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**BEST PRACTICES OF  
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COMMITTEE  
COOPERATION**

NOTE





**DIRECTORATE GENERAL FOR INTERNAL POLICIES**

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CONSTITUTIONAL AFFAIRS**

**CONSTITUTIONAL AFFAIRS**

# **BEST PRACTICES OF PARLIAMENTARY COMMITTEE COOPERATION**

**NOTE**

## **Abstract**

The present briefing paper provides a comprehensive summary of best practices of parliamentary committee cooperation in selected EU national parliaments in order to put forward recommendations and policy-relevant advices for decision-makers. An analysis is based on the results from a survey conducted in the EU member states.

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

## **AUTHOR**

Maja Andlovic

## **RESPONSIBLE ADMINISTRATOR**

Petr Novak  
Policy Department C - Citizens' Rights and Constitutional Affairs  
European Parliament  
B-1047 Brussels  
E-mail: [poldep-citizens@europarl.europa.eu](mailto:poldep-citizens@europarl.europa.eu)

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## **ABOUT THE EDITOR**

To contact the Policy Department or to subscribe to its newsletter please write to: [poldep-citizens@europarl.europa.eu](mailto:poldep-citizens@europarl.europa.eu)

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## BACKGROUND

"If the political groups are the Parliament's life and blood then its...committees are its legislative backbone" (Westlake, 1974:191). The role and influence of the European Parliament (EP) committees in the EU policymaking process is substantial and due to their strong influence on the legislative agenda<sup>1</sup>, the EP has frequently been compared to the US Congress, rather than to other European parliaments (Hix, 2005:93). The EP system of committees has been seen as an example of the development of a cooperative and deliberative culture in the EU (Joerges & Neyer 1997a, 1997b in Jacobsson & Vifell, 2003:8).

The cooperation between leading and opinion giving committees is regulated by the European Parliament's Rules of Procedure. A matter is referred to an opinion giving committee in the following cases:

- 37: Verification of legal basis (JURI)
- 37a: Delegation of legislative powers
- 38: Verification of financial compatibility (BUDG)
- 38a: Examination of respect for the principle of subsidiarity
- 86 (2): Codifications
- 202 (2), 203: Examination of petitions
- Annex VI, Art. 1(3), 3(1): Granting of discharge

In order to gain a perspective on the modalities of cooperation of lead and opinion-giving committees in the EU Member States and draw from examples of best practices, the following questions were put to the national correspondents of the European Centre for Parliamentary Research and Documentation (ECPRD)<sup>2</sup>:

1. In which cases is a matter referred to an opinion giving committee?
2. Which are the modalities of cooperation of lead and opinion giving committees? What are the standard procedures? Are there deviations, if yes, why and how?
3. What is the impact of opinions for the procedure in the lead committee and in plenary? In which way are they included in votes?
4. Are there informal alternatives to full opinion giving, such as sending a letter from one committee to another, participation in lead committee meetings, bilateral exchanges between MPs or similar procedures?

The aim of the present briefing paper is to provide a comprehensive qualitative analysis of best practices of parliamentary committee cooperation in selected EU national parliaments in order to put forward recommendations and policy-relevant advices for decision-makers.

In the next section a summary of key findings of the survey will be presented, followed by an overview of the current practices and policies in selected EU Member States (MS).

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<sup>1</sup> All legislative initiatives are processed by the committees, committee reports form the basis of the plenary debates (Mamadouh, V., Raunio, T. 2003:6)

<sup>2</sup> ECPRD request no 2128 Best practices of opinion-giving committees in parliaments

## 1. SUMMARY

Based on the survey conducted, it is possible to observe that some form of cooperation between committees exists in all EU national parliaments. However, the practices and policies of cooperation between parliamentary committees differ considerably. It is important to emphasise that although similarities between the national parliaments in the EU exist, the role of national legislatures nonetheless varies considerably. This can be explained by a range of different parliamentary models in the EU MS. To illustrate, 14 states have unicameral parliaments, with the remainders choosing bicameral systems. While a majority of EU MS are parliamentary democracies, there are some exceptions, for example: Cyprus has a fully presidential system, while France has a semi-presidential system. The practices of parliamentary committee cooperation reflect the differences between different parliamentary models in the EU MS. While in certain national parliaments, the cooperation between committees is either limited (Hungary<sup>3</sup>) or based mostly on informal rules and shaped by practice (e.g. Cyprus<sup>4</sup>, Denmark), in other national parliaments there is a set of clearly defined rules of procedure, regulating the cooperation (e.g. Poland, Italy, Finland, Greece etc.).

