PHD THESIS

Nikolina Marasović

MISKOLC

2026

University of Miskolc
Faculty of Law and Political Science
Deák Ferenc Doctoral School of Law

Nikolina Marasović

THE ROLE OF NATIONAL PARLIAMENTS IN THE EUROPEAN UNION - CASES OF CROATIA, HUNGARY, AND POLAND

(PhD Thesis)

Doctoral School:	Deák Ferenc Doctoral School of Law
Head of Doctoral School:	Prof. Dr. Erika Róth, Full Professor
Doctoral Programme:	Central European Comparative Law
Academic Supervisor:	Prof. Dr. Petar Bačić, Full Professor

MISKOLC

2026

NIKOLINA MARASOVIĆ
PhD Candidate

PETAR BAČIĆ
Supervisor
Full Professor at the Faculty of Law
University of Split

LIST OF ABBREVIATIONS

COSAC	Conference of Parliamentary Committees for Union Affairs
EACs	European Affairs Committees
EP	European Parliament
EU	European Union
EWM	Early Warning Mechanism (or EWS- Early Warning System)
IPEX	Inter-parliamentary Information Exchange System
LT	The Lisbon Treaty
MEPs	Members of the European Parliament
MPs	Members of the National Parliament
MS	Member States
NPs	National Parliaments
OLP	Ordinary legislative procedure
PD	Political Dialogue
RO	Reasoned Opinion
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TEC	Treaty on European Community

TABLE OF CONTENTS

INTRODUCTION: OBJECTIVES, STRUCTURE, AND METHODOLOGY 8

I. THE EVOLUTION OF NATIONAL PARLIAMENTS' ROLE IN THE EUROPEAN UNION 17

1.1. Historical context *17*

1.2. The first phase (from the 1950s to mid-1980s; limited involvement) *20*

1.3. The second phase (from the 1980s to the Maastricht Treaty - 1993; phase of responding to the challenges) *22*

1.4. The third phase (from the Maastricht Treaty- 1993 to the Lisbon Treaty- 2009; greater involvement) *24*

1.4.1. Some Debates about the Importance of the 'Initiative of the failed European Constitution' and its Influence on the Role of the National Parliaments *29*

1.5. The fourth phase (from the Lisbon Treaty onwards; direct role of national parliaments, use of EWM, but also use of political dialogue; resolving the democratic deficit) *37*

1.6. Short conclusion 39

II. THE EUROPEAN PARLIAMENT AND ITS CONNECTION WITH THE NATIONAL PARLIAMENTS, AND OTHER KEY INSTITUTIONS; LEGISLATIVE PROCEDURE 40

2.1. Why has the process of strengthening the powers of the European Parliament resulted in the weakening of National Parliaments? *40*

2.2. Development of the role of the European Parliament in EU integrations, legislative procedure, and executive control *41*

2.3. The Democratic Character of the Union and the Model of Representative Democracy after Lisbon *44*

2.4. Simplifications of Legislative Procedure and Lawmaking after Lisbon *45*

2.4.1. Ordinary and Special Legislative Procedures - Democratic Implications 45

2.5. The Rights of the European Parliament over the Delegated Acts *48*

2.6. European Parliament and the issue of the democratic deficit: Have national parliaments ever been part of the solution? 51

III. THE PRINCIPLE OF SUBSIDIARITY (BEFORE AND AFTER THE LISBON TREATY) 54

3.1. The Roots of the Principle of Subsidiarity *54*

3.2. Influence of German legal heritage; The German Basic Law and Subsidiarity *55*

3.3. The Subsidiarity in the European Context *56*

3.4. Early critics of the subsidiarity principle *57*

3.5. Subsidiarity through the EU treaties *62*

3.6. On the Concepts of Subsidiarity *67*

3.7. Comparison of the old subsidiarity from the Maastricht Protocol and the New Protocols from the Lisbon Treaty *67*

3.8. The subsidiarity principle in the practice of the Court of Justice of the European Union (CJEU) *69*

IV. THE LISBON TREATY AND ITS NOVELTIES **73**

4.1. About the Early Warning mechanism, political dialogue, and other important tools for national parliaments *73*

4.2. Lisbon Treaty as confirmation of the recognition of representative democracy *75*

4.2.1. Importance of Article 10 of the TEU 78

4.2.2. Importance of Article 12 of the TEU and other provisions 79

4.3. The Early Warning Mechanism (EWM) *86*

4.3.1. Short overview of the development of the EWM 86

4.4. Types of legislative acts that fall under the EWM: the scope and objects of review *87*

4.5. The nature and purpose of the EWM *89*

4.6. The functioning of the EWM in practice *93*

4.6.1. Use of the EWM in Practice (Three Yellow Cards) 95

4.6.2. Some proposals for reform of the EWM - The Green and Red Cards 102

4.6.3. Reasoning behind considering National parliaments as the best guardians of the principle of subsidiarity 103

4.6.4. Criticism and Justifications of the EWM 106

4.7. The Political Dialogue *110*

4.8. On different categorisation of National Parliaments *114*

V. NATIONAL PARLIAMENTS OF CEE COUNTRIES: CROATIA, HUNGARY, AND POLAND **119**

5.1. CEE Countries on the way to the EU *119*

5.2. The Croatian Parliament (Hrvatski Sabor) *121*

5.2.1. History of the Croatian Parliament 121

5.2.2. The transitional period: On the way to democracy 127

5.2.3. Important Legal Framework: Constitutional Provision related to the Croatian Parliament and Cooperation Act 131

5.2.4. The Pre-accession period 136

5.2.5. The accession period 138

5.2.6. Parliamentary oversight of the Executive and the Working bodies of Sabor 142

5.2.7. Process of the Harmonisation and the Post-accession developments 145

5.3. The Hungarian Parliament (Országgyűlés) 149

5.3.1. History of the Hungarian Parliament 149

5.3.2. The transitional period: On the way to democracy 151

5.3.3. Important Legal Framework: Constitutional provisions(The Fundamental Law)and the Cooperation Act 154

5.3.4. The Pre-accession Period: Important Parliamentary Committees 157

5.3.5. The Accession Period and Working Bodies of the Parliament 159

5.3.6. Parliamentary Oversight of the Executive 162

5.3.7. Process of the Harmonisation and the Post-accession developments 163

5.4. The Polish Parliament (Sejm and Senat) 165

5.4.1. History of the Polish Parliament 165

5.4.2. The transitional period: On the way to democracy 172

5.4.3. Important legal framework: Constitution provisions and the Cooperation Act 176

5.4.4. The pre-accession period: Important Parliamentary Committees 184

5.4.5. The Accession Period 190

5.4.6. Parliamentary Oversight of the Executive 193

5.4.7. Process of the Harmonisation and Post-Accession developments 194

VI. EMPIRICAL AND COMPARATIVE ANALYSIS OF THE PARLIAMENTARY ACTIVITY OF CEE COUNTRIES IN EU AFFAIRS 197

6.1. Introduction to the analytical chapter 197

6.2. Scope and intensity of activities of parliaments (2010-2014) 198

6.3. Observation of the Reasoned Opinions of all three parliaments in the third"yellow card" procedure (Posting of Workers Directive 203

6.3.1. Common grounds in the opinions and their differences 207

6.3.2. European Commission Opinion on Reasoned Opinions 208

6.4. Analysis of results from the interview questionnaire *210*
6.4.1. Formal procedures and actual practice. Activation of EU legislative proposals 211
6.4.2. The locus of decision-making (formal bodies or informal political channels) 212
6.4.3. The existence of implicit rules in prioritising EU acts (selectivity or scrutiny) 213
6.5. The Relationship with the Government in the EU Affairs *213*
6.5.1. Access to information 213
6.5.2. Instruments of Parliamentary Pressure 215
6.5.3. Control points (Formal Design vs Delayed Intervention) 216
6.6. Capacities and expertise *217*
6.6.1. Structural Constraints or Differentiated Models 217
6.6.2. Sources of expertise 219
6.7. Perceived Gaps and Directions for Capacity Building *220*
6.7.1. Parliamentary Cooperation 220
6.8. Specific Features in the Functioning of Parliaments *221*
6.8.1. Specific features of the Croatian Parliament 221
6.8.2. Specific features of the Hungarian Parliament 223
6.8.3. Specific features of the Polish Parliament (Sejm; lower house) 224
CONCLUSION **225**
BIBLIOGRAPHY **236**
SUMMARY **252**
ANNEX 1: INTERVIEW QUESTIONNAIRE **255**
ANNEX 2: RELATED PUBLICATIONS OF THE AUTHOR **260**
ANNEX 3: STATEMENT **261**
RECOMMENDATION FROM THE SUPERVISOR **262**
ACKNOWLEDGEMENTS **264**

INTRODUCTION: Objectives, Structure, and Methodology

The importance of the role of national parliaments within the European Union has increasingly become a relevant topic both in academic theory and in practice. The need to strengthen the position of national parliaments proved particularly significant already when questions regarding the democratic deficit of the European Union emerged. This became especially evident once it was realised that the mere expansion of the competences of the European Parliament could not, in itself, achieve a satisfactory level of legitimacy or democracy. The debate on the significance and growing influence of national parliaments therefore emerged as a logical response to the Union's democratic deficit and was institutionalised with the adoption of the Lisbon Treaty in 2009, which introduced new competences for national parliaments. National parliaments were perceived as part of the solution to the democratic deficit due to their potential to act as intermediaries between European institutions and citizens.

This dissertation provides an analysis of the institutional and legal role of national parliaments within the system of the European Union, with particular emphasis on the parliaments of Central and Eastern Europe, including case studies of Croatia, Hungary, and Poland.

Furthermore, taking into account the question of further enlargement of the European Union, a number of questions arise, including the Union's capacity to absorb new members and the readiness of candidate countries to adapt their systems to new challenges, particularly with regard to meeting the democratic standards of the EU. Within the overall integration process, the role of national parliaments is of considerable importance, serving not only as facilitators of the process but also as drivers of democratic development within each state.

The aim of this research is, *inter alia*, to conduct a systematic analysis of the position of national parliaments, particularly those of Central and Eastern European countries, within the EU's institutional framework, by examining the legal foundations of their role as well as the scope and manner of their participation in the shaping and scrutiny of European policy. In addition to analysing the normative frameworks governing the work of parliaments of Central and Eastern Europe, the research also seeks to compare their practical adaptation and development, both in terms of their internal national functioning during the process of adjustment to the EU legal order

and their participation in EU affairs, including the use of the mechanisms provided by the Lisbon Treaty.

The central research question is formulated as follows: 'To what extent have the mechanisms introduced by the Lisbon Treaty strengthened the role of national parliaments in decision-making at the EU level?' This question allows for an examination of several important dimensions of the role of national parliaments, beginning with the effectiveness of the existing legal and institutional framework governing their role in the EU, followed by an assessment of the extent to which these parliaments exercise a genuine influence on European decision-making, and finally, through the analysis of both theory and, in particular, existing practice, the identification of potential differences among the selected countries, especially concerning parliamentary scrutiny of EU affairs.

From the above research question, the following hypothesis is derived: 'The role of national parliaments in the EU has been formally strengthened by the Lisbon Treaty, particularly through the subsidiarity control mechanism and enhanced rights to information. However, more than fifteen years after the entry into force of the Lisbon Treaty, their influence remains uneven and structurally constrained due to the dominance of the executive at both the national and EU levels, which limits their capacity to effectively enforce the principle of subsidiarity and to safeguard national sovereignty.'

The research methodological framework combines several scientific methods to address the topic's complex dimensions. It proceeds from the premise that the role of national parliaments in the European integration process cannot be adequately understood solely through normative analysis of legal sources. Accordingly, the research is based on a combination of methods that allow for a comprehensive understanding of both the normative framework and the actual functioning of national parliaments within the EU system.

Comparative legal research constitutes the principal method employed, as it enables an examination of the different institutional arrangements through which national parliaments participate in the scrutiny of European affairs. At the same time, this method allows an assessment of the extent to which particular institutional mechanisms reflect specific national constitutional traditions, and to what extent they represent elements of a broader model of parliamentary scrutiny

within the EU framework. The comparative legal analysis, therefore, follows an approach developed in contemporary legal theory, ensuring that legal institutions are compared not only through formal legal norms but also through their institutional function and practical application. Such an approach allows for an appropriate analysis of parliamentary mechanisms for the scrutiny of European affairs, since formal legal arrangements alone often do not fully reflect the actual influence of parliaments in the political process. The comparative method also makes it possible to connect two key purposes of this research. On the one hand, it enables the identification of both similarities and differences among individual national models of parliamentary scrutiny of EU affairs. On the other hand, it simultaneously allows the application of an analytical framework through which different institutional arrangements can be distinguished. These institutional arrangements are conditioned by the specific circumstances of each Member State, including its constitutional, political, or administrative context. Ultimately, the distinction between particular institutional specificities, on the one hand, and general models of good practice, on the other, constitutes an important element of the conceptual framework of this research and represents one of the central questions of the comparative legal analysis.

Nevertheless, certain methodological limitations in the application of the comparative method must also be emphasised. Since the operation of national parliaments takes place within different constitutional traditions, political systems, and administrative capacities, institutional mechanisms that appear formally similar may differ considerably in practice. For this reason, the comparative analysis does not confine itself merely to a comparison of legal norms but also includes an examination of the institutional context within which these mechanisms operate. Therefore, the analysis starts from the assumption that each system is different, and it does not assume that individual solutions from one system can be applied to another.

Furthermore, the analysis primarily focuses on the effectiveness of the parliaments of three Member States- Croatia, Hungary, and Poland, selected based on several criteria. First, these states are relatively recent members of the European Union, which provides an interesting analytical context for examining the development of their parliamentary mechanisms for the scrutiny of European affairs from a perspective different from that of Western European states, which also have already been extensively analysed in the literature. A second criterion derives from the shared historical legacy of these countries, namely their belonging to the post-communist institutional

context. This raises questions regarding their institutional characteristics and the different models of organisation and functioning in European affairs developed within their parliamentary systems. A further criterion for their selection lies in the different patterns that each of these parliaments has developed, particularly with regard to the relationship between the legislative and executive branches. The Croatian case is particularly significant as Croatia is the most recent Member State to have acceded to the European Union, and its accession criteria were considerably stricter than those applied to earlier members. Moreover, the Croatian case, and in particular the role of the Croatian Parliament in EU affairs, remains relatively under-researched in the academic literature. As it regards the selection of Hungary and Poland, both countries acceded to the European Union during the same enlargement wave. However, while Hungary, like Croatia, has a unicameral parliamentary system, Poland presents an interesting point of comparison due to its bicameral structure. Historical analysis of each country also indicates that attempts to establish bicameral systems existed during earlier stages of development. Croatia, for example, maintained a bicameral parliamentary system during the first decade following the establishment of democracy, while Hungary experienced a brief period of bicameralism in the early stages of parliamentary development before ultimately retaining a unicameral structure despite subsequent attempts at reform. Part of the research within the Polish Parliament includes a brief review of the practice of the Polish Constitutional Tribunal, namely several decisions that affect the role of the Polish Parliament, or rather the houses of parliament, in EU affairs.

This research also incorporates a detailed legal-historical dimension. Through the use of the legal-historical method, it is possible to present the general development of the role of national parliaments from the establishment of the European Communities to the Lisbon Treaty, while also describing the relationship between national parliaments and the European Parliament. This method provides insight into the sequence of changes that contributed to the current position of national parliaments, thereby enabling an explanation of their role, including the differences that exist among them. The legal-historical method is therefore an important component of the research, as it supports the argument that a certain level of institutional autonomy at the national level represents a crucial precondition for the effective exercise of parliamentary scrutiny. In other words, the legal-historical analysis demonstrates that contemporary forms of parliamentary scrutiny of European affairs are not solely the result of reforms undertaken at the EU level, but are also significantly shaped by national constitutional traditions and earlier national practices.

Another important research method is the comparative political science approach. In addition, methods characteristic of public administration studies are also employed. These approaches are necessary because the role of national parliaments in EU affairs cannot be understood solely through formal legal analysis; it is equally important to examine the actual functioning of parliamentary institutions. For this reason, certain parts of the analysis include an empirical dimension, particularly through the examination of institutional practice, the organisation of parliamentary committees for EU affairs, and the patterns of interaction between parliaments and their governments in the European legislative process.

The study also analyses the concept of executive dominance, which proceeds from the assumption that governments, through their participation in the Council of the European Union, occupy the position of key actors in the European legislative process, thereby potentially limiting the real influence of national parliaments.

Through the use of an interdisciplinary approach, integrating political science theory and institutional practice, the dissertation also addresses, to the extent necessary for the purposes of this research, the debate on the democratic legitimacy of the European Union, including the legitimacy and function of national parliaments within a system of multi-level governance. In addition to the above methods, the research also employs the normative legal method, through which the provisions of the founding treaties, relevant constitutional provisions of the Member States under consideration, and their legal acts are analysed in order to clarify their interrelationship and influence on the functioning of parliaments. The analytical-dogmatic method is likewise used to examine legal constructions, specific legal institutions, and the legal systems of the Member States through the lens of legal dogmatics.

Ultimately, the combination of the aforementioned methods, primarily the legal-dogmatic, legal-historical, and empirically oriented analyses, provides a comprehensive methodological framework for the research conducted in this dissertation, supplemented by the normative legal and analytical-dogmatic methods. This framework enables not only an analysis of the legal position of national parliaments within the EU system but also a clearer and more precise understanding of the actual dynamics of their participation in European affairs, while also

contributing to an assessment of the extent to which particular institutional models may serve as examples of good practice for other Member States, including future members.

Finally, in addition to the comparative method used to examine institutional differences among the observed Central and Eastern European Member States, the research also includes a qualitative empirical analysis of parliamentary documentation, reports, and records. A particularly valuable contribution to the study is provided by qualitative interviews conducted with parliamentary secretaries and staff of the EU affairs committees of the three CEE Member States. These individuals possess direct practical experience from the accession process and from the institutional adaptation of their parliaments during accession negotiations and following EU membership.

With regard to structure, the dissertation consists of five chapters. The first chapter examines the historical development of national parliaments within the EU, divided into four phases according to Raunio's categorisation.[1] The first phase covers the period from the establishment of the European Communities in the 1950s to the mid-1980s, and is characterised by a very limited role for national parliaments, whose opinions were sought primarily during treaty ratification. The second phase, from the mid-1980s to the Maastricht Treaty of 1993, is described as a period of parliamentary responses to new challenges. The third phase, from the Maastricht Treaty to the Lisbon Treaty of 2009, witnessed the emergence of the debate on the democratic deficit and a somewhat stronger role for national parliaments. This phase also addresses the failure of the European Constitution, which is important because many of its proposed elements were later realised through the Lisbon Treaty. The fourth phase, from the Lisbon Treaty onwards, has been marked by a significant increase in the role of national parliaments, particularly through their direct participation in the EU legislative process via the Early Warning Mechanism and other legal mechanisms introduced by the Lisbon Treaty.[2]

[1] See: Raunio, Tapio (1999). Always one step behind? National Legislatures and the European Union. Cambridge University Press, Vol. 34, No. 2, pp. 180-202, p. 183. Raunio's categorization was primarily based on the categorization by Norton, Philip, in his work: Conclusion: Addressing the Democratic Deficit, Journal of Legislative Studies, 1:3 (1995), pp. 177-193.

[2] Note: The Lisbon Treaty is mentioned in this part only briefly. Given its significance for the role of national parliaments in the EU, it is analysed in detail in Chapter IV.

The second chapter examines the European Parliament, with reference to other EU institutions, focusing particularly on their relationship with national parliaments. It begins by addressing why and how the expansion of the European Parliament's powers contributed to the weakening of national parliaments' roles. The chapter further explores the historical development of the European Parliament's role within the process of EU integration, focusing in particular to the democratic character of the Union and the evolution of representative democracy after the Lisbon Treaty. Special attention is given to the simplification of the legislative process introduced by the Lisbon Treaty, especially the distinction between the ordinary and special legislative procedures. The analysis further considers the European Parliament's powers in the field of delegated legislation (under Article 290 TFEU), including also the delegation procedure, institutional balance, and the expansion of executive powers. After the latter, the chapter also gives an observation of the broader issue of delegating parliamentary powers more generally. Finally, it examines debates regarding the question of the democratic deficit and national parliaments, including theoretical debates on whether national parliaments, alongside the European Parliament, might constitute an additional solution to the democratic deficit.

The third chapter addresses the principle most relevant for national parliaments, namely the principle of subsidiarity as provided for in the Lisbon Treaty. The chapter traces the origins of the principle, which are often associated with Catholic social thought and, to some extent, with German constitutional tradition. However, it should be noted that the content and characteristics developed within these traditions differ substantially from the principle as formulated in the Lisbon Treaty, and thus, the connection between them exists only on a limited basis. Then follows the development of the principle through the EU treaties. Finally, it examines various theoretical perspectives and aspects of the principle, including the Court of Justice of the European Union's ex post review. The chapter also discusses the political ex ante control of subsidiarity exercised by national parliaments through the Early Warning Mechanism introduced by the Lisbon Treaty, although this mechanism is analysed in detail in the following chapter.

The fourth chapter is devoted to the Lisbon Treaty and its protocols, which represent the most important turning point in the role of national parliaments by granting them the possibility to participate directly in the EU legislative process. Particular attention is devoted to the Early Warning Mechanism, both in terms of its institutional framework and the academic debate

regarding its effectiveness. The chapter also examines the instrument of political dialogue, which is available to national parliaments in a more consultative capacity, as well as other provisions of the Lisbon Treaty relevant to national parliaments.

The fifth chapter analyses the parliaments of three Central and Eastern European states, Croatia, Hungary, and Poland, with particular emphasis on their role in EU affairs, their internal organisation, and their relationship with the executive branch. In the case of Croatia, the subsection examines the development of the Croatian Parliament from its historical origins to the establishment of the contemporary democratic parliament following the introduction of the multi-party system. Particular attention is devoted to the process of accession to the European Union and the institutional adjustments that accompanied it. Croatia's path to membership was long and complex, marked by the challenges of state-building and democratisation in the aftermath of war. In the contemporary system, the Parliament plays an important role in EU affairs through the scrutiny of the Government and its participation in the consideration of EU legislative proposals, particularly in the context of subsidiarity control. A key role in these procedures is played by the Committee on European Affairs, while parliamentary involvement in EU matters is regulated by constitutional and legislative provisions as well as by the parliamentary rules of procedure.

The following subsection addresses the Hungarian Parliament (Országgyűlés), which played an important role in the political transition after 1989 and in the process of European integration. As the central institution of legislative power, the National Assembly enacts legislation, supervises the government, and participates in shaping national policies. Although the constitutional framework provides for a balance between the legislative and executive branches, in practice, the government exercises considerable influence over the legislative process. Parliamentary committees, therefore, play a particularly important role in ensuring expert scrutiny of legislative proposals and in overseeing the executive. Thus, while the Committee on European Affairs occupies a central role in the context of EU affairs, the Legislative Committee performs an important function in shaping legislative texts.

The third subsection analyses the Polish Parliament, which consists of the Sejm and the Senate, with the Sejm exercising the dominant legislative and oversight role. During the accession process to the European Union, the parliament played a key role in supervising the executive and

aligning national legislation with the EU acquis. Parliamentary committees on European affairs were of particular importance, as they monitored negotiations, analysed government documents, and participated in shaping legislation required for integration. The Constitution of 1997 enabled the transfer of certain competences to international organisations, while a statute adopted in 2004 regulated cooperation between the parliament and the government in EU affairs. In this way, the Polish parliament, particularly the Sejm and its committees, became an important institutional actor in scrutinizing European policies and coordinating the legal adaptation process.

Taken together, these three states demonstrate different models of parliamentary participation in EU affairs, but also reveal a common tendency towards strengthening the role of parliamentary committees as key mechanisms for executive oversight and for the participation of national parliaments in the EU decision-making process.

