8/1
2020	Proposal for a regulation establishing the framework for achieving climate neutrality (European Climate Law) [...] COM(2020) 80 amended by COM(2020) 563	9/3	Communication the 2020 CWP COM(2020) 37 adjusted by COM(2020) 440	7/0	White Paper on artificial intelligence – A European approach to excellence and trust COM(2020) 65	6/0
2019	Communication on the principles of subsidiarity and proportionality: Strengthening their role in the EU's policymaking' COM (2018) 703	6/0	Reflection Paper 'Towards a Sustainable Europe by 2030' COM (2019) 22	5/0	Communication on the CWP 2019 COM (2018)	4/0
2018	Proposal for a regulation on health technology assessment [...] COM(2018) 51	7/3	Proposal for a directive on the quality of water intended for human consumption [...] COM(2017) 753	4/4	Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services COM(2018) 148	4/4
2017	Proposal for a Regulation of the European Parliament and of the Council on the internal market for electricity (recast) COM(2016)861	5/11	Proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers COM(2017)253	6/4	Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast) COM(2016)864	7/3

	Commission document	O/RO	Commission document	O/RO	Commission document	O/RO
2016	Communication the 2016 CWP COM(2015) 610	25/0	Proposal for a directive amending Directive 96/71/EC concerning the posting of workers [...] COM(2016) 128	9/14	Proposal for a regulation establishing the criteria [...] for examining an application for international protection [...] COM(2016) 270	6/8
2015	Communication the 2015 CWP COM(2014) 910	26/0	Proposal for a regulation establishing a crisis relocation mechanism [...] COM(2015) 450	7/5	Proposal for a regulation amending Regulation (EC) No 1829/2003 as regards the possibility for the Member States to restrict or prohibit the use of genetically modified food and feed on their territory COM(2015) 177	10/2
2014	Proposal for a directive amending on waste [...] COM(2014) 397	10/3	Proposal for a regulation on organic production and labelling of organic products COM(2014) 180	10/2	Proposal for a Council regulation on the establishment of the European Public Prosecutor's Office COM(2013) 534	10/0
2013	Proposal for a regulation on the establishment of the European Public Prosecutor's Office COM(2013) 534	7/13	Proposal for a directive on the approximation of the laws, [...] concerning the manufacture, presentation and sale of tobacco and related products COM(2012) 788	10/7	Proposal for a directive establishing a framework for maritime spatial planning and integrated coastal management COM(2013) 133	5/9
2012	Proposal for a Council regulation on the exercise of the right to take collective action [...] COM(2012) 130	5/12	Proposal for a directive on the protection of individuals with regard to the processing of personal data by competent authorities [...] COM(2012) 10	10/3	Proposal for a general data protection regulation COM(2012) 11	8/4

* Commission Work Programme

Source: Commission annual reports (2012-2021)

As shown above, the Commission's annual reports on the application of the principles of subsidiarity and proportionality and on relations with national parliaments (and their separate predecessors), despite their somewhat limited conclusions, provide a description of the development of the application of rights of national parliaments. However, to get a full picture, these annual reports should be read together with the annual reports on relations with national parliaments produced by the European Parliament's Directorate for relations with national parliaments, presented in subsection 3.2 below.

3. The European Parliament and national parliaments

The European Parliament plays an important role with regard to national parliaments. First of all, the European Parliament is one of the subjects of interparliamentary cooperation and, secondly, it is one of the EU institutions which receives submissions issued by national parliaments, whether opinions or reasoned opinions, with regard to scrutiny of the principle of subsidiarity. Furthermore, the European Parliament points to the relations between the European Parliament and national parliaments in its non-legislative resolutions. European Parliament resolutions (and relevant committee reports and other working documents), as well as the numerous research documents published by its services, create an indispensable source of information on this particular topic.

3.1. European Parliament resolutions

The European Parliament plenary systematically refers to the role of national parliaments in EU affairs in its own-initiative resolutions and other documents. A few examples are given below, in chronological order.

Parliament's decision of 9 March 2016, on the conclusion of an Interinstitutional Agreement on Better Law-Making between the European Parliament, the Council of the European Union and the European Commission, stressed the need to improve the use of arrangements for political dialogue with national parliaments.⁷³ Parliament highlighted the national parliaments' positive contributions in this respect and encourages better use of the existing subsidiarity and proportionality mechanisms as laid down in the Treaties. Finally, Parliament questioned the eight week deadline for national parliaments to issue a reasoned opinion on non-compliance with the principle of subsidiarity, and calls for a greater flexibility in the enforcement of this deadline (all under point 12).

In its resolution of 13 April 2016 on 'the EU in a changing global environment – a more connected, contested and complex world', the Parliament expressed its opinion that national parliaments could be more closely involved in monitoring the exercise of EU measures with regard to the EU global strategy on foreign and security policy (point 46). Parliament also emphasised the importance of actively involving national parliaments in this process during the sessions of the Interparliamentary Conference on CFSP/CSDP (point 48).⁷⁴

In its resolution of 25 October 2016, with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights, the European Parliament emphasised that its own role and the role of national parliaments should be 'in measuring the progress of, and monitoring compliance with, the shared values of the Union, as enshrined in Article 2 TEU' (point 9).⁷⁵

In its resolution of 16 February 2017 on budgetary capacity for the euro area, the Parliament insisted that the European Parliament and national parliaments should exercise a strengthened role in the renewed economic governance framework, to reinforce democratic accountability.⁷⁶ This includes increased national ownership of the European semester and a reform of the interparliamentary conference provided for under Article 13 of the Fiscal Compact to give it more substance, to develop a stronger parliamentary and public opinion. To improve ownership, national parliaments should

⁷³ European Parliament [decision](#) of 9 March 2016 on the conclusion of an Interinstitutional Agreement on Better Law-Making between the European Parliament, the Council of the European Union and the European Commission

⁷⁴ European Parliament [resolution](#) of 13 April 2016 on the EU in a changing global environment – a more connected, contested and complex world

⁷⁵ European Parliament [resolution](#) of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights

⁷⁶ European Parliament [resolution](#) of 16 February 2017 on budgetary capacity for the euro area

scrutinise national governments, just as the European Parliament should scrutinise the European executives (Point iii) 'Governance, democratic accountability and control' of the roadmap).

In a resolution of 16 February 2017 on possible evolutions of and adjustments to the current institutional set-up of the European Union, the European Parliament recognised the significant role played by national parliaments in the current EU institutional order, and in particular their role in the transposition of EU legislation into national law and the role they would play in both ex-ante and ex-post control of legislative decisions and policy choices made by their representatives in the Council, including its specialised configurations.⁷⁷ In this context, the Parliament suggests complementing and enhancing the powers of national parliaments by introducing a 'green card' procedure whereby national parliaments could submit legislative proposals to the Council for its consideration (Point 60).

In its resolution of 30 May 2018 on the annual report on the implementation of the common commercial policy, the European Parliament reiterated its request that the Member States, the European Parliament, the national parliaments, economic operators and representatives of civil society and social partners should be more closely involved in trade policy monitoring, including – but not limited to – trade and sustainable development provisions (Point 64).⁷⁸

In its resolution of 12 February 2019 on the implementation of the Treaty provisions concerning enhanced cooperation, the European Parliament called for a stronger involvement of national parliaments, and in those Member States where it is relevant, of regional parliaments, alongside the European Parliament, in the democratic scrutiny of enhanced cooperation, if it concerns policy areas of shared competence. It underlined the possibility of establishing an interparliamentary forum similar, for instance, to the Interparliamentary Conference under Article 13 of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union and the Interparliamentary Conference for the common foreign and security policy (CFSP) and common security and defence policy (CSDP), where necessary and without prejudice to the powers of Parliament (Point 21).⁷⁹

In its resolution of 12 February 2019 on the implementation of the Treaty provisions on Parliament's power of political control over the Commission, the European Parliament pointed out that Parliament's role of oversight towards the executive is complemented by national parliaments' similar competences over their own executives when dealing with European affairs. Furthermore, it took the view that such accountability is the keystone of the role of national parliamentary chambers in the EU (Point 10).⁸⁰

In its resolution of 26 November 2020 stocktaking the recent European elections, the European Parliament noted that the introduction of an annual European Week taking place simultaneously in all national parliaments, with debates on the Commission work programme between Members of parliaments (MPs), European Commissioners, Members of the European Parliament (MEPs) and representatives of civil society, would support the emergence of connected interparliamentary public spheres and improve the communication of European actions at national level (Point 31).⁸¹

⁷⁷ European Parliament [resolution](#) of 16 February 2017 on possible evolutions of and adjustments to the current institutional set-up of the European Union

⁷⁸ European Parliament [resolution](#) of 30 May 2018 on the Annual report on the implementation of the Common Commercial Policy

⁷⁹ European Parliament [resolution](#) of 12 February 2019 on the implementation of the Treaty provisions concerning enhanced cooperation

⁸⁰ European Parliament [resolution](#) of 12 February 2019 on the implementation of the Treaty provisions on Parliament's power of political control over the Commission

⁸¹ European Parliament [resolution](#) of 26 November 2020 on stocktaking of European elections

In its resolution of 20 January 2021 on monitoring the application of Union law in 2017, 2018 and 2019, the European Parliament highlighted the crucial role of national parliaments, and, where relevant, regional parliaments, in the pre-legislative scrutiny of draft EU laws.⁸² It noted that forms of cooperation with national parliaments at the time could be improved. The Parliament regretted the then structure of the procedure for the subsidiarity control mechanism, which compelled EU committees in national parliaments to dedicate excessive time to technical and legal assessments while having to comply with short deadlines, and suggested a revision of these mechanisms to make them more functional and effective, and to allow for the development of a more political approach to subsidiarity control across the EU. Further involvement of the European Committee of the Regions, representing regional and local authorities, in subsidiarity control was also suggested (Point 11).

In its resolution of 15 March 2023 on the 2023 European Semester for economic policy coordination, the European Parliament underlined that the Better Law-making Agreement reiterates that the European Parliament and the Council of the EU are to exercise their powers as co-legislators on an equal footing and that the Commission therefore needs to treat them equally, fully respecting the competences defined by the Treaties.⁸³ The Parliament also highlighted the importance that the economic governance framework be subject to democratic accountability. Parliament should therefore be fully involved in the reform of the economic governance framework, as well as in the future conduct of economic governance in the EU. The role and responsibility of national parliaments in scrutinising the collective actions of national governments was also stressed (Point 30).

Apart from the resolutions above, where the issues linked to national parliaments were merely secondary, several resolutions, presented below, discuss national parliaments and their 'new' post-Lisbon competences closely.

European Parliament resolution of 7 May 2009 on the development of the relations between the European Parliament and national parliaments under the Treaty of Lisbon

This resolution reacts to the new position of national parliaments included in the provisions of the Treaty of Lisbon.⁸⁴ The European Parliament welcomes the rights and obligations accorded to national parliaments under the Treaty of Lisbon, and considers that these rights will enhance the national parliaments' role in EU affairs (point 1). Similarly, Parliament welcomes the development in its relations with national parliaments through various joint activities, including interparliamentary meetings or joint parliamentary meetings on horizontal topics (point 2). With regard to future relations, Parliament considers that there should be new forms of 'pre- and post-legislative dialogue between the European Parliament and national parliaments' (point 3). Furthermore, Parliament underlines the need for interparliamentary cooperation, including the possibility for Members of the European Parliament to speak, when invited, before plenary sittings in national parliaments (point 9). Parliament also calls for better cooperation between specialised parliamentary committees (point 10).

With regard to the early warning mechanism, the European Parliament argues that this procedure will 'allow European legislation to be influenced and scrutinised at an early stage and will contribute to better law-making, as well as to improved coherence of legislation at EU level' (point 11). This procedure also contributes 'to stronger democratic control and brings the Union closer to the citizen' (point 12). With regard to the exchange of information, Parliament appreciates the creation of the IPEX database – an electronic platform for the exchange of information between parliaments

⁸² European Parliament [resolution](#) of 20 January 2021 on monitoring the application of Union law 2017, 2018 and 2019

⁸³ European Parliament [resolution](#) of 15 March 2023 on the European Semester for economic policy coordination 2023

⁸⁴ European Parliament [resolution](#) of 7 May 2009 on the development of the relations between the European Parliament and national parliaments under the Treaty of Lisbon

(point 15). Parliament also envisages systematic monitoring of the 'pre-legislative' dialogue between the Commission and national parliaments and calls on national parliaments to send their opinions to Parliament at the same time as to the Commission (point 16). Finally, Parliament also underlines that COSAC should remain a forum for the exchange of information and debate on general political issues and best practices (point 21).

In its follow-up to this Parliament resolution, the European Commission notes that one of the most important contributions of the Treaty of Lisbon is the increasing role of national parliaments.⁸⁵ It also values the interparliamentary conferences, which according to the Commission are 'a very effective tool for this cooperation'. The Commission considers the political dialogue with national parliaments to be a considerable development which should continue alongside the subsidiarity checks.

European Parliament resolution of 16 April 2014 on relations between the European Parliament and the national parliaments

This resolution welcomes the provisions strengthening the position of national parliaments and their active involvement in EU affairs (point 1).⁸⁶ Parliament commends the steps taken by national parliaments, especially with regard to their role in guidance and scrutiny (point 4), and recognises the important role played by parliamentary committees (point 5).

The purpose of the early warning mechanism is, according to Parliament, to improve the quality of EU legislation by ensuring that the EU operates within its competences and not to block the European decision-making process (point 8). In this regard, the subsidiarity scrutiny by national parliaments is not 'an undue restriction', but 'a mechanism for guaranteeing the competences of the national parliaments' (point 9). Furthermore, the mechanism should be perceived as a tool 'for ensuring effective cooperation between European and national institutions' (point 10). In addition, the reasoned opinions of national parliaments should be viewed as 'an opportunity to gain a clearer picture of how best to achieve the objectives set for legislative acts' (point 12). The Commission is, in this context, called upon to reply promptly and fully to any submission sent by national parliaments.

Regarding interparliamentary cooperation, Parliament notes that this cooperation does not replace the scrutiny exercised by Parliament. According to Parliament, its aim is to foster the exchange of information and best practices among the parliaments, to foster a European parliamentary and political culture, and to ensure that the parliaments exercise their powers in full (point 13). Parliament also stresses the need to organise interparliamentary meetings in close cooperation with national parliaments and recommends that national parliaments are included at 'the earliest stage possible in drafting the agenda for interparliamentary meetings' (point 17). Parliament stresses the openness and inclusiveness of interparliamentary cooperation (point 22). In addition, Parliament notes that the Commission's 'political dialogue' set up by the 2006 initiative of the Barroso Commission and the early warning mechanism are 'two sides of the same coin' (point 23).

The resolution also includes the Parliament's proposal to develop an understanding between the national parliaments and the European Parliament (point 24). Parliament calls for regular meetings between political groups and European political parties, which should be held in the framework of the EU interparliamentary cooperation (point 25). According to Parliament, COSAC should remain

⁸⁵ [SP\(2009\)3564](#) – a hyperlink is not available

⁸⁶ European Parliament [resolution](#) of 16 April 2014 on relations between the European Parliament and the national parliaments

'the forum for a regular exchange of views, information and best practice regarding practical aspects of parliamentary scrutiny' (point 27).⁸⁷

European Parliament resolution of 16 February 2017 on improving the functioning of the European Union building on the potential of the Lisbon Treaty

In this resolution, the Parliament notes that 'political dialogue between national parliaments and the European Parliament should be enhanced and practical possibilities for the use of the 'yellow card' and 'orange card' improved' (Letter I.).⁸⁸ In this context, it calls for intensified, more meaningful and substantial, political dialogue between national parliaments and Parliament (point 10). Parliament also encourages political dialogue with national parliaments 'on the contents of legislative proposals' (point 20). In this regard, Parliament calls on national parliaments to better scrutinise national governments' actions at European level (Letter V. and point 78).

Parliament also stresses the importance of interparliamentary cooperation, through joint bodies such as COSAC or the Conference on Common Foreign and Security Policy. The Commission and the Council are called upon to participate at a high political level in the interparliamentary meetings (point 21). Also the exchange of best practices in parliamentary scrutiny including meetings between experts is encouraged (point 22).

Furthermore, the Parliament suggested flexibility regarding the date of transmission of draft legislative acts enshrined in the Protocol, and calls on the Commission to improve the quality of its responses to reasoned opinions (point 48). It also reminded national parliaments of their key role in monitoring the application of subsidiarity and pointed out that the formal possibilities for national parliaments to ensure the principles of subsidiarity and proportionality offer ample opportunities in this respect, but that practical cooperation between national parliaments needs to be strengthened, inter alia to enable them, in close cooperation among themselves, to reach the necessary quorum under Article 7(3) of Protocol No 2 to the treaties in case of an alleged breach (point 49).

National parliaments are encouraged to involve themselves more deeply in interparliamentary cooperation, including the framework of the European Parliamentary Week (point 59).

European Parliament resolution of 18 April 2018 on the 2015-2016 Annual Reports on subsidiarity and proportionality

In this resolution, the European Parliament appreciated that the number of reasoned opinions (65) submitted by national parliaments in 2016 was the third highest in a calendar year since the Lisbon Treaty introduction of the subsidiarity control mechanism.⁸⁹ It also acknowledged the significant increase in the number of opinions, from 350 to 620, received by the Commission within the framework of the political dialogue. The Parliament underlined that these trends emerged against the backdrop of a fall in legislative activity, which also demonstrated that national parliaments' participation had evolved in comparison with previous years, and welcomed the marked interest in EU decision-making expressed by national parliaments (Point 10).

The Parliament welcomed the fact that more national chambers had issued reasoned opinions (26 out of 41 in 2016, compared with 8 in 2015) and noted a marked difference between chambers

⁸⁷ Apart from the two resolutions on relations between the European Parliament and national parliaments previously mentioned and discussed, the European Parliament [resolution](#) on relations between the European Parliament and the national parliaments in European integration, covering the issue of interparliamentary relations should also be noted. However, this resolution was adopted before the changes in the status of national parliaments introduced by the Treaty of Lisbon. This resolution is consequently not discussed in detail.

⁸⁸ European Parliament [resolution](#) of 16 February 2017 on improving the functioning of the European Union building on the potential of the Lisbon Treaty

⁸⁹ European Parliament [resolution](#) of 18 April 2018 on the 2015-2016 Annual Reports on subsidiarity and proportionality

active within the framework of political dialogue and reasoned opinions. It underlined that national parliaments continue to show more interest in influencing the content of EU legislation than in identifying cases in which subsidiarity may be an issue and that the power of national parliaments to monitor respect for the principles of subsidiarity and proportionality also encompasses a right to ask the European legislator to act at European level if necessary (Point 11).

The Parliament welcomed the Commission's commitment, through the 2016 Interinstitutional Agreement (IIA) on Better Law-making (BLW), to making the impact assessments of its legislative and non-legislative proposals available to national parliaments and noted that this agreement also emphasised the need for more transparency in the legislative procedure and that the information provided to national parliaments must allow them to fully exercise their prerogatives under the Treaties (Point 19).

The European Parliament invited national parliaments to: clearly indicate from the outset that their submission is a 'reasoned opinion' under Protocol No 2 to the Treaties and the legislative proposal(s) to which it refers; clearly state the reasons for which it considers that the proposal breaches the subsidiarity principle; include a brief summary of the argumentation; and respect the eight-week deadline from the date of transmission of the relevant draft legislative act. According to the Parliament, this would facilitate a timely and adequate treatment of reasoned opinions by all institutions involved (Point 20).

The Parliament encouraged national parliaments to continue and further reinforce interparliamentary contacts, including on a bilateral basis, as a means of enhancing cooperation between Member States. Contacts should take a democratic European vision, where the Union can add value, and take place in a spirit of solidarity, based on the rule of law and fundamental rights. According to the Parliament, these contacts can facilitate an exchange of best practices on application of the principles of subsidiarity and proportionality (Point 21).

Noting that the Parliament increasingly and more regularly plays the role of an interlocutor with and intermediary between the national parliaments with regard to the subsidiarity and proportionality mechanisms, Parliament suggests that enhancing dialogue at political level with national parliaments could be a means to rationalise subsidiarity and proportionality checks by better addressing the substance of legislative proposals (Point 22).

MEPs underlined that the 'yellow card' procedure has been triggered three times in the past, which proves that the system functions and that national parliaments can easily participate in the subsidiarity debate in a timely fashion when they wish to do so. Members considered, nevertheless, that increased awareness of the role of national parliaments and better cooperation between them could improve ex-ante subsidiarity monitoring (Point 25).

The Parliament encouraged full use of existing tools that ensure monitoring of respect for the principles of subsidiarity and proportionality. In this context, the creation of even more complex administrative structures and lengthy procedures should be avoided, especially in times when the EU is struggling to make itself understood by its citizens, and always with the aim of respecting and protecting their rights and interests (Point 29).

European Parliament resolution of 19 April 2018 on the implementation of the Treaty provisions concerning national parliaments

In this resolution, for which the 2017 (first) edition of this EIA was prepared as supporting material,⁹⁰ the European Parliament acknowledged that national parliaments contribute actively to the good constitutional functioning of the EU (Article 12 TEU), thereby playing an important role in its democratic legitimacy and realising it to the fullest extent (Letter A).⁹¹

In the context of scrutinising governmental activity in European affairs, the European Parliament underlines that, to improve ownership, national parliaments should scrutinise national governments, in the same way the European Parliament scrutinises the European executive (Letter C). It notes however that the level of influence of national parliaments over national governments varies significantly at Member State level (Letter C). In this context, the parliament takes the view that such accountability is the keystone of the role of national parliamentary chambers in the EU and encourages national parliaments to fully exercise their European functions to directly influence and scrutinise the content of European policies, in particular via the monitoring of their national governments acting as members of the European Council and the Council of the EU (Point 2). Furthermore, Parliament calls on national parliaments to make full use of their respective competences with the aim of exercising scrutiny over their governments' actions at EU level, for example, by adapting their internal organisation, timetables and rules of procedures to enable them to do so (Point 4).

In the context of creating a European public sphere, the European Parliament suggested that the establishment of an annual European week would allow MEPs and Commissioners, notably Vice-Presidents in charge of 'Clusters', to discuss and explain the European agenda before all national parliamentary assemblies, alongside MPs and representatives of civil society. It suggested that its own rules of procedure needed to be reviewed to endorse the initiative, and encouraged national parliaments to do the same. In Parliament's view, meetings between national and European political groups in the framework of EU interparliamentary cooperation could bring added value in the form of an authentic European political debate (Point 12).

In the context of the early warning mechanism, the European Parliament underlined that it has seldom been used since the entry into force of the Treaty of Lisbon, and that it could be reformed within the then constitutional framework (Point 13). It noted that examples such as the triggering of the 'yellow card' procedure against the Commission proposal on the revision of the 'Posting of Workers Directive' in 2016 show that the mechanism works. The European Parliament noted that the limited use of the 'yellow card' procedure could indicate that the principle of subsidiarity is, on balance, respected within the EU. It warned therefore that the procedural shortcomings of the early warning mechanism should not be regarded as conclusive proof of failure to respect subsidiarity (Point 14). The Parliament acknowledged national parliaments' request to extend the eight-week period to issue reasoned opinions under Article 3 of Protocol No 1. It noted however that the current Treaty framework does not provide for such an extension and considered therefore that the Commission should implement a technical notification period within the early warning mechanism to grant additional time between the date on which draft legislative acts are technically received by national parliamentary chambers and the date on which the eight-week period begins (Point 16).

Also in the context of the early warning mechanism and in line with the political dialogue launched by the Commission in 2016, the Parliaments suggested the full use of the system whereby national parliaments can submit 'constructive proposals' to the Commission with the aim of positively

⁹⁰ M. Remáč, [Working with national parliaments on EU affairs](#), European Parliamentary Research Service, October 2017.