Among EU Member States (MS), the UK stands out since its system is different from most of the European parliaments. This is due to the fact that a good deal of parliamentary procedure is not written into Standing Orders (Rules of Procedure). Instead, it is based on custom and practice of the House. Legislation is generally referred to ad hoc *Public Bill Committees*<sup>5</sup>.

In the rest of the EU MS, the parliamentary committees most commonly cooperate in the following cases:

- Committees are frequently required to submit draft legislation to the Legislative Committee, which has the task to assess its validity.
- In matters which concern the common foreign and security policy of the European Union and in case of International bills or treaties. In majority of the EU MS, there is a special EU Affairs Committee that deals with draft European Union legislation in co-operation with other standing committees or has the possibility to request opinions from other relevant standing committees.
- On bills referred to other committees that have constitutional implications or to assess the constitutionality of a legislative proposal under preparation, the committees have to request the statement from the Constitutional (Law) Committee
- On bills that give rise to new or increased expenditure, reduced tax revenue, the Budget Committee usually gives its opinion.
- In cases of co-competence / cross competence: in case some matters fall into different areas of interests of different standing committees, the leading committee usually turns to other committees and asks their opinion on the matter.
- In certain MS, for example in Italy and Slovenia, committees are required to cooperate or consult with committees in charge of regional affairs or consult with committee/commission for the National Communities.

<sup>3</sup> According to the answers from the ECDP survey, in Hungary there is no practice of opinion-giving committees.

<sup>4</sup> In the Cyprus House of Representatives, there is no such practice provided by the Rules of Procedure. However, unofficially, there is cooperation between Committees on an ad hoc basis, e.g. participation in lead committee meetings, referring draft bills to other committees, etc.

<sup>5</sup> The Government publishes a number of Bills in draft form, before they are introduced to Parliament as formal Bills, to enable consultation and pre-legislative scrutiny before the Bill is published formally. These are usually dealt with by Parliament in one of two ways: they can be referred to an ad hoc joint committee of both Houses appointed for the specific purpose of examining and reporting on that draft Bill, or to an existing departmental select committee.

While cooperation between parliamentary committees can be optional (e.g. Belgium), in certain national parliaments, it can also be mandatory<sup>6</sup> (e.g. Italy). This is particularly common in case the legislation deals with constitutional or legal affairs. Italy stands out as it has the largest number of cases in which a referral to other committees is mandatory.

Modalities of cooperation vary; most common form of cooperation is the possibility of holding joint sessions and/or submitting joint reports. In most cases, members of lead/opinion giving committees (especially rapporteurs) may be present at the other committee meetings. Rapporteurs usually have the right to speak but they do not have the right to vote.

The impact of opinions of the procedure also varies from case to case. There are cases where the absence of an opinion does not impede the decision-making process and others where the opinion itself is the main issue of discussion in the plenary.

In terms of informal alternatives to full opinion giving, the most common is the participation of members in lead committee meeting. Participation in committee sittings is typically not limited to members of the committee. In addition, joint committee meetings are quite common as are contacts between MPs from the same political party.

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<sup>6</sup> In the cases of mandatory opinions, the committee competent by subject must wait for the opinion of the committee to which it has been requested.



## 2. OVERVIEW OF THE CURRENT POLICIES AND PRACTICES IN THE SELECTED EU NATIONAL PARLIAMENTS

### Belgium

Cooperation between the committees in the House of Representatives is regulated by the House of Representatives' Rules of Procedures:

Three main reasons justify that Committee is consulted by another in the course of its work: the (1) technical issues addressed, (2) the large volume of work which is then distributed to avoid overloading the agenda of one committee, (3) preparatory work required by certain subjects. These cases are highlighted in point 2 for the different options provided by the rules of the House.

The modalities of cooperation of lead and opinion giving committees are regulated as follows:

- Art 28(4) request for opinion from another committee, subject to the decision by the President
- Art. 33: proposal to create a sub-committee or working group affiliated with a committee (2/3)
- Art. 68-70: opinion committees for a specific horizontal issue (EU affairs, gender equality etc.)
- Art. 108: budgetary procedure

It is important to note that **the opinions are optional**. They are generally published in the annex of the Committee having requested the opinion. Only the report of the lead committee is debated in the plenary, with the exception of the budgetary procedure.

In terms of informal practices of cooperation the most common is the possibility to organise joint meetings, when the committees are concerned by the same topic and writing joint reports. In addition, exchange of letters between the presidents of the committees is a common occurrence. Committee meetings are open to the public and any MP may take part in discussions during public committee meetings (Rule 31, Section III).

The practices of cooperation between parliamentary committees in the Senate are nearly identical to the practices in the House of Representatives.