The final, sixth chapter provides the central comparative and empirical contribution of the dissertation by examining the actual functioning of national parliaments in EU affairs through a parallel analysis of the Hrvatski sabor, Országgyűlés, and Sejm. Moving beyond the preceding normative and institutional framework, the chapter assesses the practical application of mechanisms introduced by the Lisbon Treaty, particularly in the context of the Early Warning Mechanism and political dialogue.

Methodologically, the chapter combines a comparative functional approach with both quantitative and qualitative analysis. It includes an examination of parliamentary activity between 2010 and 2024, as well as a focused analysis of reasoned opinions, including those submitted during the “yellow card” procedure. This is complemented by the results of semi-structured interviews conducted with secretaries of the committees on European affairs, which provide insight into internal procedures, informal practices, and operational constraints.

Through the simultaneous analysis of all three parliaments across key dimensions of parliamentary activity, the chapter aims to identify common patterns, differences, and structural limitations, thereby enabling an empirical assessment of the extent to which formally strengthened parliamentary powers translate into effective influence in practice.

I. THE EVOLUTION OF NATIONAL PARLIAMENTS' ROLE IN THE EUROPEAN UNION

1.1. Historical context

The role of national parliaments at the European level at the time of creating the European Community was very limited; indeed, the parliaments of the six founding countries were asked only for approval as signatories to the original Community treaties. Their role was quite marginalized at that point, and there were several reasons for that. First of all, at the very beginning of creating such an important community, the founding countries were focused on other problems that were very important at that point, such as economic and market issues. Furthermore, at the time, it was unclear what kind of threat national parliaments might face, including the institutional challenges to established national organizations that were not immediately addressed by the creation of a European market. Ultimately, the development of European parliamentarism on the EU level was directed toward building and strengthening the European Parliament, rather than national parliaments, whose offsetting powers would become even more visible in later periods of development.[3] Therefore, the main goal of early European integration was to increase the authority of the newly established *Common Assembly* that resulted from the 1951 Treaty establishing the European Coal and Steel Community. This assembly quickly changed its name to the *European Parliamentary Assembly*, and in 1962, it finally adopted its current name, the European Parliament. The Single European Act of 1987, which began to expand the parliament's legislative authority, formally validated the term.[4]

It was only in the late 1980s that a breakthrough was made, when concerns about a possible democratic deficit emerged, both due to the reduced role of national parliaments and the greater involvement of national governments and executive leaders than that of national parliaments. However, during this period, there were attempts to involve national parliaments more actively in European affairs, with the establishment of the Conference of Community and European Affairs Committees of the Parliaments of the European Union (hereinafter: COSAC) in 1989 being a

[3] Barrett, Gavin (2018). The Evolving Role of National Parliaments in the European Union, Ireland as a case study. Manchester University Press, UK, 2018. p. 1-2
[4] Galvin (2018), p.2

major step forward.[5] At the beginning, meetings were held every two years in the country holding the Council Presidency and included six representatives from each national parliament, including the European Parliament itself. Today, COSAC is less active and more of a platform for information exchange rather than policy-making. [6]

However, over time, the question of the necessity for national parliaments to participate in the European Union's legislative process has increasingly come into focus, leading to divided opinions in theory. On one hand, experts who reject the need to strengthen the role of national parliaments argue that the expanded role of the European Parliament is sufficient. Since the introduction of the first direct elections in 1979, the European Parliament has strengthened its role; not only does it have directly elected representatives with a certain degree of democratic legitimacy, but it also holds responsibility for overseeing EU legislation and holding the European Commission accountable. The European Parliament's effective power to delay legislation has also been reinforced by the case law of the Court of Justice of the European Union (CJEU), which has ruled, among other things, that adopting a legislative act without prior consultation of the European Parliament is contrary to the spirit of the Treaty of Rome. [7]

Furthermore, the European Parliament's powers have been expanded through later treaties, including the cooperation procedure established by the Single European Act and the co-decision procedure introduced by the Maastricht Treaty, which granted the European Parliament the right to have the final say. Additionally, as the scope of the EU's activities expanded, so did the European Parliament's powers in shaping EU policies. As it regards the question of the role of national

[5] The abbreviation COSAC derives from the French translation of the name of the conference, taking the first letter of each word: "Conférence des Organes Spécialisés en Affaires Communautaires". Even though COSAC was officially recognized just with the Amsterdam Treaty in 1997, it was already established in 1989 when the speakers of the Parliaments of the EU Member states agreed to strengthen the role of national parliaments connected to the community process by bringing together the European affairs Committee. COSAC is therefore a body/forum for cooperation between committees of the national parliaments dealing with European affairs, but also with representatives from the European Parliament, and it is organized by the parliament of the country that holds the Presidency of the Council of the EU. COSAC meets twice a year, with the main goal of exchanging information and best practices between committees of the national parliaments, including representatives of the European Parliament. COSAC has the right to submit any contributions for consideration to the European Parliament, the Commission, and the Council. For more on the COSAC and its work, see the official webpage of COSAC (2025): https://www.cosac.org/en/cosac/, and also the official webpage of the European Parliament: https://www.europarl.europa.eu/relnatparl/en/institutional-bodies/cosac Accessed: 15th March 2025

[6] Barrett, Gavin (2018). The evolving role of national parliaments in the European Union, Ireland as a case study, Manchester University Press, UK, 2018, p. 6

[7] Norton, Philip (2003). "National Parliaments and the European Union", Managerial Law, Vol. 45, No. 5/6, Patrington, 2003. p. 7

parliaments, two opposing theoretical approaches have developed. One advocated against strengthening the role of national parliaments within the European Union, with the main argument based on the claim that the European Parliament is elected by the citizens of Europe and is an integral part of the supranational structure of the EU. Further, while the latter does not apply to national parliaments, which also stems from the fact that, before the Maastricht Treaty, national parliaments were not even recognized in the treaties. In fact, they were not given any formal role in the legislative process, but rather their focus remained on the supervision of their national governments. Furthermore, there is no need for national parliaments to participate when the European Parliament exists as a dedicated body whose fundamental role is precisely that. However, national parliaments continue to function in parallel, with the European Parliament exercising its powers concerning the EU, while national parliaments exercise their authority over their respective governments.[8]

On the other hand, those theoretical approaches advocating for the strengthening of the role of national parliaments were grounded in the claim that national parliaments are in the best position to mitigate the crucial issue of the democratic deficit at the level of the European Union. The strongest argument in favor of this view is the widely held belief that national parliaments are closer to their citizens than the European Parliament. This argument is further reinforced by comparing voter turnout in European elections with national elections, where turnout for the European Parliament is significantly lower. Ultimately, the involvement of national parliaments is particularly necessary in mediating between their citizens and the EU, given that EU citizens must accept the legitimacy of laws passed by EU institutions. This viewpoint was particularly prominent during the 1990s, when it was strongly emphasized that national parliaments are the true bearers of democratic legitimacy in the EU and should remain so. [9]

Finally, the development of the role of national parliaments in the EU can be divided into several phases, taking into account both the general course of EU development and the interest of national parliaments themselves in participating in EU policies, where the divisions also follow a

[8] Norton, Philip (2003). "National Parliaments and the European Union", Managerial Law, Vol. 45, No. 5/6, Patrington, 2003. p. 8
[9] Ibid.

chronological framework.[10] Therefore, the first phase encompasses the period from the founding of the EU, that is, from the 1950s until the mid-1980s, and is particularly characterized by the limited involvement of national parliaments and their low level of interest in participating in EU affairs. The second phase encompasses the period from the 1980s to the Maastricht Treaty (1993) and is marked by a more engaged role of national parliaments, or more precisely, a greater interest in responding to the challenges. The third phase includes the period from the Maastricht Treaty onwards, up to the Lisbon Treaty (2009), and is characterized by addressing the democratic deficit.[11] The final fourth phase, from the Lisbon Treaty onwards, includes a significant role for national parliaments, particularly through the Early Warning Mechanism (EWM) introduced by the Lisbon Treaty.[12]

1.2. The first phase (from the 1950s to mid-1980s; limited involvement)

During the first phase, the parliaments of the six founding countries did not have any concrete formal role in the decision-making process at the level of the then European Community (hereinafter: EC). However, the parliaments themselves did not show much interest either, which was evident in the fact that most lower houses did not change their procedures or structures to adapt to the integration process. Furthermore, although the common goal was certainly to support integration and the transfer of powers to supranational institutions, this goal was not reflected in the functions of national parliaments, as the protection of national interests was primarily led by national governments, particularly through their actions in the Council of Ministers. This is evident from the lack of interest among parliaments in establishing parliamentary committees to consider European integration. Only one such committee was established in the Belgian Chamber of

[10] As it was already mentioned in the introduction, this division is adapted from the following article: Raunio, Tapio (1999). Always One Step Behind? National Legislatures and the European Union. Cambridge University Press, Vol. 34, No. 2. pp. 180-202, p. 183, which division was primarily based on the categorization by Norton, Philip, in his work: "Conclusion: Addressing the Democratic Deficit" Journal of Legislative Studies, 1:3 (1995), pp. 177-193

[11] Note: the author of the dissertation, who further expands the framework by introducing a fourth phase, has adapted this segment of the categorization, including the Lisbon Treaty.

[12] Note: The EWM will be discussed in a separate chapter.

Representatives (lower house) in 1962, and as it was neither sufficiently active nor effective, it was abolished in 1979. [13]

For this period, it is also important to mention the role of national parliaments in the process of ratification, not just of treaties, but also of the budget, specifically the Decision on the EC's own resources, which establishes the system for financing the EC budget (also VAT-value added tax).[14] Namely, it was prescribed in Article 269 of the Treaty on the functioning of the European Communities, that the European Community "budget shall be financed wholly from own resources". Nowadays, provision is just slightly different. [15]

Further, the first phase of development is characterized by an almost complete absence of procedural changes in national legislatures, thus relying on intergovernmental cooperation in decision-making, including public support towards further integration and, ultimately, a very weak interest from members of parliament in issues of European integration. This leads to the conclusion that national parliaments have a very weak interest in and influence on EC policy. This is why they are often characterized, especially in legal literature, as "losers of integration" or "latecomers in the process" and ultimately portrays national parliaments as unsuccessful in the overall process.[16] Despite this rather passive and indirect role of national parliaments during the first phase, the gradual deepening of European integration and the expansion of Community competences began to expose the limitations of such a perspective. In particular, the increasing transfer of decision-making powers to the supranational level raised concerns regarding democratic control and national sovereignty, thereby setting the stage for a more active response from national parliaments in the following phase. Nevertheless, even in this early period, national parliaments played an indirect but important role by providing the democratic legitimacy within which European integration could develop.

---

[13] Norton, Philip. (1995). Conclusion: Addressing the Democratic Deficit. Journal of Legislative Studies, 1:3, pp. 177-193. p. 177-178

[14] For more details on the topic of EC budget, see: Tugendhat, Christopher (1980), Some thoughts on the European Communities' Budget, Intereconomics, ISSN 0020-5346, Verlag Weltarchiv, Hamburg, Vol. 15, Issue 2, pp. 59-65, https://doi.org/10.1007/BF02928578

[15] Begg, Iain; Enderlein, Henrik; Le Cacheux, Jacques and Mrak, Mojomir (2021), Financing of the European Union Budget, (Research Report), European Commission, 2008, Hal Open Science, p. 47
Regarding today's treaty provision on the budget topic and the national parliament's role in the ratification process, see the fourth phase of this thesis.

[16] Raunio, Tapio (1999). Always One Step Behind? National Legislatures and the European Union. Cambridge University Press, Vol. 34, No. 2. pp. 180-202, p. 183, op.cit.

1.3. The second phase (from the 1980s to the Maastricht Treaty - 1993; phase of responding to the challenges)

The accession of the United Kingdom and Denmark in 1973, countries whose parliaments traditionally play a significant role, had an impact on changing certain policies both within those countries and within the EU itself. This was primarily due to the cautious approach of their political parties, but also public opinion in general, which tended to be skeptical towards integration. In this context, the accession of these countries also prompted the establishment of European affairs committees in their respective parliaments in order to monitor developments in the work of the Council more closely. However, the moment of transition to the second phase could be seen as a response to the challenge of establishing an internal market, which was most clearly reflected in the adoption of the Commission's White Paper from 1985 on the single market. This was followed a year later by the signing of the Single European Act (hereinafter: SEA), which entered into force in 1987. With the entry into force of the SEA, significant changes occurred, particularly through the modifications of the Treaty of Rome on the European Economic Community, and consequently, the establishment of the foundations for the creation of the single market.[17]

However, the primary importance of the SEA for national parliaments lies in the fact that it defined new, expanded competences of the Community, introducing a simplified Council decision-making process that now requires a qualified majority. In parallel with the aforementioned, the strengthening of cooperation and consent procedures, which in turn implied the expansion of the powers of the European Parliament, but also the strengthened powers of the Commission. As a result, it was impossible for national governments to block the Council's decisions. In addition to the above, the SEA contributed to changes in areas such as social policy, research and technological development, environmental protection, economic and social cohesion, and improved cooperation procedures in foreign policy matters. Finally, the greatest impact regarding national interests- and thus the role of national parliaments- brought about by the entry into force of the SEA was reflected in the process of monitoring and implementing internal market directives. These procedures placed an increasing burden on national parliaments. [18]

[17] Raunio, Tapio (1999). Always One Step Behind? National Legislatures and the European Union. Cambridge University Press, Vol. 34, No. 2. pp. 180-202, p. 184
[18] Ibid.

Namely, these monitoring and implementing procedures served as a reminder to national legislators of a kind of erosion of national sovereignty, precisely because laws were now adopted at the EU level in Brussels instead of at the national parliamentary level as had been the case previously. These developments not only increased the workload of national parliaments but also gradually raised awareness of the need for a stronger mechanism of parliamentary control, which would become a central issue in the following phase. However, with the expansion of the Community's powers, national parliaments sought to make use of their powers, either by strengthening their existing special committees for EU affairs or by establishing such committees where they did not previously exist.[19]

Comprehensively, as Norton concludes, the outcomes of adopting the SEA and the White Paper in terms of the advancement of national parliaments led to a significant shift in the balance of powers - both within the institutions of the European Community itself and concerning national institutions - whereby new policies were increasingly being implemented at the national level.[20] In this sense, the effects of adopting these acts can be observed through several characteristics. Firstly, there was a greater degree of specialization, evident through the establishment of committees. Secondly, there was increased parliamentary activity, particularly regarding the implementation and oversight of directives. The latter also stems from the fact that the European Parliament at that stage had not yet become a fully developed legislative body, which meant that national parliaments had to engage more actively. Finally, in addition to the greater activity and specialization of national parliaments, this period was also marked by attempts to integrate Members of the European Parliament into national parliamentary activities. Although all this suggests that national parliaments were trying to participate more actively during this phase, their level of engagement still varied from one national parliament to another.[21]

Ultimately, although the SEA marked a significant turning point by increasing both the scope and intensity of European integration, it did not yet provide national parliaments with formalised mechanisms of influence at the EU level. However, the pressure had been created, particularly in

[19] Raunio, Tapio (1999). Always One Step Behind? National Legislatures and the European Union. Cambridge University Press, Vol. 34, No. 2. pp. 180-202, p. 185
[20] Norton, Philip (1995). Conclusion: Addressing the Democratic Deficit. Journal of Legislative Studies, 1:3, pp. 177-193, p. 179
[21] Norton, Philip (1995). Conclusion: Addressing the Democratic Deficit. Journal of Legislative Studies, 1:3, pp. 177-193, p. 178

terms of legislative oversight and sovereignty concerns, which directly contributed to the growing demands for institutional reform that would be addressed in the Maastricht Treaty.

1.4. The third phase (from the Maastricht Treaty- 1993 to the Lisbon Treaty- 2009; greater involvement)

Building upon the developments initiated by the SEA, the Maastricht Treaty represented a qualitative shift in the integration process, moving beyond economic cooperation towards deeper political union. This transition also marked a turning point in the perception of national parliaments, which increasingly sought to secure a more structured and recognized role within the EU framework. The course of events that followed the Maastricht Treaty was marked by a transition to more significant political integration; however, it was still accompanied by scepticism towards integration. On the other hand, the issue of the democratic deficit, which is primarily defined by the lack of directly elected EU institutions, has become increasingly evident. In this sense, the most practical solution to the above was seen in the national parliaments, which at this stage showed a greater interest in participating in the EU legislative process and a desire for greater powers in European affairs, which was particularly noticeable through the conditions for ratifying the Maastricht Treaty (thus, in some countries, the Constitution was amended in favor of strengthened role of parliaments, and in others, better information was developed through a strengthened practice).[22] However, the development of specialized standing committees on European matters, to which the EU Affairs Committee granted considerable authority, encouraged a sort of sectoral specialization. Although the efforts of the Committee of Northern Parliaments were evident, this outcome is primarily the result of the European Affairs Committee's expanded scope of work as well as the necessity to use the expertise of specialized committees. On the other hand, simultaneously, the course of events pushed a kind of sectoral specialization through greater activity of specialized standing committees in European issues, to which the EU Affairs Committee delegated some of the powers. This result is primarily a consequence of the increased scope of work of the European Affairs Committee, but also the need to utilize the expertise of

[22] Raunio, Tapio (1995). Always One Step Behind? National Legislatures and the European Union. Cambridge University Press, Vol. 34, No. 2, pp. 180-202, p. 185

specialized committees, although the development process has not been equally followed in all parliaments, as northern European parliaments have exhibited more significant progress in institutionalizing these mechanisms.[23]

In this context, a broader "revisionist analysis " becomes particularly relevant. Rather than viewing national parliaments merely as "losers of integration", this approach highlights several important dimensions ot their role.[24] Firstly, it should be acknowledged that national parliaments provided the legitimacy framework within which integration could occur and within which supranational institutions and their policy initiatives were indeed accepted. Secondly, particularly after the Maastricht Treaty, it became clear that national parliaments, in some way, took advantage of the uncertainties surrounding treaty ratifications to secure greater powers of scrutiny over European legislation. Finally, the third factor considers the existence of a dual democratic deficit as a universal issue, holding executive authorities accountable, since this leads to problems related to the concentration of decision-making power. Namely, on the one hand, there is a clear challenge at the EU level, seen through the limited control of the European Parliament over the Commission and the Council; and on the other hand, a similar issue exists at the level of national parliaments, which have limited control over their national governments. The issue of the democratic deficit is, therefore, an interconnected one, present at both national and European levels. This was especially highlighted by the Danish government's acknowledgment that the problem of the democratic deficit also stems from the fact that "not all national parliaments have adequate influence over decision-making at the Community level." [25]

Furthermore, one of the major contributions to the development of the role of national parliaments and their final formal recognition was achieved through the corresponding declarations attached to the Maastricht Treaty, i.e., declarations no. 13 and 14. Declaration no. 13 referred to the role of national parliaments in the EU through the right to better information about legislative initiatives, along with expanded cooperation with the European Parliament, while national governments had to ensure that their parliaments received timely legislative proposals

[23] Raunio, Tapio (1999), Always One Step Behind? National Legislatures and the European Union. Cambridge University Press, Vol. 34, No. 2, pp. 180-202, p. 186
[24] Judge, David. (1995). The Failure of National Parliaments? (in book: The Crisis of Representation in Europe). West European Politics. 18:3 (1995). pp. 79-100, p. 80-81
[25] Ibid.

from the Commission. At the same time, Declaration no. 14 on the Conference of the Parliaments was supposed to encourage national parliaments to contribute to substantive political issues.[26] However, although at one time the declarations marked a major step forward in the formal recognition and participation of the parliament, they were not legally binding. On the other hand, as some scholars point out, there was also the issue of weak agreement among national governments regarding the involvement of their parliaments at the EU level, but also an obvious lack of communication between national parliaments and the European Parliament itself. In essence, the stated reasons were mainly justified through potential improvements through unilateral action (improved flow of information from the EU to the national levels and through more active supervision of national governments), then through joint coordination (through various forums as the Committee Conferences, to supervise national governments) and a proposal for the establishment of a potential second chamber at the EU level (composed of representatives from member states that would potentionally have greater supervisory control). All the stated reasons essentially do not simplify the entire procedure, but on the contrary, they open up new, more complex issues, so many consider them as a disappointment.[27]

Ultimately, it can be concluded that the declaration for the establishment of the Conference of Parliaments attached to the Maastricht Treaty did not deliver excessive results, which is evident from the fact that only one Assise conference was held with only 53 EP members and 173 delegates from MS. The conclusion of the Committee on Foreign Affairs was that the aforementioned conference represented only a discussion, and that it could potentially be more effective to strengthen bilateral cooperation, which was later achieved, for example, by inviting members of the Finance Committees of national parliaments related to the European Central Bank. Finally, the European Parliament itself emphasized that it was essential to work on strengthening cooperation between the European Parliament and national parliaments, and their cooperation would be based on complementarity, because, in the end, the democratic deficit would certainly be improved. [28]

[26] Rittberger, Berthold (2005). Chapter 6: From Maastricht to the Constitutional Treaty: the Return of National Parliaments? Pp. 177-196; In book: Building Europe's Parliament: Democratic Representation Beyond the National State, Oxford University Press, p. 186-188
[27] Rittberger, Berthold (2005). p. 188-189
[28] Birkinshaw, Patrick J. (2014). European Public Law: The Achievement and the Challenge; 2nd Edition (2014). Wolters Kluwer, pp. 225-247

While the Maastricht Treaty introduced important political recognition of national parliaments through its declarations, their largely non-binding nature soon revealed the need for a more concrete and legally enforceable mechanism. This need was addressed, at least partially, in the subsequent Treaty of Amsterdam. Therefore, the importance of the Declarations attached to Maastricht paved the way for the later Protocols that were an integral part of the Amsterdam Treaty (signed in 1997, in force from 1999). However, unlike Maastricht's Declaration No. 13, the Treaty of Amsterdam and its Protocols on the Role of National Parliaments contributed to clarifying the status of national parliaments, primarily through the recognition of the importance of the so-called scrutiny reserves as a necessary precondition. This mechanism allows national parliaments to subject legislative proposals to more thorough analysis before the Council adopts its common position. Furthermore, the Treaty of Amsterdam introduced another protocol important for national parliaments, the Protocol on the Application of the Principles of Subsidiarity and Proportionality, which would later prove to be particularly significant with the Treaty of Lisbon. During this period, the aforementioned protocol indicated to national parliaments that their role should be expanded to a higher level within the EU legislative process, and not be limited solely to national priorities and oversight of ministerial accountability. However, despite the legally binding nature of these protocols, especially concerning the right of parliaments to receive information and to enforce scrutiny reserves, the actual involvement of national parliaments remained limited at this stage. Crucially, there was still no specific procedure through which parliaments could enforce their decision.[29]

Therefore, the provisions of the Treaty of Amsterdam and its Protocols more clearly defined the manner of informing national parliaments, including the timeframes (six weeks) provided for the flow of information from the moment it is sent from the governments to their national parliaments. Ultimately, the content of the information to be sent to national parliaments in accordance with the provisions of the Treaty of Amsterdam and the corresponding protocols includes all Commission consultation documents (White and Green Papers), as well as legislative proposals from the Commission as defined by the Council in accordance with the provisions of

[29] Cygan, Adam (2013). Chapter 3: National parliaments in the EU treaties. In book: Accountability, parliamentarism, and transparency in the EU: The role of national parliaments. Edward Elgar Publishing. pp. 72-73

the Treaty establishing the European Community, with an emphasise on timeliness so that national governments can forward them to their parliaments in due time.[30]

Finally, as stated in the Treaty: *"a period of six weeks shall elapse between a legislative proposal or a measure to be adopted under Title VI of the Treaty on European Union being made available in all languages to the European Parlaiment and the Council by the Commission and the date when it is placed on a Council agenda for decision either for the adoption of an act or for adoption of a common position pursuant to Article 189b and 189c of the Treaty establishing the European Community, subject to exceptions on grounds of urgency, the reasons for which shall be stated in the act or common position"*. [31]

The Protocol states that the Conference of European Affairs Committee (COSAC) may submit any contributions it considers appropriate to the EU institutions. In particular, it refers to the area between the third pillar and fundamental rights, and addresses the principle of subsidiarity, foreseeing specific activities by COSAC in this regard. However, any specific contributions or positions taken by COSAC are not binding on national parliaments, which is explicitly emphasized. Moreover, the Protocol stresses that it is a matter of internal arrangements and organization within each Member State as to how they will regulate and implement the oversight of their governments by their respective parliaments. [32] However, taking into account the lack of consensus regarding the future role of national parliaments, and as noted by Raunio, it was clear that neither COSAC nor the Intergovernmental Conference (known as IGC) would achieve any significant outcomes that could contribute to greater involvement of national parliaments in the shaping of European policies. Raunio argues that an additional issue lies within the national governments themselves, due to a lack of support for institutionalising joint activities of national parliaments at the EU level, particularly the creation of a common body. The limited engagement results from the fact that most member states wished to maintain the existing institutional balance, while some of the more influential countries (such as France and the United Kingdom) supported

[30] See: 11997D/PRO/13. Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts - Protocol annexed to the Treaty on European Union and the Treaties establishing the European Community, the European Coal and Steel and the European Atomic Energy Community - Protocol on the role of national parliaments in the European Union. Official Journal C 340, 10/11/1997 P. 0113. Or the webpage: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:11997D/PRO/13
[31] Ibidem.
[32] Ibidem.

the creation of such a body primarily as a means to limit the powers of the European Parliament and to strengthen the role of national parliaments.[33] The function of this proposed body, based on the ideas presented, would be primarily advisory rather than a legislative one. Its main task would be to hold debates on the state of the Union, with a particular role in monitoring compliance with the principle of subsidiarity, that is, in addressing matters related to the division of competences between the member states and the EU. Many proposals were made in this regard. One such idea was the establishment of a "Congress of the People of Europe", which would meet once a year and consist of up to 700 members. The Congress would be tasked with monitoring the State of the Union address by the President of the European Council, as well as the European Commission's annual legislative programme. [34] This idea of such a Congress was also included, at one point, in the draft of the Constitutional Treaty. [35]

1.4.1.Some Debates about the Importance of the 'Initiative of the failed European Constitution' and its Influence on the Role of the National Parliaments

Before discussing the Lisbon Treaty, it is essential to address the issue of the failed European Constitution, taking into account both its significance and the fact that some of the objectives it envisioned were later achieved through the Lisbon Treaty. The Convention on the Future of Europe (established by the European Council in Laeken in 2002)[36] completed a draft Constitutional Treaty in June 2003 (formally titled the 'Treaty establishing a Constitution for Europe', often referred to simply as the 'Constitutional Treaty'). Nevertheless, despite the

[33] See: Raunio, Tapio (2004). Towards Tighter Scrutiny? National Legislatures in the EU Constitution. The Federal Trust for Education and Research, Great Britain, online paper 16/04. p. 4

[34] Ibidem.