⁹¹ European Parliament [resolution](#) of 19 April 2018 on the implementation of the Treaty provisions concerning national parliaments

influencing the European debate and the Commission's power of initiative.⁹² In this regard, the Commission could enjoy the discretion either to take on board such proposals or to issue a formal response underlining its reasons for not doing so. The Parliament pointed out that such a procedure cannot consist of a right of initiative, or the right to withdraw or amend legislation, as it would otherwise subvert 'the Union method' and the distribution of competences between the national and European level, thus violating the Treaties. The resolution recommended that in the event of a future revision of the Treaties, the right of legislative initiative should be accorded to the European Parliament, as the direct representative of EU citizens (Point 18).

As regards the implementation of the right to information, the Parliament stressed that national parliaments could better cope with the information – sent to them either by virtue of the early warning mechanism, or under their right to information – if the Interparliamentary EU information exchange (IPEX) platform was given the relevance of an Agora, or forum, for an informal permanent dialogue among national parliaments and between these and the European institutions. The Parliament therefore expressed its commitment to promoting the use of the platform for the enhancement of political dialogue. It also recommended that national parliaments use the IPEX platform in a timely fashion to ensure an early start to the national scrutiny mechanism. In Parliament's view, the IPEX platform should be used as a channel for the systematic sharing of information and the early flagging of subsidiarity concerns. It saw the potential for developing IPEX as the main channel for communication and transmission of relevant documents from the EU institutions to national parliaments and vice versa, and, in this context, undertook to offer assistance to national parliamentary chambers' administrations on using the platform. It also encouraged the establishment of more exchanges between the officials of institutions and political groups within the European Parliament and national parliament administrations (Point 20).⁹³

In the context of better interinstitutional cooperation, the European Parliament reiterated that the current framework of relations between the Union and national parliaments could be simplified and harmonised to make it more efficient and effective. It called therefore for a review of the engagement between the Union and its national parliaments across existing platforms and forums, with the aim of strengthening these relations and adapting them to current needs. It insisted however upon a clear delineation of decision-making competences between national parliaments and the European Parliament (...) and rejected the creation of joint parliamentary decision-making bodies for reasons of transparency, accountability and the capacity to act (Point 22). The Parliament noted further that better interinstitutional cooperation (IPC)⁹⁴ (established in Articles 9 and 10 of Protocol No 1 to the Treaties) could be attained if MEPs and MPs accorded more relevance to interparliamentary committee meetings, and if these were prepared for in closer cooperation (Point 24). It recommended that national parliaments be fully involved in the continuing development of EU common security and defence policy by specifying its modalities and noted further the potential that this has for neutral EU Member States to exercise constructive scrutiny in this area (Point 25). The parliament also considered that an enhanced political and legislative dialogue between and with national parliaments would favour compliance with the objectives set out in the IIA on Better Law-making (Point 26).

⁹² The Parliament also noted that several national parliaments have expressed their interest in an instrument to improve political dialogue, which would afford them the opportunity to suggest constructive proposals for the Commission's consideration and with due regard for the Commission's right of initiative (Letter P).

⁹³ IPEX has recently been upgraded.

⁹⁴ Meetings in particular.

European Parliament resolution of 24 June 2021 on European Union regulatory fitness and subsidiarity and proportionality – report on Better Law-making covering 2017, 2018 and 2019⁹⁵

In this resolution, the European Parliament stressed that the then structure of the procedure for the subsidiarity control mechanism resulted in national parliaments' EU committees dedicating excessive amounts of time to technical and legal assessments with short deadlines, complicating the goal of holding a deeper political discussion on European politics (Point 4).⁹⁶ It insisted therefore that national parliaments should be involved as early as possible in the legislative process, preferably immediately after publication of the roadmap and during the consultation phase. The Parliament considered that there should also be greater focus on subsidiarity before a new legal act is tabled and that, in particular, the consultation phase should be used to proactively gather national parliaments' views and to register their concerns, since that might avoid use of the 'yellow card' and avoid problems during the negotiation phase (Point 11). It welcomed the (Commission) measure to help national parliaments execute their role more effectively by excluding the 20 December to 10 January period in each calendar year from the eight-week period during which national parliaments can submit reasoned opinions (Point 12).

The European Parliament noted that, while the number of reasoned opinions received from national parliaments continued to fall between 2017 and 2019, with no reasoned opinions submitted in 2019, the number of opinions submitted to the Commission and contributions to the European Parliament, including on non-legislative initiatives, remained consistently high. The Parliament saw this as a testament to national parliaments' positive and forward-looking engagement with the EU policy cycle. It noted further that several of these submissions focused on important institutional issues, such as the completion of the Economic and Monetary Union and the activation of 'passerelle clauses' and that no proposals received more than four reasoned opinions.⁹⁷ The Parliament underlined that the Treaties provide a role for interparliamentary cooperation, giving national parliaments responsibility for examining legislative and non-legislative initiatives and welcomed the active participation of national parliaments in legislative dialogue with the EU institutions through other means than the subsidiarity control mechanism. It also highlighted that the 'orange card' procedure had never been activated, and that the 'yellow card' procedure was activated only three times, out of a total of 439 reasoned opinions and 5 513 opinions during 2007-2019. It is also noted that the implementation of the right for national parliaments to scrutinise compliance with the principle of subsidiarity, on the basis of the early warning system, had partially improved relations between the EU institutions and national parliaments. The Parliament highlighted the Commission's commitment to prepare aggregated answers where at least four parliaments have issued reasoned opinions and to demonstrating flexibility over the Treaty-based eight-week deadline within which national parliaments must submit their reasoned opinions, by taking into account common holiday and recess periods. The Parliament believed that the Conference on the Future of Europe would provide an excellent opportunity for citizens to communicate on the real impacts of legislation at national level and to make suggestions on how to achieve the better law-making goals, including on reassessing the subsidiarity process. Parliament highlighted that transparency and public access are essential to the legislative process and also justify the involvement of national and regional parliaments, while conferring greater legitimacy and confidence in the EU democratic legislative process. In this regard, the progress made by the

⁹⁵ At the time of writing, a draft report on European Union regulatory fitness and subsidiarity and proportionality – report on Better Law-making covering 2020, 2021 and 2022, is being prepared by the Committee on Legal Affairs (JURI). The AFCO Committee will provide an opinion. See procedure [2023/2079\(INI\)](#).

⁹⁶ European Parliament [resolution](#) of 24 June 2021 on European Union regulatory fitness and subsidiarity and proportionality – report on Better Law-making covering 2017, 2018 and 2019

⁹⁷ On 11 July 2023, the European Parliament adopted a [resolution](#) on the implementation of the passerelle clauses in the EU Treaties based on a report by the AFCO Committee.

European Parliament in disclosing the multi-column documents as a consequence of the 'De Capitani judgment' was welcomed (Point 13).⁹⁸

The resolution noted that in 2016, of a total of 41 houses of national parliaments, 26 issued reasoned opinions, a figure falling to 19 in 2017 and 14 in 2018; it stressed that this decrease goes hand in hand with a general fall in reasoned opinions (Point 14). It underlined that the trend in the number of opinions and reasoned opinions submitted between 2007 and 2019 demonstrated that national parliaments are increasingly asking for more political dialogue and a greater involvement in the debate on EU policies, and therefore dedicated less time to the normative analysis of EU legislative proposals (Point 15). The Parliament acknowledged that 2019 was the first year since the introduction of the subsidiarity control mechanism in which national parliaments did not submit any reasoned opinions, as a result of a sharp drop in the Commission's legislative activities during the transitional year between two Commissions (Point 16). It supported the Commission's commitment to ex-ante evaluation before considering legislative acts and considered that the Commission and the national authorities should continue to cooperate closely to evaluate the real impact of EU legislation on citizens, businesses and the environment. It also welcomed national parliaments' input to ex-ante evaluation via informal political dialogue, including joint own-initiative opinions. It also supported the consolidation of responses if seven or more national parliaments issue reasoned opinions on one of the Commission's legislative proposals, despite the threshold for initiating the 'yellow card' procedure not having been reached, as this gives a greater visibility to the views of national parliaments (Point 34).

In the context of the 'one-in, one-out' Better Regulation principle, the European Parliament stressed that, while additional unnecessary administrative burdens should be avoided when designing, transposing and implementing EU acts, this should neither be translated into deregulation or 'no regulation', nor should it prevent national parliaments from maintaining or taking more ambitious measures and adopting higher social, environmental and consumer protection standards in cases where only minimum standards have been defined by EU law (Point 35).

The European Parliament encouraged national parliaments to involve regional parliaments with legislative powers in EU legislative initiatives and supported their systematic consultation on major initiatives, in particular where there is a link with regional competences. In this context it highlighted that regional parliaments are represented in the Committee of the Regions and that national parliaments can consult them under Article 6 of Protocol No 2 to the TFEU (Point 38).

Resolution of 14 September 2023 on Parliamentarism, European citizenship and democracy

In this resolution, the Parliament emphasised the key role of parliaments at the heart of democracy and the need to respect the clear division of competences between the different levels of European liberal democracy, i.e. the local, regional, national and European levels, in line with the principle of subsidiarity, to ensure democratic legitimacy and an efficient decision-making process and to enhance trust and cooperation between Parliaments on different levels.⁹⁹ In this context, the resolution points out that national parliaments are best placed to mandate and scrutinise the actions of their respective governments in European affairs, while the European executive is held democratically accountable by the European Parliament, which also ensures its legitimacy. The resolution underlines the need for regular political dialogue and exchange between parliaments in order to create awareness and understanding of parliamentary work and decisions, such as in the frameworks of the EUSC and COSAC (Point 9).

⁹⁸ The European Parliament refers to [Judgment](#) of the General Court of 22 March 2018 Case T-540/15 *Emilio De Capitani v European Parliament*, Court of Justice of the European Union, 2018

⁹⁹ European Parliament [resolution](#) of 14 September 2023 on Parliamentarism, European citizenship and democracy

The Parliament recalls the need to improve the application of the principles of subsidiarity and proportionality in the work of the EU institutions, in particular by cooperating with national parliaments in line with the prerogatives already included in the current Treaties and to ensure a more prominent role for national and local level representatives in the process, to achieve 'active subsidiarity', with the aim of promoting greater ownership of EU policies. It is further suggested that 'active subsidiarity' needs to be strengthened 'through a process for giving national parliaments the right to submit proposals to the European Parliament'. In this context, the resolution supports the 'Building Europe with Local Councillors' programme, which creates a European network of locally elected politicians aimed at communicating the EU (Point 10).

The European Parliament is highly concerned about the rapid and large-scale evolution of targeted disinformation campaigns, and the misuse of generative artificial intelligence with the intention to prevent citizens from making informed choices and ultimately undermine democratic processes within the Union. In this context, it called upon the national parliaments of the Member States to establish regular exchanges on the protection of their democracies against foreign interference and information manipulation with the European Parliament as a part of COSAC interparliamentary cooperation (Point 12).

3.2. Findings of the European Parliament's annual reports on relations between the European Parliament and national parliaments

An overview of relations between the European Parliament and national parliaments is provided in comprehensive reports on relations between the European Parliament and national parliaments produced by the Parliament's Directorate for relations with national parliaments (DRNP) (Directorate General for Parliamentary Democracy Partnerships). Eleven reports have provided an assessment of relations between the European Parliament and national parliaments since 2009. These reports are accessible on the DRNP website.¹⁰⁰

The latest report was published in July 2023 and gave information on activities that took place in 2022.¹⁰¹ The report presents the key developments and main topics on the interparliamentary agenda in 2022 such as the war in Ukraine and the support for the Parliament of Ukraine and the Ukrainian people; the EU's response to the pandemic and the post-COVID-19 recovery plans; the green and digital transitions, inflation and the impact of the war on the gas supply; the rule of law, democracy and fundamental rights in the EU; the role of the EU in the world; and the Conference on the Future of Europe.

The annual DRNP reports provide several statistics with regard to the number of written submissions received from national parliaments by the European Parliament. They use the term 'reasoned opinion' for submissions indicating the non-compliance of a draft legislative act with the principle of subsidiarity and have been communicated to the European Parliament within the eight-week deadline referred to in Article 6 of Protocol No 2 to the

Different terminologies used by the Commission and Parliament

The European Parliament and the European Commission use different terminology (at least in English) for submissions from national parliaments. While the European Parliament distinguishes between 'submissions' and 'reasoned opinions', the European Commission distinguishes between 'opinions' and 'reasoned opinions'.

¹⁰⁰ [Relations with national parliaments](#), European Parliament's Directorate for relations with national parliaments website

¹⁰¹ [Annual report 2022](#) on relations between the European Parliament and national parliaments, Directorate for Relations with National Parliaments, European Parliament, 2023

Treaties.¹⁰² For the submissions (under Protocol No 2) that do not fulfil these criteria the reports use the term 'contribution'.¹⁰³

Similarly, as in the Commission annual reports discussed in Section 2, the DRNP's annual reports provide an overview and development of the submissions by national parliaments to the European Parliament. All submissions are available in the European Parliament's Connect database.¹⁰⁴

Table 7 and Figure 2 below provide an overview of submissions received by the European Parliament from national parliaments, and their development between 2009 and 2022. They only list those national parliament submissions that were sent in response to draft legislative acts and do not include documents sent in reaction to non-legislative documents.

Table 7 – National parliament submissions to the European Parliament (2009-2022)

Year	All submissions	Contributions	Reasoned opinions	Percentage of reasoned opinions
2022	265	231	34	12.8 %
2021	226	202	24	10.6 %
2020	124	111	13	10.5 %
2019	63	63	0	0 %
2018	473	427	46	9.7 %
2017	421	372	49	11.6 %
2016	410	334	76	18.5 %
2015	90	82	8	8.9 %
2014	151	138	13	8.6 %
2013	313	226	87	27.8 %
2012	292	221	71	24.3 %
2009-2011 ¹⁰⁵	557	470	87	15.6 %

Source: European Parliament annual reports on relations between the European Parliament and national parliaments (2009-2022)¹⁰⁶

¹⁰² Under [Annex VI](#) (section XVI) of European Parliament's Rules of Procedure, the Committee on Legal Affairs (JURI) is responsible for the interpretation, application and monitoring of Union law and compliance of Union acts with primary law, notably the choice of legal bases and respect for the principles of subsidiarity and proportionality. Based on a rotation among the political groups, a Member of the JURI Committee is appointed as standing rapporteur for subsidiarity every six months. The reasoned opinions received are announced during the JURI Committee meetings.

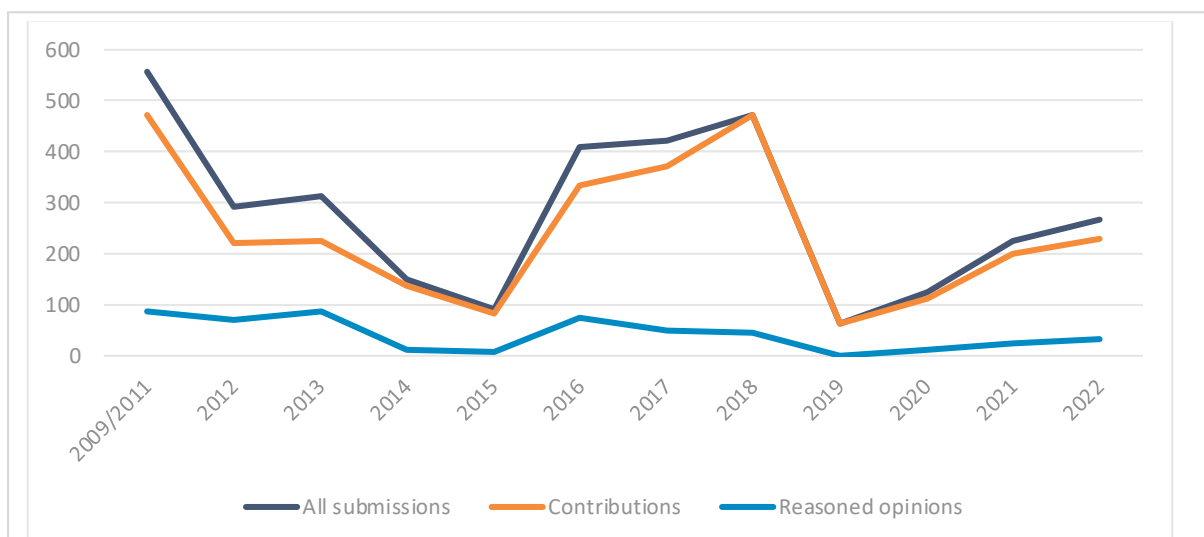
¹⁰³ The reports use the approach approved by Parliament's Committee on Legal Affairs (JURI), see, Conference of Committee Chairs document of 15 December 2010: 'Common approach for the treatment at committee level of national Parliaments' reasoned opinions and all other contributions of national Parliaments'.

¹⁰⁴ [European Parliament's database of national parliaments' documents \(Connect\)](#), European Parliament

¹⁰⁵ From 1 December 2009 (date of entry into force of the Lisbon Treaty) until 20 December 2011.

¹⁰⁶ Submissions of national parliaments to the European Parliament for 2023 are available [here](#). As of 28 August 2023, 11 reasoned opinions and 140 contributions have been submitted.

Figure 2 – Evolution of national parliaments' submissions to the European Parliament (2009-2022)



Source: European Parliament annual reports on relations between the European Parliament and national parliaments (2009-2022)

National parliaments' submissions to the European Parliament follow a similar trajectory as national parliaments' submissions to the European Commission with one notable difference – in several years of the examined period, the European Parliament has received more reasoned opinions than the Commission. Similarly, as in the case of the Commission, during 2014 and 2015, the number of both contributions and reasoned opinions from national parliaments submitted to Parliament dropped considerably, which is likely linked with the process of installation of a new Commission in 2014 and a change in working methods, including a connected reduction in legislative proposals. Conversely, 2016 saw a huge increase in submissions – approximately four times more – in comparison with 2015 (from 82 to 334), and an increase in reasoned opinions of approximately ten times more (from 8 to 76). While the increasing trend continued in 2017 and 2018 as regards contributions, the number of submitted reasoned opinions in these two years fell as compared to 2016. In 2019, there was a sharp decline in the number of submitted contributions and a total lack of reasoned opinions. The DRNP report for 2019 notes that the 87 % fall in the total number of submissions between 2019 and 2018 may be explained by the fact that the European Parliament's eighth legislature came to an end in the middle of 2019 and that the majority of legislative proposals were in their final adoption phase. Moreover, between January and April 2019, the national parliaments received only 14 legislative proposals under Protocol No 2.¹⁰⁷ In 2020, there was a near 50 % increase in the total number of submissions received between 2019 and 2020, which, according to the DRNP report for 2020, could be explained by the fact that in 2020 the European Parliament was, notwithstanding the impact of the COVID-19 pandemic, working at its full legislative capacity, unlike in 2019, which was an election year.¹⁰⁸ The increase in the number of submitted contributions and reasoned opinions continued in 2021 and 2022. The DRNP report for 2021 notes that the more than 80 % increase in the total number of submissions received between 2020 and 2021 may be explained by the fact that the European Parliament and the national

¹⁰⁷ [Annual report 2019](#) on relations between the European Parliament and national parliaments, Directorate for Relations with National Parliaments, European Parliament, 2020.

¹⁰⁸ [Annual report 2020](#) on relations between the European Parliament and national parliaments, Directorate for Relations with National Parliaments, European Parliament, 2021.

parliaments had adapted to the impact of the COVID-19 pandemic in 2021 and were working at their full legislative capacity, including legislation on health and economic measures related to the pandemic.¹⁰⁹

According to the DRNP report for 2022, national parliaments submitting a much higher number of contributions than reasoned opinions – a trend that has been sustained throughout 2012-2022 – confirms that 'national parliaments use Protocol No 2 as a means to express their views on the substance of the legislative proposals more often than on subsidiarity. This could reflect their wish to be involved more closely in the substantive legislative process'.¹¹⁰ The early warning mechanism is thus 'used rather as a tool of the legislative dialogue with the EU co-legislators'.¹¹¹

The DRNP annual reports do not provide specific information on the substance of cases in which national parliaments submitted the highest number of contributions and reasoned opinions. However, the Directorate prepares a monthly 'State of play' note on reasoned opinions and contributions submitted within the scope of Protocol No 2. The note, which is transmitted to Members and the relevant services of the European Parliament and national parliaments, gives an overview of all submissions received since the previous note and refers to all legislative files on the agenda of the forthcoming European Parliament plenary session.¹¹²

Tables 8 and 9 below show that there is a considerable difference between the number of contributions and reasoned opinions submitted by individual chambers/national parliaments to the European Parliament. In particular, Table 9 shows that the distribution of reasoned opinions is limited to some of the chambers/national parliaments.

¹⁰⁹ [Annual report 2021](#) on relations between the European Parliament and national parliaments, Directorate for Relations with National Parliaments, European Parliament, 2022.

¹¹⁰ [Annual report 2022](#) on relations between the European Parliament and national parliaments, Directorate for Relations with National Parliaments, European Parliament, 2023, p. 50.

¹¹¹ *ibid.*, p. 51.

¹¹² The note is published on the Directorate's [website](#) ahead of each European Parliament plenary session.

Table 8 – Distribution of contributions received by the European Parliament (2010-2022) – Top five parliaments/chambers

	2022	2021	2020	2019	2018	2017	2016	2015	2014	2010-2013 ¹¹³
1	Cortes (ES) - 58	Cortes (ES) - 53	Cortes (ES) - 32	Sénat (FR) - 13	Assembleia da República (PT) - 72	Assembleia da República (PT) - 64	Senato della Repubblica (IT) - 65	Senato della Repubblica (IT) - 13	Senato della Repubblica (IT) - 32	Assembleia da República (PT) - 372
2	Senát (CZ) - 55	Assembleia da República (PT) - 38	Assembleia da República (PT) - 26	Assemblée Nationale (FR) - 11	Cortes (ES) - 65	Cortes (ES) - 46	Assembleia da República (PT) - 63	Cortes (ES) - 10	Cortes (ES) - 31	Senato della Repubblica (IT) - 296
3	Poslanecká sněmovna (CZ) - 21	Senát (CZ) - 23	3 chambers submitted 8 contributions ¹¹⁴	Cortes (ES) - 8	Senát (CZ) - 60	Senát (CZ) - 45	Senatul (RO) - 39	Assembleia da República (PT) - 8	Assembleia da República (PT) - 25	Senát (CZ) - 115
4	Bundesrat (DE) - 17	Senat (RO) - 16	Senát (CZ) - 7	Senát (CZ) + Assembleia da República (PT) - 7	Bundesrat (DE) - 41	Senato della Repubblica (IT) - 42	Senát (CZ) - 35	Camera Deputaților (RO) - 7	Senát (CZ) - 10	Bundesrat (DE) - 82

¹¹³ Based on Annex VI of 'Interparliamentary relations between the European Parliament and national parliaments under the Treaty of Lisbon', 2009-2014: [Annual Report 2013/2014](#).

¹¹⁴ Assemblée Nationale (FR), Camera dei deputati (IT) and Senat (RO).

	2022	2021	2020	2019	2018	2017	2016	2015	2014	2010-2013 ¹¹³
5	<i>Assembleia da República (PT)</i> - 16	<i>Camera dei deputati (IT)</i> - 12	<i>Senato della Repubblica (IT)</i> + <i>Bundesrat (DE)</i> - 5	<i>Senato della Repubblica (IT)</i> - 5	<i>Assemblée Nationale (FR)</i> + <i>Senatul (RO)</i> - 39	<i>Bundesrat (DE)</i> - 28	<i>Bundesrat (DE)</i> - 25	<i>Assemblée Nationale (FR), Senát (CZ)</i> - 6	<i>Camera dei deputati (IT)</i> - 9	<i>Camera Deputaților (RO)</i> - 61

Source: European Parliament annual reports on relations between the European Parliament and national parliaments (2010-2022).