### Denmark

Denmark is known among EU member states for the substantial role of its Parliament in EU policy making. This is largely due to the fact that the parliament can formulate positions, which are binding on the government. In addition, the Parliament's power vis-à-vis the government is relatively strong, because Danish governments are generally formed by minority coalitions unable to act without a supporting majority (Auel, Benz, 2005:383).

Current policies and practices in the Folketing may serve as an interesting example of best practices of parliamentary committee cooperation due to: (1) a central role of the EU Affairs Committee, sometimes referred to as mini parliament, in accepting EU legislation (Laursen, 2001:104); (2) widespread practice of informal forms of committee cooperation.

In the Danish Parliament there are 26 standing committees. These committees each have their own sphere of competence. The committees are coordinated and there are no lead and opinion-giving committees <sup>7</sup>.

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<sup>7</sup> Section 7 of the Standing Orders of the Folketing

There is, however, one modification to this principle: Under section 8, subsection 11 of the Standing Orders of the Folketing **the European Affairs Committee** may ask one of the other committees to make a statement concerning an EU proposal. The committee in question subsequently makes a statement within the time limit fixed in the request. The committee in question may appoint a Member to submit the committee's statement to the European Affairs Committee<sup>8</sup>.

It is important to note that in practice there is widespread use of **informal contacts** between the committees – or representatives of the committees, which contributes to greater efficiency of the Danish Parliament:

- Committees often invite another relevant committee to participate in some of the items on the Committees agenda. Annexes and questions posed in one committee are shared with other relevant committees.
- Committees with a broad mandate may choose to follow legislation treated in another committee with a particular focus on their area of expertise<sup>9</sup>.
- Committees may choose to comment on **financial acts** which are approved by the Finance Committee – however, more often parties will instruct their representative in the committee to present the concerns of other committees in the ordinary committee work or the representatives will informally discuss the views presented in other committees.
- A Committee may in rare cases choose to send a letter with the committee's position (or a majority/minority position) to another committee.

## Finland

The Government is required to communicate to the Grand Committee<sup>10</sup> on all 'U Matters'<sup>11</sup>, according to the Constitution, **as soon as possible to enable early scrutiny and parliamentary input**. They are also forwarded to the specialised committee(s) within whose remit the matter lies. According to Raunio and Wiberg the strength of the Finnish parliamentary system is **the proactive and early involvement of specialized standing committees**, which greatly increases the ability of the parliament to influence the position of the government (Raunio T. & Wiberg M. 2000:69).

In addition to early involvement of specialized committees, Hegeland, Neuhold observe that the following practice efficiently uses the broad knowledge in Finnish Parliament: the sectorial committees are obliged to submit reports to the Grand Committee on U matters (Hegeland, Neuhold, 2002:24). Furthermore, the Parliament's Rules of Procedure clearly identify the rules of cooperation. As a result, the current practices of parliamentary cooperation in Finnish Eduskunta might serve as a valuable example of best practices in the EU MS.

Parliament's Rules of Procedure regulate the cooperation between committees:

- Section 32: The plenary session may decide that one or more other committees should issue a statement to the committee preparing the matter
- Section 38: The committee preparing the matter (lead committee) may also request a statement from another committee on the proposal

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<sup>8</sup> For example, the positions established by the government's Foreign Policy Committee are presented to the Folketing's European Affairs Committee on the Friday the week before the Council meets to discuss the issue in question. If accepted by the European Affairs Committee, the position will constitute the negotiation mandate for the government in the Council of Ministers (Laursen, 2003)

<sup>9</sup>For example, this is done by the Rural Districts and Islands Committee.

<sup>10</sup> The view expressed by the Grand Committee on a U matter is politically binding on the government due to the principle of accountability to parliament (Hegeland, Neuhold 2002:10).

<sup>11</sup> EU proposals that fall within the competence of the Parliament

- Section 38: If a question arises as to the constitutionality of a legislative proposal or other matter under preparation in a committee, the committee must request a statement on the matter from the Constitutional Law Committee
- Section 38: Grand Committee and the Foreign Affairs Committee can request a statement from another committee on proposals being prepared in the European Union or send the matter to another committee for possible measures or for information
- The lead committee cannot decide on its report until it has received a statement, but it can freely decide in what way it takes another committee's positions into consideration. Good practice is for the lead committee to take a brief stand on the proposals made in a statement
- With the exception of informal discussions between members of different committees, there are no other informal practices.

## France

The French National Assembly has 8 standing committees to consider all legislative proposals in their respective jurisdictions<sup>12</sup>. This is in sharp contrast to some of the other EU MS (e.g. Denmark has 26 standing committees, while on average other EU MS have between 14-16 committees)<sup>13</sup>. In addition, the French Assemblée Nationale has the largest committees of all EU MS, consisting of up to 145 members (Strøm K. 1998: 35).