[35] The proposal actually came from Giscard d'Estaing, who presided over the Convention on the Future of Europe and held several other key roles. He is often referred to as an optimist of the European integration process, due to his achievements as one of the leading European figures.

[36] The Convention was composed of a president, two vice-presidents, as well as representatives from member states, national parliaments, the European Parliament, and the European Commission. Candidate countries also participated, but without the power to block any consensus among member states. Observers included the European Ombudsman, social partners, and members of the Economic and Social Committee and the Committee of the Regions. The Convention's Presidium consisted of the president, vice-president, and nine additional members, including representatives of the Council presidencies during the Convention, national parliaments, the European Parliament, and the Commission.
For more details on the previous topic, see the following webpage of the European Parliament (2025): https://www.europarl.europa.eu/factsheets/en/sheet/4/the-treaty-of-nice-and-the-convention-on-the-future-of-europe (Accessed 6 February 2025)

complexity, importance, and length of the constitutional process leading to the adoption of the Constitutional Treaty, after the final agreement on the text by the European Council, the ratification process in the member states ultimately failed. This was because two member states (France and the Netherlands) voted against the Constitution in referenda.[37] Scholars have cited an extended list of reasons for the opposition expressed by Dutch and French voters in these referenda. Alongside those reasons, according to Podolnjak, shared to some extent by all states (general discomfort with the European Union, globalization, rapid European integration, erosion of national sovereignty, the EU's perceived democratic deficit, and the potential accession of Turkey to the EU), a significant portion of the opposition likely stemmed from general dissatisfaction and distrust toward EU institutions. Moreover, according to public opinion research, a considerable number of voters were likely motivated by internal political reasons within their own countries and governments.[38]

However, as Podolnjak concludes, no matter how logical these reasons may seem, they cannot be directly linked to the proposed Constitution itself. For example, opposition to Turkey's EU membership should not be a reason to reject the Constitution, as rejecting it would not change the fact that each member state already holds a veto right over the accession of any new European country. This conclusion may perhaps be tied to the reason for expressing dissatisfaction or distrust towards the EU institutions, or possibly due to insufficient knowledge of EU law, or ultimately, voters' fears regarding the future of an enlarged EU. In any case, the main causes of the Constitution's failure in the preparation and implementation of this complex process. These causes include a broad range of factors, starting with issues related to timing, the actors involved in the drafting of the Constitution, the process of constitution-making, the content of the constitutional text itself, and extending to the strategy of constitutional ratification and the constitution-makers themselves. However, according to Podolnjak, the key mistake of the European constitution-makers lies precisely in their ambivalence regarding the mode of ratification of the European Treaty. On one hand, they insisted on the quality of the document and the introduction of new constitutional terminology, while on the other hand, a clear problem arose in determining an

[37] Note: Article 447 of the proposed Constitution stipulated that all member states had to ratify the Treaty, meaning that opposition from even a single member state was enough to prevent it from entering into force.
[38] See: Podolnjak, Robert (2007). Uzroci neuspjeha Europskog Ustava iz perspektive ustavotvorstva. (The Causes of Failure of the European Constitution from the Perspective of the Constitution-Making Process). Anali hrvatskog politološkog društva 2006. pp. 177-206.

appropriate procedure for such a document. The latter meant that each member state was free to choose its own ratification method.[39] Podolnjak's second criticism of the European constitution-makers is that they failed to utilize existing comparative constitutional experiences, or models from existing federal constitutions, some of which share a historical similarity with so-called integrative federalism.

On the other hand, Craig critically points out other reasons, such as that the Convention on the Future of Europe initially had a relatively short deadline to complete its work, and that it decided early on to proceed by consensus rather than through formal voting. [40] This effectively gave the Presidency significant power to determine when consensus had been reached. In any case, from a formal perspective, Craig notes that the Convention's work can be divided into three main phases. In the first phase, the focus was on general declarations about the Union's mission, which could be called the listening phase. In the next phase, specific topics were examined by working groups, which would be the exploratory phase, followed by the final phase of making proposals. However, as Craig concludes, this formal discussion framework does not say much about the real issues that shaped the content of the Constitutional Treaty. The most controversial issue concerning the Constitutional Treaty was the distribution of executive power. In other words, the most risky and conflict-ridden part of the Constitution drafting process concerned the relationship between the Commission and the European Council, as well as the decision-making methods within EU institutions. These issues triggered considerable political tensions. This question caused disagreement between larger and smaller member states. Larger states (such as France, Spain, and the UK) supported strengthening the presidency of the European Council, while smaller states, along with the European Parliament itself, opposed weakening the Commission. Disagreements also arose over how the President of the Commission should be selected (whether by the member states or by the Parliament), the composition of the institutions (how many members the Commission should have, how they should be chosen), and how voting rights and influence should be distributed among the member states. Furthermore, some actions related to the secrecy of the decision-making process caused distrust; for example, key proposal details were leaked to the

[39] Podolnjak, Robert (2007).
[40] Craig, Paul (2013). Chapter 1: Reform, Process, and Architecture. In: The Lisbon Treaty, Revised Edition: Law, Politics, and Treaty REFORM (1st edition). Oxford University Press. pp. 1-31

public before being presented to Convention members, such as proposals regarding the presidency of the European Council.[41]

Another problematic part of the process concerned the influence of external actors (states and ministers). The involvement of foreign ministers from major countries (France and Germany in 2002) increased the influence of large states on the final institutional arrangements. Essentially, the interest of smaller member states in strengthening the powers of the Commission stems from the Commission's role as an institution that equally protects the interests of all states. In this role, the Commission would have political and institutional cohesion, along with direct accountability to the European Parliament, while the President of the Commission would be the political leader of the EU, ensuring continuity and balance. [42] On the other hand, the interest of larger states leaned toward giving the leading role to the heads of state (i.e., the European Council), as they clearly have more influence within that body. Their proposals aimed to introduce a permanent President of the European Council, who would represent the Union externally while also coordinating work at the highest political level. This would make the European Council the main political leadership of the EU, while the Commission would become more of a technical body. Ultimately, as Craig points out, the controversy surrounding all of this lies in the potential danger of developing a parallel executive power, which could weaken the EU's functionality. At the same time, strengthening the European Council, which is only indirectly accountable to citizens, could create space for a democratic deficit.[43]

Although debates concerning the need for a European Constitution date back to the very inception of the European Community (for instance, when the Treaty establishing the European Coal and Steel Community was referred to as a Charter), what must be especially emphasized in the controversy surrounding the necessity of adopting a European Constitution is the absence of a European sovereign. The discussion preceding the attempt to adopt a European Constitution, or constitutional treaty, centred precisely around the lack of such a sovereign. Namely, suppose one considers that, in the majority of the European constitutional orders, sovereignty is vested in the people. In that case, which was evidently lacking at the European level, was the existence of a

[41] Craig, Paul (2013). pp. 11-13
[42] Ibid., pp. 9-10
[43] Ibid., pp. 11-12

distinct interest in three interest groups of thought as articulated by Bačić and Bačić. [44] The first group consists of those who advocated for the adoption of a constitution as a fundamental step toward the establishment of a so-called 'United States of Europe'. The second group comprises proponents of constitutional development as both necessary and desirable, albeit without a clear articulation of the ultimate institutional or political outcome. Finally, the third group approached the issue from a terminological and conceptual standpoint, invoking expressions such as 'two-thirds Europe', and raised the question of whether such a constitution should apply to all member states or only in some of the states. Nonetheless, despite the absence of a formal European constitution in the form in which it exists in the member states, the entire primary law of the Community would in fact serve as a kind of European constitution. The reason for the latter lies in the fact that due to the organizational purpose of the Community itself, i.e. the characteristic constant progressive integration, and if some kind of European Constitution were to be adopted, it could not be rigid, i.e. constant, as it is in most European countries, because the dynamism and development itself would require constant changes to the Constitution, which would be a very demanding task in this respect.[45]

Moreover, even if a formal European Constitution were to be adopted, its rigidity would be inherently limited due to the Union's dynamic character. Unlike most national constitutions, a European Constitution would require constant adaptation, making it impractical to consolidate in the traditional sense. The very nature of the EU, its evolutionary integration, institutional innovation, and policy expansion, would make any rigid constitutional framework unworkable. Consequently, the process of constitutional amendment would pose a significant practical and political challenge. In parallel, it is imperative to address the persistent concern regarding the so-called 'democratic deficit' of the EU's governance structures, particularly considering the potential implications of a European Constitution for both citizens and the institutional arrangements of the member states. A partial response to this challenge was sought in the adoption of the Charter of Fundamental Rights of the European Union. In accordance with the aforementioned, and with particular regard to the role of national parliaments, it is evident that their primary political function is the representation of the citizens, from which a particular state, and by extension its parliament,

[44] Bačić, Arsen and Bačić, Petar (2007). Legislature i parlamentarizam (ustavnopravna hrestomatija). Pravni fakultet u Splitu. pp. 67- 68
[45] Bačić and Bačić (2007). p. 68

derives its legitimacy and exercises its authority for their benefit. However, when this principle is transposed to the European level, it generates a set of structural tensions in the relationship between the represented (EU citizens) and the representatives (EU institutions). Specifically, in the European context, the representative functions are fragmented across the Union's three institutional branches of power, which are designed to mutually check and balance each other. This fragmentation imposes on national parliaments the duty to scrutinise their respective national governments in order to maintain the link with their citizens. As a result, one may observe a systemic shift in the balance of power towards the executive branch, which, at the EU level, results in difficulties with legitimacy, i.e., a strengthening of the democratic deficit. The solution to these structural deficiencies was seen in the adoption of a new European constitution, which would be a sort of a normative remedy aimed at reducing the democratic deficit, and which would determine clear limits on the activities of the executive power as well as clarifying the division of competences between national and supranational institutions, and ultimately serving as a cornerstone for the restoration of public trust in the European project.[46]

Some scholars such as Nentwich and Falkner, analyzing the impact of the 1996 Intergovernmental Conference (whose primary goal was the reform of the Union, adaptation to new enlargements, and finding solutions to other global and political issues at the time, including questions regarding a European constitution), and at the same time reflecting on the criticisms of other scholars, concluded that changes are undoubtedly needed in several areas. The latter believed that certain essential features must be considered when drafting a constitution. Primarily, it is necessary to present some basic guidelines for common policy clearly and understandably, while also ensuring that citizens are properly informed about their rights and duties, ideally through simple tools such as catalogues. Finally, they argued that the desired effect on citizens at a psychological level could be compared to the effects typically pursued by constitutions. In other words, they believed that, in this way, a stronger identification with the political system could be achieved on a psychological level, thereby guiding people towards shared goals. These scholars, therefore, concluded that even those who pragmatically advocate for the consolidation of European

[46] See: Bačić and Bačić (2007), p. 69

treaties could, at least with regard to the abovementioned fundamental features, be seen as moving in the direction of something similar to a constitution.[47]

However, with regard to the sections of the draft European Constitution that primarily address the role of national parliaments, these are mainly contained in two Protocols annexed to the draft. The first was the 'Protocol on the Role of National Parliaments', which clearly aims to improve the flow of information to national parliamentarians regarding the European legislative process. In contrast, the second, 'The Protocol on the Application of the Principle of Subsidiarity and Proportionality', regulates the procedure for monitoring compliance with the principle of subsidiarity. Essentially, as Raunio emphasizes, the key driving force and basis for national parliaments to effectively exercise their competences lies in access to timely and accurate information. Timely notification is a fundamental precondition for national parliaments to exercise oversight over their governments and to influence the European Commission's proposals and policies originating from the executive branch. Until then, national governments had enjoyed a significant advantage in terms of access to information, particularly evident in the European integration process, given that governments are the main actors communicating with the EU institutions.[48] Raunio describes this dynamics in a very precise way with the following sentence: "The process of European integration is certainly one of the reasons why this has happened - providing executives an arena for action away from domestic parliamentary scrutiny, a near-monopoly of information in an ever-larger range of public policies". [49]

On the other hand, national parliaments depended on their governments' willingness and efficiency in sending the necessary information. In an effort to reclaim at least part of their oversight powers, many national parliaments sought to amend their internal rules of procedure, and in some cases their constitutions, to force governments to provide information and explanations regarding their actions made at the European level. Nevertheless, most national parliaments remained dependent on their governments in this regard. The draft Constitution Treaty aimed to address this lack of information and improve the position of national parliaments. At a minimum, national parliamentarians were expected to receive information on their governments'

[47] Nentwich, Michael and Falkner, Gerda (1996), Intergovernmental Conference 1996: Which Constitution for the Union? European Law Journal (1/96). Review of European Law in Context, pp. 83-102, pp. 87-88
[48] Raunio, Tapio (2004). p. 5
[49] Raunio, Tapio (2004), p. 5, op.cit.

negotiation strategies, on the functioning of EU institutions (especially the Commission and the European Parliament), and on the positions and actions of other member states.[50]

A significant advancement introduced by the Protocol annexed to the draft Constitution, compared to the Amsterdam Protocol, was the obligation to send all legislative proposals from the Commission directly, not only to the European Parliament and the Council of Ministers, but also to national parliaments. This meant that national parliaments would now receive legislative proposals directly, without first passing through their national governments. Moreover, the obligation extended to all legislative proposals, not just selected ones. As previously mentioned, in contrast to the Amsterdam Protocol, the obligation now includes not only Commission legislative proposals and annual reports, but also any instrument related to legislative planning or strategic policy, and ultimately the annual reports of the European Court of Auditors. Additionally, the Protocol allowed national parliaments to follow Council sessions, which are now public when the Council acts in its legislative capacity. The Protocol also provided that the national parliament would receive minutes of meetings, including the agenda and outcomes of Council meetings where legislative proposals are discussed. However, this transparency applies only when the Council is acting in its legislative function, which means that in matters of a non-legislative nature, such as economic or employment policy discussions, are excluded.[51]

Finally, one of the most important tools available to national parliaments under the draft Constitutional Treaty, foreseen in its second Protocol, is the direct control of compliance with the principle of subsidiarity. However, taking into account the importance of the topic, this issue will be discussed in more detail in a separate chapter dealing with the Lisbon Treaty and its Protocols (considering that its use is enabled with the entry into force of the Lisbon Treaty).

Despite the gradual progress achieved by the Treaties of Maastricht and Amsterdam, national parliaments still lacked effective tools to directly influence EU decision-making. The lack of enforceable mechanisms and continued concerns about the democratic deficit ultimately led to further reforms, culminating in the Treaty of Lisbon, which significantly strenghtened the formal role of national parliaments.

[50] Ibid., p. 5
[51] Ibid., p. 6

1.5. The fourth phase (from the Lisbon Treaty onwards; direct role of national parliaments, use of EWM, but also use of political dialogue; resolving the democratic deficit)

Considering that Chapter 4 discusses in detail the Treaty of Lisbon and all the changes it introduced, only the key changes will be briefly referred to here. The Treaty of Lisbon definitely brought significant changes to the position of national parliaments. Although in essence, these changes were mostly not new, the merit of the Treaty of Lisbon stems from the fact that certain ideas and non-binding provisions up until then have become formal and therefore binding in a significant respect. Primarily, by giving national parliaments a direct role in the European legislative process through control of compliance with the principle of subsidiarity of legislative proposals of EU institutions, whose formal procedure is prescribed in the corresponding Lisbon Protocols, through the early warning mechanism procedure (yellow and orange card procedures). In this regard, a formal obligation was established for the Commission to send legislative proposals to the European legislators (the European Parliament and the Council) at the same time to all national parliaments, so they were given the right to be informed. However, though the Lisbon Treaty gave a certain amount of rights to national parliaments, their actual involvement and cooperation also depend on their internal national order. In this sense, it is useful to remind what the treaty provisions prescribe as it concerns the role of national parliaments in the ratification of budgetary questions. The need for a complex ratification procedure through national legislative bodies arises from the demand to protect the interests of the Member States concerning budgetary sovereignty. Therefore, the Decision on own resources concerning national contributions to the EU budget, which establishes the system for financing the EU budget, in accordance with the provisions of the Article 311 of the Treaty of functioning of the European Union (TFEU), is subject to a strict adoption procedure that includes national ratifications, which in turn indicates the importance of the decisive influence of national parliaments in the overall process.[52] In Chapter 1 of the TFEU, titled The Union's Own Resources, Article 311 (ex Article 269 TEC) contains provisions as follows:

"The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

[52] Caziero, Martha (2024), What Legal Basis for an EU Tax?, Kluwer Law International, Common Market Law Review 61/2024, pp. 1527–1548, pp. 1538–1539.

Without prejudice to other revenue, the budget shall be financed wholly from its own resources.

The Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament adopt a decision laying down the provisions relating to the system of own resources of the Union. In this context, it may establish new categories of its own resources or abolish an existing category. That decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

The Council, acting by means of regulations in accordance with a special legislative procedure, shall lay down implementing measures for the Union's own resources system in so far as this is provided for in the decision adopted on the basis of the third paragraph. The Council shall act after obtaining the consent of the European Parliament.''[53]

The specific nature of the provision of Article 311 TFEU is reflected precisely in the procedure of adoption at the national level. Namely, the procedure begins with consultation of the Council with the European Parliament, followed by the unanimous adoption of the decision in the Council, which then enters into force after approval by the national parliaments of the Member States, in accordance with the provisions of their constitutions.[54] Another specific feature of the procedure is linked precisely to the dependence on the constitutional requirements of the Member States, that is, the possibility for national parliaments to exercise a potential right of veto over the entry into force of the decision. Taking into account the requirement of ratification by all Member States, the non-approval by just one of them can necessarily lead to the blocking of the EU's financial system,

[53] UFEU: Article 311. The Consolidated version of the Treaty on European Union, Consolidated version of the Treaty on the Functioning of the European Union. Protocols Annexes to the Treaty on the Functioning of the European Union. Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007 Tables of equivalences; Official Journal of the European Union C 202/1, 7.6.2016, pp. 1–388. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016ME%2FTXT

[54] From this, numerous theoretical academic analyses have emerged in which the Decision on own resources is regarded as a kind of quasi-treaty, supported by claims that the decision is binding in relation to the institutions that adopt the annual budget, despite the fact that the decision, by its nature, belongs to an act of secondary law. Some other scholars, however, have argued that the decision does not have the characteristics of a quasi-treaty, justifying this claim by the fact that the decision is not the only instrument contained in the Treaties that includes ratification by national parliaments, since those other acts, adopted on those other legal bases, also do not constitute primary law. If one were to further analyse the aforementioned issue and follow the logic of the hierarchy of norms and the principle of direct effect, this could also be applied to the decision. The latter could easily result in the conclusion that the status of the decision as a quasi-treaty would have the greatest impact in relation to other secondary law. The latter potentially could also open up the possibility of judicial review of the appropriateness of the legal basis for the introduction of an EU tax.

since the decision cannot enter into force and, consequently, revenues cannot be collected in accordance with the decision.[55]

The last Own Resources Decision adopted by the Council in December 2020 was accompanied by a certain sense of urgency, given that the entry into force of the decision also depended on the Next Generation EU recovery instrument.[56]

1.6. Short conclusion

As numerous scholars have noted, the role of national parliaments in the European Union (EU) is often viewed from two contrasting perspectives. On the one hand, their limited involvement in EU affairs portrays them as marginalized actors or even as losers in the integration process. On the other hand, in light of the persistent democratic deficit and the inadequacy of addressing it solely through strengthening the European Parliament, national parliaments are increasingly seen as potential contributors to improving democratic legitimacy within the EU. Both interpretations share a common underlying assumption: national parliaments are perceived as institutions sidelined by European integration and among the last to be fully included in the process. It is also clear that their influence on the European stage has only become more significant since the Lisbon Treaty came into effect. One explanation for their delayed involvement may be that, unlike other national bodies, parliaments tend to be the last to undergo the process of Europeanization. In contrast, executive and judicial branches have generally led this transformation, often driven by a qualified minority of politically or legally skilled individuals. [57] Though this marginalization of their role endured for a long period, starting with the entry into force of the Maastricht Treaty, the problematization of the role of national parliaments became more pronounced.

[55] For more, see: Caziero, Martha (2024), What Legal Basis for an EU Tax? Kluwer Law International, Common Market Law Review 61/2024, pp. 1527–1548.
[56] For more about the topic of European and constitutional law aspects of the reform of the EU's own resources system and the EU's Next Generation programme, see: Franz C. Mayer / Philipp Lütkemeyer, Hamilton in Brüssel? Europa- und verfassungsrechtliche Aspekte der Reform des EU-Eigenmittelsystems und des Next Generation-Programms der EU, KritV 4/2020 (Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft), pp. 317–350, p. 336.
[57] Lupo, Nicola (2018). In the Shadow of the Treaties, National Parliaments and their Evolving Role in European Integration. POLITIQUE EUROPÉENNE N° 59. 2018. p. 1-2

II. The European Parliament and its connection with the National Parliaments, and other key institutions; legislative procedure

2.1. Why has the process of strengthening the powers of the European Parliament resulted in the weakening of National Parliaments?