Table 9 – Distribution of reasoned opinions received by the European Parliament (2010-2022) – Top three parliaments/chambers

	2022	2021	2020	2019	2018	2017	2016	2015	2014	2010-2013 ¹¹⁵
1	<i>Riksdag (SE)</i> - 13	<i>Seanad Éireann (IE)</i> - 6	<i>Országgyűlés (HU)</i> - 5	N/A	<i>Riksdag (SE)</i> - 14	<i>Sénat (FR)</i> - 7	<i>Riksdag (SE)</i> - 12	8 chambers submitted 1 reasoned opinion ¹¹⁶	<i>Bundesrat (AT)</i> - 5	<i>Riksdag (SE)</i> - 48
2	<i>Poslanecká sněmovna (CZ)</i> - 5	<i>Camera dei deputati (IT)</i> - 5	<i>Riksdag (SE)</i> - 2	N/A	<i>Oireachtas - Dáil and Seanad Éireann (IE)</i> - 5	<i>Bundesrat (AT) + Bundestag (DE)</i> - 6	<i>Sénat (FR)</i> - 8	-	8 chambers submitted 1 reasoned opinion ¹¹⁷	<i>Sénat (FR)</i> - 18
3	<i>Sénat (FR)</i> - 4	<i>Sénat (FR) + Senát (CZ)</i> - 4	6 chambers submitted 1 reasoned opinion ¹¹⁸	N/A	<i>Poslanecká sněmovna (CZ)</i> - 4	<i>Riksdag (SE) + Senat (PL)</i> - 4	<i>Kamra tar-Rapprežentanti (MT), Bundesrat (AT)</i> - 5	-	-	<i>Tweede Kamer (NL)</i> - 16

Source: European Parliament annual reports on relations between the European Parliament and national parliaments (2010-2022).

¹¹⁵ Based on Annex VI of 'Interparliamentary relations between the European Parliament and national parliaments under the Treaty of Lisbon', 2009-2014: [Annual Report 2013/2014](#).

¹¹⁶ *Camera Deputaţilor (RO), Senát (CZ), Cortes (ES), Poslanecká sněmovna (CZ), Riksdag (SE), Národná Rada (SK), Tweede Kamer (NL) and Országgyűlés (HU).*

¹¹⁷ *Nationalrat (AT), Senát (CZ), Sénat (FR), Seimas (LV), Chambre des Députés (LU), Tweede Kamer (NL), Riksdag (SE), House of Commons (UK).*

¹¹⁸ *Bundesrat (AT), Poslanecká sněmovna (CZ), Folketinget (DK), Sénat (FR), Kamra tar-Rapprežentanti (MT) and Eerste Kamer (NL).*

As to the interparliamentary cooperation, the 2022 report (similarly to the reports published in previous years) provides an enumeration of bilateral and multilateral relations between the European Parliament and national parliaments, including participation in various institutional parliamentary bodies such as the Conference of Parliamentary Committees for Union Affairs (COSAC), and the annual and informal Conferences of Speakers of Parliaments of the European Union (EUSC) that are discussed in Sections 5 and 6.

Furthermore, the 2022 report – the latest available at the time of writing – pays attention to the following forms of interparliamentary cooperation:

- European Parliamentary Week, Interparliamentary Conference on Stability, Economic Coordination and Governance in the European Union (IPC SECG) and the European Semester Conference (ESC);
- the Interparliamentary Conference for the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP);
- the interparliamentary oversight in the area of freedom, security and justice (Joint Parliamentary Scrutiny Group on Europol and Interparliamentary Committee Meeting on the Evaluation of Eurojust); Interparliamentary Committee Meetings and other forms of interparliamentary cooperation such as the National Parliaments Speakers Meeting with the Speaker of the Ukrainian National Parliament (Verkhovna Rada); the meeting of the Women Speakers of Parliaments of the EU; interparliamentary cooperation in the field of EU external action and multilateral parliamentary assemblies; and bilateral visits and other bilateral exchanges).

3.3. Research publications of the relevant European Parliament services

Several research papers were written or outsourced by the European Parliament secretariat to assess the relations between the European Parliament and national parliaments and the position of national parliaments in the EU constitutional system. These studies were either requested by the European Parliament's committees, or written by European Parliament secretariat research bodies (EPRS, Policy Departments and the Economic Governance Unit) on their own initiative. The body of parliamentary research dealing with the position of national parliaments within the EU constitutional framework provides a critical assessment of the existing situation and of the application and development of the national parliaments' rights and status. Parliamentary research takes either a specialised topical approach, or a general descriptive approach. The research papers differ in approach and in methods used. The research papers available do not reflect the official position of the European Parliament, but only that of their authors.

The most pertinent findings of the relevant papers are presented below in chronological order.

The role of national parliaments in regional policy under the Treaty of Lisbon (March 2010), Policy Department note

This 2010 note analyses the provisions included in the Treaty of Lisbon which strengthen the position of national parliaments within the EU constitutional system.¹¹⁹ Firstly, the note provides an overview of a historical development of relations between national parliaments and the European institutions, especially the European Parliament. Furthermore, it discusses then 'new' legislative powers of the European Parliament: enlarged scope of regional and cohesion policy; and the

¹¹⁹ E. Kramer, The role of national parliaments in regional policy under the Treaty of Lisbon, [In-depth analysis](#), Policy Department for Structural and Cohesion Policies, European Parliament, 2010 (requested by the European Parliament's Committee on Regional Development)

extension of the principle of subsidiarity to the local and regional level. Regarding the updated role of national parliaments, the note analyses their new prerogatives and the early warning mechanism closely, while highlighting that this is the first time that national parliaments 'have the opportunity to comment on European draft legislation independently from their governments'.¹²⁰

Enhancing cooperation between the European Parliament and EU national parliaments on EU human rights policy (March 2014), Policy Department study

This study provides an overview of interparliamentary cooperation carried out by the European Parliament and national parliaments and pays particular attention to the promotion of human rights in EU external policies.¹²¹ Furthermore, it concentrates on cooperation between the European Parliament and national parliaments in the field of human rights, including its development, methods and tools.

The study concentrates on interparliamentary cooperation between the European Parliament and national parliaments, and points to the strengths and weaknesses of such cooperation. The study notes that a particular strength of this interparliamentary cooperation is that it creates a forum for exchange of information. In this regard, the study sees benefits for those national Members of parliaments who are members of minority party groups or a political party outside the national government.¹²² Interparliamentary cooperation is perceived as an additional layer of scrutiny for national governments.

The study calls, however, for greater consistency between different types of interparliamentary cooperation, especially with regard to potentially overlapping agendas of ad hoc initiatives and permanent bodies. Furthermore, the study notes that the success of the interparliamentary cooperation depends, to a large extent, on the motivation for parliamentarians to participate in the relevant meetings. It also finds several factual constraints, such as various time and financial costs linked to interparliamentary cooperation. However, according to the study, the main challenges for interparliamentary cooperation are 'the differing perceptions of the role of the European Parliament' between national parliaments and the European Parliament. While the European Parliament sees its role as that of the legislative soul and driver of the integration, 'national parliaments tend to defend the intergovernmental dimension of the EU, considering the European Parliament an antagonist and possible threat'.¹²³

The study produces several recommendations with regard to the institutional and organisational framework of interparliamentary cooperation, its topics, and human rights issues. Although some of these recommendations are exclusively linked to human rights, the institutional and organisational recommendations are much broader and applicable to the whole interparliamentary cooperation organisation. In this context, the study recommends:

- mitigating the risk for interparliamentary cooperation fatigue;
- streamlining the timing, scope and agendas of standing interparliamentary cooperation bodies' meetings;
- reassessing the organisation of ad hoc interparliamentary cooperation meetings and seeking synergies with standing bodies;
- considering organising recurring interparliamentary cooperation weeks;

¹²⁰ *ibid.*, p. 16.

¹²¹ Enhancing cooperation between the European Parliament and EU national parliaments on EU human rights policy, [Study](#), Policy Department for External Policies, March 2014 (commissioned for the European Parliament's Subcommittee on Human Rights).

¹²² *ibid.*, p. 27.

¹²³ *ibid.*, p. 28.

- ensuring coherence and consistency among members of national parliament delegations;
- consolidating all interparliamentary cooperation-related information under the umbrella of IPEX;
- favouring targeted and timely topics;
- breaking down large-scale events into specialised workshops and side-events;
- ensuring visible outcome and effective follow-up following meetings; and
- ensuring coherence and consistency through collaboration between the relevant European Parliament and national parliament committees.¹²⁴

The study provides a summary of various interparliamentary cooperation channels. The following table presents an excerpt of this summary, concentrating on the strengths and weaknesses of these channels.

Table 10 – Strengths and weaknesses of interparliamentary cooperation channels (excerpt)

Forum	Strengths	Weaknesses
EUSC	<ul style="list-style-type: none"> - leader in interparliamentary cooperation - creates 'common conscience' 	
COSAC	<ul style="list-style-type: none"> - most established body - discuss substantive issues - outputs (reports) - opportunity for networking 	<ul style="list-style-type: none"> - size and recurrence - lack of flexibility - general character of discussions
Interparliamentary Conference on CFSP and CSDP (IPC CFSP/CSDP)	<ul style="list-style-type: none"> - responds to concerns in CFSP and CSDP matters - targets topical matters 	<ul style="list-style-type: none"> - size and organisational challenge - accumulation of large-scale events
Interparliamentary Conference on Stability, Economic Coordination and Governance (IPC SECG)	<ul style="list-style-type: none"> - responds to concerns in matters covered by the Treaty on stability, coordination and governance (Fiscal compact) 	<ul style="list-style-type: none"> - size and organisational challenge - accumulation of large-scale events
Joint Parliamentary Meetings	<ul style="list-style-type: none"> - broad format - overarching topics - may reinforce links between party groups 	<ul style="list-style-type: none"> - complex organisation requiring long-term planning - no tangible results
Joint Committee Meetings	<ul style="list-style-type: none"> - sectoral format - may reduce 'power divide' between EP and national parliaments - gives visibility to national parliaments of country holding the Council presidency 	<ul style="list-style-type: none"> - complex organisation requiring long-term planning

¹²⁴ *ibid.*, p. 50 - 53.

Forum	Strengths	Weaknesses
Interparliamentary Committee meetings	- sectoral format - efficient unilateral organisation	- the EP as unilateral organiser might be perceived negatively

Source: Enhancing cooperation between the European Parliament and EU national parliaments on EU human rights policy, Directorate-General for External Policies, Policy Department, March 2014, p. 29.

Regional participation in EU decision-making: Role in the legislature and subsidiarity monitoring (April 2016), EPRS in-depth analysis

This in-depth analysis not only concentrates on the position of regional parliaments in the EU framework, but also focuses on regional participation in the EU in general.¹²⁵ With regard to the issues covered by this study, the in-depth analysis notes that 'the Lisbon Treaty explicitly recognised the sub-national dimension of the subsidiarity principle'.¹²⁶ It also underlines the fact that national parliaments, depending on their national legal provisions, can consult regional parliaments with legislative powers when considering draft EU legislation and the decision to trigger the 'yellow card' procedure. In these cases, national parliaments follow national legal arrangements.¹²⁷ The in-depth analysis notes that regional engagement is uneven and varies among the Member States. The study questions the actual contributions from regional parliaments to the subsidiarity scrutiny as 'the function of regional parliaments is merely advisory in this context'.¹²⁸ The study also notes several challenges regarding regional parliaments, including financial or practical challenges.¹²⁹

The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges (March 2017), Policy Department study

The study analyses the implementation of the Treaty provisions on national parliaments and other related developments since 2009.¹³⁰ It concentrates on the early warning mechanism and the principle of subsidiarity; political dialogue between national parliaments and the European Commission; interparliamentary cooperation; and the various challenges linked with the developments of the European legislative procedure.

Although the study notes that the early warning mechanism is 'the improvement of the justification [...] regarding the principle of subsidiarity', its assessment of this mechanism is rather negative,¹³¹ and claims that this procedure has been made 'almost redundant'.¹³² Furthermore, the study argues that this procedure suffers from 'contingency and from the proximity between parliamentary majorities and national governments'.¹³³ In this context, the study also critically assesses the focus on subsidiarity as national parliaments and their members 'may primarily be interested by the content of the issue rather than the legal categorisation'.¹³⁴

¹²⁵ L. Tilindyte, Regional participation in EU decision-making: Role in the legislature and subsidiarity monitoring, [In-depth Analysis](#), European Parliamentary Research Service, April 2016.

¹²⁶ *ibid.*, p. 12.

¹²⁷ *ibid.*, p. 14 - 15.

¹²⁸ *ibid.*, p. 13.

¹²⁹ *ibid.*, p. 16 - 17.

¹³⁰ The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges, [Study](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, March 2017 (commissioned for the European Parliament's Committee on Constitutional Affairs).

¹³¹ *ibid.*, p. 29.

¹³² *ibid.*, p. 19.

¹³³ *ibid.*, p. 19.

¹³⁴ *ibid.*, p. 25.

The study discusses two emerging collective actions from national parliaments: (1) a 'green card' initiative that would allow national parliaments to suggest a legislative initiative to the Commission; and (2) a 'red card' initiative that would allow a majority of national parliaments to block a draft legislative proposal.¹³⁵ With regard to the 'green card' procedure, the study notes that national parliaments' support for the introduction of 'green cards' is weak overall, and predicts that this initiative 'will face difficulties to be implemented in the future, especially if the proposals deal with less consensual issues than the environment'.¹³⁶ With regard to the 'red card', the study notes that it has not disappeared from national parliaments' political agenda.¹³⁷

On the other hand, the study assesses the informal system of exchange of information between the Commission and national parliaments positively, with more than 4 000 opinions sent to the Commission by national parliaments. According to the study, this procedure can be understood as 'a way to produce information related to the actors preferences in the multi-level setting of the EU'.¹³⁸ The study also provides a positive assessment of extensive interparliamentary cooperation between national parliaments and the European Parliament. Nonetheless, it notes that cooperation could work better if 'a committee-based approach' was adopted, and if there was better coordination with regard to timing and an upgrade of overall working methods in interparliamentary meetings.¹³⁹ Regarding a committee-based approach to interparliamentary cooperation, the study argues that this 'seems to be the most promising evolution'.¹⁴⁰ With regard to interparliamentary cooperation, the study provides specific recommendations, according to which it is necessary to:

- modify the rules of procedure of the conferences to make them more effective and efficient,
- dedicate additional resources to interparliamentary coordination,
- improve the timing of meetings and conferences,
- conduct meetings and conferences in a more interactive way, and
- upgrade the overall working methods of interparliamentary meetings and conferences.¹⁴¹

Conversely, the study is rather negative about the capacity of the interparliamentary conference envisaged by the Treaty on Stability, Coordination and Governance' to establish a genuine democratic control over the economic governance of the EU'.¹⁴² The study also notes that COSAC presents several weaknesses, such as a lack of resources, and meetings that are 'not responsive' to recent developments.¹⁴³

Finally, the study provides general recommendations on several topics, such as the opposition parties in the EU, interparliamentary cooperation, differences of rhythm between national and EU politics, and the transparency of EU agreements. For example, the study recommends:

- strengthening the position of national opposition parties in EU parliamentary activities, including a pluralist composition for any parliamentary delegations, so that minority parties are also included, or sending minority opinions to the EU institutions,

¹³⁵ *ibid.*, p. 31.

¹³⁶ *ibid.*, p. 38.

¹³⁷ *ibid.*, p. 35.

¹³⁸ *ibid.*, p. 7.

¹³⁹ *ibid.*, p. 41.

¹⁴⁰ *ibid.*, p. 41.

¹⁴¹ *ibid.*, p. 41-42.

¹⁴² *ibid.*, p. 8.

¹⁴³ *ibid.*, p. 34.

- deepening the committee-based interparliamentary cooperation,
- enabling a cyclical and iterative parliamentary intervention that would not be limited to the early period of legislative agreements, and
- improving EU legislative procedure transparency, including trilogues and the informality and partial secretiveness of the decision-making process within the Council.

144

The legisprudential role of national parliaments in the European Union (March 2017), Policy Department briefing

This briefing addresses the role of national parliaments in the legislative process of the EU.¹⁴⁵ It proposes to change the focus of national parliaments on 'the overall rationality of the EU legislative procedure and its outputs'.¹⁴⁶ In this regard, the briefing suggests that the early warning mechanism should not be limited to the principle of subsidiarity, but that national parliaments should also consider the principles of conferral¹⁴⁷ and proportionality. According to the briefing, 'separating the three principles in a subsidiarity review within the early warning mechanism' poses considerable difficulty.¹⁴⁸ Furthermore, the briefing considers that a 'green card' procedure would strengthen the position of national parliaments in the EU legislative process. However, the briefing notes that national parliaments should not receive a right of legislative initiative as such, but should instead be able to require 'the presentation of proposals on certain policy issues or the review of existing legislation'.¹⁴⁹ Instituting a 'red card' procedure would, according to the briefing, strengthen the role of national parliaments. Nonetheless, the briefing acknowledges that an amendment of the Treaties is necessary in this case.¹⁵⁰ Finally, the briefing calls for the enhancement of political dialogue regarding the legisprudential role of national parliaments.

Subsidiarity as a means to enhance cooperation between EU institutions and national parliaments (March 2017), Policy Department briefing

This briefing concentrates on the principle of subsidiarity in relations between the EU institutions and national parliaments.¹⁵¹ According to the briefing, the creation of the early warning mechanism contributed to the enhancement of the cooperation between the EU institutions and national parliaments.¹⁵² The briefing claims that the European Commission plays the primary role in relations with national parliaments with regard to this mechanism, despite the fact that the European Parliament also receives reasoned opinions from national parliaments.¹⁵³ In this context, there are visible positive developments at EU and national levels with regard to the early warning mechanism, such as the enhanced role of national parliaments in EU affairs, or the possibility for national

¹⁴⁴ *ibid.*, p. 52 - 56.

¹⁴⁵ The legisprudential role of national parliaments in the European Union, [Briefing](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, March 2017 (commissioned for the European Parliament's Committee on Constitutional Affairs)

¹⁴⁶ *ibid.*, p. 5.

¹⁴⁷ According to [Article 5\(2\) TEU](#), under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.

¹⁴⁸ *ibid.*, p. 5

¹⁴⁹ *ibid.*, p. 1.

¹⁵⁰ *ibid.*, p. 7.

¹⁵¹ Subsidiarity as a means to enhance cooperation between EU institutions and national parliaments, Policy Department for Citizens' Rights and Constitutional Affairs, [Briefing](#), European Parliament, 2017 (commissioned for the European Parliament's Committee on Constitutional Affairs).

¹⁵² *ibid.*, p. 9.

¹⁵³ *ibid.*, p. 1.

parliaments to make their concerns more visible.¹⁵⁴ Nonetheless, several challenges are highlighted, including:

- the mechanism's narrow scope, as it only covers subsidiarity checks;
- a lack of a common definition of the principle of subsidiarity;
- the challenge of the restricted time allowed for checks on subsidiarity; and
- a high level of interdependence among national parliaments.

The briefing also argues that the Commission treats all reasoned opinions 'as contributions if the threshold necessary for a 'yellow card' fails to be triggered'.¹⁵⁵ The briefing concludes that national parliaments are eager to play a more positive role in EU affairs.

Challenges in the implementation of EU law at national level (November 2018), Policy Department briefing

Among others, the briefing analyses the main barriers to the effective implementation of EU law at national level and national parliaments' role in this process.¹⁵⁶ Based on literature review, the author identified ten key factors impacting the effective implementation of EU law at national level. These are: institutional decision-making capacity; goodness of fit (or 'suitability of fit', i.e. whether the policy already fits into the national legislative framework); preference fit (i.e. whether this is an issue of political contestation between national political parties); administrative efficiency; low complexity of EU law; favourable culture (towards rule of law and conflict management); few inter-ministerial coordination problems; national enforcement and monitoring; EU monitoring and enforcement; and learning.

Against this backdrop, the briefing argues that national parliaments can support the effective implementation of EU law in various ways. In particular, the 'internal decision-making structures' of national and subnational parliaments is to be addressed by national politics. 'Goodness of fit' and 'preference fit' are factors that very much mirror the national political conditions within the relevant Member State and impact the implementation of EU law. 'Inter-ministerial coordination problems', 'national culture' and 'institutional learning' are also 'factors which only national parliaments can solve'.¹⁵⁷ Furthermore, national parliaments are instrumental in ensuring timely and correct transposition of EU law.

According to the briefing, national legislators can have a positive or negative effect on the implementation of EU law in the following cases: gold-plating (the practice of national legislators enhancing the requirements of measures introduced at a level beyond that which is required by EU law);¹⁵⁸ correlation tables (explanatory document that the Member States submit to the Commission in the context of transposition of EU law into the national legal order);¹⁵⁹ administrative structures and capacity; and early engagement with legislative proposals.

¹⁵⁴ *ibid.*, p. 7.

¹⁵⁵ *ibid.*, p. 8.

¹⁵⁶ Challenges in the implementation of EU Law at national level, [Briefing](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, November 2018 (commissioned for the European Parliament's Committee on Judicial Affairs)

¹⁵⁷ *ibid.*, p. 8.

¹⁵⁸ Gold-plating can mean extending the scope of the substance of the measure, wider domestic terms than required by EU law, and proscribing sanctions or reporting requirements that increase the overall regulatory burden and make implementation of EU law more difficult'. See on p. 9.

¹⁵⁹ The briefing clarifies that the explanatory notes detail where and how the national legislature has transposed the requirements of EU directives into national law with reference to particular laws and clauses within laws. The purpose of the 'explanatory notes' is thus to enable the Commission to effectively monitor the Member States for the accuracy of their transposition.

The briefing notes that there might be several reasons for 'gold-plating', the most prominent being 'the effect of domestic politics', and more specifically the 'preference fit' or 'goodness of fit'. For instance, if a measure is deregulatory in an area of national sensitivity (e.g. tax or financial stability), national parliaments may introduce requirements and restrictions which inhibit (or prevent entirely) the effective implementation of that law on the ground.

Correlation tables (or 'explanatory documents') are another 'long standing problem of EU compliance'.¹⁶⁰ The briefing notes that 'clauses requiring a correlation table have been sacrificed in the negotiation between the EU institutions in the process of legislating'.¹⁶¹ Although there are several interinstitutional agreements on the need to include correlation tables from national legislatures, 'the record of national legislatures supplying these is still far from ideal'.¹⁶² The quality of the submitted correlation tables is uneven. And yet, supplying this documentation is crucial to deliver on 'effective EU monitoring and enforcement by the Commission' (one of the ten factors mentioned above).

As regards 'administrative structures and decision-making capacities', the briefing notes that the organisation of national legislative bodies in charge of EU law scrutiny and implementation, and the degree of fragmentation in the decision-making structures¹⁶³ have a direct effect on national parliaments' efficiency in transposing EU law. In the same vein, the administrative and political capacity of national parliaments to process information on complex and 'conflictive' directives can also increase or decrease their ability to implement EU law in a correct and timely manner. According to the author, 'research that disaggregates "parliament" into the relevant ministries has shown that the quality of leadership of the minister, past experience and budgetary allocation of the department has a direct causal effect on the speed of implementation of EU law. In common with other studies on transposition, this research also identified that greater centralisation of decision making was a key success indicator in achieving swift implementation'.¹⁶⁴ The more 'veto players' in the decision-making chain, the slower the transposition.

As to when national parliaments engage with the legislative proposal, the briefing notes that early engagement does not always equal success. Research has shown conflicting results on the influence of early engagement with national parliaments on legislative proposals, especially where the issues discussed are complex but have a high profile in national politics and are the subject of contestation between parties. More specifically, in 'strong parliaments' (with good administrative organisation and decision-making capacity, and a strong tradition of EU law scrutiny), an early involvement with legislative proposals can indeed speed up the implementation process; contestations can be moved up to an earlier stage of decision-making and thus improve the conditions for smooth implementation. However, in 'weak parliaments' (with 'slow' decision-making capacity and administrative organisation that does not allow for strong EU law scrutiny), the early engagement with the legislative proposal 'may actually slow down transposition and implementation by alerting "sleeping dogs"'.¹⁶⁵ This means that early engagement is not a 'silver bullet' for all national parliaments and can indeed have the opposite outcome by slowing down transposition and implementation in some cases.