Cooperation between parliamentary committees is regulated by the National Assembly's Rules of Procedure:

- Article 86(5): any member can present an amendment in the committee, regardless of the fact whether he is a member or not, the opinion giving committees benefit only from automatic distribution of submitted amendments
- Article (86(6) authors of a given amendment proposal as well as the rapporteurs of the opinion-giving committees can participate at the debates of the commission.
- Any permanent commission that decides to submit its opinion to a whole or in part of a legislative proposal to another permanent committee informs the president of the assembly (decision is published in OJ),
- Article 87(3) rapporteur for opinion has the right to be consulted when he takes part at the works of the lead committee, reciprocally the lead rapporteur has the right to be present with a consultative voice at the workings of the committees for opinion
- Article 86(3) provides for obligations of the Committees for opinion to meet in the timeframes allowing to their rapporteurs to defend the amendments at the meeting of the lead committee.
- Article 87(4) committees can provide the opinion verbally the day established for the discussion of the proposal in the lead committee
- As far as the **draft budget** is concerned, it's customary that 7 permanent committees besides the committee on finance **receive a compulsory referral for opinion** (following the art. 39 of the Organic law on the finance 1st August 2001), provide their opinion on the credit of the missions relative to their competence. But no opinion is requested from the special / ad-hoc committee

<sup>12</sup> The constitutional revision of July 23, 2008, increased the maximum number of standing committees from six to eight and, so as to consecrate a common practice, made referral of a bill to a standing committee the rule and the setting-up of an *ad-hoc* committee, the exception ([http://www.assemblee-nationale.fr/english/synthetic\\_files/file-24.asp](http://www.assemblee-nationale.fr/english/synthetic_files/file-24.asp))

<sup>13</sup> According to Gordon Smith there is an inverse relationship between the number of committees and executive power, as 'the greater the number of small groups, the less amenable to government control they are than a single, large one' (quoted in Strøm K. 1998: 30).

- The debate in the plenary is done on the basis of the text adopted by the lead committee<sup>14</sup>.

Outside of the finance bill, **the procedure of 'referral for opinion' is less frequently used**. According to the French national Assembly rules (file 24, 3b.) this is due to several reasons:

- The **'frustrating' nature of the referral for opinion procedure**. For the committee and its *rapporteur* it represents a relatively large amount of work for an often relatively inconsequential result.
- The possibility, which is now granted to M.P.s who are not members of a committee to attend the work of another committee (in the past only the *rapporteur* appointed to give his opinion could attend with a consultative voice).
- The new provision of the Rules of Procedure which states that a consultative committee must meet before the lead committee, so as to present its amendments to it, may have contributed in practice to the decreasing interest for the referral for opinion procedure<sup>15</sup>.

## Germany

In the German Bundestag, often characterised as a 'sober working parliament', each matter is discussed and voted in the committees before it is finally considered in the Bundesrat plenary (Auel K., Benz A. 2005:8). This matter is referred to a leading committee and if necessary to opinion giving committees. The responsibility of the committees depends on the competence of the corresponding Ministries of the Federal Government. This also applies on the question of which committee will be the leading committee with regard to a specific draft bill or initiative.

According to Auel, the Bundestag is well equipped to deal with even complex legislative processes, due to the federal government's lack of control of the plenary agenda and the high degree of professionalization of specialized parliamentary committee work (Auel, 2006: 250).

The lead in the parliamentary consultation of the Bundesrat is actually of subordinate importance as **the committees involved in deliberation have equal rights. Each committee can make recommendations on each item of a topic on the agenda.**

In practice the committees only comment on aspects in their competences. Furthermore each committee has the right to object recommendations of the other committees. The leading committee has to compile all committee recommendations into a document that indicates any conflicting opinions. The possible objections of committees are also included in the (final) recommendations. The leading committee is neither bound to the recommendations of the opinion-giving committees nor has the last say. The final decision is in fact taken by the plenary. It decides on the basis of (final) recommendation and votes item by item.

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<sup>14</sup> Since the constitutional revision of 23rd July 2008

<sup>15</sup> Standing Committees (2011) File24, 3b. Available at:  
[http://www.assembleenationale.fr/english/synthetic\\_files/file-24.asp](http://www.assembleenationale.fr/english/synthetic_files/file-24.asp)

## Italy

In the Italian Senate the Standing committees are requested to give opinions in several different cases<sup>16</sup>:

- On a bill (that has been referred to another Committee)
- On an act of the Government that has been submitted to the Parliament for the opinion, according to the law (e.g. the governmental decrees that are meant to implement the European laws)
- On all kind of business referred to another Committee,
- On amendments of bills that entail budgetary allocations (this concerns only the Budget Committee).