European integration may be described as the most ambitious political experiment in Europe's history, an undertaking at once utopian and marked by skepticism. While political elites have grown cautious, even hesitant, in advancing integration, European citizens have increasingly embraced the project and articulated demands for deeper involvement. The steady expansion of integration, present since the Union's founding, remains a structural necessity for the EU's long-term viability. Since the entry into force of the Maastricht Treaty, the role of national parliaments within the EU framework has undergone a rapid transformation. National parliaments have consistently voiced dissatisfaction with their marginalization in the development of the European Communities and with the progressive diminution of their competencies. For many parliamentarians, meaningful influence presupposes participation at the pre-legislative stage, where the direction of European law is shaped. If national parliaments are to provide genuine democratic legitimacy to Union lawmaking, their role must extend beyond mere ex post scrutiny of executive conduct. Although the Constitutional Treaty (and later Lisbon Treaty) substantially elevated the formal recognition of national parliaments within the EU system, it did little to clarify their substantive place or function. Crucially, it denied them direct participation in the Union's legislative process and refrained from prescribing common standards for parliamentary involvement at the domestic level.[58]

In much of the academic literature, national parliaments are portrayed as reactive institutions, an unsurprising characterization given their limited ability to constrain executive initiatives in the European sphere. The process of integration has, according to the "deparliamentarization thesis", diminished parliamentary oversight by transferring significant decision-making functions from the

[58] Zalewska, Martha, and Gestrein, Oskar Josef (2013). National Parliaments and their Role in European Integration: The EU's Democratic Deficit in Times of Economic Hardship and Political Insecurity. College of Europe. Department of European Political and Administrative Studies/Études Politiques et Administratives. Bruges Political Research Papers/ Cahiers de recherche politique de Bruges, No 28 / February 2013. p. 5

national to the supranational level. Both national governments and legislatures have relinquished competencies to the EU, suggesting that the material benefits of integration for member states outweigh the corresponding erosion of national parliamentary authority. Yet, while the European Parliament has undeniably acquired greater legislative and political weight within the Union, its authority and legitimacy fall short of compensating for the diminution of national parliaments' role. Empirical research on the domestic impact of European integration generally supports the deparliamentarization thesis. While some scholars stress that lessons may be drawn from the transfer of powers to the EU, citizens across member states remain anxious about the resulting loss of democratic accountability in matters of core political significance.[59]

In sum, the debate on parliamentary control within the EU often highlights two adverse consequences of integration for national legislatures. First, integration reshapes the constitutional foundations of governance by reallocating legislative competences upward, thereby depriving national parliaments of one of their most effective instruments of executive oversight, sovereign legislative authority. Second, integration modifies the functioning of policymaking itself, undermining the visibility and recognition of national parliaments as meaningful actors within the EU political order. Ultimately, the sphere in which national parliaments retain the greatest effectiveness is the national one; hence, it would be inappropriate to impose uniform obligations or standards on them at the European level. The challenge for each parliament lies in devising mechanisms to exert influence indirectly, primarily through their governments, over the content of European legislation.[60]

2.2. Development of the role of the European Parliament in EU integrations, legislative procedure, and executive control

The European Parliament and its role have gradually evolved and been reinforced through successive amendments of the founding treaties, beginning with the Single European Act of 1986, followed by the Treaty of Maastricht, when its role ceased to be merely advisory. Indeed, it was the latter that introduced the co-decision procedure, albeit still largely weighted in favour of the

[59] Ibid.
[60] Winzen, Thomas (2010), Political Integration and National Parliaments in Europe, Center for Comparative and International Studies, ETH Zurich and University of Zurich, Living Reviews in Democracy, p. 3

Council. The Amsterdam Treaty, however, extended the scope of this procedure more in favour of the Parliament, a development consistently continued by the Treaty of Nice and subsequently by the Treaty of Lisbon, at which point the procedure became the ordinary legislative procedure. What is particularly significant is that, through this mechanism, in almost all areas of EU legislation, legislative competences are shared equally between the Council and the European Parliament, thereby establishing a form of bicameral legislature. In practice, only when both the Parliament and the Council agree on the exact wording of a legislative proposal can it be enacted into law. This requirement constitutes the fundamental precondition, although the process itself can prove to be considerably more complex. Each institution may conduct up to three readings, with the aim of scrutinising the Commission's proposal and each other's amendments as effectively as possible. Moreover, should unresolved differences persist after two readings, the procedure provides for the establishment of a Conciliation Committee, tasked with negotiating compromises between the co-legislators within a six-week period. If agreement is reached within the Committee, then both the Parliament and the Council must endorse the outcome at third reading, again within six weeks (extendable by common accord to eight weeks), in order for the proposal to be adopted. Conversely, if either institution rejects the text at third reading or if the conciliation process fails to yield agreement, the proposal is dismissed. Throughout the procedure, informal contacts between the institutions remain possible, not solely through the prescribed formal mechanism (commonly referred to as trilogue).[61]

The necessity of following these steps in sequence effectively ensures a "double scrutiny" of each legislative proposal before it acquires the force of law. Consequently, legislative acts require approval both from representatives of national governments in the Council (by qualified majority) and from Members of the European Parliament, who are directly elected by the citizens of the Union. When examining the role of the European Parliament, its gradual empowerment appears both logical and consistent. This is particularly evident in its competence to approve or reject international agreements concluded by the European Union. This competence was first introduced by the Single European Act, albeit limited solely to association agreements and accession treaties. Over time, however, the Parliament's prerogatives were significantly expanded to the point that it now holds a powerful political position in relation to nearly all international agreements concluded

[61] See: Corbett Richard (2012). The Evolving Roles of the European Parliament and of National Parliaments. In the book: EU Law After Lisbon. Oxford University Press. pp. 248-262

by the Union. Because of the requirement of its final consent, the Parliament is thereby empowered to insist that its views must be taken into account when negotiating mandates are defined by the Council and during the negotiation process itself. In this respect, treaty amendments have resulted in the obligation to keep the Parliament informed of each stage of the negotiation of international agreements. Furthermore, the conduct of the Union's external relations falls within the competence of the European External Action Service, headed by the Vice-President of the Commission. As Corbett highlights, the strengthening of the Parliament's powers is further illustrated by the fact that the Vice-President of the Commission (in his capacity as High Representative of the Union for Foreign Affairs and Security Policy, frequently referred to as the EU's "foreign minister", a title originally envisaged in the failed Constitutional Treaty) is also accountable to the Parliament and required to participate in public debates. This is particularly relevant in the context of parliamentary hearings that precede the Parliament's approval of the Commission, encompassing the full range of parliamentary oversight and scrutiny prerogatives.[62]

Accordingly, the Lisbon Treaty strengthened the role of the European Parliament as co-legislator through two key innovations. As Garzón Clariana emphasises, beyond the requirement of parliamentary consent for international agreements in areas subject to consent or co-decision, the Treaty also established the principle of institutional equality between the Council and the Parliament with respect to oversight of delegated acts (i.e., acts amending or supplementing existing legislation).[63] In this sense, even seemingly modest reforms proved significant. For instance, the abolition of the distinction between discretionary and compulsory expenditure, which had frequently complicated negotiations between the Council and the Parliament, removed a persistent obstacle. Under the Lisbon framework, the Multiannual Financial Framework, which had previously been determined by interinstitutional agreement, is now adopted by the Council with the consent of the Parliament.[64]

[62] Corbett Richard (2012). The Evolving Roles of the European Parliament and of National Parliaments. In the book: EU Law After Lisbon. Oxford University Press. pp. 248-262

[63] Garzón Clariana, Gregorio (2017). The Shifting Powers of the European Parliament: Democratic Legitimacy and the Competences of the European Union. In: Division of Competences between the EU and the Member States: Reflections on the Past, the Present and the Future, (eds. Garben, Sacha and Govaere, Inge). Hart Publishing, Oxford. pp. 276-283.

[64] Ibid.

With respect to the appointment of the Commission and its accountability to the European Parliament, the procedure initially allowed national governments to appoint the Commission for a four-year mandate. Through successive treaty revisions, this procedure gradually evolved, culminating in the Maastricht Treaty, which first extended the Commission's mandate to five years, thereby aligning it with the term of the European Parliament. Moreover, Maastricht introduced the Parliament's right to confirm the appointment of the Commission by means of a vote of confidence. Prior to such a vote, Parliament frequently exercised its prerogative to conduct public hearings with each Commissioner-designate. The right to elect the President of the Commission was only established under the Lisbon Treaty. Previously, under Amsterdam, Parliament was merely entitled to approve the Council's choice of President, while under Maastricht, its role had been limited to consultation. Under Lisbon, however, the procedure begins with the European Council, which must propose a candidate to Parliament (acting by qualified majority voting, as provided by the earlier Treaty of Nice), having first carried out the necessary consultations and taking into account the results of the European Parliament elections. Should the proposed candidate fail to secure the required majority, the European Council must reconsider and nominate a new candidate under the same procedure. In all cases, the successful nominee must be able to secure an absolute majority in Parliament.[65]

2.3. The Democratic Character of the Union and the Model of Representative Democracy after Lisbon

The development of the powers of the European Parliament, as discussed earlier, was accompanied by successive treaty amendments culminating in the Lisbon Treaty. The Lisbon reform introduced important changes in the area of Union competences and aimed to strengthen the democratic accountability of the Union. However, the complexity and unique structure of the EU have generated extensive theoretical debate regarding the nature of democratic representation within the Union. At the same time, democracy at the national level is relatively clear in institutional and constitutional terms; its operation in a multi-level system such as the EU presents specific challenges. One distinctive feature of the European Parliament, compared to parliamentary

[65] Corbett Richard (2012). The Evolving Roles of the European Parliament and of National Parliaments. In the book: EU Law After Lisbon. Oxford University Press. pp. 248-262

bodies in other international organisations, is that its members are directly elected. The introduction of direct elections reflected earlier efforts to bring the EU closer to federal systems, where institutions derive legitimacy directly from citizens rather than indirectly through national governments. At the same time, direct elections were also seen as a way to compensate for the loss of parliamentary powers at the national level by establishing a form of joint parliamentary oversight at the Union level.[66]

2.4. Simplifications of Legislative Procedure and Lawmaking after Lisbon

The Treaty of Lisbon introduced key and necessary changes to the process of adopting acts at the Union level. Namely, before Lisbon, the legislative process at the level of the Union was extremely complex, foreseeing different legislative procedures with a number of different legal instruments. Likewise, legislative powers could be found in all three pillars of the Union, which complicated the analysis of which pillar could be used for action. The issue was also monitored in relation to the hierarchical position of legal acts in European Union law, as well as the questionable legal nature of the envisaged legal instruments. The change that came with the Treaty of Lisbon significantly simplified the entire procedure in this sense, while some of the ideas implemented by the Treaty of Lisbon were previously foreseen by the failed Constitutional Treaty. [67]

2.4.1. Ordinary and Special Legislative Procedures - Democratic Implications

One of the Lisbon Treaty's goals was to reduce the number of Union instruments. On the other hand, the hierarchy of the norm in the law of the Union, i.e., the division into legislative and non-legislative acts, had a foothold in the concepts of constitutional states.[68] The latter is particularly visible through the character of delegated acts as non-legislative, which derives from Article 290 of the TFEU. Article 289(3) of the Treaty on the Functioning of the European Union (TFEU) defines legislative acts according to the procedure used to adopt them. The first paragraph of the

[66] Crum, Ben and E. Fossum, John (2009), The Multilevel Parliamentary Field: a framework for theorizing representative democracy in the EU, European Political Science Review, 1:2, European Consortium for Political Research, pp. 249-271
[67] Turk, Aleksandar H. (2012), Lawmaking After Lisbon, In: EU Law After Lisbon, (eds. Biondi et.al.), Oxford University Press, pp. 62-84, pp. 63-66
[68] Ibid.

same Article provides that a legislative act may be adopted through the ordinary legislative procedure, which includes regulations, directives, and decisions adopted jointly. This procedure is the former co-decision procedure and involves starting the process on a proposal from the Commission and adopting a joint decision by the Council and the European Parliament, in line with Article 294 TFEU. Similar to national legislative procedures, there is a need for a formal criterion, meaning that legislative acts are defined by the procedure through which they are adopted. [69] For example, Turk points out that, just as national constitutional systems do not set material limits by restricting legislative acts to specific legal instruments, the Lisbon Treaty does not introduce such limits either, except for the requirement that essential elements of a particular field must be included in legislative acts.

In addition, Article 289(2) TFEU provides for special legislative procedures, which allow regulations, directives, or decisions to be adopted in specific cases laid down in the Treaty. Unlike the ordinary procedure, which is based on co-decision, the focus here is on participation. In these cases, acts are adopted either by the Council with the participation of the European Parliament, or by the European Parliament with the participation of the Council.[70]

Referring to the reasoning of the Working Group on Simplification regarding questions of the Union's democratic legitimacy as changed by the Lisbon Treaty, Turk points out that this reasoning "implicitly rests on the assumption that a concept which is a key feature of constitutional states can legitimately be used in the EU as well." However, he challenges this view on the basis of several important differences. [71]

First, this assumption is clearly open to question because the EU is not a state, and therefore the Lisbon Treaty cannot be regarded as a constitution in the traditional sense. In challenging this

[69] Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union - Consolidated version of the Treaty on the Functioning of the European Union - Protocols - Annexes - Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007 - Tables of equivalences. Official Journal C 326, 26/10/2012 P. 0001 – 0390 https://eur-lex.europa.eu/eli/treaty/tfeu_2012/oj/eng

[70] Turk, Aleksandar H. (2012), Lawmaking After Lisbon, In: EU Law After Lisbon, (eds. Biondi et.al.), Oxford University Press, pp. 62-84, p. 65

[71] "…*the democratic legitimacy of the Union is based on its states and its peoples, and therefore an act of a legislative nature must always come from bodies representing those states and peoples, namely the Council and the Parliament*…", Final Report of Working Group IX on Simplification of 29 November 2002, CONV 424/02, 2). See: Turk, Aleksandar H. (2012), Lawmaking After Lisbon, In: EU Law After Lisbon, (eds. Biondi et.al.), Oxford University Press, pp. 62-84, p. 67

idea, Turk also questions whether it is justified to use the term legislation for acts adopted by the Council and the European Parliament, since their democratic powers are not strong enough to fully support such a label. He stresses that the Union is not characterised by the traditional understanding of national parliaments as representatives of a single nation. From this, Turk concludes that acts of the Union may be regarded as legislative if the procedure for adopting them ensures sufficient representation of those interests. In this respect, there is no doubt that acts adopted under the ordinary legislative procedure (Article 294 TFEU) are functionally equivalent to national legislation. Therefore, although EU institutions cannot be equated with national parliaments, the overall procedure works in a similar way, since all the key institutions involved in adopting rules take part and each performs its representative role. Considering that the Parliament and the Council decide on an equal footing in this procedure, Turk considers it sufficiently democratic. In this regard, their roles may be compared to the functioning of two chambers in bicameral systems.[72]

However, possible issues arise when analysing acts adopted under special legislative procedures, given the different versions of those procedures. These include cases where an act is adopted by the Council after consultation with or consent of the European Parliament, or by the Parliament with the consent of the Council. In situations where the Council adopts an act that requires only consultation with the European Parliament, Turk doubts whether such an act can be considered legislative at all. Since the most common form of adoption under the special legislative procedure involves the Council adopting acts after consulting the Parliament, doubts about their legislative nature are justified. This is due to the weaker influence of the Parliament and the fact that acts adopted under the consultation variant of the special legislative procedure are not legislative in nature but rather regulatory. Moreover, this version of the special legislative procedure is, in its effects, closer to procedures that lead to the adoption of non-legislative acts (for example, the one under Article 103(1) TFEU).[73]

This conclusion follows from the idea that the classification of a legal act as legislative depends on the legal effects it produces. In national systems, the privileged position of legislative acts stems from the fact that the legislative procedure itself provides such acts with a higher level of

[72] Turk, Aleksandar H. (2012), Lawmaking After Lisbon, In: EU Law After Lisbon, (eds. Biondi et.al.), Oxford University Press, pp. 62-84, p. 67-69
[73] Turk, Aleksandar H. (2012), Lawmaking After Lisbon, In: EU Law After Lisbon, (eds. Biondi et.al.), Oxford University Press, pp. 62-84, p. 70

democratic legitimacy compared to other legal acts. Turk therefore concludes that only legal acts adopted under the ordinary legislative procedure, as well as those adopted under a special legislative procedure that requires the consent of the other legislative body, may be regarded as legislative in this sense. Thus, in cases where the Council adopts an act with the consent of the Parliament, and the Parliament has the power to block the decision, Turk considers the procedure to be legislative. In contrast, in cases where only consultation is required, this cannot be said. Finally, in situations where the Parliament adopts an act with the consent of the Council, Turk likewise argues that such acts may be regarded as legislative.[74]

2.5. The Rights of the European Parliament over the Delegated Acts

Parliament's power to dismiss the Commission remains intact even after Lisbon, alongside its prerogative to elect the European Ombudsman, who is subject to public hearings, as are candidates for the presidency and membership of the Court of Auditors and the Governing Council of the European Central Bank. The evolution of Parliament's competences in the field of oversight over delegated legislation followed a somewhat different trajectory. The delegation of powers for the adoption of detailed implementing measures to the executive is a common feature of legislative systems, including that of the European Union. Within the Union framework, the Parliament and the Council, as co-legislators, may confer such powers on the Commission. However, as Corbett observes, the earlier system was considerably more complex and, at times, controversial. Since the Council had long been the only legislator, the mechanism it had established required the Commission to act in cooperation with committees composed of national civil servants, which effectively had the power to block Commission decisions, in which case the matter would revert to the Council. It was from this arrangement that the concept of comitology emerged. Comitology encompasses the procedures through which the European Commission exercises implementing powers conferred upon it by the Union legislator, assisted by committees composed of representatives of the Member States. Its legal foundation lies in Article 291 TFEU, while the general principles and practical rules are codified in Regulation (EU) No 182/2011 on comitology. These committees operate under either the advisory procedure or the examination procedure,

[74] Turk, Aleksandar H. (2012), Lawmaking After Lisbon, In: EU Law After Lisbon, (eds. Biondi et.al.), Oxford University Press, pp. 62-84, p. 71

which differ in terms of voting rules and the degree of influence over the Commission's ability to adopt a given implementing act. [75]

In these early arrangements, the Parliament did not possess the right to scrutinise or reject a proposed implementing measure. This competence was reserved for the committees of national civil servants, and a blocked decision would be referred back to the Council, thereby excluding Parliament altogether.

Corbett notes that in the late 1980s, specifically in 1988, the Parliament finally secured, through an agreement with the Commission known as *the Plumb-Delors* Agreement, the right to receive the same proposals that the Commission submitted to the committees. The next significant development occurred six years later, with *the Modus Vivendi* agreement among all three institutions, which bound the Commission to take due account of Parliament's views to the greatest possible extent. By the late 1990s, a further advance was introduced by the Council itself, through the adoption of a new comitology framework, which ensured that the Parliament would receive all related documents (including agendas, draft measures, and minutes) and allowed it to lodge objections should it deem that a measure exceeded the delegated powers. In such cases, the proposal had to be reconsidered. Shortly thereafter, the Commission acknowledged Parliament's right not only to examine the scope of delegated measures but also to formally comment on their content, including the use of a "*sunset clause*", whereby delegated powers would automatically lapse after four years unless renewed. The year 2006 marked a further milestone when, after protracted interinstitutional negotiations, the Parliament finally obtained the right to block individual implementing measures. As Corbett points out, this competence extended to measures of a quasi-legislative nature, though not to those of a purely administrative or strictly executive character. This progression illustrates the gradual but significant strengthening of the European Parliament's oversight powers over delegated legislation.[76]

Altogether, as Peers and Costa conclude, the Lisbon Treaty attempted to correct all those shortcomings observed in the issues of the responsibility of the comitology committees, while

[75] Note: The choice of procedure is determined by the legislator, depending on the nature of the implementing powers specified in the basic act, which may take the form of a decision, directive, or regulation.
For more, see source: EU, EUR-lex, Comitology (2024), https://eur-lex.europa.eu/HR/legal-content/glossary/comitology.html (Accessed 7 December 2024)
[76] Corbett Richard (2012). The Evolving Roles of the European Parliament and of National Parliaments. In the book: EU Law After Lisbon. Oxford University Press. pp. 248-262, p.252-253

trying to replace the latter with a two-part framework that is essentially composed of conceptually different types of control procedures. Therefore, the foundation that the Treaty sets in Articles 290 and 291 TFEU is more than sufficient for the establishment of a functional framework of responsibility for the implementation of implementing and delegated acts. Peers and Costa also emphasize that the envisaged framework is very useful for the European Parliament and the Council, which have the authority for both ex ante and ex post control of the delegated powers of the Commission. In the latter case, Member States are likely to retain most of their previous powers in practice with regard to procedural acts. Finally, they conclude that the procedures in question lack transparency, in particular as regards implementing measures, as increasing their transparency would better inform both citizens and the wider public and thus allow for closer accountability of both the Commission and the legislative authorities.[77]

The delegation of competences is an important issue not only at the European level but also at the national level. In the context of national delegation, Lupo identifies two main models of delegated legislation. The first model is constitution-based and is characteristic of continental Europe. It provides clearly defined conditions, limits, and procedures for the delegation of legislative powers. Its key feature is that parliament cannot freely transfer its powers; instead, such delegation must follow constitutionally prescribed procedures, which are designed to limit and prevent excessive concentration of power in the executive. The constitution may also allow for further specification of procedures and their scope. The second model is based on the decision of parliament itself to delegate powers, rather than on constitutional provisions, and is typical of Anglo-Saxon systems. In this case, parliament establishes limits and oversight mechanisms through ordinary legislation. However, in both models, it is essential that parliament, at the outset, clearly defines the procedure for adopting delegated acts. This includes setting precise time limits, oversight mechanisms, and consultation requirements, thereby enabling the achievement of important political objectives.[78]

[77] Peers, Steve and Costa, Marios (2012), Accountability for Delegated and Implementing Acts after the Treaty of Lisbon, European Law Journal, Vol. 18, No. 3, May 2012, pp. 427-460, pp. 459-460

[78] In distinguishing between these two models, Lupo emphasizes that parliament must determine both the content and the procedure for the adoption of delegated acts. Equally important is the involvement of parliamentary bodies in their preparation and adoption. Lupo outlines several distinct principles (seven in total) that parliaments should follow. The first principle concerns defining the limits of delegation, including both substantive and temporal constraints. The second relates to restricting the subject matter of delegation, either through constitutional provisions or through more

2.6. European Parliament and the issue of the democratic deficit; have national parliaments ever been part of the solution?

The issue of the democratic deficit is most commonly associated with the European Union, and more precisely with the European Parliament. Although it can also be discussed at the national level, particularly in situations where the executive branch dominates the legislative branch, in contemporary discourse, the notion of democratic deficit is increasingly linked to the EU.