See more on national parliaments' role in transposition in: Transposition of EU legislation into domestic law: Challenges faced by national parliaments, [Briefing](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, November 2018 (commissioned for the European Parliament's Committee on Judicial Affairs).

¹⁶⁰ *ibid.*, p. 9.

¹⁶¹ *ibid.*, p. 9.

¹⁶² *ibid.*, p. 9.

¹⁶³ For instance, between national, sub-national and devolved legislatures and administrations.

¹⁶⁴ *ibid.*, p. 9.

¹⁶⁵ *ibid.*, p. 9.

Subsidiarity: Mechanisms for monitoring compliance (July 2018), EPRS In-depth analysis

This paper presents, among other things, the legal framework of the early warning mechanism and national parliament's role therein.¹⁶⁶ The in-depth analysis echoes academic criticism that Protocol No 2 to the Treaties limits reasoned opinions to subsidiarity alone, while the title of the protocol refers to both subsidiarity and proportionality. This is assessed as 'regrettable' and risks triggering 'unhelpful demarcation disputes'. It is broadly suggested that there is little reason why, given the obvious difficulties in disaggregating subsidiarity and proportionality, national parliaments should not also be able to raise proportionality concerns'.¹⁶⁷ Again, based on academic research, the EPRS paper notes that, despite the limitation of Protocol No 2, proportionality-related concerns have 'figured prominently' in reasoned opinions submitted by national parliaments. They thus 'do not in fact stick to the literal wording of the subsidiarity principle but adopt a far more political approach, sometimes treating subsidiarity as a pretext to object to a proposal on other grounds whenever they dislike its content'.¹⁶⁸

The paper also provides a research-based assessment of the early warning mechanism and the obstacles to participation in it. Results are assessed as 'mixed'. Even before national parliaments officially stepped into the early warning mechanism, some commentators 'have predicted that, owing to the abstract meaning of the principle (due to references to, in particular, "insufficiently" and "better"), it is likely that subsidiarity concerns will be raised on account of disapproval of the (political) contents of legislative proposals as such, regardless of whether or not they violate subsidiarity'. This means that it may be difficult for actors not to issue a reasoned opinion regarding a legislative proposal whose contents they clearly dislike. Indeed, recent (as of 2018) research confirmed these early views and showed that national parliaments interpret subsidiarity and use the early warning mechanism in different ways. They apply, among others, 'legal and political criteria, including arguments relating to proportionality, the scope for national discretion, externalities, the added value of EU action, the form of action in terms of the choice of regulation versus directive, or sovereignty and legitimacy-related arguments'.¹⁶⁹ While some national parliaments do stick to the Treaty wording on subsidiarity (Article 5(3) TEU), 'others use subsidiarity as an endlessly flexible tool for political bargaining, allowing them to reject any course of action if it is in their political interest to do so'.¹⁷⁰ The Commission has been responsive to national parliaments in terms of procedure by replying to their opinions, but it has not conceded any substantive point regarding subsidiarity (including in the three cases which triggered 'yellow cards'). Against this backdrop, different actors have called for action to foster a better (and shared) understanding of subsidiarity and called for a more transparent formula on how to decide whether action needs to be taken at EU level. The paper refers to the Commission Task Force on subsidiarity, proportionality and 'doing less more efficiently', launched by the Juncker Commission in 2018, as an opportunity to provide further guidance in this regard. As will be shown in Sections 5 and 7 of this paper, the demand for 'a common culture among all EU institutions and Member States regarding the principles of subsidiarity and proportionality' (as put by COSAC) or 'systematic use of a subsidiarity definition commonly agreed by all EU institutions' (as stated by CoFoE)¹⁷¹ persists.

In addition to incoherent interpretations of the nature and content of subsidiarity, national (and regional) parliaments face other obstacles to a genuine subsidiarity check, such as: the short time

¹⁶⁶ L. Tilindyte, Subsidiarity: Mechanisms for monitoring compliance, [In-depth analysis](#), European Parliamentary Research Service, European Parliament July 2018.

¹⁶⁷ *ibid.*, p. 13.

¹⁶⁸ *ibid.*, p. 13.

¹⁶⁹ *ibid.*, p. 16.

¹⁷⁰ *ibid.*, p. 16.

¹⁷¹ See in particular CoFoE measure 40(4).

available for scrutiny, the impact of reasoned opinions that is perceived as low, difficulties in achieving the necessary thresholds to activate the 'yellow card' or 'orange card', insufficient staff, the limits of collective action necessitating networking and coordination activities, or the limited scope of the early warning mechanism (restricted exclusively to subsidiarity). Research also points to the comparative attractiveness of the less formalised 'political dialogue', which does not depend on strict deadlines and is not limited to subsidiarity concerns. In some cases, parliaments are not interested in using a tool 'primarily perceived as being designed to block proposals rather than shape them'.¹⁷² The paper refers to criticism in research concluding that the subsidiarity-focused early warning mechanism 'does not do justice to national parliaments as political institutions and is, therefore, ill-suited to full-blown policy deliberation, which provokes polarisation, politicisation and, ultimately, democratisation'.¹⁷³

Against this backdrop, the EPRS paper summarises a few ideas – suggested by both political actors and scholars – aimed at reforming the early warning mechanism. These include proposals for a better (common) understanding of the subsidiarity principle; extending the scrutiny deadline; lowering thresholds to trigger a 'yellow card' or 'orange card'; granting national parliaments the right to effectively veto proposals (i.e. a 'red card' procedure); and granting national parliaments the right to propose a legislative initiative to the EU level; (i.e. a 'green card' procedure). The paper specifically notes that some of the above proposals may be 'better placed' than others to contribute to better subsidiarity monitoring. For example, the extension of the scrutiny deadline can be reasonably expected to deliver a better quality subsidiarity check. However, it is not certain whether the lowering of the thresholds for triggering a 'yellow card', or 'orange card', or the introduction of a 'red card', would be beneficial. In particular, 'while lower thresholds or a "red card" may be expected to encourage parliaments to participate in the system by increasing the potential impact of their reasoned opinions, this does not automatically lead to better subsidiarity scrutiny'.¹⁷⁴ In the absence of a common understanding on what subsidiarity effectively is, the lowering of the thresholds may even turn out to be problematic. It is acknowledged nevertheless that the lowering of the thresholds could 'foster other, equally important aims of the early warning mechanism such as increasing parliamentary involvement in general'.¹⁷⁵

It is further noted that national parliaments' willingness to shape EU policy-making would be nurtured more effectively by the introduction of a 'green card' procedure (which would give parliaments an indirect right to propose initiatives to the EU level), as opposed to lowering the threshold or the introduction of a 'red card', which would allow parliaments to block EU-level initiatives, which is nevertheless different to shaping EU policy-making. The paper warns that a 'green card' option would have little to do with subsidiarity checks but could motivate parliamentary involvement in general and would put national parliaments on an equal footing with the European Parliament, Council and one million EU citizens (under the European Citizens' Initiative) that already possess an 'indirect' right of initiative.

The role of national parliaments in the European Semester for economic policy coordination (April 2018), Economic Governance Unit, European Parliament, In-depth analysis

The briefing presents the findings of a survey assessing the degree of involvement of national parliaments in the European Semester for economic policy coordination and surveillance.¹⁷⁶ The survey, which collected feedback from national parliaments' staff in charge of the European

¹⁷² *ibid.*, p. 16.

¹⁷³ *ibid.*, p. 16.

¹⁷⁴ *ibid.*, p.17.

¹⁷⁵ *ibid.*, p.17.

¹⁷⁶ K. Hagelstam, W. Lehofer and M. Ciucci, The Role of national parliaments in the European Semester for economic policy coordination, [In depth analysis](#), Economic Governance Unit, European Parliament, April 2018.

Semester, was run by the Economic Governance Unit within the European Parliament Directorate-General for Internal Policies of the Union (DG IPOL) between 30 January and 8 February 2018. The survey received input from all Member States (EU-28 in 2018) and refers to European Semester developments pertinent as of 2018.¹⁷⁷

Scrutiny of the European Defence Fund by the European Parliament and national parliaments (April 2019), Policy Department study

The study notes that national parliaments show different degrees of interest in the European Defence Fund (EDF).¹⁷⁸ Only some parliaments have organised in-depth discussions. It is unclear, in some cases, to what degree the parliaments have connected the policy developments at EU level with defence capability strategies at national level. The study notes further that 'the degree to which national parliaments have scrutinised the EDF relates to their national defence industrial interests'.¹⁷⁹ Consequently, EU Member States with sizeable defence industries spent much more time and energy scrutinising the EDF. Member States with particular defence characteristics (such as non-alignment, neutrality, benefiting from various CSDP 'opt-outs') have also scrutinised the EDF to ensure compliance with national norms and objectives. The study warns that 'clearly, some of the main attributes of those parliaments that managed to conduct in-depth scrutiny are larger skills bases and financial resources'.¹⁸⁰ Some parliaments used a mixed scrutiny toolbox, including the commissioning of studies or expert hearings.

Based on the literature reviewed, the study argues that in-house expertise in the parliamentary committees does not necessarily enhance national parliaments' scrutiny powers. 'In fact, [...] it is not at all clear whether national parliaments are interested in monitoring scrutiny or political scrutiny (or some measure of the two)'.¹⁸¹ Moreover, the quality of parliamentary debates in some national parliaments is superficial and in some countries there does not appear to be a well-defined division of competencies between the legislative (parliaments) and the executive (government ministries). The vast majority of national parliaments appears to prioritise national interests (such as strict adherence to constitutional principles or promoting industrial interests of, for example, SMEs), rather than EU interests. Discussions of the parliaments of two or more EU Member States on joint capability development EDF projects are scarce. The study concludes that, 'in some cases, national prerogatives may not automatically blend with EU objectives'.¹⁸²

The study observes that the European Parliament and national parliaments employ different scrutiny methods and defend a variety of interests. This undermines the coherence of interparliamentary cooperation. When it comes to CSDP-related matters, the European Parliament operates in a more 'information rich environment' than national parliaments. However, 'this should not imply that national parliamentarians cannot uncover the necessary information if they so desired'.¹⁸³ Therefore, while more intense exchanges of information between the EU institutions and national parliaments are justifiable, this does not seem to be the main obstacle to enhanced interparliamentary scrutiny of the EDF. Instead, the functioning of the COSAC and IPC CFSP need to

¹⁷⁷ See further details on national parliaments and economic governance in V. Kreiling, National parliaments in Europe's post-crisis economic governance, [doctoral thesis](#) submitted to the Hertie School of Governance, Germany, 2019.

¹⁷⁸ The Scrutiny of the European Defence Fund by the European Parliament and national parliaments, [Study](#), Directorate General for External Policies of the Union, European Parliament, April 2019 (commissioned for the European Parliament's Committee on Security and Defence).

¹⁷⁹ *ibid.*, p. 32.

¹⁸⁰ *ibid.*, p. 32.

¹⁸¹ *ibid.*, p. 32.

¹⁸² *ibid.*, p. 32.

¹⁸³ *ibid.*, p. 33.

be improved because, 'if national parliaments are largely interested in advancing national interests, then a much broader and more consistent strategic conversation with the European Parliament is required'.¹⁸⁴ The study warns that without such improvements, the focus on meeting shared EU objectives on defence research and capability development through the EDF 'might not be understood by all parliaments and parliamentarians'.¹⁸⁵

Against the above background, the study addresses a few recommendations to the European and national parliaments. It finds necessary, among other things, that the European Parliament and national parliaments engage in a more strategic understanding of the Fund, and especially how it relates to initiatives such as Permanent Structured Cooperation (PESCO) and national priorities in the field of defence. Information asymmetries on the EDF need to be reduced. In addition, the European and national parliaments 'might reflect in more detail on defence capability prioritisation at the EU level'.¹⁸⁶ Next to the useful formal exchanges between parliamentarians already offered by the COSAC and IPC CFSP, both fora need to be made fit to scrutinise the EDF or reach interparliamentary consensus on defence research and defence capability prioritisation in the EU.

Europeanising European Public Spheres (June 2020), Policy Department Study

The study gives an overview of the academic debates on Europeanisation, as well as contestation and politicisation of European integration and the EU.¹⁸⁷ It focuses on the European public sphere(s), in particular those based on parliaments and media. Reform proposals aiming to Europeanise the European Parliament elections are discussed and recommendations are made on how European Union legitimacy could be increased.

The study recommends that the EU needs 'to take the legitimising potential of national parliaments and interparliamentary cooperation and communication more seriously'.¹⁸⁸ National parliaments' increasing focus on the Commission work programme (CWP) is assessed as an 'interesting development'. In particular, national parliaments use the CWP as a means to plan their scrutiny activities in a more strategic way.¹⁸⁹ Next to using the CWP for establishing a stronger link between their domestic scrutiny activities, national parliaments are encouraged to use the Commission's agenda as an instrument fostering interparliamentary discussions on EU initiatives. In this context, the study refers to the European Parliament's proposal for the introduction of an annual 'European Week' that would take place simultaneously in all national parliaments with debates on the European agenda between Commissioners, MEPs, MPs and civil society representatives.¹⁹⁰ Holding simultaneous broad discussions on the CWP could 'support the emergence of connected interparliamentary public spheres'.¹⁹¹ In addition, an annual 'European Week' could attract 'considerable' media coverage.

The study recommends a formal institutionalisation of the 'green card' concept, which would allow national parliaments to propose new EU legislation or non-legislative initiatives, or amendments to legislation in force. The study underlines that, while the idea was backed by the European

¹⁸⁴ *ibid.*, p. 33.

¹⁸⁵ *ibid.*, p. 33.

¹⁸⁶ *ibid.*, p. 33.

¹⁸⁷ Europeanising European Public Spheres, [Study](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, June 2020 (commissioned for the European Parliament's Committee on Constitutional Affairs).

¹⁸⁸ *ibid.*, p. 119.

¹⁸⁹ The study underlines that the annual CWP is also discussed by the COSAC, especially during the meeting of COSAC's Chairpersons at the beginning of the year, and thus serves to identify the focus of COSAC's activity for the coming year.

¹⁹⁰ See European Parliament [resolution](#) of 19 April 2018 on the implementation of the Treaty provisions concerning national parliaments in sub-section 3.1 above.

¹⁹¹ *ibid.*, p. 120.

Parliament and the Commission is open to the idea, which is indeed not new, 'the momentum behind the introduction of the 'green card' seems to have slowed down'.¹⁹² A possible reason could be that a number of 'green cards' informally raised by national parliaments turned out to be unsuccessful. The study is convinced however that, if 'properly institutionalised, a 'green card' system could provide national parliaments with an opportunity to engage collectively in a more active and constructive interparliamentary deliberation on EU responsibilities than currently provided by the early warning mechanism, which is mainly a limited defence mechanism'.¹⁹³

European Parliament's right of initiative (July 2020), Policy Department study

The study promotes the idea of 'inter-institutional co-sponsorship' for legislative initiative reinforcing the 'legitimate requests for legislative action' of the consultative bodies that are the European Economic and Social Committee (EESC) and the European Committee of the Regions (CoR).¹⁹⁴ Building on Article 304 TFEU (for the EESC) and 307 TFEU (for the CoR), a revised Framework Agreement (FA) on relations between the European Parliament and the European Commission¹⁹⁵ could establish a procedure whereby the Parliament would pay due attention to legislative requests issued by the consultative bodies and consider their transposition into an Article 225 TFEU request'.¹⁹⁶ 'In such a case of legislative sponsorship and tri-institutional requests, the FA could provide for a de-facto obligation for the Commission to forward a legislative proposal'.¹⁹⁷

The study therefore suggests that the idea of interinstitutional co-sponsorship for legislative initiative could also be applied to cooperation between the European Parliament and national parliaments. In particular, the European Parliament could provide for a mechanism to include national parliaments in its legislative initiative within the framework of Article 9 of Protocol 1 to the Treaties. According to the study, the provision leaves it to the European and national parliaments' discretion to determine the organisation and promotion of their effective and regular cooperation within the EU. Since the provision does not preclude any options, it could be assumed that joint development of legislative proposals, which the European Parliament would later submit to the European Commission, would not require treaty change. Such an interparliamentary 'green card' procedure could be formalised through an amendment of COSAC's Rules of Procedure, or an interparliamentary memorandum of understanding.¹⁹⁸

National parliaments of the EU Member States and EU affairs, a series of EPRS briefings

This series, prepared by the Linking the Levels (LINK) Unit within EPRS, analyses how national parliaments process, scrutinise and engage with EU affairs. Published since 2020, in relation to the rotating Council Presidencies,¹⁹⁹ this EPRS series examines the parliamentary dimension of EU

¹⁹² *ibid.*, p. 120.

¹⁹³ *ibid.*, p. 120.

¹⁹⁴ The European Parliament's right of initiative, [Study](#), Department for Citizens' Rights and Constitutional Affairs, European Parliament, July 2020 (commissioned for the European Parliament's Committee on Constitutional Affairs).

¹⁹⁵ [Framework Agreement on relations between the European Parliament and the European Commission](#), OJ L 304, 20.11.2010, p. 47-62.

¹⁹⁶ [Article 225 TFEU](#) stipulates that 'The European Parliament may, acting by a majority of its component Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Treaties. If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons'.

¹⁹⁷ *ibid.*, p. 94.

¹⁹⁸ *ibid.*, p. 94.

¹⁹⁹ On: the [Swedish Parliament and EU affairs](#) (2022), [Czech Parliament and EU affairs](#) (2022), [French Parliament and EU affairs](#) (2022), [Slovenian Parliament and EU affairs](#) (2021), [Portuguese Parliament and EU affairs](#) (2021) and [German Parliament and EU affairs](#) (2020). See the full reference details in Section 9 'References'. The briefing on the Spanish parliament and EU affairs was postponed due to the Spanish electoral context.

presidencies and its growing importance in opening new channels of interaction and information sharing.

More specifically, the briefings introduce the relevant parliamentary system, national parliament's bodies in charge of EU affairs, and its engagement with the EU. Furthermore, the briefings provide information on how national parliaments scrutinise EU affairs (including in terms of subsidiarity), on how they implement EU legislation (for example, by transposing EU law in national law) and on national parliaments' publications on EU policy. So far six briefings in this EPRS series have been published.

Linking the levels of governance in the EU (July 2020), EPRS briefing

This paper reflects on the lessons to be learned from the response to COVID-19 at each level of governance in the EU, among other things. In this context, the paper notes that national parliaments and their scrutiny role were 'particularly challenged' by national executives.²⁰⁰ The economic and financial crisis, followed by the migration crisis, have already shown the need for more direct EU intervention through executive capacities, especially in crises. The coronavirus crisis further underlined this evolution, which aims to close capacity gaps, ensure actions are implemented, as well as to fulfil citizens' expectations. Complementary executive capacity requires the European Parliament and national parliaments to play a strong role in ensuring that the EU can deliver, as well as bringing the necessary democratic legitimation to the measures. This transformation implies a strong dialogue and cooperation between parliaments, both political and administrative. Besides the political relations, which should continue to be reinforced, partnerships at administrative level would greatly benefit from multiple active communication channels and further systematic exchanges.²⁰¹

The briefing further notes that more attention should be paid to the work on and with national parliaments, in the interest of the EU's democratic accountability. In this context, the EPRS and the Economic Governance Unit²⁰² have supported this process by organising virtual meetings with national parliaments' research services and administrations, with the aim of sharing experiences and best practice during the pandemic crisis. As mentioned above, as part of this process, the EPRS Linking the Levels Unit launched the series of publications dedicated to national parliaments' engagement with EU legislation in 2020.

The Parliaments of Europe: full part actors or powerless spectators? (September 2021), Policy Department study

The study notes that the Lisbon revision of the Treaties has, for the first time, acknowledged parliaments as 'multi-arena actors' playing a fundamental role at both national and supranational level.²⁰³ The Lisbon Treaty is assessed as a trigger of further Europeanisation of national parliaments. Other positive effects of the Lisbon Treaty are the upgrading of national parliaments' resources and the adaptation of their procedures and engagement in EU affairs.

Next to the positive institutional developments introduced by the Lisbon Treaty, the EU and its Member States have faced a decade of crises and challenges that have left their marks on interinstitutional relations and decision-making. The effects of the economic and financial crisis had 'tremendous consequences' for the EU institutional framework and decision making. This crisis has

²⁰⁰ K. Žumer and Y-S. Rittelmeyer, Linking the levels of governance in the EU, [Briefing](#), European Parliamentary Research Service, European Parliament, July 2020.

²⁰¹ *ibid.*, p. 6.

²⁰² The Economic Governance Unit is part of the Directorate General for Internal Policies of the European Parliament.

²⁰³ The Parliaments of Europe: full part actors or powerless spectators? A state of play 2010-2020, [Study](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, September 2021 (commissioned for the European Parliament's Committee on Constitutional Affairs).

accelerated certain trends such as 'the empowerment of the executive, particularly the European Council, and the recourse to alternative procedures and non-legislative decisions'.²⁰⁴ The process of adaptation of national parliaments' scrutiny procedures needed to ensure monitoring of the ordinary legislative procedure with the tools provided by the Lisbon revision of the Treaties was affected by 'a boost of intergovernmentalism', thanks to the crises. Although there has not been any massive transfer of competences as such, the supranational surveillance of national budgetary and economic policies has limited national governments and undermined parliamentary scrutiny. As a result, the 'EU democratic deficit' narrative returned, as did Eurosceptic waves in several Member States.

On the basis of existing literature and official documents, the study analyses how the involvement of national parliaments in EU affairs has evolved from 2010 to 2020. The focus and recommendations are provided on:

National parliaments' role in scrutinising national governments' activities in the European Council and the Council of the EU

As explained, over the last ten years (2010-2020), the European Council has become a central institution in the EU institutional set-up and takes part in 'most politically salient decisions'. However, the Heads of State or Governments are not subject to EU-wide control. Furthermore, the European Parliament is still not empowered to 'prevent, veto, modify or assess intergovernmental decisions', and the national parliaments control only their own national executive, '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'.²⁰⁵ Furthermore, national parliaments are focused on the strict national interest and are reluctant to take part in exchanges between their government and the Commission when economic and budgetary decisions are discussed. In this context, the study recommends that the national parliaments need to be more involved, in particular when their budgetary powers are concerned. To do so, the level of information and transparency on EU policy-making could be improved as follows:

²⁰⁴ *ibid*, p. 7.

²⁰⁵ *ibid*, p. 62.

- national parliaments could be better involved in the preparation of both European Council meetings and the pre-submission phase of the stability and reform national programmes. Furthermore, the EU affairs committees of national parliaments should be kept regularly informed about the latest developments during the last week before the European Council meeting. The chair of these committees could be invited to the preparatory meetings or be part of the national delegation attending the European Council meeting;
- to improve parliamentary scrutiny of the European Semester, the study recommends a better alignment of the strategic agendas of the national parliaments and the European Parliament. In particular, 'instead of a peaceful co-existence',²⁰⁶ the European Parliament and the parliaments of the EU Member States could deepen their cooperation on economic issues, by, for example, involving national parliaments in the economic dialogue that the European Parliament has with EU economic executives. A better cooperation between the national and European parliaments could foster the emergence of transnational coalitions on macroeconomic policy, rather than a division between the national and European arenas.