The decision to request the opinion of a Committee other than the leading Committee to which the bill has been referred rests with the Presidency of the Senate. If a Committee deems it useful to hear the opinion of another Committee or to express its opinion on a bill or business referred to another Committee it shall make such request through the Presidency of the Senate<sup>17</sup>. The opinion is normally expressed in written form and annexed to the report of the sitting of the relevant Committee, as an element of the legislative *iter* of the bill.

The opinion of a specific Committee on bills referred to other committees is mandatory<sup>18</sup> in the following cases:

- The 1<sup>st</sup> Standing Committee (Constitutional affairs) is requested to issue an opinion on bills referred to other committees that have constitutional implications of affect the organization of the civil service
- The 5<sup>th</sup> Standing Committee (Budget) is requested to issue an opinion on bills that give rise to new or increased expenditure or reduced tax revenue or contain provisions of relevance to the directives and forecasts in the economic development programme
- The 2<sup>nd</sup> Standing Committee (Judiciary) is requested to issue opinions on bills that concern criminal or administrative penalties; The Parliamentary Committee on Regional affairs is requested to issue opinions on bills concerning the Regions' legislative or administrative activities
- The 14<sup>th</sup> Standing Committee (European affairs) is requested to issue its opinion on bills governing the procedures to transposing the EU law into Italian law, and on bill that imply the compliance with obligations following European law.
- The same procedure applies to a bill whenever a written opinion is issued by the Constitutional Affairs Committee or by the European Affairs Committee in opposition to it, if the committees responsible by subject matter do not comply with the opinion.

<sup>16</sup> Listed in the Rules of the Senate (especially rules n. 38, n. 39, n. 40).

<sup>17</sup> The Committee requested to express an opinion shall submit that opinion within 15 days, or within 8 days in case the bill is declared urgent (the Presidency of the Senate may set even a shorter time).

If the Committee has not expressed the requested opinion by the deadline, it is assumed that it doesn't deem it necessary to do so, unless this opinion is mandatory.

<sup>18</sup> In the cases of mandatory opinions, the Committee competent by subject must wait for the opinion of the Committee to which it has been requested. In case of negative opinions issued by the Budget Committee on bills referred to a Committee in legislative or drafting capacity on the ground of inadequate cost assessments or budgetary coverage according to article 81 of the Constitution, the Committee competent by subject matter is obliged to conform to the negative remarks. If the responsible Committee does not comply the bill shall be submitted to the Plenary Assembly of the Senate for the final adoption.

## Chamber of Deputies

A matter is referred to an opinion giving committee when a bill also contains provisions that refer to the area of competence of other Committees. In this case, the other Committees examine the bill in an advisory capacity. They frame an opinion (in the manner prescribed in the Rules of Procedure) and submit the opinion to the Committee that is acting in a reporting capacity (Rules of Procedure, art. 73.1).

Certain opinions carry particular weight, for example: the opinion of the Budget Committee<sup>19</sup>, the opinion of the Constitutional Affairs Committee<sup>20</sup>, the opinion of the Employment Committee<sup>21</sup>, the opinion of the European Affairs Committee<sup>22</sup>, the opinion of the Committee on Legislation in respect of the quality of the legislative text (Rules of Procedure, art. 96-ter).

## Sweden

In Swedish political system Riksdag has a central role. Before the Chamber of the Riksdag takes a decision on an item of parliamentary business, all proposals submitted in connection with the item **are to be considered by the members of one of the 15 parliamentary committees**<sup>23</sup>.

Cooperation between committees is regulated in Ch. 4, Art. 8 of the Act<sup>24</sup>:

- A committee may provide another committee with an opportunity to deliver an opinion concerning a matter or an issue affecting that committee's area of competence
- Before a committee delivers a report containing proposals in a matter which has been raised in the Riksdag, **the Committee on Finance** shall be provided with an opportunity to comment, if the proposal could have significant future repercussions for public revenue and expenditure
- If, during the consideration of a matter, **at least five members of a committee so request**, the committee shall obtain an opinion under paragraph one. The same shall apply if such a request has been put forward unconnected with the consideration of a matter, if the question relates to European Union activities<sup>25</sup>
- A committee may reach agreement with one or more other committees to prepare a **matter jointly through deputies on a joint committee**.
- In case a question belongs to the subject field of more than one committee, one committee is given responsibility for the preparation of business and delivering a committee report, while other committees are invited to deliver their opinions to this lead committee by a certain date
- The Committee on European Union Affairs is a special body in the Riksdag. The Government consults the Riksdag on what final position Sweden should take in the EU. This consultation takes place in the Committee on European Union Affairs,