When speaking about the concept of the democratic deficit, many scholars have sought to clarify the term as much as possible. Nevertheless, there is no universally accepted definition, and opinions differ considerably. The fundamental question remains whether the democratic deficit refers to a lack of citizen participation or to institutional shortcomings themselves. From this perspective arises the argument that the European Parliament, although being the only EU institution whose members are directly elected, has not fully succeeded in assuming the role of representing the sovereign will of European citizens and thereby legitimizing decisions taken at the EU level. Moreover, the specific nature of the EU further complicates the issue, leaving unresolved questions as to whether, for the purposes of interpreting the democratic deficit, the EU should be understood as a state, a *sui generis* structure, or rather as an international organization. In the literature, this dilemma is often addressed through two dimensions characteristic of democracies. On the one hand, there is the institutional dimension, which focuses on checks and balances within the EU institutions. On the other hand, the socio-cultural dimension starts from the premise of the absence of a single European people or political identity. It is through these dimensions that the democratic character of the EU is examined, with many scholars grounding

precise legislative drafting. The third principle highlights the importance of classifying delegated acts; parliament should establish a stable, strict, and clear procedural framework to ensure the proper categorization of different types of delegated acts, as well as the procedures applicable to them. The fourth principle concerns the mandatory public registration of delegated legislation, which enhances transparency. The fifth principle emphasizes the strengthened role of parliamentary committees, both standing and ad hoc, in the scrutiny and oversight of delegated legislation, as their work is often detailed and technically well-developed. The sixth principle calls for clear parliamentary action to define in advance the political and legal consequences that the executive may face in cases of non-compliance with constitutional and statutory requirements. Finally, the last principle points to the need for a broader system of oversight, including a range of well-developed procedural tools for controlling delegated legislation.
For more on this topic, see: Lupo, Nicola (2026), The Role of Parliament in Delegated Legislation: Principles for Safeguarding Legislative Transparency and Democratic Accountability, Parliamentary Brief No.2, Inter Pares, WYDE Inter Pares, 2026

their arguments in one or the other, whether by criticizing the lack of democratic interconnectedness with citizens or by challenging the very governance structure of the EU.[79]

Furthermore, as Čepo points out, although the European Parliament is directly elected by EU citizens, it still has an obvious weakness, because, regardless of the latter, it is still unable to adequately replace the weakened powers of national parliaments. Namely, the European Parliament still has limited powers in relation to the European Commission and the Council of the EU. Likewise, the result of the latter is obvious through the disconnection that results from decisions made in supranational institutions from the real will of citizens expressed through their national parliaments. All of the above is not supported by the fact of the lack of citizen turnout, or response of European voters to European elections, including referendums, and consequently, some general feature, in terms of the lack of understanding of the complexity of EU policy and the increase in distrust and alienation of EU citizens towards the EU. Thus, some critics who believe that the EU meets the formal democratic requirements see the problem in the weakness of procedural democracy, which in turn stems from the insufficient engagement of political elites to deal with supranational issues during election periods; consequently, the European elections become an indicator of the democratic deficit. Finally, some criticism has also been directed at the existence of a difficult understanding on the part of EU citizens, precisely because of its complexity, and then consequently by shifting the blame to Brussels when things are not going in the right direction, and also by attributing the credit to national governments when things are going in the right direction.[80]

However, an essential step in understanding democratic processes and the legitimacy of national parliaments, both at the national and European levels, begins with an analysis of the national parliaments themselves, which is also a central interest of this research. Furthermore, it is necessary to examine legitimacy within the Union, namely, to assess the European Union's own capacity to meet all conditions required for its legitimacy. In pursuing this objective, it is essential to consider past experiences and to interpret them through a process of institutional learning. Indeed, the steps necessary for any system to acquire stability and to be recognized as democratic

[79] Jano, Dorian (2008). Understanding the "EU Democratic Deficit". A Two-Dimensional Concept on a Three-Level Analysis. Politikon: The IAPSS Journal of Political Science, 14/1, pp. 61- 74, pp. 58-59

[80] See: Čepo, Dario (2011). Demokratiski deficit Europske Unije. Političke analize. Politološki pojmovnik: demokratski deficit. 5/2011. p. 59

are inevitably preceded by a fundamental transformation and adaptation, achieved through learning processes that connect causes with their consequences. Ultimately, for a system to be considered democratic, it must have the ability to face contemporary social and political challenges. In addition, it must have a functional administration and a proper decision-making mechanism, one that rests upon principles and values inherent in democratic governance. This entire process has been particularly evident in the countries of Central and Eastern Europe, which experienced it in their transition toward democracy and subsequently in their path toward European Union accession. That path of transformation and democratic development was extremely demanding, marked by an erosion of public trust in institutions and by widespread corruption.[81]

Thus, the countries of Central and Eastern Europe (including Croatia, Hungary, and Poland), unlike their Western European counterparts, faced a far more difficult route toward democracy. Their trajectories were shaped largely by a similar political legacy: systems accustomed to not holding themselves accountable to their citizens, but rather to party leadership. In this sense, the transitional process was further complicated by the need to adapt to Western regimes characterized by privatization and the free market. In order to facilitate such adaptation, the burden of the process often fell on national parliaments, resulting in their weakening and, in many cases, depriving them of effective control over the executive. All of the above, as Tudzarovska Gjorgjievska concludes, ultimately leads to a reduction in the legitimacy of the political system, indirectly deepens the democratic deficit, and, in the final instance, produces significant challenges for both EU integration and the consolidation of democracy in the region.[82]

[81] Tudzarovska Gjorgjievska, Emilija (2022). New understanding of EU Legitimacy and Anti-corruption. The Role of the Representative Democracies. PLATO Report 5. ARENA Report 3/22. ARENA Centre for European Studies. p. 7-8

[82] Tudzarovska Gjorgjievska, Emilija (2022). p. 8

III. The Principle of Subsidiarity (before and after the Lisbon Treaty)

3.1. The Roots of the Principle of Subsidiarity

Subsidiarity as a concept comes from the Latin word subsidium, which can be translated as assistance, help, support, reserve, and similar terms. However, in a broader context, particularly in social circumstances, the interpretation of the concept implies that the authority to resolve a particular issue should be assigned to the level closest to the citizens, which is also the most effective in addressing that issue.

Marquard suggests that the original roots of the use of the term subsidiarity can be found in earlier Catholic teachings.[83] Its first appearance can be traced to the writings of Pope Leo XIII, particularly in his 1891 encyclical Rerum Novarum, which dealt with the social and economic issues of the working class in the industrial age.[84] This Pope, in a way, laid the groundwork, while another Pope, Pius XI, in his 1931 encyclical Quadragesimo Anno, fully examined, applied, and defined the principle of subsidiarity. The definition emphasized that social and political matters should be handled by the lowest and smallest competent authority, avoiding unnecessary centralization, while at the same time encouraging individual and group initiative.[85]

Although Pope Pius did not address subsidiarity between different levels of political organization, but solely as a relationship between society and the individual. In that sense, subsidiarity served as a means of preserving the role of the Church while rejecting the claim that the state should be the central bearer of all public activity. However, his idea later found its way into the political order of the Federal Republic of Germany, as seen in the assumption that in the Federal Republic all power is actually derived from the federal states, unless expressly granted to

[83] Marquardt, Paul D. (1999). Subsidiarity and Sovereignty in the European Union. Fordham International Law Journal, Vol. 18, Issue 2, Article 7, pp. 616-641, p. 618

[84] For more on this topic, see: Tamás Simon (2023). Pope Leo XIII's Legacy in European Union Law – The Origin and Practice of the Subsidiarity Principle in European Union Decision-Making. European Mirror 2023/3. pp. 43-63.

[85] His definition was as fallows: "*Still, that most weighty principle, which cannot be set aside or changed, remains fixed and unshaken in social philosophy: Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do. For every social activity ought of its very nature to furnish help (subsidium) to the members of the body social, and never destroy and absorb them*". See in: Marquardt, Paul D. (1999). Subsidiarity and Sovereignty in the European Union. Fordham International Law Journal, Vol. 18, Issue 2, Article 7, pp. 616-641, op.cit. p. 619

the central authority (which was also evident in German constitutional practice through the so-called cooperative federalism). [86]

3.2. Influence of German legal heritage; The German Basic Law and Subsidiarity

Considering the importance of the influence of German constitutional practice and theory, it is necessary to examine the impact it has had on the principle of subsidiarity as it exists today in the EU. Thus, during the drafting of the German Basic Law of 1949 (the Constitution), and due to the prevailing legal and political context at the time, there was a strong push to include the principle of subsidiarity. However, although the principle was ultimately removed from the final draft of the Constitution, likely due to the dissatisfaction and concerns of the drafters themselves (stemming from its potential association with the religious heritage of the principle, as well as fears of excessive state intervention), the aspiration to introduce it remained present. This aspiration can be seen, albeit indirectly, in the very federal structure of the German state (from the bottom up), as well as in Article 30 of the Basic Law on the sovereignty of the Länder, which regulates the division of competences between the Federation and the Länder. It provides that the exercise of state powers and the performance of state functions are matters for the State, while at the same time not allowing for alternative arrangements (unless otherwise stipulated by law). Similarly, Article 72 regulated the conditions under which the federal state could assume powers from the Länder in areas of concurrent legislation, and it was originally formulated very broadly, requiring only that the law meet certain conditions related to the "uniformity of living conditions beyond the territory of any single Land" for the federal level to be able to act.[87]

However, subsequent case law concluded that such a provision was deficient, as potentially any law could be made to fit that condition, also taking into account the rather insufficiently defined terminology.[88]

---

[86] See: Marquardt, Paul D. (1999). Subsidiarity and Sovereignty in the European Union. Fordham International Law Journal, Vol. 18, Issue 2, Article 7, pp. 616-64

[87] Granat, Katarzyna (2018). The Principle of Subsidiarity and its Enforcement in the EU Legal Order: The Role of National Parliaments in the Early Warning System. Oxford: Hart Publishing, 2018. p. 11-13, op. cit.

[88] Article 72 of the Basic Law of the FRG (23 May 1949) prescribed as follows: "(1*) In the field of concurrent legislation, the Laender shall have powers of legislation so long and so far as the Federation makes no use of its legislative right.* (2) *The Federation shall have legislative right in this field insofar as a necessity for regulation by federal law exists because: 1. a matter cannot be effectively regulated by the legislation of individual Laender; or 2*.

Through a further amendment in 1994, paragraph 2 of the same article provided that "in the area of concurrent legislative powers, the Federation may legislate if and to the extent that the establishment of equivalent living conditions throughout the federal territory or the preservation of legal or economic unity renders federal regulation necessary in the national interest". [89]

This provision thus obliged the federal level, for every new law, to demonstrate a specific need to act, thereby imposing special conditions on the federal government, which can be described as a kind of stricter necessity clause. In this way, the provision became something of a foundation for the principle of subsidiarity, because through Article 72 (2) it can be linked to subsidiarity in the EU, in situations where the higher level (the Federation in the German case, or the EU in the European legal order) decides to act and at the same time meets the conditions for subsidiarity, the lower level (the Länder or the Member States) can no longer regulate that area indenpendently. Paragraph 4 of the same article even provides that, in situations where it is determined that the conditions from paragraph 2 no longer apply, the powers are not automatically returned to the Länder (a form of federal-level discretion, which does not exist at the EU level). Nevertheless, the Länder remain valid at the federal level if they can achieve the relevant objectives themselves. Finally, Article 72 of the German Basic Law indeed served as an inspiration for the inclusion of this principle in the EU legal order and the Maastricht Treaty, albeit in a somewhat different form, scope, and with a different degree of discretion. [90]

3.3. The Subsidiarity in the European Context

Considering the importance of the principle of subsidiarity in contemporary European federalism, it is not surprising that this idea was adopted from the aforementioned sources. In this regard, the European Parliament played a central role, although until 1979 it was the weakest institution of the European Union. Until that year, members of the European Parliament were appointed by the member states, that is, by their national governments. This system was

the regulation of a matter by a Land law could prejudice the interests of other Laender or of the Laender as a whole, or 3. the preservation of legal or economic unity demands it, in particular the preservation of uniformity of living conditions extending beyond the territory of an individual Land." See webpage:
https://www.cvce.eu/content/publication/1999/1/1/7fa618bb-604e-4980-b667-76bf0cd0dd9b/publishable_en.pdf

[89] Granat, Katarzyna (2018). Op.cit. p. 12

[90] Granat, Katarzyna (2018). Op.cit. p. 13

subsequently replaced by direct elections held in the member states, in accordance with their internal electoral regulations. Following reforms, strengthening the institutions of the European Communities also contributed to the reinforcement of the European Parliament. These changes, however, largely affected the damage of, or rather, in the direction of diminishing, the powers of the member states.[91]

As an example of the above, as noted by Marquardt, there was a vision of Altiero Spinelli, an Italian Member of Parliament, who advocated strengthening the Community through the creation of a new political superstructure, by means of processes of transformation and centralization, which had an influence on changing the order in nation-states. Spinelli's federalist perspective, which Marquardt describes as a 'neo-functionalist' view, could be interpreted as the opposite of that advocated by Jean Monnet. In any case, the idea was directed towards the creation of a new 'pan-European' political community which, according to Spinelli's interpretation, could be achieved through greater integration and mutual cooperation among the member states, the pursuit of common policies, and the simultaneous realisation of national objectives.[92]

Thus, the principle of subsidiarity is ultimately present in contemporary European federalism, dating back to the early creation of what was then the European Community. Nevertheless, the principle in itself essentially represents a legally indeterminate and rather vague concept, which carries certain consequences, primarily visible in political negotiations. In other words, when applying the principle, it is necessary to assess at the community or national level in order to achieve the goal more effectively. This includes political evaluations within a given framework, but without a precisely stated or legally defined assessment. This, in turn, leaves room for legal uncertainty and a simultaneously complex political application.[93]

3.4. Early critics of the subsidiarity principle

Regarding the critiques of the principle of subsidiarity, in the late 1990s, Marquardt emphasized that, based on the analyses of the principle up to that point, the focus had been predominantly on explaining the concept itself and on various attempts to highlight the

[91] Marquardt, Paul D. (1999). p. 621
[92] Ibid., pp. 621-622
[93] Ibid., p. 623

mechanisms and rules of its application. According to the same author, during that period, the core of the criticism could be reduced to four possible issues. First, there were multiple potential interpretations of the very term, whereby some understood it as support for centralization, while others saw it as support for decentralization. Such interpretation inevitably carries a degree of subjectivity dependent on political beliefs, resulting in both a limiting effect and reduced predictability. Second, a problem is in its incomplete application within EU institutions, which opened the question of who actually holds the power to act, followed by the question of how policy should be implemented. In essence, instead of truly limiting the expansion of EU powers, the principle was reduced to one of legislative self-restraint. Third, the difficulties in carrying out the necessary analyses could lead to inconsistencies and certain undesirable consequences, such as the overburdening of local authorities or regulatory competition. Finally, the fourth potential issue lay in its inviolability, or non-justiciability, which was closely linked to the first problem. Given the political nature of the decisions and the vagueness of the concept itself, judicial enforceability was evidently hindered, while at the same time the Court had shown little inclination to address the limitation of EU powers, leaving the principle with a predominantly political character. [94]

However, the political essence of the principle of subsidiarity results from the text of the Treaty on European Union, specifically its preamble, which sets out the general purpose and vision of the European Union. Although the principle of subsidiarity is not mentioned explicitly, the preamble refers to it when it states that decision-making should be taken as closely as possible to the citizens, as follows:

"Resolved to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity…

In view of further steps to be taken in order to advance European integration…

Have decided to establish a European Union…."[95]

[94] Marquardt further elaborates on each of these issues in greater detail in his work. The discussion here only concerned some of the problems and critiques up to the late 1990s; later in the text follows an account of changes to the principle and further criticisms of it. See: Marquardt, Paul D. (1999). pp. 628- 31

[95] Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union - Consolidated version of the Treaty on European Union - Protocols - Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007 - Tables of

Such wording, which can be interpreted as indicating that decision-making is directed towards the level closer to the citizens, suggests that the principle of subsidiarity manifests itself through a preference for decision-making at the level of the member states, which are closer to citizens, and, in this sense, also at the level of lower authorities within the European Union. The fact that this principle is enshrined in the preamble of the Treaty highlights its importance for the overall functioning of the EU. It also reflects that the European Union is a multidimensional (multi-level) community with numerous actors involved in the decision-making process. These actors include, in addition to the EU institutions and the member states themselves, also political parties, European movements, socio-economic groups and associations, regions, and public opinion, hence the emphasis placed on the importance of applying the principle of subsidiarity.

Although the initial idea of subsidiarity, which had a limited scope and applied only to the field of environmental policy (with limited Community action), was introduced into the text of the Treaty for the first time with the adoption of the 1987 Single European Act, the aspiration to incorporate the principle of subsidiarity into the EU was evident for several reasons. First and foremost, it was seen as a potential solution to the lack of a precise division of competences of all kinds within the treaties. On the other hand, subsidiarity was regarded as a complementary criterion for more effectively achieving objectives, especially in complex situations where decisions had to be made on the limits of EU powers. Finally, there was the desire to avoid excessive centralization, which most often arose in situations of harmonization, treaty amendments, and judicial practice. Lastly, there was also an intention to promote and strengthen the diversity of national values. The subsequent course of events, marked by a heightened interest in reforms, resulted in a series of intergovernmental conferences (aimed at creating a political and economic monetary union). These conferences culminated in the Maastricht Treaty.[96] Furthermore, it was only with the Maastricht Treaty, specifically through Article 3b of the EC Treaty, that, for the first time, a kind of operational concept for applying the principle of subsidiarity was established, that is, a comprehensive definition (today this is Article 5 of the

equivalences. Official Journal C 326, 26/10/2012 P. 0001 – 0390. Available on the following webpage: https://eur-lex.europa.eu/eli/treaty/teu_2012/oj/eng

[96] Granat, Katarzyna (2018), p. 18-19

Treaty on European Union), making the principle generally applicable. The provision was as follows:

"In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community. Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty." [97]

This provision, together with the earlier-mentioned part of the preamble, emphasized the democratic character of the principle, providing that decisions should be taken as closely as possible to the citizens. Furthermore, from the detailed criteria set out in the provision, three key elements can be identified, all of which must be examined for the principle of subsidiarity to be applied at all. First, there must be the existence of the principle of conferral of competences on EU institutions. Second, embedded within the legal expression of subsidiarity is the element of necessity - the need for Community institutions to act in areas that do not fall under their exclusive competence. Finally, if they indeed need to act, the manner and extent of such action must be determined. This last aspect incorporates the principle of proportionality, another fundamental principle of EU action.[98]

From the foregoing, the non-centralist nature of the EU is evident, as well as its multi-level governance system. In theory, certain arguments have been developed, as summarized by Van Kersbergen and Verbeek, highlighting the flaws in state-centred theories and in theories of European integration and policymaking within the EU, pointing out that such theories claim that national governments remain the ultimate holders of power.[99] Referring to leading proponents of these theories, Kersbergen and Bertjan stress that, within multi-level governance theories, the state

[97] Treaty on European Union, Article 3(b), 11992M/TXT; Official Journal C 191, 29/07/1992 P. 0001 – 0110. Available on the following webpage:
https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:11992M/TXT
[98] Ibidem.
[99] Van Kersbergen, Kees and Verbeek, Bertjan (2004). Subsidiarity as a Principle of Governance in the European Union. Comparative European Politics, 2, 2, Palgrave Macmillan Ltd, pp. 142–162, at pp. 143–145

has neither the possibility of monopolizing policies adopted at the European level nor the ability to advance purely national interests.[100]

The same authors further compare subsidiarity with sovereignty in state-centred theory, noting that they were sometimes considered to play the same role. However, despite certain similarities, the key difference is that subsidiarity does not permit a fixed level of centralization of power. On the contrary, its adaptability, as the main characteristic of subsidiarity, makes it responsive to ideas within overlapping areas of power in multi-level governance. On the other hand, as they point out, state-centred theory tends to overestimate the power and role of national governments, especially when assessing the extent of irretrievably lost governmental control over decision-making. They also conclude, among other things, that the balance of power in the EU is continuously negotiated and adjusted, while state sovereignty remains intact despite the transfer of certain competences to the supranational level.[101]

Nevertheless, de Búrca emphasizes that one of the difficulties, even in the debates themselves over the meaning and the very importance of the principle of subsidiarity, including the numerous disputes about the number of pages of legal and political analyses, stemmed from the fact that there was a certain general consensus that, as a concept, subsidiarity was essentially characterized by a high degree of fluidity and indeterminacy. De Búrca points out that it should be kept in mind that, sometimes, the ambiguous and open-ended terms used in the EU tradition are intentionally chosen precisely because of these characteristics. In other words, she considers that the vague, open, or ambiguous vocabulary and choice of words, as a feature of legal and political systems, are deliberately left that way in order to resolve compromises. Namely, such formulations make it easier to mediate between the different understandings and conceptions under negotiation, taking into account that they are used by numerous actors, not only individuals, all of which is clearly visible from the aforementioned provisions on subsidiarity. Ultimately, this is also evident from the specific legal articulation of the principle in the EC Treaties, including its connection with the principle of proportionality in the Protocol appended to the Amsterdam Treaty.[102]

---

[100] Furthermore, as scholars Kersbergen and Bertjan note, this can be justified from three different perspectives. For more on this topic, see: Kersbergen and Bertjan (2004). pp. 143–145.
[101] Van Kersbergen and Bertjan (2004). pp. 145 and forwards.
[102] See: Gráinne de Búrca. Re-appraising Subsidiarity's Significance after Amsterdam. Harvard Jean Monnet working paper series, 43. (The Jean Monnnet Center for International and Regional Ecnomic Law and Justice. Avilable on the following webpage: https://jeanmonnetprogram.org/archive/papers/99/990701.html

3.5. Subsidiarity through the EU treaties

Nevertheless, as previously mentioned in the text, the first traces of subsidiarity are found in the draft proposal for an EU treaty (the so-called Spinelli Draft), which contained a kind of conceptual outline of the principle of subsidiarity. The first formal introduction of the idea, however, only came with the text of the Single European Act of 1987. In essence, it was only with the Maastricht Treaty (in Article 3b of the EC Treaty) that the principle was defined for the first time. However, despite the existence of this definition and the fact that it incorporated a democratic aspect of the principle (since, as stated in that article and the preamble, decisions should be taken as closely as possible to the citizen), the definition still contained numerous shortcomings, and the principle itself received several criticisms, as previously discussed in the text. Subsidiarity thus remained one of the most important constitutional principles of EU law, alongside the principle of proportionality. Another key principle, the principle of conferral, governs the limits of the EU's competences, and its application is guided precisely by the principles of proportionality and subsidiarity. The principle of conferral is laid down in Article 5 of the Treaty on European Union, while competences are defined in Articles 2-6 of the Treaty on the Functioning of the European Union. [103] Likewise, the principles of sincere cooperation and equal treatment are also of essential importance.[104]

However, the need to introduce a clearer definition of the principle of subsidiarity in the Maastricht Treaty arose from a series of previously identified shortcomings that were to be addressed, starting with a division of types of competences in the treaties, preventing excessive centralization, and up to regulating the limits of EU powers. The latter provision from Maastricht served as the basis for further refining the definition, first in the draft of the unadopted EU

[103] More on this topic see: Lenaerts, Koen/ Van Nuffel, Piet/ Corthaut, Tim (2021). Chapter 5, Values, Objectives, and Principles Governing the Union Competences. In the book (eds. Lenaerts, Koen/ Van Nuffel, Piet/ Corthaut, Tim). EU Constitutional Law. Oxford University Press. p. 84 and forward.

[104] It should be kept in mind, that European Community law is based on the following principles (these are principles that have played a key role in the development of Community law through case law). These include: the principle of the supremacy of Community law over national law, the principle of direct effect, and the principle of indirect effect. None of the above principles is contained in the Treaty on the European Community. Rather, they were developed in the case law of the European Court. However, an additional principle, that of direct applicability, is provided for in Article 288(2) TFEU (formerly Article 249 EC). This is evident from the provision itself, which states that a regulation has general application; it is binding in its entirety and directly applicable in all Member States. The Court's case law on this issues, will be discussed later in separate chapter.

Constitution, and later carried over into the Lisbon Treaty, Article 5(3) of the Treaty on European Union, which in its current form reads as follows:

(3) Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments ensure compliance with the principle of subsidiarity in accordance with the procedure set out in that Protocol.[105]

Thus, compared to Maastricht, the Lisbon Treaty introduced an additional subparagraph in paragraph 3, establishing the early warning mechanism procedure (which will be discussed in detail in a separate chapter, given its importance for the role of national parliaments). As Granat points out, the differences between the Maastricht definition of subsidiarity and the one set out in the Lisbon Treaty are both substantive and textual. Apart from the additional subparagraph, the Lisbon Treaty made another step forward compared to Maastricht in terms of the scope of the subsidiarity principle, by providing that a Member State may act not only at the central level, but also at the regional and local levels. This means that the level of action has been extended to the subnational level, thereby enabling the participation and achievement of objectives by regional and local authorities as well.[106]

De Búrca observes that one of the persistent challenges in debates about the meaning and significance of the principle of subsidiarity, alongside the many disputes over the sheer volume of legal and political analysis devoted to it, stems from a broad consensus that the concept is, by its

[105] Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union - Consolidated version of the Treaty on the Functioning of the European Union - Protocols - Annexes - Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007. Official Journal C 326, 26/10/2012. P.0001 – 0390. Available on the webpage: https://eur-lex.europa.eu/eli/treaty/tfeu_2012/oj/eng.