Relations between national parliaments and the Commission

The study recommends certain improvements to the early warning mechanism aimed at ensuring more flexibility for national parliaments when exercising their subsidiarity scrutiny role:

- the possibility for a 'green card' would give national parliaments the opportunity to express positive ideas and propose legislation to the Commission, as compared to the current system where they are only 'the watchdogs of subsidiarity'. The 'green card' would allow national parliaments to submit constructive proposals to the Commission, thus positively influencing the Commission's power of initiative and ultimately the European debate;
- the current deadline of eight weeks is 'very short' for national parliaments to analyse the draft Commission legislative proposal, send their reasoned opinion and coordinate with other national parliaments to trigger the procedure. The study notes that the European Parliament has already acknowledged this issue. Excluding holidays, changing the way the eight weeks are calculated, or a more formal extension of the deadline are some possible ways to introduce flexibility, thus allowing national parliaments to play their part in important issues;
- the long EU legislative procedures make it difficult for national parliaments to follow developments closely. Furthermore, the initial Commission legislative proposals are usually amended by the EU co-legislator (European Parliament and Council of the EU). National parliaments should therefore be more closely involved (individually or collectively) in the later phases of the legislative process by, for example, the use of a 'late card' allowing them to express their opinions on the legislative proposal as agreed by the co-legislator and before it is adopted. Another possibility is to allow national parliaments to intervene at any moment in the decision-making process and raise their concerns regarding subsidiarity. As compared to the current system, national parliaments would be encouraged to monitor the process in its entirety and 'hold their government more accountable on the negotiations at the European level'.²⁰⁷

²⁰⁶ According to the study, until 2022, there was 'more a division of tasks'. In particular, the European Parliament has focused on the 'February' meeting of the Conference on Stability, Economic Coordination and Governance and national parliaments using this IPC as 'a way to collect information that they can then use in their national scrutiny' (ibid, p. 62).

²⁰⁷ ibid, p. 27.

Interparliamentary cooperation at the EU level

The study notes that the interparliamentary cooperation has encouraged better relations between the European Parliament and national parliaments, as well as fostering more interest and better involvement in EU affairs among national Members of Parliament. Furthermore, each of the existing fora for interparliamentary cooperation has advantages and faces challenges. In this context, the study makes the following recommendations, which concern most of these fora:

- A committee-based approach to interparliamentary cooperation would have 'several positive aspects'. In particular, '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 socialisation and networking among MPs and MEPs'.²⁰⁸ In this set-up, the debates would be more focused on specific issues related to a particular committee, and would be based on concrete problems or salient issues or specific documents to be monitored and debated. 'This approach is more likely to trigger a more consistent interest from MPs to engage in EU affairs'.²⁰⁹
- Interparliamentary cooperation meetings could be politicised by involving political parties more closely.²¹⁰ In particular, in a meeting room, MEPs and MPs could be seated according to their political families, instead of by national (or European) delegations. The political families could organise preparatory meetings, thus enhancing the link between national parties and European political parties.²¹¹ Opposition parties should be encouraged to participate more actively during interparliamentary cooperation fora and national delegations should be treated as representatives of the diversity of political opinions of a given parliament rather than as unitary actors. The proceedings of the events could also 'reflect this diversity of opinions instead of emphasising 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 EU democracy not to take into account their viewpoint in interparliamentary cooperation as well as in EU affairs more generally'.²¹² The study further suggests that 'parliamentary minorities could be guaranteed certain rights, such as issuing an initiative for a "green card" or an official opinion to the Commission'.²¹³

²⁰⁸ *ibid*, p. 63.

²⁰⁹ The study notes that, next to institutional capacities, it is MPs' motivation that is instrumental for the success of interparliamentary cooperation. (p. 63).

²¹⁰ According to the study, 'a greater involvement of MPs and MEPs along political rather than national lines would politicise more interparliamentary cooperation and could trigger more public and political interest as well as transnational alliances and patterns of contestation instead of national or interinstitutional ones' (p. 64).

²¹¹ The study notes that 'some political groups in the European Parliament are already promoting cooperation with the national parliaments but others much less', p. 63.

²¹² *ibid*, p. 64.

²¹³ *ibid*, p. 64.

Controlling Subsidiarity in Today's EU: the Role of the European Parliament and the National Parliaments (April 2022), Policy Department study

The study examines how the early warning mechanism has worked over 12 years (since the entry into force of the Lisbon Treaty until 2021).²¹⁴ It also looks into the interaction between the European Commission, local and regional entities, the Committee of the Regions and the Court of Justice of the EU and national parliaments to this end.

The study argues that the early warning mechanism has not been intensively used, 'nor has it been unduly used to block legislation as some may have feared when it was first introduced in the Lisbon Treaty'.²¹⁵ National parliaments have rather used it to channel their view that a subsidiarity breach has occurred. The more 'open' political dialogue resulting is seen by Member States' parliaments as a more effective instrument ensuring participation in EU affairs and to engage with the European Commission and the European Parliament. In this context, that only three 'yellow cards' were raised may not automatically be assessed as a failure of the early warning mechanism. The study argues that 'the opposite is the case', which however does not mean that the early warning mechanism (or the political dialogue) are 'flawless' and 'may not or should not be improved'.²¹⁶ Several initiatives from the various actors involved in these procedures,²¹⁷ show that improvements are indeed necessary to guarantee that both the early warning mechanism and the political dialogue 'remain efficient and attractive, and that national parliaments as well as local and regional entities contribute to ensuring that the EU's multilevel governance works in the best manner possible'.²¹⁸

The study further notes that the European Parliament has devoted increased attention to national parliaments' reasoned opinions and contributions since December 2009. The Commission's activities in the field are assessed as 'increasingly committed' to guaranteeing the respect of the subsidiarity principle and 'to engag[ing] in a dialogue with national and regional parliaments'.²¹⁹

Since the entry into force of the Lisbon Treaty, neither the European Committee of the Regions nor national parliaments have used their right to launch an action for annulment before the Court of Justice of the EU on the ground of a breach of the principle of subsidiarity. The latter and the very low number of 'yellow cards' raised are a sign that 'there has not been any subsidiarity issue'.²²⁰ Against this backdrop, a reform of the early warning mechanism limited to a lower threshold or an extended deadline for submission of the reasoned opinions under Protocol 2 to the Treaties is unlikely to have a significant impact on the process. Therefore, other reforms should be given preference:

- Flexibility in the application of the current early warning mechanism thresholds, especially as regards the eight-week deadline;
- The Commission should provide individual detailed answers to all the reasoned opinions it receives; furthermore, along with the EU co-legislators (Parliament and Council), the Commission should outline the impact of the submitted reasoned opinions (and contributions) on the relevant legislative proposal;

²¹⁴ Controlling Subsidiarity in Today's EU: the Role of the European Parliament and the National Parliaments, [Study](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, April 2022 (commissioned for the European Parliament's Committee on Legal Affairs).

²¹⁵ *ibid.*, p. 38.

²¹⁶ *ibid.*, p. 38.

²¹⁷ Such as the Task Force on subsidiarity, proportionality and 'doing less more efficiently' and the dedicated COSAC working group on the role of national parliaments set up in early 2022. See details on the latter in Section 5.

²¹⁸ *ibid.*, p. 38.

²¹⁹ *ibid.*, p. 38.

²²⁰ *ibid.*, p. 38.

- The establishment of a possibility for a 'green card' – operating with achievable thresholds, but not so low as to trigger numerous 'green cards' – may lead to a 'more positive and proactive role' for national parliaments in the process. Notwithstanding, the Commission should take into account all the input it receives as a source of potential ideas to take on board for its policy agenda, regardless of how many chambers are in support;
- EU Member States' parliaments should always provide an English translation of their contributions submitted in the framework of the political dialogue;
- National parliaments' involvement should take place at an earlier stage, for example, by taking part in the consultation activities run in the context of a proposal;
- National parliaments have also a role to play in Commission's REFIT initiatives because they are the best placed to signal shortcomings and needs;²²¹
- National parliaments' role as bodies of democratic representation needs to be acknowledged and they should be given an 'enhanced status' in the Better Regulation agenda;
- IPEX should be used as the only platform for interparliamentary exchange and serve as a single 'subsidiarity hub', collecting reasoned opinions and contributions from national parliaments, European Committee of the Regions opinions, Commission answers, European Parliament resolutions, etc.; however, the IPEX needs some improvements, e.g. notifications could be set up for regional parliaments where a certain number of parliaments/chambers²²² indicate that they are scrutinising a proposal; furthermore, the links between IPEX and REGPEX platforms need to be improved.²²³

²²¹ The [REFIT programme](#) is part of the Commission's better regulation agenda. Under this programme, the Commission ensures that EU laws deliver their intended benefits for individuals and businesses, while simplifying existing EU laws and cutting red tape, whenever possible. The programme aims to make EU laws simpler, more targeted and easier to comply with.

²²² The author suggests, for example, four parliaments/chambers.

²²³ [REGPEX](#) is designed to support the participation of EU regions with the legislative powers in the early phase of the EU legislative procedure, the Early Warning System. Furthermore, it is meant as a source of information and exchange between regional parliaments and governments in the preparation of their subsidiarity analyses. REGPEX provides an easy access to EU institutions' and national parliaments' information sources on EU legislative proposals.

4. The Council of the EU and national parliaments

The Council is one of the EU institutions that, according to the provisions of the Treaty and the Protocols, can be active in their relations with national parliaments – the Council can participate actively in the early warning mechanism procedure. On the one hand, the Council can receive submissions, whether reasoned opinions or other submissions from national parliaments. On the other hand, as one of the co-legislators, the Council has a say in 'orange' card procedures when the co-legislators can decide that a draft EU legislative proposal is not compatible with the principle of subsidiarity and that the proposal will not be given further consideration.²²⁴

In comparison with the European Parliament or the European Commission, the Council does not produce any report assessing its relations with national parliaments. The website of the Council and the database of its documents provide only scant information with regard to national parliaments or the Council's relation with the parliaments.²²⁵ Although the Council's database provides several results when seeking reasoned opinions provided by national parliaments, the Council does not provide an annual overview of submissions received from national parliaments.

Nonetheless, in its annual reports, the European Commission notes that the Council also receives submissions from national parliaments. However, the number of these submissions differs from that of submissions delivered to the Commission or the European Parliament. The Commission's annual reports give the number of reasoned opinions and opinions that were distributed by the Council secretariat to delegations.

Despite the incompleteness of the data, a decrease in the submissions by national parliaments to the Council in 2015 and a subsequent growth in 2016 can be observed here. However, in 2017, 2018 and 2019, there was a notable reduction (as compared to 2016) in the number of the submitted reasoned opinions (received within the framework of Protocol No 2) and opinions (submitted in the framework of the political dialogue). Since 2020, the numbers have started to rise again, but without yet reaching the levels of 2016, which is the year with the highest number of submissions to the Council, according to the Commission annual reports.

Neither the website of the Council, nor the other available documents (such as the Commission's annual reports) give details on the interaction between the Council and national parliaments. Despite this, it is difficult to imagine that the representatives of the Council have no contact at all with national parliaments.

²²⁴ See sub-section 1.2 above.

²²⁵ [Council of the EU - documents and publications](#)

Table 211 – Number of national parliaments' reasoned opinions and opinions distributed by the Council Secretariat to delegations (2013-2021)

	2021	2020	2019	2018	2017	2016	2015	2014	2013
Reasoned Opinion	16	9	0	36	38	69	9	250(?) ²²⁶	'high number of opinions and reasoned opinions' ²²⁷
Opinion	165	99	26	200	220	280	86	250(?)	

Source: Commission annual reports (2013-2021)

It appears that the Council is less active with regards to national parliaments; or at least the Council publishes fewer materials on these particular relations than the Commission or Parliament. This status quo can, however, be questioned, as Council proceedings should be interesting for national parliaments and vice versa, since national parliaments should, according to their national constitutional provisions, scrutinise their national governments – represented in the Council.

²²⁶ Annual report 2014 on subsidiarity and proportionality, [COM\(2015\) 0315 final](#), European Commission, p. 7. The 2014 annual report does not distinguish between reasoned opinions and opinions.

²²⁷ Annual report 2013 on subsidiarity and proportionality, [COM\(2014\)0506 final](#), European Commission, p. 6. The annual reports prior to 2013 do not include this information.

5. Conference of Parliamentary Committees for Union Affairs

The Conference of Parliamentary Committees for Union Affairs (COSAC) is the only interparliamentary forum recognised in the Treaties, namely in Article 10 of Protocol No 1. It brings together the national parliaments' EU affairs committees and the European Parliament in meetings held twice per year. During these meetings, the leading role in defining its work and direction is given to the national parliament of the Member State holding the Presidency in the Council. According to Article 10 of Protocol No 1, COSAC may submit any contribution it deems appropriate for the attention of the European Parliament, the Council of the EU, and the Commission. Furthermore, COSAC should encourage the exchange of information between national parliaments and the European Parliament, and may organise interparliamentary conferences on specific topics.

The COSAC meetings are topical and react to major political developments in the EU. During the meetings, the COSAC adopts biannual reports. These reports are published on its website.²²⁸ Generally speaking, the bi-annual reports provide an overview of the latest developments and of the national parliaments' interests and their position in the EU constitutional structure. The reports are prepared by the COSAC secretariat based on replies to a questionnaire submitted by parliaments/chambers (including the European Parliament) testing opinions on the topics on the agenda of each forthcoming COSAC meeting. The next paragraphs present the findings of some biannual COSAC reports which are relevant to the scope of this paper. In the last few years, the COSAC addressed the Conference on the Future Europe (CoFoE) on a regular basis. Findings of the relevant bi-annual reports are considered in Section 7 of this paper dedicated to the follow-up to the CoFoE.

The 25th biannual COSAC report for instance, discusses modes and experiences of national scrutiny of EU affairs and shows that national parliaments have an ambition to play an active role at the EU level.²²⁹ National parliaments also note various elements that are important when scrutinising their own governments concerning EU affairs, such as:

- holding the government to account regarding EU affairs;
- actively influencing the government's EU position;
- communicating with the public on EU affairs; and
- active exchange with other national parliaments.

The majority of national parliaments explain that formal contacts between members of parliament and MEPs take place through regular or ad hoc meetings.

The majority of responding national parliaments/chambers (21 out of 37) note that they do not appoint rapporteurs on EU-related dossiers.²³⁰ With regard to the 'green card' procedure, one third of responding national parliaments (12 out of 36) propose a threshold for introducing a green card of one third of the votes of national parliaments. Other national parliaments propose some other threshold (one quarter, one fifth, or 80 % of votes). According to 15 out of 34 replies, national parliaments initiating the 'green card' procedure should have discretion to fix the deadline to participate in this procedure. The 25th biannual report also touches upon the issue of trilogues. The majority of national parliaments (29 out of 34) consider that the exchange of information among

²²⁸ [COSAC website](#), IPEX Platform.

²²⁹ The [25th biannual report](#) presented to the COSAC meeting in the Hague on 12-14 June 2016.

It is based on a questionnaire taken by chambers/national parliaments. There were 39 replies to the questionnaire while three of Member States with a bicameral system provided a single set of answers.

²³⁰ Wherever a reference is made - in section 5 and sub-section 7.2.2 - to 'responding parliaments/chambers', this includes the European Parliament that also submits (via its relevant committee(s)) feedback in the context of each biannual COSAC report.

parliaments on trilogues is a useful tool that can improve scrutiny of EU affairs. The report also shows that national parliaments, for the purpose of gathering and exchanging information on EU related matters, very often use the network of their parliamentary representatives in Brussels (35 out of 39).

The 26th COSAC biannual report also discusses the relations between national parliaments and the European Commission (under President Juncker), among other issues. Here, the majority of national parliaments (27 out of 39) note and welcome an increase of visits by Commissioners to national parliaments.²³¹ With regard to the Commission's responses to the reasoned opinions issued by national parliaments, the national parliaments' replies also note that the Commission's responses improved somewhat (17 out of 39), although there still is room for improvement when communicating and exchanging information with the Commission (27 out of 39). For instance, the Commission should pay more attention to the concerns of national parliaments and give less general responses. Furthermore, the Commission should analyse reasoned opinions from all possible points of view.

The 27th COSAC biannual report notes that the scrutiny procedures and practices enabling national parliaments to control national governments vary according to the national context and to constitutional provisions in place.²³² The frequency of the scrutiny of governments' positions on EU proposals also varies. The vast majority of responses confirms (29 out of 36) that this frequency is not governed by any legal text. Only a small portion of national parliaments scrutinise their government's position throughout the whole EU legislative process. The majority of national parliaments' claims (22 out of 37) note that the scrutiny of the government's position is based on the importance and sensitivity of the EU legislative file.

National governments brief national parliaments before taking a position in the Council, in less than one half of cases only (17 out of 37). In 13 cases, the governments send explanatory memoranda outlining their position on all EU proposals and in 15 cases, the governments send explanatory memoranda outlining their position on selected EU proposals. Furthermore, the government needs a mandate from national parliament before taking a position in the Council in only 9 cases. In subsidiarity cases, less than half of the responding national parliaments always receives the government's position on the draft legislative act within the eight week deadline (17 out of 37). The majority of the remaining national parliaments receive this information upon request.

The evaluation of existing EU legislation with regard to the implementation of EU law in national parliaments is carried out in only a minority of cases (4 out of 37). However, over half of national parliaments (22 out of 36) engage in the scrutiny of government positions on Commission reports evaluating existing EU legislation.

As to the tools used by national parliaments to scrutinise their governments on the implementation of EU law, in the majority of national parliaments their members can raise an issue in the respective committee or raise an issue in debate in plenary. More than half of the responding national parliaments also consider that national parliaments should have a greater role in better monitoring implementation and transposition of EU law.

The 29th biannual COSAC report discussed, among other things, the Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently' established by the 'Juncker' Commission in 2018 (see Section 2).²³³ Nine (of 39) responding parliaments/chambers said that the process on the process established with Protocol No 2 of the Treaty is effective and efficient, while 14 (including the

²³¹ The [26th biannual report](#) presented to the COSAC meeting in Bratislava 13-15 November 2016. It is based on a questionnaire taken by chambers/national parliaments. There were 39 replies to the questionnaire while three of the Member States with bicameral system provided a single set of answers.

²³² [27th biannual report](#) presented to the COSAC meeting in Valletta on 28-30 May 2017.

²³³ [29th biannual report](#) presented to the COSAC meeting in Sofia on 17-19 June 2018.

European Parliament) disagreed, and 16 did not communicate an official opinion. Referring to the European Parliament's resolution of 17 May 2017 on the Annual Report 2014 on subsidiarity and proportionality, the JURI Committee considered that 'in a possible review of the Treaties, the process could be enhanced in order to be more effective'.²³⁴

The following shortages were identified:

- The deadline of eight weeks for national parliaments to scrutinise Commission's legislative proposals in terms of subsidiarity (highlighted by ten parliaments/chambers);
- The Commission seems to prefer a restricted definition of subsidiarity and subsequently put excessive focus on its legalistic aspects (highlighted by five parliaments/chambers);
- Reasoned opinions presented by national parliaments were deemed not to have a significant impact on the EU decision-making process (two parliaments); Some considered that the Commission 'did not take their arguments sufficiently into account, providing instead generic answers to their concerns' (three chambers), while three other parliaments/chambers considered that national parliaments were 'formally invited to participate in the legislative process only during its early stages, thus missing out on the bigger part of it'.²³⁵
- The thresholds required for the triggering of the 'yellow card' and 'orange cards' under Protocol No 2 to the Treaties are difficult to achieve (four parliaments/chambers).

The following improvements could be considered:

- Extension of the eight-week deadline (supported by eight parliaments/chambers), for example, to take into account recess periods or holidays (supported by nine parliaments/chambers, including the European Parliament). In particular, the JURI Committee considers that such an extension could be granted on the basis of justified objective reasons (e.g. natural disasters and recess periods), and this could be achieved through a political agreement between EU institutions and national Parliaments in the first instance. The AFCD committee of the European Parliament referred to Parliament's 2017 resolution on improving the functioning of the EU building on the potential of the Lisbon Treaty, which also called for a more flexible approach concerning the date of transmission of the draft legislative acts;²³⁶
- When the 'yellow card' and 'orange card' thresholds are met, the Commission should amend its initial proposal in accordance with the subsidiarity concerns raised by the national parliaments (supported by four parliaments/chambers); furthermore, the Commission should officially respond in a timely manner, possibly within the same deadline as the one given to national Parliaments (supported by six parliaments/chambers);
- The Commission should improve the quality of its responses to reasoned opinions with clear answers to the objections raised by parliaments/chambers (supported by ten parliaments/chambers, including by the AFCD Committee of the European Parliament);
- A more positive attitude from the Commission is needed (one chamber) and a strengthened dialogue between the national parliaments and the Commission (four parliaments/chambers). One parliament called for improved dialogue with the European Parliament and in particular with its rapporteurs;
- The option of a 'green card' should be further explored, as a possibility for national parliaments to claim a positive role in the European legislative process, as opposed to

²³⁴ European Parliament [resolution](#) of 17 May 2017 on the Annual Report 2014 on subsidiarity and proportionality

²³⁵ *ibid.*, p. 3.

²³⁶ See paragraph 48 and 49 of European Parliament [resolution](#) of 16 February 2017 on improving the functioning of the European Union building on the potential of the Lisbon Treaty as presented above.

(or in addition to) the negative function of the 'yellow' and 'orange' cards (supported by eight parliaments/chambers, including the JURI committee of the European Parliament);

- The principles of proportionality and legal base should be further examined as an integral part of the scrutiny process (six parliaments, including the European Parliament). In particular, for the JURI committee of the European Parliament, consideration could be given as to whether reasoned opinions should be limited to examining subsidiarity grounds only or whether they should also include proportionality assessments;
- The Commission should provide better impact assessments of its legislative proposals within the explanatory memoranda in order to truly justify them (five parliaments/chambers);
- A strengthened collaboration and exchange of information between national parliaments (supported by four parliaments/chambers). In the same vein, the AFCO Committee of the European Parliament called for increased cooperation among national parliaments themselves in order to fully explore the existing mechanisms that offer many possibilities;
- One chamber supported the introduction of a common format for reasoned opinions agreed upon by the national parliaments/chambers. Another suggested that a common understanding of the subsidiarity scrutiny is needed. Referring to the European parliament resolution of 17 May 2017 on the 2014 Annual Report on subsidiarity and proportionality, the JURI committee suggested that the Commission could, together with the national parliaments, evaluate the possibility of laying down non-binding guidelines to facilitate national parliaments' task in assessing compliance with the principles of subsidiarity and proportionality, without undermining their discretion;²³⁷
- One parliament called on Council's working groups to take a position on all reasoned opinions issued by the national parliaments, preferably based on a statement by the national government representing the parliament/chamber in question;
- One parliament suggested the introduction of a 'red card' procedure.

Six (out of 39) parliaments/chambers agreed and six others disagreed (including the European Parliament) that there are 'policy areas where, over time, decision-making and/or implementation could be re-delegated in whole or in part or definitively returned to the Member States'.²³⁸ The majority of the respondents (27) took no official position. Several responding parliaments/chambers commented further.²³⁹

Fourteen (out of 39) responding parliaments/chambers, including the European Parliament, would support a Treaty change giving national parliaments a more significant role in the EU legislative process. Four replied negatively and the rest (21 – a majority), had no official opinion. The AFCO committee referred to the European Parliament resolution of 16 February 2017 on possible evolution of and adjustment to the current institutional set-up of the European Union.²⁴⁰ In particular, the Parliament suggests complementing and enhancing the powers of national parliaments by introducing a 'green card' procedure whereby national parliaments could submit legislative proposals to the Council for its consideration.

²³⁷ European Parliament [resolution](#) of 17 May 2017 on the Annual Report 2014 on subsidiarity and proportionality

²³⁸ *ibid.*, p. 5.

²³⁹ See p. 5 of the 29th biannual COSAC report, as well as the exact feedback of each respondent to this [question](#).

²⁴⁰ See 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 as presented above.

One of the topics discussed by the **37th biannual report** presented to the COSAC meeting in Paris on 3-5 March 2022 is the role of national parliaments in EU affairs.²⁴¹ In particular, the report analyses and compares the best practices and tools available to parliaments/chambers in performing their role in EU affairs. Three main areas for analysis have been identified in this context: national parliaments' scrutiny of the EU policy of the national governments; national parliaments' role in the EU decision-making process and interparliamentary cooperation at the EU level.