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<sup>19</sup> Tasked with analysing the impact that a bill will have on the public finances and considering whether the bill fulfils the constitutional requirement to demonstrate how proposed new or increased spending will be funded (Rules of Procedure, art. 74)

<sup>20</sup> Analyses how the bill affects the State's constitutional configuration and whether it respects the delegation of powers to the regions (Rules of Procedure, art. 75);

<sup>21</sup> Gives opinion on aspects relating to the civil service (Rules of Procedure, art. 75)

<sup>22</sup> Analyses a bill's compliance with EU law (Rules of Procedure, art. 126.2)

<sup>23</sup> In accordance with the Swedish Riksdag Act (1974:153), which contains the parliamentary rules of procedure, there are 15 standing committees in the Riksdag and a possibility to appoint additional committees during the electoral period to serve no longer than the remainder of the electoral period (Ch. 4, Art. 2).

<sup>24</sup> The delivery of opinions between committees was formalized in 2003, with the codification of current practice (Committee report 2002/03:KU15).

<sup>25</sup> The committee may reject a request for an opinion if it is put forward during the consideration of a matter and the committee concludes that the action requested would so delay consideration of the matter that serious detriment would result. In such a case, the committee shall state in its report its reasons for rejecting the request.

where members from the eight parties represented in the Riksdag discuss Sweden's EU policies with the Government.<sup>26</sup>

## Poland

In Polish Sejm, referral of matters to opinion giving committees is strictly regulated by the Standing Orders:

- Article 40 para.2 of the Standing Orders: committees, to which a bill (draft resolution) has been referred for consideration "may address other Sejm committees to obtain an opinion on a bill or draft resolution or part thereof".
- Part II Chapter 3 of the Standing Orders, titled "Provisions Concerning the Participation of the Legislative Committee in Proceedings in Relation to Bills and Draft Resolutions"<sup>27</sup>.
- Articles 106-108 of the Standing Orders concerning the cooperation between the Public Finances Committee and other committees in the course of proceedings in relation to draft budgets and other financial plans of the state.

It is important to note that the Standing Orders allow referring bills or draft resolution to more than one committee. Thus, in such situations there are in fact several lead committees and the need for obtaining opinions is not that important.

In regards to informal practices, there are no typical, customary informal alternatives to full-opinion giving. Among possible practices of informal alternatives to full-opinion giving it is possible to mention the correspondence between committees; each Deputy may, as a rule, take part in sittings of any committees since participation in committee sittings is not restricted to members of the committee. In practice joint consideration is common, especially since committees are obliged to prepare a joint (i.e. single) report on the bill or draft resolution (Article 43 para. 1 of the Standing Orders). According to Article 40 para. 2, committees, to which a bill (draft resolution) has been referred for consideration, may hold a joint debate thereon. Cooperation between opinion-giving committees in the Senate is similarly regulated by the Rules and Regulations of the Senate<sup>28</sup>.

## Council of Europe

In the Parliamentary Assembly of the Council of Europe (PACE), the decision of the referral of a matter to one committee for report and one or more committees for opinion shall be reached by the Bureau of the Assembly, and shall be ratified by the Assembly itself (Rule 25 of the Rules of Procedure – reference to committee). There is no limitation whatsoever to the number of committees seized for opinion.

<sup>26</sup> The Government must receive support from the Committee on EU Affairs for the position the Government intends to take in the Council of Ministers. The position of the Committee on EU Affairs serves as a kind of mandate. If the Government fails to observe this position, it risks criticism from the Riksdag and ultimately a vote of no confidence in the Chamber of the Riksdag (<http://www.riksdagen.se/en/Committees/The-Committee-on-European-Union-Affairs/>)

<sup>27</sup> Customarily the Legislative Committee is composed of either experienced Deputies or ones who are professional lawyers. In consequence activities of the LC are often related to complex legal problems, e.g. constitutionality, conformity to the EU law, legislative technique.

<sup>28</sup> Article 68, para. 1a (in Section VII: "Procedure in matters of statutes passed by the Sejm"); Article 73 (in Section VIII: "The State Budget procedure"); Article 75a and Article 75b, para. 2 (in Section VIIIa: "Procedure in matters concerning the membership of the Republic of Poland in the European Union"); Article 79, para. 2 (Section IX: "Procedure in matters of legislative initiatives of the Senate and other resolutions"); Article 79, para. 2 and Article 85f (Article 85f in Section IXa: "Execution of judgments of the Constitutional Tribunal"); Article 90c (in Section Xa: „Consideration of petitions")

The PACE Rules of Procedure **do not provide a unique list of specific cases requiring the referral of a matter to a committee for opinion**; such cases are laid down in separate provisions:

- The consideration of the credentials of a national delegation which have been challenged on substantive grounds is sent to the “appropriate committee” for report (in practice, so far, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, or the Committee on Political Affairs and Democracy) and to the Committee on Rules of Procedure, Immunities and Institutional Affairs for opinion (Rules 8.3 and 9.2 of the Rules of Procedure).
- The consideration of a Parliament (of a non-member State) request for observer status with the PACE falls within the competence of the Committee on Political Affairs and Democracy, for report, and other relevant committees for opinion (Rule 60 of the Rules of Procedure)
- The consideration of a Parliament (of a non-member State) request for partner for democracy status with the PACE falls within the competence of the Committee on Political Affairs and Democracy, for report, with opinions by the Committee on Legal Affairs and Human Rights and the Committee on Equality and Non-Discrimination (and where appropriate any other relevant committee) (Rule 61.7 of the Rules of Procedure).
- (Notwithstanding any formal provision in the Rules) the consideration of a State request for membership of the Council of Europe falls within the competence of the Committee on Political Affairs and Democracy, for report, and, since 1990, the Committee on Legal Affairs and Human Rights, for opinion (since the Rules of Procedure do not lay down any formal Rule in this respect, the Bureau may decide to request the opinion of any other relevant committee).

The PACE Rules of Procedure **do not establish a complete standard procedure organising the modalities of cooperation** between the lead committee and the opinion-giving committees. However, procedural elements can be found in separate provisions<sup>29</sup>.

The rapporteur of the opinion-giving committee may be invited to address the committee seized for report; he may also participate in any hearing or rapporteur fact-finding mission organised by the lead committee in the framework of the preparation of the report. The rapporteur of the lead committee may likewise be invited to address the plenary. There is however absolutely no automaticity. A complex, political or controversial issue would quite evidently require a strengthened co-operation between committees and rapporteurs.

Such actions – participation of rapporteurs in meetings; formal exchange of letters between both rapporteurs/both committees; common fact-finding visits of rapporteurs on the spot – are more commonly used in a “statutory” context.

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<sup>29</sup> Rule 32.2 of the Rules of Procedure states that “(...) The main committee’s report shall be made available to the committee for opinion in time for the latter to draw up its opinion if possible one week before the latter’s meeting. (...)”; Rule 49.3 states that “A committee seized for an opinion on the report of another committee may submit its opinion in writing or orally. If in writing it should contain a chapter at the beginning entitled “Conclusions of the committee”, and an explanatory memorandum by the rapporteur”; Rule 47.2 stipulates that “Any two or more committees may hold a joint meeting for the examination of subjects coming within their competence, but may not reach a joint decision, except if it is unanimous or on procedural matters. The Chair shall be taken in turn by the chairpersons of each of the participating committees, starting with the longest-serving chairperson or, in the case of equal length of service, the elder.”



### 3. CONCLUSIONS

In view of the national practices of parliamentary cooperation reviewed here, it is possible to suggest that the European Parliament might consider widening the scope of cooperation between the parliamentary committees. This of course has its advantages and disadvantages. Referring all draft laws to opinion-giving committees for consideration, as it is for example the case in Latvia,<sup>30</sup> could be disadvantageous since it might slow down the policymaking process and therefore reduce efficiency. The same is true in case of a large number of mandatory opinion-giving committees, as seen in the Italian Senate.

However, the EP might benefit from introducing the following practices of parliamentary committee cooperation, which exist in several other national parliaments and have a strong potential to increase cooperation between parliamentary committees: Firstly, in order to strengthen cooperation between parliamentary committees, it might be possible to follow the example of Denmark, where committees often invite another relevant committee to participate in some of the items on the committees' agenda. Furthermore, annexes and questions posed in one committee are shared with other relevant committees. Thus, the transparency is increased.

Secondly, the EP could adopt the following practice, also found in Danish Parliament: Committees with a broad mandate may choose to follow legislation treated in another committee with **a particular focus on their area of expertise**. The cooperation with other specialised committee(s) enables the committees to take full advantage of the expert knowledge available in various committees. Since these informal practices of committee cooperation considerably increase the efficiency of the Danish parliament they might be a useful addition to the current established practices in the EP<sup>31</sup>.

Thirdly, the following practice present in the Swedish Parliament has the potential to increase cooperation between committees in EP: If, during the consideration of a matter, **at least five members of a committee so request**, the committee shall obtain an opinion under paragraph one (Ch. 4, Art. 8 of the Act). The same shall apply if such a request has been put forward unconnected with the consideration of a matter, if the question relates to European Union activities. The following provision ensures that this request for an opinion is not used as a delaying tactic: The committee may reject a request for an opinion if it is put forward during the consideration of a matter and the committee concludes that the action requested would so delay consideration of the matter that serious detriment would result. In such a case, the committee shall state in its report its reasons for rejecting the request.