[106] Granat, Katarzyna (2018). p. 20, op.cit. See also: Von Bogdandy, Armin and Bast, Jürgen (2009). The Federal Order of Competences. In: Principles of European Constitutional Law (eds. Von Bogdandy, Armin and Bast, Jürgen). Hart Publishing Ltd. Pp. 275-307. pp. 302–303.

very nature, marked by a high degree of fluidity and indeterminacy. De Búrca further notes that within the EU's own tradition, the use of ambiguous or open-ended terminology is often a deliberate choice, precisely because of these qualities. In other words, the latter argues that the use of vague, open, or ambiguous language in legal and political systems is often intentional, serving as a tool for enabling compromise. Such formulations, she explains, make it easier to bridge divergent understandings and conceptions during negotiations, especially given that they are deployed by a wide range of actors, not only individuals. This deliberate openness, she contends, is evident in the EU's provisions on subsidiarity, and can also be seen in the specific legal articulation of the principle in the EC Treaties, including its linkage to the principle of proportionality in the Protocol annexed to the Amsterdam Treaty. [107]

Turning to the dual legal expression of the Maastricht provisions on subsidiarity, and engaging with the arguments of Van Kerbergen and Verbeek, who maintained that factors present at the time of the principle's creation, particularly the unstable compromise between competing ideological sources, meant that subsidiarity was likely to be short-lived and served primarily as a device for easing compromise and avoiding political confrontation, de Búrca takes a different view. She regards the principle's endurance, despite such conflicts of interest and despite the diversity of its linguistic and cultural formulations, as evidence of a certain measure of success. De Búrca stresses that this is not to deny that the formal incorporation of subsidiarity into the treaties produced identifiable causal effects. Rather, she suggests that the political and legal culture of the Community significantly influenced the decision to enshrine it in a constitutional framework. The absence of a clear substantive criterion, in her view, is not necessarily the result of linguistic or drafting deficiencies, but reflects the multiple considerations underpinning the determination of which level of government is best placed to decide particular political questions. Reducing these complexities to a single, functional legal formula, she argues, was never straightforward. Finally, de Búrca maintains that the failure to articulate a clear or objective legal test does not imply that the issues underlying the introduction of subsidiarity lacked legal or political significance within EU policy-making. [108]

[107] Gráinne de Búrca. Re-appraising Subsidiarity's Significance after Amsterdam. Harvard Jean Monnet working paper series, 43. (The Jean Monnnet Center for International and Regional Economic Law and Justice. Also available on the following webpage: https://jeanmonnetprogram.org/archive/papers/99/990701.html
[108] Ibid.

Furthermore, in terms of textual changes, though different wording is used compared to Lisbon, it is still possible to observe, even in the Maastricht Treaty, the existence of two components of the principle (that is, the two-stage subsidiarity test; as suggested by Bogdany, Bast, and Granat). Maastricht thus provides, first, that the objectives of a proposed action cannot be sufficiently achieved by the Member States, and then, as a second step, whether the Community can therefore achieve them better. As Granat emphasises, there is a clear difference in word choice: the Maastricht Treaty uses the phrase "and can therefore", while Lisbon uses the phrase "but can rather". Granat interprets this as meaning that the Maastricht wording "and can therefore" evidently implies a negative criterion, which functions as an independent but equally important criterion alongside the positive one. By contrast, Lisbon's wording "but can rather" points to a stronger causal link between the two criteria.[109]

The main critiques, up until the entry into force of the Lisbon Treaty, as highlighted by Van den Brink, may essentially be divided into two groups: on the one hand, those who considered the very principle to be inherently flawed in every respect, that is, opponents of its application altogether; and on the other hand, those who viewed the principle as indispensable for safeguarding the interests of the Member States against excessive interference by the European Union. The concentration of criticism was, in that sense, directed towards several aspects. In addition to the previously mentioned lack of sufficient terminological precision, that is, the absence of a clear and undisputed definition, critics also emphasized the principle's unenforceability before judicial bodies.[110]

Furthermore, the latter stresses the necessity of linking the principle of subsidiarity with the principle of proportionality. Such a connection would, indeed, be indispensable if the interests of the Member States at the EU level are to be considered both legitimate and autonomous.[111]

[109] Granat, Katarzyna (2018). Op.cit. p. 20

[110] Here, as Van den Brink underscores, scholar Davies articulated the principal critique, arguing that the principle was ill-suited to achieving a proper balance between the interests of the Member States and those of the EU, particularly given the contested issue of which level of governance would be most appropriate for achieving the Union's objectives. For more on this topic, see: Van den Brink, Ton (2012). The substance of subsidiarity: the interpretation and meaning of the principle after Lisbon. In: The Treaty of Lisbon and the Future of European Law and Policy. (Eds. Trybus, Martin, and Rubini, Luca). Edward Elgar Publishing. pp. 160-177

[111] Scholar Van den Brink also emphasizes the need to link the principle of subsidiarity with the principle of conferral, as well as with the question of political expediency.

3.6. On the Concepts of the Subsidiarity

In examining the concept of subsidiarity, several interpretative dimensions emerge. As Granat observes, the principle can essentially be divided into material and procedural subsidiarity. Procedural subsidiarity encompasses the set of procedural obligations the European Union must fulfil to ensure compliance with the principle itself. Material subsidiarity, by contrast, is grounded in Article 5(3) of the Treaty on European Union and is generally assessed through two main components: the national insufficiency test and the comparative efficiency test. Under the national insufficiency test, the EU may intervene only where a proposed measure cannot be adequately implemented at the national level, most often due to insufficient resources. The comparative efficiency test, on the other hand, presupposes that the same objectives can be more effectively achieved at the Union level, taking into account the nature, scope, or expected impact of the proposed action. These tests can also be framed in terms of negative and positive criteria. The insufficiency of Member State action constitutes the negative criterion. The positive criterion, applied only if the negative criterion is met, involves a comparative cost–benefit analysis to determine whether EU-level action offers clear advantages. This two-tier approach can be applied across different levels of governance. Some interpretations view the national insufficiency test in Article 5(3) as, in effect, a form of self-assessment by Member States - what Granat describes as a matter of "instinct" or perception - touching on broader issues of legal effectiveness. Others question whether a single centralised (federal) level of governance can be more efficient than twenty-eight distinct national systems, each operating under its own legal and political context. [112]

This debate raises further questions: What constitutes a "successful" test? Is it sufficient for only a few Member States to meet the objective, or must all act in concert? If joint action by all is required, does this justify limiting the autonomy of some Member States, perhaps due to the lack of financial resources in others, to achieve EU-wide objectives? Some commentators go further, suggesting that EU action might be justified even if only one or several Member States lack the necessary capacity.[113] A related question arises when Member States could achieve the

[112] Granat, Katarzyna (2018). p. 21

[113] Illustrative example - Granat, Katarzyna (2018), pp. 21–22). Op. cit. - refers to a proposal aimed at strengthening certain elements of the presumption of innocence and the right to a fair trial in criminal proceedings. The initiative sought to establish common minimum rules for specific aspects of these rights. If even one Member State failed to adopt these standards, the overall objective would be undermined. In such circumstances, the proposal would satisfy the national insufficiency test.

objective through intergovernmental cooperation: does the subsidiarity principle prohibit EU intervention in such cases? Under textual interpretations of the Maastricht Treaty, the answer would generally be "yes". However, following the Lisbon Treaty, particularly the abolition of the three-pillar structure, intergovernmental cooperation was retained only in the Common Foreign and Security Policy, and in police and judicial cooperation in criminal matters, where Member States still hold significant powers. Granat concludes that in cases where Member States could act in a form binding only upon a limited number of them, EU action should be seen not as a general prohibition but as an additional possibility, available only where permitted by the Treaties and where Member States have failed to reach agreement in the Council.[114]

3.7. Comparison of the old subsidiarity from the Maastricht Protocol and the New Protocols from the Lisbon Treaty

When comparing the content of the early Protocols on subsidiarity annexed to the Maastricht Treaty with those introduced by the Lisbon Treaty, several crucial differences emerge. Although the twofold test of the subsidiarity principle was retained, in the meantime, the EU institutions adopted a set of guidelines for its implementation. This development is particularly evident in the guidelines incorporated into the General Approach attached to the conclusions of the European Council, which aimed to enhance transparency and openness in the Union's decision-making process. The guidelines sought to operationalize subsidiarity as a dynamic concept, both expanding and constraining the scope of Union action. Accordingly, Union action was required to satisfy at least one of the three listed conditions. The first concerned whether the issue at stake possessed a transnational dimension that could not be adequately regulated by the Member States individually. The second examined whether unilateral action by the Member States would be inconsistent with the requirements of the Treaties, in the sense that either the absence of collective action would run counter to Treaty obligations or could potentially harm the interests of the Member States. The third condition required consistency with the subsidiarity principle by demonstrating that Union action would provide clear benefits in terms of scope or effectiveness compared to action taken at the national level. During this period, the significance of the General

[114] Granat, Katarzyna (2018). pp. 21-22

Approach was reflected in its attempt to address specific problematic areas. In particular, the guidelines emphasized the need to remedy distortions of competition, prevent hidden barriers to trade, and safeguard the proper functioning of the internal market.[115]

The key difference introduced by the new Protocol on subsidiarity and proportionality, annexed to the Lisbon Treaty, is that it no longer contains substantive interpretations of the principle itself. On the contrary, the Lisbon Protocol establishes new institutional arrangements, in particular regarding the role of national parliaments in monitoring compliance with the principle of subsidiarity through their participation in the early warning mechanism. Likewise, as previously mentioned, another novelty is the inclusion of provisions concerning the participation of regional and local actors. However, as Van den Brink points out, this innovation directly conflicts with earlier provisions. Indeed, the earlier Protocol contained a number of elements clarifying the principle, requiring its subordination to the acquis communautaire and to the institutional balance, while respecting the primacy of EU law (which also entailed strict compliance with the principle of conferral).[116] Moreover, as previously mentioned, Granat observes that the new Protocol moved away from the dual test at both the national and European levels, namely, the key questions of whether the objectives of the proposed measure could be sufficiently achieved by the Member States, and whether the Union would be better placed to achieve those objectives.

Finally, the earlier Protocol also provided a list of specific indicators to guide the application of the principle. These included conditions such as the existence of transnational aspects; the absence of Union measures that would deliver clear benefits in terms of scope or effect; and, ultimately, a preference between directives and regulations, to leave the greatest possible discretion to national authorities. In addition, it emphasized the need to respect well-established national arrangements as well as the organization and functioning of Member States' legal systems. As Van den Brink concludes, all of these substantive elements were abolished with the entry into force of the Lisbon Treaty, when the principle began to be applied at a more decentralized level. Nevertheless, it remains possible to draw upon these earlier elements in practice. It must also be emphasized that the expansion in the number of actors involved in

[115] Granat, Katarzyna (2018), op.cit., p.22

[116] See: Van den Brink, Ton (2012). The substance of subsidiarity: the interpretation and meaning of the principle after Lisbon. In: The Treaty of Lisbon and the Future of European Law and Policy. (Eds. Trybus, Martin, and Rubini, Luca). Edward Elgar Publishing. pp. 161-162

interpretation inevitably leads to a corresponding increase in the number of perspectives and divergent interpretations.[117]

3.8. The subsidiarity principle in the practice of the Court of Justice of the European Union (CJEU)

The principle of subsidiarity, in addition to being safeguarded through the involvement of national parliaments as a political *ex ante* instrument, is also subject to *ex post* judicial review by the Court of Justice. From a procedural perspective, the principle of subsidiarity may thus be examined either through a reference for a preliminary ruling submitted by national courts within the framework of the preliminary ruling procedure, or alternatively, through a direct action alleging an infringement. The latter option is expressly provided for in Article 8 of the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty on European Union, which institutionalises a procedure allowing for judicial contestation of the application of the principle before the Court.[118] Article 8 states as follows:

" (1) The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act, brought in accordance with the rules laid down in Article 263 of the Treaty on the Functioning of the European Union by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber thereof.

(2) In accordance with the rules laid down in the said Article, the Committee of the Regions may also bring such actions against legislative acts for the adoption of which the Treaty on the Functioning of the European Union provides that it be consulted."

[117] Van den Brink, Ton (2012). The substance of subsidiarity: the interpretation and meaning of the principle after Lisbon. In: The Treaty of Lisbon and the Future of European Law and Policy. (Eds. Trybus, Martin, and Rubini, Luca). Edward Elgar Publishing. Op. cit. pp. 161-163

[118] See: Consolidated version of the Treaty on European Union – PROTOCOLS- Protocol (No 2) on the application of the principles of subsidiarity and proportionality, webpage: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:12008E%2FPRO%2F02

However, judicial review of the principle of subsidiarity is not a novelty. In fact, the possibility of judicial control had already been envisaged when the principle of subsidiarity was first introduced by the Maastricht Treaty. Furthermore, the establishment of the Court's jurisdiction is likewise, as made clear in Article 8, enabled by reference to Article 263 TFEU, specifically in proceedings concerning the infringement of the principle of subsidiarity by a legislative act, thereby operating as an ex post review mechanism. Yet, although it was anticipated that this possibility would, in practice, give rise to a significant number of cases before the Court, this expectation did not materialise. As many scholars have observed (primarily Granat, but also Fabbrini, Schütze, and others), this outcome can be explained by several reasons, mainly linked to the nature of the principle of subsidiarity itself.[119]

Given the inherently political character of subsidiarity, courts have often exercised restraint, guided primarily by the view that the enforcement of the principle should remain within the remit of political institutions. In certain instances, the Court has held (for example, in the case concerning the Tobacco Products Directive) that the initial political review of subsidiarity lies in the hands of national parliaments, whereas its judicial dimension leaves to the Court the task of determining whether the EU legislator was entitled to consider, on the basis of a sufficiently detailed statement, that the objective of the proposed action could not be better achieved at the Union level. Another reason for the limited scope of judicial review stems from the very character of the principle, which lacks a clear and precise legal content. As Granat emphasises, the Court has been unwilling to replace the judgment of the political institutions with its own assessment in matters ultimately perceived as political choices. A number of other scholars enumerate additional reasons for judicial restraint, but the conclusion remains the same: judicial review of subsidiarity has not proved effective in practice, nor has it had the strong impact that was originally expected.[120]

On the other hand, as Petrić points out, the Court's assessment in matters of compliance is of particular significance in the context of interpreting the legal basis of a regulatory act and the subsequent justification of the regulatory choice, especially where overlapping or interconnected regulatory fields and levels of competence are involved. Indeed, the Court's task is further complicated by the fact that the pursuit of a given objective may be legally justifiable under one

[119] See: Granat, Katarzyna (2018), op.cit., p.23 and further.
[120] Granat, Katarzyna (2018), op.cit., p.23

legal basis but not under another, or even under several competing objectives simultaneously. Moreover, Petrić also underscores the problematic issue of the justiciability of the principle of subsidiarity, that is, the capacity of the principle to be rendered subject to judicial enforceability.[121]

However, one of the consequences of judicial review of the principle of subsidiarity, as emphasized by Petrić, is its impact on the expansion of the competences of the EU. This is most evident in the definition of implicit and ancillary competences, which partly explains the Court's restrained approach when assessing the compliance of acts with the principle of subsidiarity. Likewise, despite the idea that the Court's function should be a neutral and balanced supervision of subsidiarity, the Court nevertheless tends to render judgments in favor of the EU, thereby, in a certain sense, assuming a unilateral position. Yet, as Petrić stresses, the Court's role is in reality a particularly difficult one, considering that it must maneuver between, on the one hand, the constitutional obligation to remain neutral between the Member States and the EU, and, on the other hand, the very law that grants it its competences and form, and ultimately enables its very existence. Referring to examples and earlier conclusions of de Búrca (who argued that the Court's refusal to engage in arguments regarding the appropriateness of EU economic norms in light of their objectives and principles of effectiveness), Petrić considers that the increasing encroachment of EU regulation into areas of national competence, originally conceived as being outside the Union's reach, has been precisely the consequence of such an approach by the Court.[122]

The Court, however, justifies its approach by relying on a strict textual interpretation of economic rules as being fundamentally beyond challenge. As Petrić further notes, this stance leads to the conclusion that no field of national policy can be interpreted as being beyond the reach of EU economic norms, not even those falling within exclusive national competence. Thus, the Court has confirmed and repeatedly upheld the irrebuttable presumption that the objectives of internal market measures can be better achieved only at the EU level. Moreover, the Court has often invoked the argument that divergences in national legislation of the Member States could distort competition within the EU and thereby hinder the effective functioning of the internal market.

[121] See: Petrić, Davor (2017). The principle of subsidiarity in the European Union: 'Gobbledygook' entrapped between justicibility and political scrutiny? The way forward. Zagrebačka Pravna Revija, Vo. 6, No. 3. 2017, pp. 287-318, op.cit. p. 297-298

[122] See: Petrić, Davor (2017). The principle of subsidiarity in the European Union: 'Gobbledygook' entrapped between justicibility and political scrutiny? The way forward. Zagrebačka Pravna Revija, Vo. 6, No. 3. 2017, pp. 287-318, op.cit. p. 297-298

According to Petrić, this judicial formulation has, in practice, resulted in a weakening of the principle of subsidiarity, which loses its force when confronted with the priorities of the market.[123]

[123] See: Petrić, Davor (2017). The principle of subsidiarity in the European Union: 'Gobbledygook' entrapped between justicibility and political scrutiny? The way forward. Zagrebačka Pravna Revija, Vo. 6, No. 3. 2017, pp. 287-318, op.cit. p. 298-299

IV. THE LISBON TREATY AND ITS NOVELTIES

4.1. About the Early Warning mechanism, political dialogue, and other important tools for national parliaments

The Lisbon Treaty and its Protocols represent the most significant step forward in strengthening the role of national parliaments. The Lisbon Treaty primarily ended the traditional belief that national parliaments should be active exclusively at the national level. The contribution of national parliaments under the provisions of the Lisbon Treaty largely focuses on the EU legislative process. Namely, supplementing the provisions of the previously mentioned articles on representative and participatory democracy (Articles 10 and 11 of the Treaty of Lisbon), Article 12 lists various ways in which national parliaments can contribute to the good functioning of the EU.[124]

The true essence of the role of national parliaments in the EU legislative process is provided for in two protocols attached to the treaty. *Protocol No. 1 on the Role of National Parliaments in the European Union* imposes an obligation on the Commission to submit draft legislative acts and consultation documents simultaneously to the European Parliament and the Council, and directly to national parliaments, which ultimately aims to encourage greater participation of national parliaments in EU activities. The *Protocol No. 2 on the Application of the Principles of Subsidiarity and Proportionality* imposes the obligation of broad consultation before proposing legislative acts. However, both Protocols must be read together or interpreted inseparably.[125] The most significant progress for national parliaments is reflected in the instrument introduced by the Lisbon Treaty for national parliaments, the so-called Early Warning Mechanism (hereinafter: EWM), which enables national parliaments to directly participate in the European

[124] For example, Kiiver emphasizes the strangeness of the provision of Article 12, stating that the colon before enumerating the ways in which national parliaments contribute to the good functioning of the EU, potentially leads to the conclusion that the contributions of national parliaments can only be achieved in the explicitly named ways enumerated. Following this logic, it could be taken that in all other provisions of the TEU, as well as the provisions of the TFEU, which include the participation of national parliaments, and which are not mentioned in Article 12, do not contribute to the good functioning of the EU. However, Kiiver concludes that the mentioned oddity of Article 12 is probably the result of an attempt to improve the visibility of the role of national parliaments in a prominent part of the treaty, and the first sentence should rather be considered a declarative independent provision, and ignore the colon. For more on the mentioned, see: Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional theory and empirical reality, Rothledge, pp. 6-7

[125] Craig, Paul (2013), The Lisbon Treaty: law, politics and treaty reform, Oxford University Press, Revised edition. pp. 45-46

legislative process by monitoring violations of the principle of subsidiarity. Namely, the Lisbon Treaty mentions national parliaments in several places within the Treaty itself, and in already mentioned Protocols – *Protocol No. 1* and *Protocol No. 2*. The concrete provisions of the Lisbon Treaty regarding national parliaments can be found in several sections. These can be divided into several areas in which the role of national parliaments is mentioned.[126]

Likewise, it is important to note that the earlier version of Protocol No. 1 emphasized in its preamble that the relationship of parliaments regarding the supervision of their governments, particularly concerning their activities at the Union level, is a matter of the internal constitutional order, that is, the constitutional practice of each national state. This gave rise to certain uncertainties, for example, on the part of the UK House of Lords, when they expressed concern about the possibility that the EU might compel or impose as a duty upon national parliaments the obligation to participate in European decision-making. Such concern was further supported by the earlier wording of draft Article 12, which provided that national parliaments "shall contribute" actively to the good functioning of the EU. This could have been interpreted as an obligation or duty, thereby raising the question of whether, in the event of non-compliance, a particular parliament could be sued for inactivity. This uncertainty was resolved by deleting the word "shall", while at the same time leaving Article 12 somewhat redundant, as it adds absolutely nothing in terms of substantive content, but rather represents a kind of summary of provisions already secured elsewhere in the Treaties. However, Article 12, that is, all the forms of involvement it prescribes, relate only to compliance with EU law, whereas the domestic constitutional law of each Member State provides for the ways in which its parliament is involved in the European order.[127]

Among the most important domestic provisions are those concerning the right to information, which may be provided not only in constitutional provisions but also in laws or parliamentary resolutions. These rights essentially go beyond the requirements of EU law and are independent of them, and they include the obligation of the government to inform the parliament about the EU legislative process from its initiation, as well as about the submission of explanatory memoranda and the political assessment of proposals. National provisions also regulate the issue

[126] Consolidated version of the Treaty of the European Union. Official Journal of the European Union C 236/15. Webpage: https://eur-lex.europa.eu/eli/treaty/tfeu_2016/pro_1/oj/eng

[127] Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional theory and empirical reality, Rothledge, pp. 9-10

of the implementation, that is, the transposition of European law into national law, since even the Treaty on the Functioning of the European Union (TFEU) does not refer specifically to national parliaments but uses the broader term "national authorities," which may include regional parliaments or even executive bodies. Parliaments are also, where domestic constitutional law so provides, the bodies responsible for the ratification of new treaties or amendments to existing ones. In the latter case, in some countries the parliament decides on the matter; in others, a special majority is required; and in yet others, a referendum must be held, in any event, depending on the prescribed domestic constitutional order. In some cases, where the parliament does not exercise classical ratification, it may have the power to prevent a certain decision by exercising a veto, that is, to block certain changes in EU decision-making.[128]

The importance of national constitutional orders is reflected in the control exercised by national parliaments over their governments, which is also a characteristic feature of parliamentary systems, where the government must obtain approval from its parliament before presenting a position at the EU level. Such approvals may take different forms: in some systems, they may be political rules, in others, legal obligations, and in some, even constitutional requirements. In the latter case, the government's dependence on its parliament stems from several factors, primarily the necessity of maintaining parliamentary confidence, the political control exercised by parliament over the government, and the existence of governmental accountability for all actions undertaken in the EU. This includes, for example, how the government votes in the Council, whether it will initiate proceedings before the Court of Justice of the European Union, and whom it will propose for the European Commission.[129]

4.2. Lisbon Treaty as confirmation of the recognition of representative democracy

It is important to emphasize that the democratic model of the EU established by the Treaty of Lisbon was a model of representative democracy that laid the foundation for the EU's legitimacy, along with other elements of democratic traditions. Thus, for example, Article 9 TEU reveals that the EU is fundamentally a representative democracy based on the equality of all

[128] Ibid.
[129] Ibid.

citizens.[130] The principle of equality, which is one of the main principles of the EU, is also mentioned in the preamble and Article 2 of the Treaty.