The report notes that the three tools most often used by parliaments to control the EU policy activities of their governments are (in descending order of the responses cast): committee hearings of ministers, negotiating mandates-binding resolutions, and committee debates before European Council meetings.²⁴² New initiatives or laws aimed to improve or amend the scrutiny of the government's EU policy does not seem to be on the agenda of a significant majority of the responding parliaments/chambers (24 out of 35 respondents).

As regards national parliaments' role in the EU decision-making process and more specifically parliaments' subsidiarity scrutiny of Commission legislative proposals, the report notes that a majority of the responding parliaments/chambers state that such scrutiny has been carried out by: their committee on EU affairs alone, jointly by their committee on EU affairs and the committees specialised in the policy area of the proposal, and, in very few cases, only by the committees specialised in the policy area of the proposal.

From 2019 to 2021, several parliaments adopted an average of between one and five resolutions containing reasoned opinions on subsidiarity. These concern mainly the new Pact on Migration and Asylum, the 'Fit for 55' package and the proposal for a directive on minimum wages. Furthermore, only one chamber out of 35 parliaments/chambers (the German Bundestag) said that 'proposals had been made to bring an action for annulment on grounds of infringement of the principle of subsidiarity before the Court of Justice of the European Union'.²⁴³ To follow trilogues and EU legislative procedures for examining legislative proposals, parliaments/chambers report using hearings of ministers, MEPs, European commissioners and/or experts.

A significant majority (24 out of 35 responding parliaments/chambers) support the 'green card' concept allowing national parliaments to ask the Commission to come up with a legislative proposal. Regarding the involvement of their committees on EU affairs in the transposition of EU legislation into the national legal order, a slight majority (18 out of 34) of parliaments/chambers states that these committees are not involved.

Although the number and frequency of political opinions submitted to the Commission varies across parliaments/chambers, the political dialogue was identified as an important tool for national parliaments. The report notes that the vast majority of parliaments/chambers considered that the Commission mostly addressed the issues raised in the opinions they submitted in the political dialogue framework.

The majority of parliaments/chambers are generally satisfied with the development and outcomes of the existing interparliamentary conference. A clear majority of the responding parliaments/chambers would welcome the introduction of lively 'Q&A' sessions increasing the dynamic of the meetings and a majority the establishment of internal working groups within these interparliamentary fora. Some parliaments/chambers support the systematic adoption of common

²⁴¹ [37th biannual report](#) presented to the COSAC meeting in Paris on 3-5 March 2022.

The other two topics discussed by the 37th COSAC report are rule of law in the EU and, indeed, the CoFE.

²⁴² Other tools used by parliaments/chambers include non-binding resolutions, pre-European Council meeting plenary debates, post-European Council meeting committee debates, post-European Council meeting plenary debates, plenary hearings of ministers, etc. See p. 1.

²⁴³ *ibid.*, p. 6.

conclusions or contributions in these meetings. Very few (5 out of 34) parliaments/chambers support the seating of delegations in interparliamentary meetings by political group rather than by nationality. A vast majority of parliaments/chambers say the debates between MPs and debates with the Commissioners are the most important tools in terms of interparliamentary cooperation. Written questions to Commissioners are seen as less useful.

The vast majority (27 out of the 36) of parliaments/chambers did not take a position on the idea that a second chamber at European level composed of national parliaments should be set up. As far as the role of the European Parliament in this concept is concerned, the report mentions the opinion of the French Assemblée Nationale, which claims that 'the establishment of a second chamber would not improve the understanding of EU institutions and might weaken the position of the European Parliament'.²⁴⁴ In its answer to this question, the European Parliament notes that 'national parliaments already participate in the Union's political and legislative action by controlling their own government which sits in the other Union chamber, namely the Council'.²⁴⁵

The 38th biannual report presented to the COSAC meeting in Prague on 13-15 November 2022 discusses, among other things, the position of national parliaments/chambers on the proposals contained in the conclusions of the COSAC working group on the role of national parliaments in the EU.²⁴⁶

The report notes that more than half (19 out of 36) of the responding parliaments/chambers supported the establishment of a 'green card' mechanism, i.e. a 'collective right of indirect initiative'. The majority (22 out of 36) did not have an official opinion and less than a half (14 out of 36) replied positively as regards the organisation of ad hoc interparliamentary conferences before the presentation of the legislative proposal (or package) by the Commission.

Half (18 out of 36) of the responding parliaments/chambers supported the idea that the Commission should include a brief summary of the contributions of the national parliaments in the explanatory memorandum of its legislative proposals. As regards the suggested lowering of the threshold – from one third to one quarter of the votes of national parliaments – triggering the 'yellow card' mechanism, nine responding parliaments/chambers supported the idea, one opposed it and the overwhelming majority (26 out of 36) did not communicate an official opinion. As regards the suggested extension of the deadline – from eight to ten weeks – for national parliaments to raise subsidiarity concerns in a reasoned opinions, half (18 out of 36) of the responding parliaments/chambers supported this idea, one was against and the rest did not have an official opinion.

Half (18 out of 36) of the responding parliaments/chambers supported the promotion of a common culture among all EU institutions and Member States regarding the principles of subsidiarity and proportionality, while the rest did not have an official opinion. Furthermore, the majority (17 out of 34) favoured the idea that all the information on subsidiarity should be made available on the IPEX platform, including the feedback of the EU institutions. As regards trilogues, less than half (16 out of 36) of the responding parliaments were positive about giving the chair of national parliaments' EU affairs committees the right to access the provisional conclusions drawn up by the Presidency of the Council of the EU, and in particular to the 'four-column tables' (presenting the co-legislators' – European Parliament and Council of the EU – and the Commission's positions on the legislative proposal under discussion); while no parliament/chamber opposed this idea, the majority (20 out of 36) had no official opinion.

²⁴⁴ *ibid.*, p. 14.

²⁴⁵ *ibid.*, p. 14.

²⁴⁶ [38th COSAC report](#) presented to the COSAC meeting in Prague on 13-15 November 2022.

Only eight (out of 36) explicitly supported the idea of appointing shadow rapporteurs for the most important EU legislative proposals (tasked to follow the discussion of a file and ensure the political control of the minister concerned), while the rest had no official opinion. The report notes the same trend as regards the idea of granting MPs and COSAC the right to submit written questions to the EU institutions (14 in favour and 22 without opinion, out of 36 parliaments/chambers responding to this question).

Only a few (6 out of 36) responding parliaments/chambers considered it important to establish a COSAC working group next time they hold the presidency of the COSAC;²⁴⁷ three were not in favour and the rest (27 out of 36) had no official opinion. Nine (out of 35) responding parliaments/chambers supported the idea that the national Recovery and Resilience Plans should be addressed in the framework of the Next Generation EU/Recovery and Resilience Facility (NGEU/RRF) in the appropriate interparliamentary cooperation structures; the rest had no official opinion. The report notes the same trend in opinions regarding the idea of establishing a joint interparliamentary monitoring structure between the national parliaments and the European Parliament for the European Border and Coast Guard Agency – 9 out of 35 responding parliaments/chambers were in favour, three were against and the rest had no official opinion.

By and large, the two proposals of the working group, considered as most important by the majority of the responding parliaments/chambers were the establishments of a 'green card' mechanism (13 out of 32) and the extension of the deadline for national parliaments to raise subsidiarity concerns from eight to ten weeks (12 out of 32).²⁴⁸

The latest (at the time of writing) **39th biannual report** presented to the COSAC meeting in Stockholm on 14-16 May 2023 discusses, among other issues, the role of parliaments in dealing with the 'Fit for 55' package. All (but one) parliaments/chambers responding to the questionnaire for the 39th Bi-annual Report, confirmed to have scrutinised the 'Fit for 55' package via their standing committees in charge of environmental and climate matters.^{249 250} Scrutiny was performed via either a 'debate at committee level' or 'by scrutinising specific legislative proposals'. The responding parliaments/committees were absolutely divided (16 to 16) as to whether they would be involved in the development of a national strategy to achieve the binding national objectives envisaged in the proposal on a review of the regulation on binding annual greenhouse gas emission reductions (the 'Effort sharing' regulation).

The report also examines parliaments'/chambers' role in accelerated decision-making processes in response to crises such as the COVID-19 pandemic (travel restrictions, financial support, coordination of COVID-19 certificates, and coordination of vaccines), and Russia's invasion of Ukraine (sanctions, energy supply, and support in response to high electricity prices). Only four of the responding parliaments/chambers confirmed that they had debated or discussed the fact that

²⁴⁷ The idea for a working group stems from proposal 12 of the conclusions, which refers to 'increased participation of European Commissioners, MEPs or ministers of the presiding Member State in the work of national Parliaments or COSAC; invitation of national Parliaments to certain legislative hearings of the European Parliament and more regular dialogue between the rapporteurs of the European Parliament and the corresponding rapporteurs of national Parliaments'. See p. 25 of the 38th biannual report.

²⁴⁸ For details, see the list of proposals made by the working group and the preferences of the responding parliaments/chambers in the table on p. 26 of the 38th biannual report.

²⁴⁹ [39th biannual report](#) presented to the COSAC meeting in Stockholm on 14-16 May 2023.

The report notes that only in one case (the Belgian *Chambre des représentants/Kamer van volksvertegenwoordigers*) a temporary joint committee was set up to coordinate the handling of the various proposals and legislative files included in the 'Fit for 55' package.

²⁵⁰ The 39th bi-annual report also discusses best practices for information exchange between parliaments, including the use of IPEX.

Article 122 TFEU,²⁵¹ which allows for a rapid procedure for the adoption of legislation in specific cases, had been used on a number of occasions as a legal basis for adopting emergency measures. The European Parliament noted that two of its committees²⁵² had been unanimous in their view that this procedure 'circumvented the European Parliament in its role as co-legislator, excluding it from the decision-making process and thereby skewing the institutional balance as enshrined in the Treaties and putting into question the legitimacy and credibility of the emergency response actions'. Both committees pointed out that recourse to this Treaty provision was acceptable only in exceptional circumstances, while its use had become systemic. The European Parliament further noted that it opposed the repeated use of this chosen legal base when the conditions envisaged in the Treaties were not met. The two committees also underlined that alternatives in the form of the co-decision urgency procedure with proper parliamentary oversight or an accelerated ordinary legislative procedure would be more appropriate in the prevailing context.²⁵³

²⁵¹ [Consolidated version of the Treaty on the Functioning of the European Union, Part Three: Union policies and internal actions – Title VIII: Economic and monetary policy – Chapter 1: Economic policy – Article 122 \(ex-Article 100 TEC\)](#), Official Journal 115, 09/05/2008 P. 0098 - 0098

²⁵² The standing Committee on Budgets (BUDG) and the special (ad hoc) Committee on the COVID-19 pandemic: lessons learned and recommendations for the future (COVI).

See also the [study](#) 'The use of Article 122 TFEU – Institutional implications and impact on democratic accountability', Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, September 2023 (commissioned for the European Parliament's Committee on Constitutional Affairs).

²⁵³ *ibid.*, p. 15.

6. The Conference of Speakers of EU Parliaments

The Conference of Speakers of EU Parliaments (EUSC) is an annual event which brings together the speakers of Member States' parliaments and the President of the European Parliament. The Conference meets each spring. The host is the Member State that held the Presidency of the Council of the EU during the second semester of the previous year. The main purpose of the EUSC is to exchange views, information and experiences on topics related to the role of national parliaments. The conference adopts conclusions. Highlights of recent EUSC conclusions concerning national parliaments relevant to the current political context are presented below.

The conclusions of the March 2022 Conference (Brdo pri Kranju, Slovenia) concentrated on the role of parliaments in emergency politics and on the EU as the guarantor of stability, security and prosperity in the region and beyond.²⁵⁴ In the context of the former, the Speakers emphasised that parliaments are the fundamental representative institutions of citizens, and as such are an indispensable guarantor for the democratic governance of public affairs, both in normal and emergency situations. In the context of the COVID-19 pandemic and Russia's military aggression in Ukraine, the Speakers expressed their conviction that parliaments must draw the due lessons from the experiences of the past two years, strengthen their preparedness for similar future major challenges and 'work in all possible ways to prevent such emergency situations' (point 7). In the context of the latter, and in particular as regards the EU enlargement to Western Balkan countries, the Speakers welcomed the European Parliament and national parliaments' commitment to maintaining regular dialogue with the parliaments of Western Balkan countries 'as it also provides additional political support to the European enlargement process' (point 17).

The conclusions of the April 2023 Conference (Prague, Czechia) discussed the Russian aggression against Ukraine and the EU response in a broader geopolitical context, as well as the role of the EU in global democratic cooperation and the issue of EU Member States' dependence on totalitarian regimes.²⁵⁵ As regards the former topic, the Speakers of the parliaments of those countries who are members of both the EU and NATO reaffirmed their unequivocal support for NATO enlargement and welcomed the initiative of the Speaker of the Lithuanian Parliament to convene a meeting of the Speakers of the Parliaments of the NATO Member States in Vilnius in early June 2023 (point 13).²⁵⁶ As regards the latter topic, the Speakers emphasise the key role of national parliaments as the heart of democracy in the global cooperation of democracies and, in that regard, encouraged COSAC to propose an exchange of best practices. In the same vein, they welcomed the European Parliament's initiative in COSAC to jointly advance on the role of parliaments in a functioning democracy and to reflect on possible ways to strengthen modern parliamentarism, with a view to informing the EUSC in Madrid in April 2024 about the results (point 14).

²⁵⁴ [Conclusions of the Presidency](#), EUSC, Brdo pri Kranju, 28-29 March 2022.

²⁵⁵ [Conclusions of the Presidency](#), EUSC, Prague, 24-25 April 2023.

²⁵⁶ The [meeting](#) took place on 2 June 2023 in the Lithuanian Parliament (Seimas).

7. Follow-up to the Conference on the Future of Europe

7.1. The outcome of the Conference on the Future of Europe and its follow-up – background

The Conference on the Future of Europe (CoFoE) concluded its work on 9 May 2022 with a final report containing 49 proposals and 326 implementing measures,²⁵⁷ giving an overview of how citizens, civil society, and other institutions see the future of the EU.²⁵⁸ The proposals and measures concern the following nine policy areas: climate change and the environment; health; a stronger economy, social justice and jobs; the EU in the world; values and rights, rule of law, security; digital transformation; European democracy; migration; and education, culture, youth and sport.

The 'European democracy' policy area, which is of the highest relevance to this paper, features five proposals (36-40) made up of 35 implementing measures. While several proposals/measures offer a unique insight into the public's view of the state of European democracy and how the EU decision-making process could be made more transparent and inclusive for citizens, national parliaments are explicitly referred to in the following three measures:

- Measure 38(4)-(#21) Strengthening links between citizens and their elected representatives, taking national specificities into account and citizens' desire to be closer to them and have a feeling that their concerns lead to specific action by elected representatives in the European Parliament and **national parliaments**. This is a universal issue and people of all ages should be engaged;
- Measure 39(2)b-(#24) The EU decision-making process should be further developed so that national, regional, local representatives, social partners and organised civil society are more involved. Interparliamentary cooperation and dialogue should be strengthened. **National parliaments** should also be closer involved in the legislative procedure by the European Parliament, e.g. through participation in hearings. In addition, better subnational level and Committee of the Regions involvement helps to take better account of the experiences gained with the implementation of EU law; and
- Measure 40(2)-(#31) The EU should review the mechanism allowing **national parliaments** to assess whether new legislative proposals at the European level do not intrude on their legal competences and to be granted the possibility to suggest a legislative initiative to the European level. Such mechanisms should also be enlarged to all regional parliaments within the EU that have legislative power.

It should be noted however, that other measures also relate to national parliaments without explicitly mentioning them. For example, of direct relevance to subsidiarity scrutiny and national parliaments' role therein is the CoFoE measure:

- 40(4)-(#33) 'Systematic use of a subsidiarity definition commonly agreed by all EU institutions could help to clarify whether decisions have to be taken at European, national or regional level'.

²⁵⁷ Conference on the Future of Europe - [Report](#) on the Final Outcome', May 2022.

²⁵⁸ For details of the composition and working methods of the CoFoE, see S. Kotanidis, G. Sabbati, [Conference on the Future of Europe](#), January 2022.

At the end of November 2022, the EPRS published an estimate of the follow-up required by each of the suggested proposals/measures.²⁵⁹ The publication notes that around 92 % of the measures in almost all policy areas could be achieved by using legislative or non-legislative initiatives at EU level. This concerns especially the CoFoE measures suggested in policy areas such as migration, values and rights, rule of law and security, and climate change and environment, where more than half of the measures could be implemented within the current legislative framework. Following the EPRS assessment, a total of 24 measures across all policy areas would require Treaty change. Of these 24 measures, 9 are suggested as part of the 'European Democracy' policy area. The reason for this is that all these measures in European Democracy concern either the powers of the institutions, rules on the decision-making process, the institutional set-up, or the introduction of a mechanism for participatory democracy that does not yet exist in the EU system. The type of measures proposed are therefore 'constitutional' in nature'.²⁶⁰ As regards the measures above explicitly mentioning national parliaments, measures 38(4)-(#21) and 39(2)b-(#24) are assessed as requiring implementation of non-legislative initiatives at EU level, while measure 40(2)-(#31) is assessed as requiring a Treaty change. Measure 40(4)-(#33) on the systematic use of a subsidiarity definition would require a non-legislative initiative at EU level.

Ordinary revision procedure of the Treaties

The procedures for amendment of the Treaties are enshrined in Article 48 TEU. In particular, the Treaties could be amended by an 'ordinary revision procedure' (involving a Convention) laid down in Article 48 (2)-(5) or 'simplified revision procedures (not involving a Convention) laid down in Article 48(6)-(7); the 'passerelle clauses' fall under 'simplified revision procedures' (Article 48(7) TEU).

Article 48(2) provides that proposals for amendments to the Treaties – serving, *inter alia*, to either increase or to reduce the competences conferred on the Union in the Treaties – may be initiated by any Member State government, the European Parliament or the European Commission. These proposals must be submitted to the European Council by the Council of the EU, and national parliaments must be notified. According to Article 48(3), 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 to examine the proposals for amendments and adopt by consensus a recommendation to a conference of representatives of the governments of the Member States (Intergovernmental Conference (IGC)). Article 48(4) provides that an IGC shall be convened by the President of the Council of the EU to determine by common accord the amendments to be made to the Treaties. The amendments shall enter into force after being ratified by all EU Member States in accordance with their respective constitutional requirements, underlining the importance of national parliaments in the Treaty-change process.

According to Article 48(3) TEU, the European Council may also decide by a simple majority, after obtaining the consent of the European Parliament, not to convene a Convention, if amendments are not of great importance, in which case the European Council shall define the terms of reference for an IGC.

The CoFoE's final report was officially transmitted to the Presidents of the European Parliament, Council of the EU and the European Commission on 9 May 2022. Under their Joint Declaration of 10 March 2021, the three EU institutions committed to listen to Europeans and to follow up on the recommendations made by Conference, in full respect of their competences and the subsidiarity

²⁵⁹ S. Kotanidis, Conference on the Future of Europe: Overview of the final proposals, Briefing, European Parliamentary Research Service, November 2022. The assessment of follow-up required by each proposal/measure can be seen in the [Annex](#) to the briefing. The numbering of the measures used here follows the numbering provided by the latter.

²⁶⁰ *ibid.*, p. 4.

and proportionality principles enshrined in the Treaties.²⁶¹ At the time of writing, follow-up to the CoFoE continues. The three institutions debriefed citizens (those who took part in the CoFoE's work) on the actions taken by each of them during a feedback event on 2 December 2022 in the European Parliament's plenary chamber in Brussels.²⁶²

The next sub-sections of this paper present the activities of the three institutions aimed at following up on the Conference's outcome, and as much as possible, with a focus on measures referring to national parliaments. The perspectives of national parliaments (via the COSAC and the AFCO Interparliamentary meetings) are also examined.

7.2. Follow-up by the European Parliament and national parliaments

7.2.1. European Parliament

Plenary

The European Parliament confirmed its openness to deeper reforms, including changes to the Treaties, in three resolutions. The first resolution was adopted on 15 January 2020 and expressed European Parliament's position on the upcoming CoFoE.²⁶³ The Parliament welcomed the proposal for a Conference on the Future of Europe and expressed its belief that, ten years after the entry into force of the Lisbon Treaty, is an appropriate time to give EU citizens a renewed opportunity to have a robust debate on the future of Europe to shape a vision for living together in the EU (Point 1). The Parliament committed to a genuine follow-up to the Conference without delay, with legislative proposals initiating treaty change, or in other ways. It calls on the other two institutions – Commission and Council of the EU – to make the same commitment (Point 31).

The Parliament reiterated this openness immediately after the Conference adopted its final report. In particular, in a resolution of 4 May 2022 on the follow-up to the conclusions of the CoFoE, the Parliament welcomed the conclusions of the conference (Point 10) and reconfirmed its readiness to play its role and ensure proper follow-up to the CoFoE's outcome (Point 15).²⁶⁴ It therefore called a Convention to be convened by activating the procedure for the revision of the Treaties provided for in Article 48 TEU (Point 15). It also called on its AFCO committee to launch the necessary procedure (Point 15). The Parliament considered that the Conference has led to an innovative and successful participation of European citizens and has provided an additional opportunity for the European institutions, leading to a comprehensive dialogue between citizens, national parliaments, regional and local authorities, social partners and civil society organisations on the future of the Union (Point 3). In this context, the resolution highlighted the importance of the parliamentary dimension of the Conference process and expresses its wish to foster and strengthen the dialogue and cooperation between national parliaments and the European Parliament (Point 4).

²⁶¹ [Joint Declaration of the European Parliament, the Council and the European Commission on the Conference on the Future of Europe Engaging with citizens for democracy – Building a more resilient Europe](#), 10 March 2021, OJ C 911, 18.3.2021, p. 1-4.

²⁶² [Conference on the Future of Europe: citizens demand more from the EU](#), Press release, European Parliament, 2 December 2022.

²⁶³ European Parliament [resolution](#) of 15 January 2020 on the European Parliament's position on the Conference on the Future of Europe

²⁶⁴ European Parliament [resolution](#) of 4 May 2022 on the follow-up to the conclusions of the Conference on the Future of Europe

On 9 June 2022, the European Parliament adopted a resolution on the call for a Convention for the revision of the Treaties, activating the process to change the EU Treaties on Parliament's side.²⁶⁵ In particular, the Parliament called upon the Council of the EU to submit the proposals made in the resolution directly to the European Council for examination, with a view to convening a Convention composed of representatives of the national parliaments, the Heads of State or Government of the Member States, Parliament and the Commission (Point 7). Against the backdrop of several ongoing crises, the Parliament pointed out that the Treaties need to be amended urgently to make sure the EU has the competence to take more effective action during future crises (Point 4). According to the resolution, representatives of the EU's social partners, the European Economic and Social Committee, the European Committee of the Regions, EU civil society and candidate countries should be invited as observers to the Convention (Point 8).

Under the 'ordinary revision procedure', and in particular Article 48(2) TEU, the resolution constitutes a formal submission by the European Parliament to the Council of the EU of the following proposals for the amendment of the Treaties, *inter alia*:

- to enhance the EU capacity to act by reforming voting procedures, including allowing decisions in the Council by qualified majority voting instead of unanimity in relevant areas, such as the adoption of sanctions and 'passerelle clauses', and in the event of an emergency;
- to adapt the competences conferred on the Union in the Treaties, especially in the areas of health and cross-border health threats, in the completion of the energy union based on energy efficiency and renewable energies designed in line with international agreements to mitigate climate change, in defence, and in social and economic policies; to ensure the European Pillar of Social Rights is fully implemented and to incorporate social progress in Article 9 TFEU linked to a Social Progress Protocol into the Treaties; to support measures to strengthen the competitiveness and resilience of the EU economy, with special attention paid to small and medium-sized enterprises and competitiveness checks and to promote future-oriented investment focused on the just, green and digital transitions;
- to provide Parliament with full co-decision rights on the EU budget, and with the right to initiate, amend or repeal legislation;
- to strengthen the procedure for the protection of the values upon which the EU is founded and to clarify the determination and consequences of breaches of fundamental values (Article 7 TEU and the Charter of Fundamental Rights of the European Union) (Point 5).