<sup>30</sup> Latvian Parliament Saeima makes an interesting case as **all the submitted draft laws are referred to opinion-giving committees for consideration**. In addition, draft resolutions on appointment of officials are also given to opinion-giving committees for preliminary consideration. In other cases not set forth by laws or regulations, the procedure can be used upon the discretion of the Saeima or its Presidium.

<sup>31</sup> EP Rules of Procedure (art. 46, para 4: Simplified procedure): As an established practice, the rapporteur(s) for opinion are often invited to the lead committee to explain the position of their committee and are given precedence before the political group speakers. Vice-versa, the rapporteur in the lead committee is invited for an exchange of views in the opinion-giving committee (partly as reflection of Rule 49(6) and interpretation of Rule 193(2)). The amendments by the opinion-giving committee are usually included in the compromises suggested by the rapporteur, or presented separately (especially in the case of the own initiative reports). In cases of urgency rapporteurs for opinion sometimes table their amendments directly to the report vote in the lead committee (if this one is available) instead of producing a formal opinion. Such practices may vary from committee to committee, notably in the framework of consent procedures. Letters from the opinion-giving committee chair to the lead committee chair are also practiced from time to time.

Finally, the EP Rules and Procedure contain comparable provisions for rules of committee cooperation as can be found in several EU national parliaments. However, as seen from the overview of national practices, strict regulation might not be a necessary precondition for efficient cooperation. For example, the PACE Rules of Procedure do not provide a unique list of specific cases requiring the referral of a matter to a committee for opinion. Rather, separate provisions contain procedural elements, which enable efficient cooperation. As seen in the case of Denmark, informal practices can sometimes prove to be just as or even more efficient in promoting strong cooperation between parliamentary committees, while at the same time allowing for flexibility. In contrast, a complicated set of rules regulating the referral for opinion procedure can negatively affect the cooperation between committees as seen in the case of France.

## ANNEX

### Questionnaire on best practices of opinion-giving committees with answers concerning the EP

Below is a list of the pertinent Rules of the European Parliament's Rules of Procedure regulating the cooperation between lead and opinion-giving committees, according to the questions asked to ECPRD correspondents.<sup>32</sup> Cf. also Annex VII: Powers and responsibilities of standing committees for their remits.

#### 1. In which cases is a matter referred to an opinion giving committee?

**European Parliament:**

- 37: Verification of legal basis (JURI)
- 37a: Delegation of legislative powers
- 38: Verification of financial compatibility (BUDG)
- 38a: Examination of respect for the principle of subsidiarity
- 86 (2): Codifications
- 202 (2), 203: Examination of petitions
- Annex VI, Art. 1(3), 3(1): Granting of discharge

#### 2. Which are the modalities of cooperation of lead and opinion giving committees? What are the standard procedures? Are there deviations, if yes, why and how?

**European Parliament:**

- 49: Opinions of committees;
- 50: Procedure with associated committees
- 51: Procedure with joint committee meetings
- 188, para 3: Duties of committees

According to 188(3), except for dully justified cases a question should be referred to a maximum of three committees for opinion.

#### 3. What is the impact of opinions for the procedure in the lead committee and in plenary? In which way are they included in votes?

**European Parliament:**

Amendments from opinion-giving committees are included in the lead committee's voting list. Only the committee responsible may table amendments in plenary (besides political groups and groups of a minimum number of MEPs). The rapporteur for opinion usually takes the floor in the plenary.

#### 4. Are there informal alternatives to full opinion-giving, such as sending a letter from one committee to another, participation in lead committee meetings, bilateral exchanges between MPs or similar procedures?

**European Parliament:**

- 46, para 4: Simplified procedure

<sup>32</sup> The EP's Rules of Procedure are available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+RULES-EP+20120703+0+DOC+PDF+V0//EN&language=EN>

As an established practice, the rapporteur(s) for opinion are often invited to the lead committee to explain the position of their committee and are given precedence before the political group speakers. Vice-versa, the rapporteur in the lead committee is invited for an exchange of views in the opinion-giving committee (partly as reflection of Rule 49(6) and interpretation of Rule 193(2)).

The amendments by the opinion-giving committee are usually included in the compromises suggested by the rapporteur, or presented separately (especially in the case of the own initiative reports). In cases of urgency rapporteurs for opinion sometimes table their amendments directly to the report vote in the lead committee (if this one is available) instead of producing a formal opinion. Such practices may vary from committee to committee, notably in the framework of consent procedures. Letters from the opinion-giving committee chair to the lead committee chair are also practiced from time to time.

Between the committee and the plenary vote, of course, many informal contacts may take place between key players, especially in the political groups.

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