Setting the EU's basic model as a representative democracy means that its citizens exercise authority indirectly, through their elected representatives. Although there is no universally accepted definition of representative democracy, attempts to define it have been visible in discussions about the EU's democratic deficit. As explained in the second chapter, these discussions analysed the democratic deficit as a result of the transfer of powers from one level (national) to another (European). Once transferred, these powers no longer exist at the national level, but there is also no equivalent of those powers at the European level. In other words, this transfer of powers, later more often described as conferred powers, led to the emergence of a democratic deficit, because the loss of a significant share of powers by national parliaments was not compensated by transferring those same powers to the European Parliament. Furthermore, the previously mentioned Article 9, which lays down the principle of democratic equality, together with the minimum standards of protection guaranteed by Article 3 of Protocol No. 1 to the European Convention on Human Rights (which provides for the right to free elections by secret ballot at reasonable intervals, under conditions that ensure the free expression of the opinion of the people in the choice of the legislature), enables the exercise of representative democracy as set out in Article 10. In other words, Article 10 also presupposes the existence of the right to vote in elections to the European Parliament. Furthermore, Article can thus be seen as a strategy towards the democratisation of the Union, laying the foundations for strengthening the legitimacy of decision-making in the Union, and can also be interpreted as a reaction to the debate on the democratic deficit. The latter enables the Union's democratic ideals to be expressed, establishing the legitimacy of decision-making, and at the same time forming the basis for many more concrete norms, both of primary and secondary law.[131]

[130] Content of the Article 9, TEU: "In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices, and agencies. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship."

[131] Tobias, Lock (2024), Articles 10-12 Treaty on European Union, In: The EU Treaties and the Charter of Fundamental Rights, A commentary, second edition, (eds. Kellerbauer, M., Klamert, M. and Tomkin, J.), Volume I: Treaty on European Union and Charter on Fundamental Rights, Oxford, pp. 138-155, p. 138-143

Article 10(2), which states that citizens are represented at the Union level in the European Parliament, can be viewed from a multi-level perspective. This may be interpreted in several ways. First, it suggests that EU representative democracy rests on two pillars: on the one hand, the European Parliament as the directly elected representative of citizens; and on the other hand, the indirect representation of citizens in the European Council and the Council of the European Union, whose members are heads of state or government. These leaders are usually directly elected by the citizens of their Member States and also have the support of national parliaments, which are themselves elected by citizens. Through these direct and indirect roles, they obtain the necessary legitimacy, since any exercise of power that is based on democratic principles must derive from authority granted by the people as the true holder of sovereignty. In theory, this is described as a "continuous chain of legitimacy". [132]

From this perspective, it follows not only that the European Parliament and the Council are co-legislators typical of federal systems, but also that one represents the demos of the Member States, while the other represents the federal demos, that is, the body of EU citizens as a whole, as Lock points out. Finally, the role of the Council is especially important for maintaining balance. Due to the degressively proportional composition of the European Parliament, Members from larger Member States represent more EU citizens than those from smaller states. At the same time, votes in the Council are weighted according to the size of the population of the Member States (in line with Article 16(4) TEU), and Article 10 in a way recognises the political power of the Council. On the other hand, Article 10 does not mention the European Commission in terms of possessing political power that requires democratic legitimacy. Its role is mainly limited to promoting the general interest of the Union (for example, Article 17 TEU). However, this does not mean that the Commission does not exercise political power that requires legitimacy.[133]

This is also evident from the judgment of the European Court of Justice in Case C-409/13 (Council v Commission, concerning the Commission's right to withdraw a proposal). The Court held that there had been no breach of the principle of democracy (Article 10(1) and (2)), finding that the Commission's power to withdraw a proposal (based on Article 17(2) TEU in conjunction with Articles 289 and 293 TFEU) is essentially equal to, and a natural consequence of, the

[132] Ibid., pp. 138-140
[133] Ibid.

Commission's power of legislative initiative under the TFEU. Interestingly, the Court did not link the Commission's power of legislative initiative with its power to amend its own proposals.[134]

Concerning the Commission's justification, it is worth noting its claim that it has broad powers to withdraw legislative proposals based on several circumstances. These include external changes that render a proposal outdated, the risk that amendments made during the legislative process might go beyond the aim of the original proposal, and the risk that a proposal may be altered to such an extent that its original purpose is undermined. [135] On the other hand, the Council argued against this position, clearly stating that recognising an unlimited right of withdrawal for the Commission would undermine the Council's exercise of legislative powers. Moreover, allowing discretionary withdrawal of a legislative proposal as a means of influencing the legislative process would also affect the right of amendment (under Article 293 TFEU) and could ultimately lead to a breach of the principle of democracy. As Lock ultimately concludes, the Court's position is particularly difficult to justify when one takes into account the lack of a right of legislative initiative for the European Parliament and the Council, which are the main sources of democratic legitimacy.[136]

4.2.1. Importance of Article 10 of the TEU[137]

[134] For more on the Court's judgments on this topic, see: Kotanidis, Silvia (2021), Understanding the European Commission's right to withdraw legislative proposals, EPRS, European Parliamentary Research Service, Members' Research Service, PE 689.364 – March 2021, p. 4.

[135] These situations can be divided into technical and political withdrawals. Technical withdrawals relate to outdated proposals, while political withdrawals concern the intention to prevent the original proposal from being distorted or blocked. Technical withdrawals may reasonably occur in cases of outdated or stalled proposals, or where institutions reach an agreement, and they would not raise issues regarding a breach of the principle of democracy, since there would be a logical basis for withdrawal.

[136] Lock, Tobias (2024), Articles 10-12 Treaty on European Union, In: The EU Treaties and the Charter of Fundamental Rights, A commentary, second edition, (eds. Kellerbauer, M., Klamert, M. and Tomkin, J.), Volume I: Treaty on European Union and Charter on Fundamental Rights, Oxford, pp. 138-155, p. 140

[137] The full content of Article 10 TEU (Title II Provisions on Democratic Principles) is as follows:
"1. The functioning of the Union shall be founded on representative democracy.
2. Citizens are directly represented at the Union level in the European Parliament.
Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments or to their citizens.
3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.
4. Political parties at the European level contribute to forming European political awareness and to expressing the will of citizens of the Union." See: Consolidated version of the Treaty of the European Union. Official Journal of the European Union C 236/15. Webpage: https://eur-lex.europa.eu/eli/treaty/tfeu_2016/pro_1/oj/eng

The importance of representative democracy had been pointed out already during the period of drafting the Constitutional Treaty, from which the identical formulation was taken as it now reads in the Treaty of Lisbon. Therefore, the principle of representative democracy was an integral part of the failed Constitutional Treaty, envisaged in Article I-46 in the chapter on the democratic life of the Union. Thus, paragraph 1 of the latter article provides that the functioning of the Union is based on representative democracy, while paragraph 2 provides that "*citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government, who are themselves democratically accountable to their national parliaments or to their citizens"*. The above, therefore, results in a double responsibility towards citizens on the part of their governments and parliaments, which in turn sets a guarantee of the democratic legitimacy of the EU.[138]

Primarily, it is a matter of symbolic recognition, the details of which are found in Article 10(3) TEU, which refers to the democratic accountability of European governments in relation to national parliaments. Symbolic recognition is further visible in Article 12 of the Treaty, which states that national parliaments actively contribute to the good functioning of the Union.

Article 10(3) TEU:

"... Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens."[139]

4.2.2. Importance of Article 12 of the TEU and other provisions

In the Article 12 of the Treaty, the ways of such active contribution are listed, and among others, the role in monitoring compliance with the principle of subsidiarity is mentioned. Thus,

[138] WEC, Janusz J. and Koschalka, Ben (2008), The Influence of National Parliaments on the Decision-making Process in the European Union: New Challenges in the Light of the Lisbon Treaty, Politeja, No. 10/1 (2008), Ksiegarnia Academicka, pp. 187-208, p. 196

[139] Consolidated version of the Treaty of the European Union. Official Journal of the European Union C 236/15. Webpage: https://eur-lex.europa.eu/eli/treaty/tfeu_2016/pro_1/oj/eng

one of the key provisions is precisely this one, on the contribution to the control of the principle of subsidiarity referred to in Article 12, which is further detailed in the Protocols.

Article 12 TEU:

National Parliaments contribute actively to the good functioning of the Union:

(a) through being informed by the institutions of the Union and having draft legislative acts of the Union forwarded to them in accordance with the Protocol on the role of national Parliaments in the European Union;

(b) by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;

(c) by taking part, within the framework of the area of freedom, security, and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with

with Article 70 of the Treaty on the Functioning of the European Union, and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in

In accordance with Articles 88 and 85 of that Treaty;

(d) by taking part in the revision procedures of the Treaties, in accordance with Article 48 of this Treaty;

(e) by being notified of applications for accession to the Union, in accordance with Article 49 of this Treaty;

(f) by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national Parliaments in the European Union.[140]

Thus, Article 3 of Protocol No. 1 lays down the principle, while Articles 6 and 7 of Protocol No. 2 establish the procedure. Accordingly, these regulate the "yellow card" procedure and the "orange card" procedure.

Article 3 of Protocol No. 1 reads as follows:

[140] Ibid.

"National Parliaments may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion on whether a draft legislative act complies with the principle of subsidiarity, in accordance with the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the reasoned opinion or opinions to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank, or the European Investment Bank, the President of the Council shall forward the reasoned opinion or opinions to the institution or body concerned."[141]

While Articles 6 and 7of Protocol No. 2 regulate the procedure itself in detail, as follows:

Article 6

Any national Parliament or any chamber of a national Parliament may, within eight weeks from the date of transmission of a draft legislative act, in the official languages of the Union, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the opinion to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the opinion to the institution or body concerned.[142]

Article 7

1. The European Parliament, the Council and the Commission, and, where appropriate, the group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, shall take account of the reasoned opinions issued by national Parliaments or by a chamber of a national Parliament.

Each national Parliament shall have two votes, shared out on the basis of the national Parliamentary system. In the case of a bicameral Parliamentary system, each of the two chambers shall have one vote.

2. Where reasoned opinions on a draft legislative act's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the draft must be reviewed. This

[141] Ibid.
[142] Ibid.

threshold shall be a quarter in the case of a draft legislative act submitted on the basis of Article 76 of the Treaty on the Functioning of the European Union on the area of freedom, security and justice.

After such review, the Commission or, where appropriate, the group of Member States, the European Parliament, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, may decide to maintain, amend or withdraw the draft. Reasons must be given for this decision.

3. Furthermore, under the ordinary legislative procedure, where reasoned opinions on the non-compliance of a proposal for a legislative act with the principle of subsidiarity represent at least a simple majority of the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the proposal must be reviewed. After such review, the Commission may decide to maintain, amend or withdraw the proposal.

If it chooses to maintain the proposal, the Commission will have, in a reasoned opinion, to justify why it considers that the proposal complies with the principle of subsidiarity. This reasoned opinion, as well as the reasoned opinions of the national Parliaments, will have to be submitted to the Union legislator for consideration in the procedure:

(a) before concluding the first reading, the legislator (the European Parliament and the Council) shall consider whether the legislative proposal is compatible with the principle of subsidiarity, taking particular account of the reasons expressed and shared by the majority of national Parliaments as well as the reasoned opinion of the Commission;

(b) if, by a majority of 55 % of the members of the Council or a majority of the votes cast in the European Parliament, the legislator is of the opinion that the proposal is not compatible with the principle of subsidiarity, the legislative proposal shall not be given further consideration.[143]

Regarding the control of the principle of subsidiarity, it is essential to mention also the judicial control of subsidiarity, regulated by Article 8 of Protocol No. 2, on the application of the principles of subsidiarity and proportionality. As Rozenberg notes: "Once a piece of legislation is adopted, governments may notify an infringement of the subsidiarity principle to the European Court of Justice on behalf of their national parliament in accordance with their legal order".[144]

Furthermore, the next provision granted to national parliaments by the Lisbon Treaty concerns the right to information. Primarily, this refers to the right to receive all documents directly

[143] Ibid.
[144] Rozenberg, Oliver (2017). The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges; Study for the AFCO Committee. Policy Department C: Citizens' rights and Constitutional Affairs; European Parliament; PE 583.126, p. 14, Table 1. Op.cit.

from the Commission, which sends them not only to the European Parliament and the Council but also directly to national parliaments. For this procedure, that is, the security period between the Commission's proposal and the Council meeting, a period of eight weeks is foreseen, which has been extended from the earlier period of six weeks. (Thus, this deadline has been extended in the same way as the deadline for national parliaments to submit a reasoned opinion concerning a breach of the principle of subsidiarity - from the earlier six weeks to the current eight weeks, which certainly appears to be a more reasonable timeframe than before). Furthermore, the right to information also includes notification of applications for accession to the EU, as well as many other notifications regarding various activities of other institutions.[145]

Thus, Article 12 TEU, in accordance with the provisions of the Protocol on the Role of National Parliaments in the European Union, forms the basis of the right to information of national parliaments. It emphasizes the active contribution of national parliaments to the good functioning of the Union by providing them with information on existing applications for accession to the Union (in accordance with Article 49 TEU). The right to information also includes the aforementioned right to the direct transmission of draft legislative acts by the Commission, including the provisions on the previously mentioned eight-week security period (laid down in Article 4 of Protocol No. 1).

Furthermore, the role of national parliaments in participating in the procedures for the revision of the Treaties is ensured on several levels. In accordance with the crucial Article 12 TEU, national parliaments contribute actively also by participating in the procedures for amending the founding treaties, the procedural aspects of which are laid down in Article 48 TEU. If the European Council decides to examine a proposal for amendments, the President of the European Council convenes a Convention composed of representatives of national parliaments, the Heads of State or Government of the Member States, the European Parliament, and the Commission. In this way,

[145] These notifications include, inter alia, as follows. A proposal to amend the Treaties (Article 48(2) TEU), evaluation of the implementation of Union policies in the area of freedom, security and justice (Article 70 TFEU) and, proceedings of the standing committee of the Council responsible for internal security (Article 71 TFEU). Including also aspects of family law with cross-border implications adopted under the ordinary legislative procedure (Article 81(3) TFEU) and, the agenda and decisions of the Council (Article 5 of Protocol No. 1). See also Rozenberg (2017), p. 14, Table 1: The provisions of the Lisbon Treaty related to national parliaments: an overview, p. 14.

national parliaments are granted a formal role in shaping the future institutional and legal architecture of the Union.[146]

In addition, Article 48(7) TEU provides for the veto right of national parliaments in the procedures concerning the so-called Passerelle clauses, which allow a shift from unanimity to qualified majority voting or the application of the ordinary legislative procedure. If any national parliament raises an objection within six months, the proposed decision cannot be adopted. This mechanism represents a strong instrument for safeguarding the sovereignty of Member States and the democratic legitimacy of the integration process. Moreover, in the area of freedom, security and justice, national parliaments have a specific role in accordance with Article 12 TEU and the relevant provisions of the Treaty on the Functioning of the European Union (TFEU). Their participation includes evaluation mechanisms regarding the implementation of Union policies under Article 70 TFEU, as well as political monitoring of the activities of Europol and Eurojust. Article 85(1) TFEU provides for the involvement of national parliaments in the evaluation of Eurojust's activities, while Article 88(2) TFEU foresees their role in the oversight of Europol, together with the European Parliament. In practice, this means that national parliaments participate in inter-parliamentary forums and exchanges that ensure political control and democratic legitimacy of the activities of Union agencies in the sensitive areas of criminal justice and police cooperation.[147]

Finally, national parliaments are granted an important role within the framework of inter-parliamentary cooperation. Article 12 TEU, in connection with Protocol No. 1 on the Role of National Parliaments in the European Union, confirms that national parliaments take part in systematic and institutionalized cooperation with the European Parliament. Article 9 of that Protocol guarantees freedom to national parliaments and the European Parliament in organizing and promoting effective cooperation, while Article 10 specifically highlights the role of the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC) as a platform for information exchange and coordination.[148] In addition, cooperation is

[146] Rozenberg, Oliver (2017). The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges; Study for the AFCO Committee. Policy Department C: Citizens' rights and Constitutional Affairs; European Parliament; PE 583.126, pp. 14-15

[147] Ibid., pp. 13-16

[148] Through established inter-parliamentary cooperation, i.e., horizontal coordination to achieve the necessary consensus, COSAC provides prerequisites for a more effective early warning mechanism. In addition to COSAC, an

particularly emphasized in the areas of the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP), where the need for inter-parliamentary oversight is even greater due to the specific sensitivity of these policies for national sovereignty.[149]

All these provisions indicate that the Lisbon Treaty not only consolidated the position of national parliaments within the Union's institutional system but also provided them with concrete instruments to exercise democratic oversight and participate in the decision-making process. This ensures a balance between the dynamics of European integration and the preservation of the role of national democratic institutions. All provisions of the Lisbon Treaty relevant to the role of national parliaments can be found in Table 1.

Table 1. The most important articles of the Lisbon Treaty that are connected to the role of national parliaments.

	Lisbon Treaty (TEU)	Lisbon Treaty (TFEU)	Protocol 1	Protocol 2
PROVISIONS RELATED TO NPs'				
A symbolic recognition	Art 10 (3) Art 12			
The control of the subsidiarity principle	Art 12	*Art 263 ECJ	Art 3	Art 6-7 *Art 8 ECJ
Information rights	Art 12 *in accordance with Art 49 **Art 48(2)	Art 70 Art 71 Art 81(3)	Art 2 Art 4 *Art 5	
Participation in the revision of the Treaty	Art 12 *in accordance with Art 48 Art 48 (3) Art 48(7)- passerelle clauses			

indispensable element for successful cooperation and coordination between parliaments is IPEX (Inter-parliamentary EU Information Exchange), which therefore represents an inter-parliamentary forum for the exchange of information between national parliaments and the European Parliament, and which serves as a kind of repository of all important documentation concerning the exemplary activities of national parliaments. It also includes the parliamentary calendar and all Commission documents from 2006 onwards. For more details about Ipex, see the official webpage: https://secure.ipex.eu/IPEXL-WEB/ Accessed: 10th September, 2025.
For more details on the influence of the COSAC, see: Cygan, Adam (2013), Chapter 6: Subsidiarity control after Lisbon, in: Accountability, Parliamentarism and Transparency in the European Union, Edward Elgar Publishing, pp. 156–184, p. 173 and further.

[149] Rozenberg, Oliver (2017). The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges; Study for the AFCO Committee. Policy Department C: Citizens' rights and Constitutional Affairs; European Parliament; PE 583.126, pp. 14-15

A specific role for Freedom, Security, and Justice	Art 12 (in accordance with Art. 70 TFEU and Art. 88 and 85)	Art 85(1) Art 88(2)		
An acknowledgment of inter-parliamentary cooperation	Art 12		Art 9 Art 10 (cooperation: COSAC; CFSP/ CSDP)	

Source: Authors' work on summarized data was made by using data collected in Table 1 and Table 2 from the studies of scholar Rozenberg, Oliver (2017), The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges; Study for the AFCO Committee, Policy Department C: Citizens' rights and Constitutional Affairs; European Parliament, pp. 14 and 15.

4.3. The Early Warning Mechanism (EWM)

4.3.1. Short overview of the development of the EWM

The first chapter, dealing with the historical development of the role of national parliaments, as well as the section on the development of subsidiarity, has already addressed the main documents and driving forces behind the evolution of the latter principle. Therefore, only the most important elements in the development of the Early Warning Mechanism (EWM) will be briefly outlined here.

The idea of strengthening national parliaments through oversight of the subsidiarity principle emerged at EU summits during the 1990s. It gained additional momentum with the 2001 Laeken Declaration on the Future of the European Union, which explicitly raised the question of whether national parliaments should be entrusted with the task of conducting a prior check of compliance with subsidiarity. The Declaration also convened a Convention tasked with drafting a new Treaty. Within that framework, two working groups played a central role: Working Group I on Subsidiarity and Working Group IV on the Role of National Parliaments. The final compromise resulted in the establishment of the Early Warning System, thereby avoiding the creation of a new EU institution and instead entrusting national parliaments with an ex ante assessment of the compatibility of legislative proposals with the subsidiarity principle, without granting them a binding veto. Numerous proposals were rejected in the process, including the idea of establishing a European Senate composed of national parliamentarians, as well as proposals aimed at strengthening the advisory role of COSAC or introducing a stricter definition of subsidiarity

combined with higher thresholds for activating the mechanism. These rejections reflected concerns about the potential blockage of the legislative process.[150]

Ultimately, the core ideas presented in the draft Constitutional Treaty concerning the EWM were preserved in the Treaty of Lisbon, albeit within a revised institutional framework. The amendment of Protocol No. 2 annexed to the Lisbon Treaty clarified that the eight-week period for submitting reasoned opinions (ROs) by national parliaments begins upon the transmission of draft legislative acts in all official EU languages. In addition to the existing yellow card procedure, the Lisbon Treaty also introduced the orange card mechanism.

4.4. Types of legislative acts that fall under the EWM: the scope and objects of review

Starting from the definition of subsidiarity in Article 5(3) of the Treaty on European Union, read in conjunction with Article 3 of Protocol No. 2 to the Lisbon Treaty, the EWM applies to all draft legislative acts. Under the Protocol, these include "*Commission proposals, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank, and requests from the European Investment Bank for the adoption of a legislative act*."[151]

Article 6 of the same Protocol provides national parliaments (or their chambers) with the right to submit reasoned opinions on any draft legislative act. This wording indicates that the EWM is not limited to the ordinary legislative procedure, but also applies to other legislative procedures. The only exception concerns the orange card procedure, which is explicitly confined to the ordinary legislative procedure.[152]

Unlike the yellow card procedure, the orange card expressly refers to the Commission as the initiator. Even where a majority of the votes allocated within the EWM raise objections, the Commission may nevertheless decide to maintain its proposal. The provision also refers to the

[150] Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional theory and empirical reality, Rothledge, pp. 19-20
[151] Consolidated version of the Treaty on the Functioning of the European Union - PROTOCOLS - Protocol (No 2) on the application of the principles of subsidiarity and proportionality, Official Journal C 115, 9.5.2008, pp. 206–209
[152] Also see: Ibid.

European Parliament and the Council as the Union's legislators, empowering them to reject a proposal on subsidiarity grounds.

As regards the types of legislative drafts subject to the EWM, Kiiver emphasises that the concept of a "draft legislative act" is broader than that of a Commission proposal. In accordance with Article 3 of Protocol No. 2, it includes the previously mentioned initiatives of a group of Member States and of the European Parliament, as well as recommendations and requests from certain EU institutions. There is no limitation with respect to internal or external legislation. Consequently, even draft legislative acts concerning the internal organisation of EU institutions or their staff may fall within the scope of the EWM. This follows from the fact that the Treaties do not distinguish between internal and external legislation for the purposes of the EWM. Moreover, as Kiiver notes, the eight-week period provided in Article 4 of Protocol No. 1 for parliamentary scrutiny applies irrespective of the EWM review.[153]

On the other hand, determining what does not qualify as a draft legislative act is equally important for understanding the scope of the EWM. Commission Green Papers, White Papers, and Communications do not constitute draft legislative acts within the meaning of Article 1 of Protocol No. 1, even though they are transmitted directly to national parliaments at the same time as to the European Parliament and the Council. These documents are relevant for the political dialogue between the Commission and national parliaments, but they do not fall under the EWM control mechanism. This distinction is important in practice, as some national parliaments devote significant attention to such documents and, as a consequence, may be less active within the EWM framework.[154]

A further category of documents excluded from EWM scrutiny includes amended draft legislative acts and legislative resolutions of the European Parliament, including Council common positions, in accordance with Article 2 of Protocol No. 2 to the Lisbon Treaty. Although amended draft legislative acts are also transmitted to national parliaments, they are not subject to the subsidiarity justification requirements under the EWM, nor do they trigger a new obligation to provide reasons, a renewed eight-week period, or a fresh broad consultation process, as Kiiver

[153] Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional Theory and empirical reality, Rothledge, pp.21-23
[154] Ibid., pp. 22-23

explains. It follows that, despite the existence of amended versions of draft acts, there is no second round of EWM scrutiny. This also applies to amended Commission proposals submitted before the Council has adopted its position, pursuant to Article 293 TFEU.[155]

Taking into account all the mentioned, it can be concluded that national parliaments must also pay attention to developments in the remainder of the legislative procedure, where amendments may be adopted outside the EWM framework. By its very nature, the EWM is, as its name indicates, an early warning mechanism designed for the initial stage of the legislative process. Finally, although the Protocol on subsidiarity also refers to the principle of proportionality, reasoned opinions may be submitted only concerning subsidiarity, despite the close and often inseparable relationship between the two principles.