Furthermore, the Parliament proposed new wording for Articles 29 and 48(7)(4) TEU (Point 6). The Parliament insists that Article 29 TEU should read: 'The Council shall adopt decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature. Where a decision provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council shall act by a qualified majority. Member States shall ensure that their national policies conform to the Union positions'. As regards Article 48(7)(4) TEU, the Parliament insists that it should read as follows: 'For the adoption of these decisions, the European Council shall act by a qualified majority as defined in Article 238(3), point (b), of the Treaty on the Functioning of the European Union after obtaining the consent of the European Parliament, which shall be given by a majority of its component members', i.e. the European Council shall act by a qualified majority in decisions on the use of the 'passerelle clauses'.

On 14 September 2023, the European Parliament adopted a resolution (also discussed above) on Parliamentarism, European citizenship and democracy, which, among other things, comments on

²⁶⁵ European Parliament [resolution](#) of 9 June 2022 on the call for a Convention for the revision of the Treaties

the follow-up to the CoFoE.²⁶⁶ In particular, the Parliament reiterated that, in line with the founding text of the CoFoE, the European Parliament, the Council and the Commission have committed to following up effectively on the conclusions of the Conference, each within the remit of their competences and in accordance with the Treaties. It called in this context for a swift and consistent implementation of the results of the CoFoE, encompassing 49 proposals and 326 concrete measures delivered by the CoFoE's European Citizens Panels; and reiterates its call for a Convention for the revision of the Treaties (Point 20).

It should be noted that several resolutions adopted in the run-up to the Conference contain European Parliament's views on issues which the Conference plenary phrased as proposals/measures. Some of these resolutions have already been discussed in sub-section 3.1 above. As mentioned, at the end of 2022, the EPRS published an assessment of the follow-up that each proposal/measure would necessitate and how the European Parliament's views relate to each proposal/measure.²⁶⁷

Committee on Constitutional Affairs

The European Parliament's Committee on Constitutional Affairs (AFCO) worked actively on the Conference on the Future of Europe, and on national parliaments' role and input therein, since the idea for the Conference was launched in 2019. In particular, on 9 December 2020, AFCO Members adopted an opinion welcoming the idea of the Conference and stressed that it must go beyond an interinstitutional discussion, and that, to ensure broad consultation and balanced participation, there should be an inclusive approach based on age, gender, socio-economic diversity, and geographic balance in different pillars, MEPs, MPs, the Commission, the Council of the EU, civil society, social partners and citizens.²⁶⁸

The Committee also prepared and discussed several working documents contributing to the work of the Conference.²⁶⁹ In particular, on 25 February 2021 and 25 May 2021, the Committee discussed a working document offering reflections on encouraging dialogue between the European Parliament and the national and regional parliaments of the EU on strengthening democracy through the CoFoE.²⁷⁰ The document gives an overview of the European Parliament's existing relations and positions. It then outlines the avenues that need to be explored further: the goal of establishing a real European political sphere through full parliamentarisation; the existing role of national parliaments with regard to the European political process (in terms of interparliamentary cooperation and scrutiny and the early warning system); and the hidden potential of national parliaments (as regards the participation of national parliaments in the law-making process and their involvement in improving political accountability of the executives and the institutional framework for national parliament participation in the European political process). The working document also offers a reflection on how the national and regional parliaments may be involved in

²⁶⁶ European Parliament [resolution](#) of 14 September 2023 on Parliamentarism, European citizenship and democracy

²⁶⁷ See in particular S. Kotanidis, Conference on the Future of Europe: Overview of the final proposals, [Annex](#) to the Briefing, European Parliamentary Research Service, November 2022, pp. 65-83.

See more on how the European Parliament is responding to citizens' expectations in two briefings published by EPRS in the context of the CoFoE: S. Kotanidis S. and M. Diaz Grego, Reforming the European Union: How the European Parliament is responding to citizens' expectations?, European Parliamentary Research Service, [Briefing](#), March 2022; and S. Kotanidis, M. Del Monte, Strengthening citizens' participation - How the European Parliament is responding to citizens' expectations?, [Briefing](#), European Parliamentary Research service, April 2022.

²⁶⁸ [Opinion](#) on the Conference on the Future of Europe adopted by the AFCO committee on 9 December 2019.

²⁶⁹ See AFCO committee [working documents](#) related to the Conference on the Future of Europe.

²⁷⁰ The final version of the [working document](#) on encouraging dialogue between the European Parliament and the national and regional parliaments of the EU on strengthening democracy through the Conference on the Future of Europe is dated 9 June 2021 and reflects the discussions in committee. See the [video recording](#) of the discussion on 25 February 2021 and the [video recording](#) of the discussion on 25 May 2021.

the CoFoE through cooperation with the European Parliament. In particular, the document notes the importance of ensuring adequate and equal political representation in the participation of national parliaments' delegations in the CoFoE's plenary. Furthermore, according to the document, the strong involvement of national parliaments in the Conference is also a chance to review their prerogatives and to analyse the opportunity to give them a more positive and active role, in line with their constitutional position. The cooperation in the CoFoE framework could be based on recognition of the fact that national parliaments have the power to improve the democratic functioning of the EU by implementing intensive dialogues and transparent discussions on European affairs and bringing those issues closer to European citizens.²⁷¹ The CoFoE's institutional framework could be retained after its closure, which would contribute to the establishment of a genuine European political sphere. In particular, by respecting their constitutional role, 'national parliaments could not only bring European integration closer to citizens and give useful inputs for the European political process, but their deeper involvement could also help in tackling the constitutional problems linked to the loss of parliamentary power and constitutional questions about the democratic deficit. Ensuring the general involvement of national parliaments would also help to rebalance the monopoly of the Council in the representation of Member States and thus strengthen democracy'.²⁷²

On 25 May 2021 and 22 June 2021, the Committee discussed another working document offering reflections on the principles of subsidiarity and proportionality.²⁷³ In particular, this document came up with a set of measures aimed at strengthening the principles to be discussed by the CoFoE, and which also involve a strengthened role for national parliaments by increasing their participation in EU affairs.

These measures include:

- In case the Treaty is indeed changed, the deadline for issuing a reasoned opinion on a draft legislative act under the early warning mechanism for national parliaments must be extended from 8 to 12 weeks and the Commission should also benefit from 12 weeks to prepare its reply. The measure is justified by the additional time needed by national parliaments to 'exert proper ex-ante and ex-post scrutiny of their governments' actions in the Council, as parliaments would have the opportunity to more effectively prepare the mandates for all files of major significance and for those relevant to the national budget (i.e. the European Semester).²⁷⁴ Furthermore, governments would be able to seek parliamentary mandates at the latest before the conclusion of a first-reading agreement between the European Parliament and the Council of the EU and the Commission should inform national parliaments about its upcoming legislative proposals well in advance in order to facilitate the legislative process;
- Introduction of a politically binding 'green card' mechanism. In particular, 'the Commission should consider a reasoned opinion or a resolution calling for an EU act to be proposed to be politically binding if it has reached the threshold of one third of national parliaments';²⁷⁵
- Introduction of a politically binding 'red card' mechanism. The AFCO working document considers that the current system, involving 'yellow' and 'orange' cards, can be dismissed too easily by the Commission, and therefore a 'red card' could be more

²⁷¹ *ibid.*, p. 10.

²⁷² *ibid.*, p. 10.

²⁷³ The final version of the [Working document](#) on the principles of subsidiarity and proportionality is from 7 July 2021 and reflects the discussions in committee. See the [video recording](#) of the discussion on 25 May 2021 and the [video recording](#) of the discussion on 22 June 2021.

²⁷⁴ *ibid.*, p. 7.

²⁷⁵ *ibid.*, p. 7.

effective. In particular, the Commission should consider any reasoned opinion to be politically binding, if it has reached a threshold of 60 % of national parliaments. Consequently, the Commission should 'immediately and completely remove' the challenged draft legislative act. The document adds that the introduction of such a mechanism does not require amendment of the Treaties, as it could be based on a political agreement between Member States.

- Introduction of a politically binding 'late card' mechanism. This mechanism would be an opportunity for national parliaments to raise their concerns at a later stage of the decision-making process (ordinary legislative procedure, in particular). The measure is expected to strengthen democracy by 'taking into account the reality that national debates very often start when the legislative process is already being finalised at EU level'.²⁷⁶

In addition, the document insists that the EU institutions and national parliaments should use a common method for analysing issues related to the principles of subsidiarity and proportionality and the legal basis of the proposed draft EU legislative acts. In particular, to encourage a common understanding of the principles, the European Parliament and other EU institutions 'should organise staff exchanges between those institutions and the national parliaments, which would provide a basis for future cooperation and better legislation'.²⁷⁷

In response to the European Parliament's plenary call for a Convention under Article 48 TEU, on 17 May 2022, the AFCO committee discussed the follow-up to the CoFoE with a focus on the work that needs to be done by the committee to support the process of a Treaty change.²⁷⁸ The co-rapporteurs for the AFCO committee own-initiative legislative report 'Proposals of the European Parliament for the amendment of the Treaties', following up on the resolutions of 4 May and 9 June 2022, were appointed the same day.²⁷⁹ Eleven parliamentary committees adopted opinions. The draft report was considered by the AFCO committee on 14 September 2023.²⁸⁰ The tabled motion for a European Parliament resolution discussed the role of national parliaments in the context of subsidiarity.²⁸¹ In particular, it calls for the opinion of regional parliaments with legislative powers to be taken into account in the reasoned opinions on legislative drafts submitted by national parliaments (Point 15). The co-rapporteurs also suggest that the deadline for 'yellow card' procedures should be extended to 12 weeks (Point 15). Furthermore, it proposes that a 'green card' mechanism for legislative proposals by national or regional parliaments with legislative powers be introduced in order to make EU law more responsive to local needs (Point 16). The latter proposal directly follows up on CoFoE measure 40(2)-(#31) (requiring a Treaty change) by making it part of the EU institutional set-up. The annex to the motion for resolution indicates how exactly the Treaties – TEU and TFEU – need to be revised (by amending or deleting existing provisions or adding new ones), in order to incorporate the CoFoE proposals/measures in the EU institutional set-up, including those concerning national parliaments. It is of note that some of the suggested new provisions aim

²⁷⁶ *ibid.*, p. 7.

²⁷⁷ *ibid.*, p. 8.

²⁷⁸ See item 9 on [agenda](#) of the AFCO committee meeting of 17 May 2022. See the [video recording](#) of the meeting.

²⁷⁹ [2022/2051\(INL\)](#).

²⁸⁰ See the [agenda](#) of the committee meeting. At the time of writing (18 September 2023), the video recording of the meeting is not yet available. On 13 September 2023, the co-rapporteurs gave a [press conference](#) on the draft report. During this press conference, it was announced that the vote in committee is expected in October 2023, and the vote in plenary in November 2023.

²⁸¹ [Draft report](#) on proposals of the European Parliament for the amendment of the Treaties (2022/2051(INL), Committee on Constitutional Affairs, 2023

to reinforce Protocol No 2 on the application of the principles of subsidiarity and proportionality by integrating it into the TFEU.²⁸²

The CoFoE work and suggested proposals/measures have also been discussed in the context of several public hearings and presentations of studies organised by the AFCO committee (and associate committees as appropriate). A hearing on 'The conclusions of the Conference on the Future of Europe' took place on 1 September 2022.²⁸³ It allowed the AFCO committee to take stock and analyse the CoFoE proposals/measures with a view to assessing the most appropriate means to ensure their implementation, in particular those proposals that may require a Treaty change. The hearing was held in two sessions. During the first session, Commission Vice-President Dubravka Šuica presented the state of play of the analysis and follow-up by the Commission to CoFoE proposals.²⁸⁴ Several political groups called upon the Commission to take a clear stand on the necessity for a Treaty change and deliver on its role under Article 48 TEU. Commissioner Šuica replied that 'the Commission is committed to make the most of what is currently possible, while being open to discuss a Treaty change'. The second session highlighted, among other things, the importance of maintaining effective cooperation with national parliaments not least because they would be the ones in charge of ratifying the results of the negotiations under the ordinary revision procedure of the Treaties laid down by Article 48 (2)(5) TEU.

Other events hosted by the AFCO committee and addressing, among other things, the results of the CoFoE and their follow-up, were: the hearing on 'European sovereignty and the principles of subsidiarity and proportionality' of 5 December 2022, which discussed the concept of European sovereignty and of the subsidiarity and proportionality principles, their possible scope and hypothetical tensions between them, as well as the existing political and legal mechanisms to ensure their implementation and the possible changes necessary to enhance their efficiency;²⁸⁵ the hearing on 'Best practices for citizens' participation in the European democratic decision-making process' of 25 January 2023, which analysed different mechanisms of participatory democracy and tools to increase citizens input and support Parliament's work;²⁸⁶ the hearing on 'Possible Treaty changes in the area of foreign and security policy' of 22 March 2023, which discussed the ways to strengthen the EU's institutional, budgetary and decision-making arrangements in the common foreign and security policy by means of treaty changes;²⁸⁷ the presentation of the study entitled 'Towards a permanent citizens' participatory mechanism in the EU' on 25 January 2023;²⁸⁸ and the presentation of the study on 'Perspectives for EU governance: between Community method, new-intergovernmentalism and parliamentarisation' held on 22 March 2022.²⁸⁹

Interparliamentary Committee Meetings of the AFCO committee

²⁸² In particular, the motion for resolution proposes that the provisions of the current Protocol No 2 to the Treaties are to be inserted in the TFEU, Part Six, Title I, Chapter 2a (new) 'The application of the principles of subsidiarity and proportionality', Articles 299a to 299j (new).

²⁸³ See the [programme](#) and the video recording of the [first](#) and [second](#) part of the hearing.

²⁸⁴ See more on the Commission's follow-up in sub-section 7.4 below.

²⁸⁵ See the [programme](#) and the [video recording](#) of the hearing.

²⁸⁶ See the [programme](#) of the hearing. In the absence of a video recording, see the [minutes](#) of the meeting.

²⁸⁷ See the [programme](#) and the [video recording](#).

²⁸⁸ [Towards a permanent citizens' participatory mechanism in the EU](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, September 2022, study commissioned for the European Parliament Committee on Constitutional Affairs. In the absence of a video recording, the minutes of the meeting may be consulted [here](#).

²⁸⁹ [Perspectives for EU governance: between Community method, new-intergovernmentalism and parliamentarisation](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, June 2022, study commissioned for the European Parliament Committee on Constitutional Affairs. See the [video recording](#) of the presentation.

The AFCO committee hosted three interparliamentary committee meetings (ICMs) in the context of the CoFoE. They gathered MEPs, MPs and the three Co-Chairs of the Executive Board of the Conference on the Future of Europe (representatives of the European Parliament, the European Commission and the Presidency of the Council of the EU). Broadly speaking, the discussions during the three ICMs went along the lines of the proposals made in the two AFCO working documents presented above.

The first ICM took place on 9 November 2021 and discussed national parliaments' expectations for the CoFoE and potential pathways for its work and results.²⁹⁰ The second ICM took place on 17 May 2022, i.e. immediately after the CoFoE presented its conclusions, and was thus a timely occasion for an in-depth discussion on the follow-up needed to implement the proposals of the Conference, including possible Treaty changes.²⁹¹ The third ICM took place on 26 October 2022, with a focus on the follow-up to the CoFoE proposals/measures and the role of national parliaments therein.²⁹² As mentioned, the reform suggested by the CoFoE that would grant national parliaments the possibility to suggest a legislative initiative to the European level (measure 40(2)-(31)), requires a Treaty change. The parliaments of the EU Member States thus have an important role in the follow-up, not least by putting pressure on the national governments to do their part under the ordinary revision procedure enshrined in Article 48 TEU. The promotion of citizens' participation in EU policy-making was also highlighted during the meeting.

7.2.2. National parliaments in the context of the Conference of Parliamentary Committees for Union Affairs (COSAC)

As discussed above, the CoFoE has regularly featured on the COSAC agendas ever since the idea for the Conference was launched in 2019. This is evidenced by the 34th, 35th, 36th and 37th biannual COSAC reports, which deal, among other things, with the role of national parliaments' delegations to the CoFoE.²⁹³ The 38th biannual report presented to the COSAC meeting in Prague on 13-15 November 2022, i.e. after the CoFoE final report was adopted in May 2022, is the most relevant to the follow-up to the CoFoE results, and its findings are therefore presented below.²⁹⁴

Next to the two working groups' proposals (discussed in Section 5 above), the report examines two complementary aspects in the context of the CoFoE –parliaments/chambers' participation in the work of the Conference and the positions of parliaments/chambers on some CoFoE proposals/measures concerning institutional affairs and democratic procedures, including citizens' participation. The relevant findings on the latter aspect are presented below. A general trend should however be noted, namely that, as of 19 September 2022,²⁹⁵ a significant majority of the respondents had replied that their parliament/chamber had no official opinion on the vast majority of the questions asked about the specific CoFoE proposals/measures.

Only four (out of 34) responding parliaments/chambers explicitly supported measure 22(2) calling for 'stronger citizen participation in the EU's international politics and direct citizens' involvement

²⁹⁰ See the [programme](#) of the ICM and the [video recording](#).

²⁹¹ See the [programme](#) of the ICM and the [video recording](#).

²⁹² See the [programme](#) of the ICM and the [video recording](#).

²⁹³ The [34th biannual report](#) was presented to the COSAC remote meeting hosted by Germany on 30 November-1 December 2020. The [35th biannual report](#) was presented to the COSAC remote meeting hosted by Portugal. The [36th biannual report](#) was presented to the COSAC remote meeting hosted by the Slovenia on 29-30 November 2021. As mentioned, the [37th biannual report](#) was presented to the COSAL meeting in Paris on 3-5 March 2022.

²⁹⁴ [38th biannual report](#)

²⁹⁵ When the deadline for responding parliaments/chambers to submit their contributions expired.

events, similar to the CoFoE, organised on a national, local and European level and with the active participation of organised civil society. The rest had no official opinion.

Only five (out of 34) responding parliaments/chambers supported measure 36(2) calling for increased 'frequency of online and offline interactions between EU institutions and its citizens through different means of interaction in order to ensure that citizens can participate in the EU policy-making process to voice their opinions and to get feedback, and creating a charter for EU officials on citizens' participation. The rest had no official opinion.

Only three (out of 34) responding parliaments/chambers supported measure 36(7) calling for 'citizens' assemblies [to be held] periodically, on the basis of legally binding EU law. Participants must be selected randomly, with representativeness criteria, and participation should be incentivised. If needed, there will be support of experts so that assembly members have enough information for deliberation. If the outcomes are not taken on board by the institutions, this should be duly justified'. The rest had no official position.

One chamber supported and one chamber rejected measure 38(2) on 'conceiving an EU wide referendum, to be triggered by the European Parliament, in exceptional cases on matters particularly important to all European citizens'. The rest (32 out of 34 responding parliaments/chambers) had no official opinion.

Four (out of 34) responding parliaments/chambers supported and five rejected measure 38(3)(first part), calling for amendment to 'the EU electoral law to harmonise electoral conditions (voting age, election date, requirements for electoral districts, candidates, political parties and their financing) for the European Parliament elections, ...'. The rest (25) had no official opinion.

Only three (out of 34) responding parliaments/chambers supported the second part of measure 38(3) on 'moving towards voting for Union-wide lists, or "transnational lists", with candidates from multiple Member States, ... Some of the Members of the European Parliament should be elected through a European Union-wide list, the rest being elected within the Members' States'. Eleven rejected the measure, while the rest (20) had no official opinion.

Only two (out of 34) responding parliaments/chambers supported measure 38(4)(first indent) insisting that 'European citizens should have a greater say on who is elected as President of the Commission. This could be achieved either by the direct election of the Commission President or a lead candidate system' (Proposal 38, Measure 4, first indent). Six rejected the measure and the rest (25) had no official opinion.

Only two (out of 34) responding chambers supported measure 38(4)(second indent) suggesting the European Parliament should have the right of legislative initiative, in order to propose the topics to be discussed and, subsequently, adopt the necessary texts to follow up on the recommendations that emerge from deliberations'. Two were against and 29 had no official opinion. It is of note that the questionnaire did not contain a question checking parliaments' opinion on measure 40(2) suggesting that national parliaments should be granted the possibility to suggest a legislative initiative to the European level. However, one responding chamber commented that this measure should be linked and coordinated with the proposal to grant legislative initiative to the European Parliament (measure 38(4)(second indent)).

Only one responding chamber (out of 34) supported measure 38(4)(third indent) suggesting that 'the European Parliament should decide on the budget of the EU as it is the right of parliaments at the national level' (Proposal 38, Measure 4, third indent). Four were against and 29 had no official opinion.

Only three responding parliaments/chambers (out of 34) supported measure 39(1)(first part of the general proposal) on 'reassessing decision-making and voting rules in the EU institutions, focusing on the issue of unanimous voting, which makes it very difficult to reach agreement, while ensuring

a fair calculation of voting "weights" so that small countries' interests are protected'. Three were against and 28 had no official opinion.

Only one (out of 34) responding chamber supported measure 39(1)(second part of the general proposal) suggesting that 'All issues decided by way of unanimity should be decided by way of a qualified majority. The only exceptions should be the admission of new membership to the EU and changes to the fundamental principles of the EU as stated in Article 2 TEU and the Charter of Fundamental Rights of the European Union'. Six were against, and 27 had no official position.

Only three (out of 32) responding (unicameral) parliaments supported measure 39(2)(first part of the general proposal) on 'ensuring transparency of decision-making by allowing independent citizens' observers to closely follow the decision-making process...'. The rest (29) had no official opinion. However, eight (out of 34) responding parliaments/chambers supported measure 39(2)(second part of the general proposal) 'Ensuring transparency of decision-making by ... guaranteeing broader right of access to documents ...'. The rest (26) had no official opinion.

Only one (out of 34) responding chambers supported measure 39(2)(first indent) suggesting that 'the European Parliament's right of inquiry should be strengthened'. The chamber concerned considered that the right of inquiry 'should be strengthened as far as the Commission and EU Agencies are concerned, but not directed at Member States'.²⁹⁶ The rest (33) had no official opinion.

Only four (out of 34) of the responding parliaments/chambers supported measure 39(2)(second indent) suggesting that 'national parliaments should also be closer involved in the legislative procedure by the European Parliament, e.g. by way of participation in hearings'. The rest (30) had no official position.

Only one (unicameral) parliament (out of 34 responding parliaments/chambers) supported measure 39(3) that suggested considering changing the names of EU institutions to clarify their functions and respective role in the EU decision-making process for citizens. Two were against, while the rest (31) had no official opinion.

Seven (out of 35) respondents said that their parliaments/chambers had discussed or approved a position on the European Parliament's call for a Convention for the revision of the Treaties under Article 48 TEU. Twenty eight replied negatively.

The report specifies the attitude each responding parliament/chamber took on each of the CoFoE proposals examined above, and also takes on board their justification, when available.²⁹⁷ The respondents were also given the possibility to highlight any other CoFoE proposals/measures related to institutional affairs, which they supported or considered important; their opinions are also presented in the report.²⁹⁸

In a 'contribution' document, the 38th COSAC meeting took note of the proposals set out by the CoFoE's final report.²⁹⁹ In line with the Joint Declaration of 10 March 2021, the document reiterates that an effective follow-up to the report is to be ensured by the EU institutions, each within their own sphere of competences and in accordance with the Treaties. The COSAC notes that work has already been undertaken in this regard. Citizens should be informed clearly, in detail and in all the official EU languages about the follow-up to individual proposals. Furthermore, the COSAC supports citizens' participation and consultation mechanisms at European level and emphasises the necessity of broad public access to information and documents from EU institutions. It also highlights the

²⁹⁶ *ibid.*, pp. 18-19.

²⁹⁷ See the details on pp. 15-19 of the 38th biannual COSAC report.

²⁹⁸ See the details on p. 20 of the 38th biannual COSAC report.

²⁹⁹ [Contribution](#) of the 38th COSAC meeting, Prague, 13-15 November 2022.

importance of the Commission's genuine and constructive approach to interaction with citizens and to the contributions and opinions of parliaments as direct representatives of EU citizens. Finally, the COSAC called on the EU institutions to invite the national parliaments to the feedback event on the CoFoE scheduled for 2 December 2022.³⁰⁰

7.3. EU Member States' follow-up – Council of the EU and European Council

At its meeting of 23 May 2022, the General Affairs Council (GAC) confirmed that 'it is now up to the Council to organise effectively its own follow-up work'.³⁰¹ The ministers discussed the CoFoE conclusions and the methodology to be used for following up on the proposals. It was estimated that the Council could return to this topic during a meeting scheduled for 21 June 2022 (again in a GAC configuration), on the basis of a document to be produced by the General Secretariat of the Council of the EU analysing ways to implement the proposals, namely the preliminary technical assessment referred to above. Indeed, in June 2022, the Council's services developed a preliminary technical assessment of the proposals and related specific measures.³⁰² The document was updated in November 2022 to reflect the policy actions undertaken by the EU institutions since the conclusion of the CoFoE on 9 May 2022.³⁰³

According to the updated preliminary assessment, 'a significant number of proposals and related measures are in the process of being addressed or are already addressed by the EU institutions'.³⁰⁴ Furthermore, 'where the proposals and related specific measures could be further addressed by the EU institutions, this could be done, for a large majority of cases, within the current Treaty framework'.³⁰⁵ The assessment also highlights that 'only a very limited number of specific measures would require changes in the Treaty in order to be fully implemented';³⁰⁶ in line with the EPRS assessment, the Council preliminary technical assessment also considered that 'conferring on national parliaments a right of legislative initiative at EU level' (CoFoE measure 40(2)) would require a Treaty change.^{307 308}

Indeed, the two versions of the preliminary technical assessment served as a basis for the GAC meetings, which discussed the CoFoE follow-up during its monthly meetings from June to December 2022, as well as for the European Council. Below, the discussions of the relevant GAC and European Council meetings on the CoFoE follow-up are summarised based on the information provided on the Council website.³⁰⁹

The Council website reports that, during the GAC meeting of 21 June 2022, the ministers had an initial discussion on the substance of the proposals included in the CoFoE final report, based in

³⁰⁰ See paragraphs 17-19 of the '[Contribution](#)' of the COSAC 38th meeting'.

³⁰¹ [GAC meeting](#) of 23 May 2022; Council website last visited on 24 July 2023

³⁰² [Preliminary technical assessment of the proposals and related specific measures contained in the report on the final outcome of the Conference on the Future of Europe](#), Doc. 10033/22 of the General Secretariat of the Council addressed to the delegation of the EU Member States, 10 June 2022.

³⁰³ [Updated preliminary technical assessment of the proposals and related specific measures contained in the report on the final outcome of the Conference on the Future of Europe](#), Doc. 10033/22 REV 1, of the General Secretariat of the Council addressed to the delegation of the EU Member States, 30 November 2022.

³⁰⁴ *ibid.*, p. 3.

³⁰⁵ *ibid.*, p. 4.

³⁰⁶ *ibid.*, p. 7.

³⁰⁷ *ibid.*, p. 8.

³⁰⁸ See the detailed assessments of CoFoE's proposals 36-40 in the area of 'European democracy' on pp. 208-237 of the [Addendum](#) to the updated preliminary technical assessment of 30 November 2022.

³⁰⁹ [Council of the EU website](#)

particular on the preliminary technical assessment provided by the Secretariat.³¹⁰ In this respect, the ministers also heard a presentation of the Commission Communication of 17 June 2022 (see details below in sub-section 7.4). It is further noted that work will continue to set out the practical arrangements for implementing these proposals. The updated preliminary assessment notes that, at this same meeting, the GAC agreed 'to give priority to the implementation of that overwhelming majority of proposals which can be implemented within the current Treaty framework, with the aim to provide answers to citizens' concerns within a relatively short time frame and have a positive impact on their everyday lives through concrete policy'.³¹¹

The first (and last as of 30 August 2023) time when the European Council discussed the follow-up to the CoFoE outcome was during its meeting of 23-24 June 2022. In particular, in their conclusions, the Heads of State or Government took note of the proposals of the final CoFoE report.³¹² In their view, 'an effective follow-up to this report is to be ensured by the institutions, each within their own sphere of competences and in accordance with the Treaties'. It is further noted that work has already been undertaken in this regard. The European Council recalled the importance of ensuring that citizens are informed of the follow-up to the proposals made in the CoFoE final report. The need for a Treaty change and the European Council's role therein did not find a place in the conclusions from the meeting. An EPRS publication from June 2022 notes however that, prior to this European Council meeting, 'a number of EU Member States and their leaders have been taking a position on the results of the CoFoE, preparing the ground for the discussions between the EU Heads of State or Government'. These positions can generally be divided between support for a Treaty change and outspoken scepticism towards a Treaty change.³¹³

At their GAC meeting of 20 September 2022, the ministers exchanged views on the follow-up to the CoFoE. According to the Council website, the discussion focused on the possible use of 'passerelle clauses' included in the Treaties to switch from unanimity to qualified majority voting in the Council, and Conference-related initiatives highlighted in the State of the Union address, as well as in the related Commission 'letter of intent', outlining key initiatives planned for 2023.³¹⁴ The ministers were also informed about the CoFoE-proposed measures where the Council could act on its own. They considered that 'at this stage' (i.e. as of December 2022), priority should be given to the follow-up of the vast majority of CoFoE proposals and initiatives that can be implemented using all the possibilities offered by the current Treaty framework. According to the ministers, these constitute approximately 95 % of all CoFoE proposals. They welcomed the Commission's plan to propose a number of legislative initiatives to follow up on the CoFoE, in line with the commitment taken by the three EU institutions when launching the exercise.

³¹⁰ [GAC meeting](#) of 21 June 2022; Council website last visited on 24 July 2023.

³¹¹ *ibid.*, p. 9.

³¹² [Conclusion](#) of the European Council meeting of 23-24 June 2022.

³¹³ R. Drachenberg, The Conference on the Future of Europe and the European Council: How far is there a shared policy agenda for the future?, [Briefing](#), European Parliamentary Research Service, June 2022, p. 5.

The same source provides a comparison between the objectives formulated in the 49 CoFoE proposals and the priorities of the European Council formulated in 2019 in the 'Strategic Agenda', which outlined the general policy objectives for the EU over a five-year period (2019-2024). In particular, the measures falling into CoFoE proposals 38 and 39 are assessed as having 'limited or no convergence' and the measures under CoFoE proposal 40 as having 'partial convergence' with the European Council's strategic agenda (2019-2024). See details on pp. 36-37.

³¹⁴ [GAC meeting](#) of 20 September 2022; Council website last visited on 24 July 2023.

The Council website reports that various views were offered on the issue of the extension of qualified majority voting in the Council by using 'passerelle' clauses. Most of the ministers were open to consider the use of 'passerelle' clauses in certain fields, on a case-by-case basis. Several ministers pointed out that further assessment was needed before they could express a detailed position on this issue or take a decision on this matter.

The ministers also discussed the follow-up to the CoFoE during the GAC meeting of 18 October 2022.³¹⁵ They took note that work was ongoing to ensure effective follow-up to the CoFoE outcome, notably on the basis of the preliminary technical assessment of each proposal/measure suggested by the CoFoE final report.

A key topic of the GAC discussion in October 2022 was the issue of possible Treaty change. The Council website reports that the Council of the EU has received proposals for two specific Treaty amendments under Article 48(2) TEU from the European Parliament and that the ministers discussed the timing for submitting them to the European Council and for notifying national parliaments. Taking into account that the European Parliament has asked its AFCE committee to prepare proposals for further Treaty amendments to implement the results of the CoFoE, 'during the debate ministers broadly agreed that, in order to ensure procedural efficiency and avoid duplication of processes, it would be appropriate to wait until the Parliament has concluded this work before transmitting the two specific proposals already received'. In this context, many ministers have noted that the vast majority of the CoFoE proposals can be implemented under the current Treaty framework and took the view that these proposals should be given priority at this stage. Some ministers felt that, in the context of the urgent challenges resulting from Russia's war in Ukraine, it was important to focus all energy on delivering solutions to the practical problems facing European citizens. Others considered that more time was needed for a comprehensive assessment before engaging in the process of Treaty change. The statement of the Czech Minister of European Affairs Mikuláš Bek supports the above views. In particular, 'The Council is fully committed to ensure the best possible follow-up to the Conference proposals. The vast majority of them – up to 95 % – can be implemented using the full potential of the current Treaties. It is important to focus on this work, to give citizens' wishes a positive and concrete follow-up within a relatively short time frame.'

The GAC meeting of 18 October 2022 also discussed the organisation of the Conference feedback event (scheduled for 2 December 2022), which was assessed as an 'important occasion' to inform citizens about the follow-up to the CoFoE outcome that the three institutions are undertaking.

On 18 November 2022, at the request of the German delegation, the GAC briefly addressed the latest state of play on the follow-up to the CoFoE, including the planned programme and preparation of the feedback event.³¹⁶ Further details of the discussion were not provided.

The last (as of 30 August 2023) time the GAC discussed the follow-up to the CoFoE was during its meeting of 13 December 2022.³¹⁷ The Council website merely notes that 'Ministers exchanged views on the follow-up to the Conference on the Future of Europe feedback event'.

7.4. Follow-up by the European Commission

As a follow-up to the Conference, the European Commission published its Communication 'The Conference on the Future of Europe – putting vision into concrete action' on 17 June 2022.³¹⁸ The document presented a global framework and detailed assessment of what follow-up should be given to the CoFoE outcome. It also discussed how citizens' participation could be better embedded in EU policy-making.

The assessment of what follow-up is needed is provided in the Annex to the Communication. The 49 proposals and 326 measures are assessed via four categories of response: 1. already implemented initiatives, which directly respond to the proposals/measures; 2. already proposed

³¹⁵ [GAC meeting](#) of 18 October 2022; Council website last visited on 24 July 2023.

³¹⁶ [GAC meeting](#) of 18 November 2022; Council website last visited on 24 July 2023.

³¹⁷ [GAC meeting](#) of 13 December 2022; Council website last visited on 24 July 2023.

³¹⁸ Communication 'The Conference on the future of Europe - putting vision into concrete action', [COM\(2022\) 404 final](#), European Commission, June 2022.

initiatives on which the Parliament and Council are currently working as co-legislators; 3. areas where the Commission is already planning to make proposals; and 4. proposals made by the Conference that are partly or entirely new. Wherever legislative or non-legislative initiatives are to be made, these were to be announced in the State of the Union of September 2022 and included in CWP for 2023.

Indeed the Annex to the Communication lists: existing or planned initiatives; calls upon the co-legislators; and considerations of new areas of action under the four categories outlined above in each of the nine policy areas covered by CoFoE proposals. However, it does not make links between the specific CoFoE proposals/measures and these commitments. It is therefore impossible to attribute Commission follow-up actions to the CoFoE proposals/measures concerning national parliaments specifically. In fact, national parliaments are not mentioned at all in the Annex to the Communication.

As regards the change of Treaties required to follow-up on some proposals/measures, the Commission notes that 'new reforms and policies should not be mutually exclusive to discussions on Treaty change. Treaty change should not be an end in itself and for the vast majority of measures, there is much that can and will need to be done under the existing treaties. ... there is also untapped potential within the existing Treaties which could help respond to the Conference's proposals, notably by using the "passerelle clauses" to move to qualified majority voting in certain policy fields'.³¹⁹ Nevertheless, the Commission acknowledges that some truly innovative proposals/measures are suggested in areas such as health and defence, 'calling on the EU to take new, as yet unexplored, avenues' to call for a Treaty change. The Communication notes that 'the Commission will always be on the side of those who want to reform the European Union to make it work better, including through Treaty change where that may be necessary'.³²⁰ In this spirit, the Commission welcomed the European Parliament's willingness to use, for the first time, its powers acquired under the Lisbon Treaty to propose amendments to the Treaties. The Parliament has set out a number of areas where, in its view, changes to the Treaties should be discussed within a Convention. The Commission stands ready to fully play its institutional role in the procedure set out in Article 48 TEU, and in particular to give its opinion in response to a consultation by the European Council.³²¹ It should be noted that this is a commitment under paragraph 3 of Article 48 TEU, rather than under paragraph 2 of the same article, i.e., as of mid-June 2022, the Commission was not yet officially committed to using its right to activate the process of a Treaty change. The European Parliament did commit to this in its resolution of 9 June 2022.

On 14 September 2022, Commission President Ursula von der Leyen delivered her annual 'State of the Union' (SOTEU) speech to the European Parliament.³²² She insisted on the importance of the CoFoE and that, after having listen to its citizens' voices, Europe must now deliver. She also expressed her belief that the moment had arrived for a European Convention, as the Parliament had demanded, but without making further commitments. In her letter of intent to the President of the European Parliament Roberta Metsola and the President of the Council of the EU Petr Fiala, Commission President von der Leyen informed that the CWP for 2023 would be largely inspired by the outcome of the CoFoE.³²³ As was the case of the Annex to the June 2022 Communication, the letter of intent does not make links between the specific CoFoE proposals/measures and these

³¹⁹ *ibid.*, p. 4.

³²⁰ *ibid.*, p. 5.

³²¹ *ibid.*, p. 5.

³²² [State of the Union 2022 address](#) by Commission President Ursula von der Leyen, September 2022.

³²³ [Letter of intent](#) of the Commission President Ursula von der Leyen addressed to the President of the European Parliament Roberta Metsola and the President of the Council of the EU Petr Fiala in the context of the State of the Union address, September 2022.

initiatives.³²⁴ It is therefore impossible to attribute the Commission's follow-up actions to the CoFoE proposals/measures concerning national parliaments specifically. Nor are national parliaments mentioned in the letter of intent. Other than national parliaments, the letter of intent announces that the Commission will include citizens' panels (with one third of participants being young people) in the Commission policy-making toolbox, so that they can make recommendations before certain key policy proposals. So far, such panels have had their say on food waste, virtual worlds and learning mobility abroad.

The CWP for 2023 was published on 18 October 2022.³²⁵ It reiterated that many of the outlined key initiatives follow up on the ambitious proposals made during CoFoE. As with the June 2022 Communication and the SOTEU speech, the Communication on the CWP for 2023 and its Annex do not make links between the specific CoFoE proposals/measures and the listed initiatives. It is therefore impossible to attribute Commission's follow-up actions to the CoFoE proposals/measures concerning national parliaments specifically.³²⁶ The CWP and its annexes do not refer to national parliaments and do not discuss the need for a Treaty change and the Commission's role therein.

In her SOTEU addressed to the European Parliament in September 2023, Commission President von der Leyen said that she 'will always support the House [European Parliament] and all of those who want to reform the EU to make it work better for citizens', including through a European Convention and Treaty change 'if and where it is needed!'.³²⁷ This statement was made in the context of a possible EU enlargement in particular. She added: 'But we cannot – and we should not – wait for Treaty change to move ahead with enlargement. A Union fit for enlargement can be achieved faster'.

The CWP for 2024 is expected to be published in late 2023. At the time of writing, the Commission claims to 'have acted on close to 95 % of those Conference measures that are within the Commission's competence and in accordance with the Treaties'.³²⁸

³²⁴ In the Letter of intent, initiatives that directly follow up or indirectly contribute to a CoFoE proposal are marked with an asterisk (*).

³²⁵ [Communication](#) from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Commission work programme 2023 – A Union standing firm and united, COM(2022) 548 final, European Commission, October 2022.

³²⁶ In [Annex I](#) 'New Initiatives' to the CWP for 2023, the initiatives (43 in total), which, according to the Commission, directly or indirectly follow up on the outcome of the Conference on the Future of Europe, are highlighted in blue. However, attribution of the initiatives to specific CoFoE proposals/measures is not available.

³²⁷ [State of the Union 2023 address](#) by Commission President Ursula von der Leyen, September 2023.

³²⁸ See the Commission [website](#) presenting information on the CoFoE and Commission's follow-up, last visited on 31 August 2023.

8. Conclusions

Based on the findings of the reports, studies and other documents mentioned above, a few general conclusions applicable to the current status of national parliaments in the EU system can be reached.

National parliaments are seen – by political actors at the various levels of governance and researchers alike – as important players contributing to strengthening the democratic basis of the EU project. In particular, national parliaments' active participation in EU affairs and enhanced scrutiny of national governments by national parliaments are instrumental in ensuring democratic accountability and legitimacy of the EU institutional system. However, despite the inclusion of national parliaments in the text of the Treaties, their ability to act and impact in EU affairs remains generally limited. Nevertheless, national parliaments are willing to play a more active role in EU affairs and their participation is generally perceived as positive.

Although the European Parliament, the Commission and the Council of the EU receive various submissions (including 'reasoned opinions') from national parliaments, the EU institution that provides national parliaments with the most information, and receives the majority of national parliaments' submissions, is the Commission. It is of note however that, in several of the years covered by the period examined (2009-2022), the European Parliament received more 'reasoned opinions' than the Commission, which shows that national parliaments see the European Parliament as an important interlocutor for their involvement in EU affairs.

As regards national parliaments' relations with the Commission (as well as with the European Parliament and Council), it appears that the rise and fall in the number of opinions (including 'reasoned opinions') is linked to the process of installation of a new College of Commissioners in 2014 and 2019, which impacted the rhythm of preparing legislative proposals. However, a high number of legislative proposals submitted by the Commission in a given year does not necessarily result in a high number of opinions (including 'reasoned opinions'). Some national parliaments/chambers are more active than others in preparing contributions.

In 2020 and 2021, the constraints and change of focus to the national level that the coronavirus pandemic implied for the work of national parliaments might also be a factor in the relatively low number of opinions, including reasoned opinions, submitted to the Commission (and European Parliament). Nevertheless, national parliaments were active in sending opinions (including 'reasoned opinions') to Commission initiatives concerning the EU response to the pandemic, thus demonstrating national parliaments' strong engagement in times of crisis.

Reasoned opinions submitted by national parliaments do not appear to slow down or halt the EU legislative process, mainly because these opinions should be submitted within eight weeks from the moment the Commission has submitted its legislative proposal. However, this deadline is a limiting factor discouraging national parliaments from submitting reasoned opinions and is thus considered insufficient by all key players in the process, as well as researchers. The need to extend the deadline seems to be agreed, but would require a Treaty change. As a mitigation measure (not requiring a Treaty change), from 2019, the Commission started excluding the end-of-year festive period when setting the eight-week period for national parliaments to send reasoned opinions.

National parliaments interpret the subsidiarity principle differently, which is an issue in terms of implementing the early warning mechanism, as it reduces its effectiveness. Therefore, the establishment of a common understanding of the subsidiarity principle – or, according to the CoFoE, 'a systematic use of a subsidiarity definition commonly agreed by all EU institutions' – is needed to help national parliaments assess in a uniform way at which level of governance a decision is to be taken.

The early warning mechanism limits national parliaments to the assessment of draft EU legislative proposals' compliance with the principle of subsidiarity. A need is noted – by political actors and researchers – for the early warning mechanism to also formally allow national parliaments to assess compliance with the principles of proportionality and conferral.

The fact that national parliaments submit a much higher number of 'political dialogue' opinions than 'reasoned opinions' indicates their desire to be involved more closely on the substance (rather than only on subsidiarity in the framework of the early warning mechanism). Furthermore, discussions are intensifying on the need to give national parliaments the opportunity to intervene throughout the whole EU decision-making process, i.e. by providing forward-looking political input before the Commission legislative proposal is submitted, or at a later stage of the legislative procedure, by using a 'late card' allowing them to express their opinions on the legislative proposal as agreed by the co-legislator and before it is adopted.

Formalising a 'green card' procedure is often perceived – by political actors and researchers alike – as a way to strengthen national parliaments' position in EU affairs. This could furthermore increase their interest in becoming more invested players in EU affairs. Despite the lack of a legal basis in the Treaty, the informal 'green card' procedure is gaining momentum among national parliaments. In particular, a majority of national parliaments/chambers support the idea of a 'green card' in the form of asking the Commission to come up with a legislative proposal, as evidenced by their contributions to recent COSAC biannual reports. The European Parliament has also supported, in a number of resolutions, an indirect right of legislative initiative for national parliaments. The 'green card' idea gained a new momentum with CoFoE measure 40(2), which suggested that national parliaments (and regional parliaments with legislative powers) are 'to be granted the possibility to suggest a legislative initiative to the European level', without however going into further detail as regards what form this right should take. This CoFoE measure would require a Treaty revision. While the European Parliament activated the revision process (Article 48(2)-(5) TEU) already in June 2022,³²⁹ Member States' governments and the Commission itself do not seem to be in a hurry to do the same. The Council of the EU makes its role in the process conditional upon the suggestions contained within the European Parliament's own-initiative legislative report on 'Proposals of the European Parliament for the amendment of the Treaties', currently under consideration by the AFCE committee.

Better coordination and organisation of interparliamentary cooperation in respect of time and content is needed to prevent interparliamentary cooperation fatigue. Furthermore, better cooperation between national parliaments/chambers themselves is necessary to their exploration of the existing mechanisms for influencing EU affairs. A committee-based approach to interparliamentary cooperation seems to be preferred.

The COSAC's biannual reports provide a considerable amount of information on the functioning of national parliaments with regard to scrutinising EU affairs from the point of view of national parliaments. The reports however react to the most important political and factual developments in the EU, and therefore the position of national parliaments in the EU constitutional structure is not always their most prominent feature. A similar conclusion can be reached regarding the conclusions of the annual Conference of Speakers of the EU parliaments. Nevertheless, in recent years, the position of national parliaments in the EU constitutional structure (also in the context of the CoFoE) features more prominently in COSAC's biannual report.

In many cases, parliamentary research provides various recommendations that might improve the existing situation for national parliaments, however how and if these recommendations will be

³²⁹ European Parliament [resolution](#) of 9 June 2022 on the call for a Convention for the revision of the Treaties

taken on board depends on the European Parliament, and other political actors at EU and national level.

Finally, when assessing the position of national parliaments in the constitutional structure of the European Union and ways to improve this position, the main reason for the inclusion of national parliaments into the EU constitutional framework must be considered. The conclusion drawn by the first (2017) edition of this study remains valid – there are several potential explanations for the ultimate goal of including the national parliaments in EU affairs. These different views seem to be one of the reasons why the practical implementation of the Treaties and other arrangements might potentially lack focus or could be almost exclusively based on ad-hoc arrangements. Furthermore, this explains why some parliaments are more active than others in scrutinising EU policy-making. It could be suggested that COSAC's commitment in Prague in 2022 to continue the debate on the common understanding of the role of national parliaments in the EU and the instruments necessary to fulfil it, needs to be sustained at all levels of governance, and its results – put into practice.

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National parliaments' active participation in EU affairs and enhanced scrutiny of their national governments are instrumental in ensuring the democratic accountability and legitimacy of the EU institutional system. However, despite the inclusion of national parliaments in the text of the Treaties, their ability to impact EU affairs remains generally limited.

Nevertheless, national parliaments are willing to play a more active role in EU affairs by being more closely involved in the substance of EU policies and legislation, rather than on matters of subsidiarity alone. Discussions are intensifying on the need to give national parliaments the opportunity to intervene throughout the EU decision-making process, including on granting them the right to propose initiatives to the EU level.

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