4.5. The nature and purpose of the EWM

The EWM for subsidiarity control has, since its inception, beginning with the model envisaged by the European Convention of 2002-2003 and culminating in the Lisbon Treaty framework, given rise to extensive theoretical debate, largely due to its complexity. Particular attention has been devoted to its ambiguous nature and purpose, both frequently contested in the literature, which in turn complicates the classification of the mechanism, namely, whether it is better understood as a legal or a political concept, and even whether it constitutes a principle or a rule. [156] In analysing the mechanism, Cooper distinguishes three key questions arising from the existing debates, and on that basis identifies three principal approaches to the EWM: one legal (centred on compliance with legal rules, which Cooper calls "legal rule following"), and two political (encompassing "political bargaining" and "policy arguing"). Cooper's typology aims to sketch these approaches through illustrative examples, primarily drawn from Northern European states and, according to that, also their parliaments' typology. Concerning the first example, the legal approach, subsidiarity is treated as a quasi-legal rule, the requirements of which can be relatively clearly determined. This entails a rigorous assessment of impact as interpreted by the

[155] Ibid., p. 22

[156] Cooper, Ian (2017), Is the Early Warning Mechanism a Legal or a Political Procedure? Three Questions and Typology, In book: Jonsson Cornell, Anna and Godoni, Marco (eds.), National and Regional Parliaments in the EU legislative procedure post-Lisbon: The Impact of the Early Warning Mechanism, Oxford, London, Portland, Hart Publishing Ltd, 2017, pp. 17-49, p. 17

Commission, which national parliaments follow closely, while any uncertainties relating to a given proposal are addressed through political dialogue (Finish Eduskunta would be an example of this model, according to Cooper). Under the political bargaining approach, subsidiarity is regarded as a highly flexible concept, interpreted in a manner that may either fully permit or entirely preclude EU action. In other words, national parliaments assess whether opposing an EU measure aligns with their political interests, often seeking to build the coalitions necessary to trigger a "yellow card" or "orange card" procedure (example for latter coalition includes the Danish Folketing and Dutch Tweede Kamer). [157] Finally, the third approach, policy arguing, is characterised by a less clearly defined, though still meaningful, understanding of subsidiarity. Here, the mechanism serves primarily to facilitate political debate on the circumstances under which EU legislation should be adopted, and indeed whether legislative action at the EU level is appropriate at all (Cooper's principal example is the Swedish Riksdag).[158]

Cooper's typology is derived from a set of preliminary questions he seeks to address. For this study, it is useful to consider the experience of older EU member states to better contextualise the analysis of the three CEE countries under examination.

Therefore, the first question concerns who is best placed to study the mechanism: political scientists or legal scholars. Cooper concludes that both disciplines are indispensable, as they complement one another by addressing the same subject from distinct perspectives. His analysis of the first "yellow card" demonstrates not only significant divergence between political and legal scholarship, but also disagreement within legal scholarship itself (with some adopting a more accommodating political approach, and others adopting a critical stance, including concerns regarding potential misuse of the mechanism by national parliaments). Political scientists, for their part, differ depending on whether they approach subsidiarity within the EWM from a narrow or broader perspective, including consideration of its potential impact on political outcomes. In essence, the divergence between the two disciplines is reflected in their analytical focus: political scientists tend to examine instruments of inter-parliamentary coordination related to the triggering

[157] Ibid., p. 18
[158] Ibid., pp. 18-19

of a yellow card, whereas legal scholars analyse and assess the relative merits of the positions taken by national parliaments and the Commission.[159]

Due to the often narrow legal interpretation of subsidiarity within the EWM, legal analysis frequently leads to the conclusion that the issue is difficult to resolve. Where legal scholars encounter structural limits, often viewing treaty amendment as the only viable solution, political scientists, adopting a more flexible approach, tend to propose more pragmatic alternatives. For example, they view the EWM as a tool that national parliaments may adapt to their own objectives, including the possibility of reinterpreting subsidiarity. This may involve contesting EU legislative proposals on grounds other than subsidiarity, such as legal basis, proportionality, and policy effectiveness. This political science approach to interpreting the EWM has been adopted by a significant number of national parliaments. [160] The complexity of both the EWM itself and the theoretical classification of parliamentary behaviour calls for a qualitative analytical approach. Political-science typologies have often proceeded from the assumption that "strong" parliaments, those with robust institutional capacity to scrutinise their own governments, are more likely to seek to extend their influence to the European level, and thus to be more active using the EWM. Conversely, other assumptions suggest that "weaker" parliaments, less active domestically, may instead focus their engagement at the EU level. Both assumptions capture only part of the picture. It is essential to consider additional factors, such as the willingness of a parliament to act in a given situation. This willingness may be shaped by political considerations, public opinion, or the perceived importance of the legislative proposal. Moreover, qualitative methods, such as analysing the substantive content of reasoned opinions, are crucial for understanding differences between parliaments.[161]

The second question raised by Cooper concerns who should implement the EWM: political or legal institutions. This question touches upon the institutional structure of the European Union and the relationship between its institutions and national parliaments. Cooper examines this issue from the introduction of the EWM under the Lisbon Treaty back to the Maastricht Treaty, which

[159] Ibid., p. 20
[160] Cooper, Ian (2017), Is the Early Warning Mechanism a Legal or a Political Procedure? Three Questions and Typology, In book: Jonsson Cornell, Anna and Godoni, Marco (eds.), National and Regional Parliaments in the EU legislative procedure post-Lisbon: The Impact of the Early Warning Mechanism, Oxford, London, Portland, Hart Publishing Ltd, 2017, pp. 17-49, p. 21, op. cit.
[161] Ibid., pp. 3-4

first introduced subsidiarity, and also considers the role of the Court. He concludes that the application of subsidiarity lies primarily in the hands of political institutions, although none possesses ultimate interpretative authority. Concerning judicial interpretation, he suggests that in cases of disagreement between national parliaments and the Commission, "*the Court would be deferring to the interpretation of subsidiarity endorsed by the principal political institutions of the EU - the Commission, the Council, and the European Parliament*." [162]

Finally, the third question concerns whether subsidiarity and the EWM are better understood through a legal or political mode of reasoning. Cooper argues that the answer depends largely on how subsidiarity is conceptualised, both in itself and in relation to related Treaty principles such as proportionality and conferral. Ultimately, the interpretation of subsidiarity must also take into account its dependence on political considerations, including policy effectiveness and appropriateness. [163]

Kiiver also highlights the controversies surrounding the purpose and legal nature of the mechanism, emphasising that although the EWM is primarily regarded as a political tool, it is in fact a highly complex mechanism whose operation is grounded in numerous legal rules. This is particularly evident in its procedural framework, which follows a specific institutional logic governing its operation. The complexity of the mechanism is further reflected in the formal requirements for reasoned opinions set out in Article 6 of Protocol No. 2 to the Lisbon Treaty (to be interpreted in conjunction with Article 5(3) TEU). Thus, in addition to the requirement that reasoned opinions be adopted by parliaments (or chambers, in bicameral systems), they must also relate to draft legislative acts. A further crucial element is the strict time limit within which such opinions must be submitted, as well as the minimum number required to trigger the mechanism. Achieving this necessarily depends on effective cooperation among national parliaments. Moreover, reasoned opinions must include an explanation of why the legislative proposal in question is considered to breach the principle of subsidiarity. They must also provide reasons supporting that claim, meaning that unsubstantiated objections are not regarded as admissible or

[162] Cooper, Ian (2017), Is the Early Warning Mechanism a Legal or a Political Procedure? Three Questions and Typology, In book: Jonsson Cornell, Anna and Godoni, Marco (eds.), National and Regional Parliaments in the EU legislative procedure post-Lisbon: The Impact of the Early Warning Mechanism, Oxford, London, Portland, Hart Publishing Ltd, 2017, pp. 17-49, pp. 27-28, op. cit.
[163] Ibid., pp. 28-29

valid.[164] By contrast, Wetter emphasises that the purpose of the EWM is to provide national parliaments with an avenue for political influence, rather than to shape the legal substance.[165]

4.6. The functioning of the EWM in practice

The Early Warning Mechanism is, according to Cygan, in essence, a pre-legislative instrument of constitutional oversight for monitoring subsidiarity. It enables national parliaments (or their chambers) to collectively signal a potential breach of the subsidiarity principle in relation to a legislative proposal submitted by EU institutions (most commonly the Commission as the initiator). This occurs where a sufficient number of reasoned opinions/objections are submitted by national parliaments or chambers, indicating that a given legislative proposal infringes the principle of subsidiarity, i.e., where the required threshold is reached.[166] As previously noted, the right of national parliaments or chambers to react to breaches of subsidiarity, including the relevant threshold, is laid down in Protocols No. 1 and 2 annexed to the Lisbon Treaty. In conjunction with Article 5 (3) TEU, which provides for the direct transmission of legislative proposals to national parliaments, this enables them, through a successful EWM procedure, to prompt the Commission to review its proposal.

The EWM comprises two types of control procedures: the "yellow card" and the "orange card", depending on the nature of the legislative proposal and the threshold. Both mechanisms are intended to trigger a review of compliance with subsidiarity, or, more broadly, a political assessment of whether a legislative proposal conforms to that principle. A distinctive feature of the mechanism lies in its attempt to clarify and operationalise subsidiarity, given the absence of a precise definition. The individual activity of national parliaments thus contributes to a more Europeanised understanding of subsidiarity and its application to a specific legislative proposal. It has been argued that this control function benefits national parliaments themselves, taking into account their heterogeneous involvement in EU affairs. Different internal parliamentary

[164] Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional Theory and empirical reality, Rothledge, p. 67
[165] Wetter, Anna (2017), Mapping out the Procedural Requirements for the Early Warning Mechanism, in: National and Regional Parliaments in the EU-Legislative Procedure Post-Lisbon, Hart Publishing, 2017, pp. 69-86
[166] Cygan, Adam (2013), Chapter 6: Subsidiarity control after Lisbon, in: Accountability, Parliamentarism and Transparency in the European Union, Edward Elgar Publishing, pp. 156-184, p. 156

procedures result in varying levels of scrutiny over EU matters, leading to a distinction between "strong" and "weak" parliaments, which in turn directly affects their influence over ministers.[167] In accordance with Article 6 of Protocol No. 2, once they receive a legislative proposal in an official EU language, national parliaments or chambers have eight weeks to submit a reasoned opinion if they consider that the proposal breaches subsidiarity. Each reasoned opinion counts as one vote; unicameral parliaments have two votes, while in bicameral systems each chamber has one vote. Chambers in bicameral systems may vote separately and even reach different conclusions, although in practice they tend to consult one another and adopt the same position. Where a legislative proposal receives reasoned opinions amounting to one-third of the total number of votes, the "yellow card" is triggered, requiring the proposer (most often the Commission) to review the proposal. In such cases, the Commission may withdraw, amend, or maintain the proposal. If it decides to maintain (or amend) it, it must provide reasons explaining why it considers the proposal to comply with subsidiarity and demonstrate its added value.[168]

Exceptionally, in areas relating to the area of freedom, security and justice (i.e., legislative proposals based on Article 76 TFEU), the threshold required to trigger the procedure is one quarter of the total number of votes. The second procedure, the "orange card", applies where, under the ordinary legislative procedure, a simple majority of national parliaments considers that a legislative proposal breaches subsidiarity. In this case, the Commission must again review the proposal and may withdraw, amend, or maintain it. If it chooses to maintain the proposal, it must justify its decision. At this stage, the role of the Council and the European Parliament becomes significant, as both must assess compliance with subsidiarity before the conclusion of the first reading. A simple majority in the European Parliament, or a 55% majority in the Council, is required to confirm non-compliance with subsidiarity.[169]

One might conclude that this additional review by the European Parliament and the Council may be understood as an enhanced control mechanism, a form of double-check. Where a sufficient number of national parliaments initiate the procedure, and the Commission nevertheless maintains

[167] Ibid., p. 158
[168] Cygan, Adam (2012), Chapter 3: Collective subsidiarity monitoring by national parliaments after Lisbon: the operation of the Early Warning Mechanism, (eds. Trybus, Martin, and Rubini, Luca) In: The Treaty of Lisbon and the Future of European Law and Policy, Edward Elgar Publishing, pp. 55-73, p. 63
[169] Cygan, Adam (2021), Participation by national parliaments in the EU legislative process, ERA Forum 22, pp. 421-435, pp. 428-429

that no breach has occurred, the final decision effectively rests with the Council and the European Parliament, which ultimately have the authority to reject the proposal. But the practical use of the orange card is nonexistent because the needed threshold has never been reached.

4.6.1. Use of the EWM in Practice (Three Yellow Cards)

The first "yellow card" procedure was activated in 2012, while the Commission's proposal for a Council Regulation, published in March 2012, was essentially inspired by the 2010 report by former Commissioner Mario Monti. In relation to that case, the first yellow card is often referred to as the Monti II Regulation. [170] As regards the content of the Regulation, it aimed to establish general principles and rules to be applied at Union level concerning the exercise of the fundamental right to take collective action in the context of the freedom of establishment and the freedom to provide services. [171] The original purpose of the Regulation, as emphasised by the Commission in its explanatory memorandum accompanying the proposal, was in fact an attempt to address the tensions arising from the Court's judgments in Viking and Laval, which had a significant impact on the EU legal order. In those cases, a certain amount of tension has been shown, on the one hand, the freedom to provide services and the freedom of establishment, and on the other, the exercise of fundamental rights, in particular the right to take industrial action and the right to collective bargaining.[172]

In order to address the above issue, the Commission took the view that the most effective solution for reducing the tensions between national systems of industrial relations and the freedom

[170] Full name of the suggested Regulation is: 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. / COM/2012/0130 final - 2012/0064 (APP) /; Document 52012PC0130, from 21.3.2012. While the full text of the Regulation can be found on the following website of the EU (EUR-lex): https://eur-lex.europa.eu/legal-content/GA/ALL/?uri=COM:2012:0130:FIN Accessed: December 10, 2025.

[171] Gstrein, Oskar Josef and Harvey, Darren (2014), The Role of National Parliaments in the European Union, Zeitschrift für Europarechtliche Studien (ZEuS) No. 3, 2014, Nomos, Baden-Baden, pp. 335-359, p. 341, op. cit.

[172] In the Commission's explanation, it is stated that: "...the court in the Viking case recognized for the first time that the right to collective action, including the right to strike, as a fundamental right forms an integral part of the general principles of EU law whose observance the court ensures.... Likewise, ... equally recognized the right to collective action for the protection of workers is a legitimate interest that, in principle, justifies restrictions on the fundamental freedoms guaranteed by the contract. The protection of workers is therefore one of the overriding public interest reasons recognized by the Court…" For details on the mentioned cases, from the aspect of labor law, see: Davies, A.C.L. (2008), One Step Forward, Two STEPS Back? The Viking and Laval Cases in the ECJ, Industrial Law Journal, Vol. 37, No. 2, 2008, pp. 126-148

to provide services would be to establish a framework at the Union level for permissible industrial action. The Commission's principal argument was that the Regulation should be based on Article 352 TFEU, which provides for the flexibility clause.[173] The flexibility clause is a sensitive issue, as it enables the EU to act even in situations where no explicit competence is conferred by the Treaties. This, in turn, means that national parliaments assume a stronger role than in other circumstances, since the Commission must specifically inform them in order to enable subsidiarity scrutiny. Although there is a possibility of urgency, in practice, in cases involving Article 352, full parliamentary control is expected, and their role cannot be bypassed. In essence, Article 352 TFEU is used in situations where the EU lacks explicit competence, but action is nevertheless deemed necessary. In the present case, given that Article 153(5) TFEU[174] excludes the EU from regulating the right to strike, the Commission attempted to proceed indirectly (by relying on the legal basis of Article 352 TFEU, i.e. the flexibility clause), arguing that the EU was not regulating the right to strike directly, but merely setting general rules balancing it with economic freedoms. However, the main criticism was precisely that the Regulation did not introduce anything new, but merely reiterated the principle of proportionality (as applied by the Court), and would therefore have no real effect in improving the protection of the right to strike.[175]

The Danish Parliament (Folketing) had the greatest influence in triggering the first yellow card, taking the initiative by launching the process of adopting a reasoned opinion (by a unanimous political decision), primarily with the intention of encouraging other national parliaments to adopt their own reasoned opinions. Other national parliaments had a convenient opportunity to make use of a COSAC meeting, which coincided with the eight weeks for subsidiarity scrutiny of the Monti

[173] The provisions of this article provide that in cases of lack of necessary powers from the Treaty, when there is a need for action by the Union to achieve a certain goal from the Treaty, the Council adopts appropriate measures unanimously, at the proposal of the Commission and with the previously obtained consent of the European Parliament. In particular, the obligation of the Commission to draw the attention of national parliaments to the possibility of subsidiarity control in relation to proposals based on Article 352 is foreseen. See: Consolidated version of the Treaty on the Functioning of the European Union, Official Journal of the European Union, C 326/47, from 26.10.2012.; https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF

[174] Article 153 TFEU regulates EU social policy, defining the areas in which the Union can complement the activities of the Member States, but generally does not replace them. As a rule, the EU adopts minimum standards (i.e., minimum harmonising directives) or encourages Member States to cooperate, while at the same time Member States retain a high degree of autonomy. However, Article 153(5) specifically lists certain issues in which the EU has no regulatory powers, or excludes EU competence for certain key issues.

[175] Gstrein, Oskar Josef and Harvey, Darren (2014), The Role of National Parliaments in the European Union, Zeitschrift für Europarechtliche Studien (ZEuS) No. 3, 2014, Nomos, Baden-Baden, pp. 335-359, pp. 342-343

II proposal. Thus, the COSAC meeting provided an excellent opportunity for direct discussion of the Monti II proposal. The Danish reasoned opinion was translated as a matter of urgency, and rather than using its powers as COSAC Presidency to formally include the proposal on the agenda, the Danish delegation approached members of other parliaments informally, informing them of its intention to adopt a reasoned opinion and encouraging them to do likewise. The result of this informal outreach was evident in the engagement of the Latvian Parliament, which would otherwise very likely not have adopted such an opinion.[176]

Ultimately, although the first yellow card resulted in the Commission withdrawing the proposal, the withdrawal was not based on a breach of subsidiarity, as the Commission explicitly denied any such breach. The Commission's decision appears to have been influenced by other factors, potentially of a political nature. As Cygan notes, it is possible that the Commission interpreted the overall procedure as a signal of likely opposition from certain Member States within the Council, particularly given that the proposal required unanimity.[177] Finally, as Gstrein and Harvey emphasise, given that the EWM is essentially a voluntary procedure, the adoption of reasoned opinions must, in order to be effective, emerge from a spontaneous, self-organising, bottom-up process.[178]

A particularly important role in the overall process is played by representatives of national parliaments, who, as national officials, act as intermediaries between domestic and European institutions. Their advantage lies in their physical proximity to one another in Brussels, where they meet weekly in offices provided by the European Parliament, together with officials from IPEX, COSAC, and other EU bodies. In essence, this group operates under ideal conditions to conduct subsidiarity scrutiny in real time.[179] Ultimately, the first yellow card was triggered by twelve national parliaments submitting reasoned opinions (amounting to a total of nineteen votes- seven unicameral parliaments with two votes each and five bicameral parliaments with one vote per chamber). Gstrein and Zalewska, already in 2013, shortly before the first yellow card was

[176] Ibid., pp. 343-344
[177] Cygan, Adam (2021), Participation by national parliaments in the EU legislative process, ERA Forum (2021) No. 22, pp. 421-435, p. 429
[178] Gstrein, Oskar Josef and Harvey, Darren (2014), The Role of National Parliaments in the European Union, Zeitschrift für Europarechtliche Studien (ZEuS) No. 3, 2014, Nomos, Baden-Baden, pp. 335-359, p. 344, op. cit.
[179] Gstrein, Oskar Josef and Harvey, Darren (2014), The Role of National Parliaments in the European Union, Zeitschrift für Europarechtliche Studien (ZEuS) No. 3, 2014, Nomos, Baden-Baden, pp. 335-359, p. 345

triggered, warned of several potential shortcomings of the mechanism. They emphasised concerns that the procedure might never be triggered due to the high threshold required, as well as the lack of coordination among parliaments, including deficiencies in horizontal dialogue and divergent national procedures.[180] They also identified a structural limitation: even in the face of opposition from national parliaments, a legislative proposal may ultimately still be adopted. They further highlighted that the only situation in which national parliaments hold a truly decisive position remains the ratification of mixed agreements. These are agreements requiring ratification by both Member States and the Union (under Article 218 TFEU), due to shared or unclear competences. In such cases, national parliaments have a direct role and may approve or reject the agreement, thereby effectively blocking it. [181]

Gstrein and Harvey analyse the functioning of the EWM through several categories of difficulties. They identify, first, incentive-related problems, arguing that national parliaments are generally reluctant to challenge the positions of their governments involved in EU affairs, particularly given the limited electoral benefits of doing so. They also point to conceptual shortcomings, namely a gap between political ambitions and practical realities. This is compounded by conflicting interests between the Union and individual Member States, but even more by the failure to develop coherent national policy frameworks capable of addressing the consequences of integration into the internal market. Additional challenges include logistical constraints, such as the large number of legislative proposals to be reviewed within the eight-week deadline, combined with insufficient coordination mechanisms. Finally, they emphasise an inherent weakness in subsidiarity review itself, notably, its exclusively ex ante nature. They also underline the absence of a "red card" mechanism capable of blocking the legislative process, concluding that the existing Protocol No. 2 procedure, in this respect, "*beeing noting more than a mere symbolic gesture by providing national parliaments solely with the opportunity to deliver a non-binding opinion* ".[182]

[180] Zalewska, Marta and Gstrein, Oskar Josef (2013), National Parliaments and their role in European Integration: The EU's Democratic Deficit in Times of Economic Hardship and Political Insecurity, European Political and Administrative Studies, No. 28/February 2013, pp. 13-15
[181] Ibid., pp. 13-15
[182] Gstrein, Oskar Josef and Harvey, Darren (2014), The Role of National Parliaments in the European Union, Zeitschrift für Europarechtliche Studien (ZEuS) No. 3, 2014, Nomos, Baden-Baden, pp. 335-359, p. 341, op.cit.

The second "yellow card" procedure was activated in 2013 regarding the establishment of the European Public Prosecutor's Office (hereinafter EPPO).[183] The issue of establishing a European Public Prosecutor was already relevant in the late 1970s, when the European Community began to establish its own resources, but the process intensified in the mid-1990s with the report of an expert group (the so-called *Corpus Juris*), which dealt with the introduction of certain criminal provisions to preserve the financial interests of the EU.[184] The creation of the European Public Prosecutor was based on a new provision introduced by the Lisbon Treaty, Article 86 TFEU, which gives the Council the power to establish the European Public Prosecutor's Office from Eurojust, to combat criminal offences affecting the EU's financial interests. Paragraph 1 of the aforementioned article provides for a special legislative procedure requiring unanimity in both the Council and the European Parliament. Furthermore, in the absence of unanimity in the Council, it provides for a special procedure in which the proposal can be adopted by means of enhanced cooperation (participation of at least nine Member States in the absence of consensus in the European Council).[185] In other words, the EPPO is responsible for investigating, prosecuting, and bringing to justice perpetrators and accomplices of criminal offences against the interests of the EU. The need for such an institution was necessary because there was no precisely adequate body at the EU level with the powers to enforce criminal laws at the Member State level, which was also a requirement of the Treaty. The need for the establishment of the EPPO was justified by the fact that the EU is best placed to protect the EU's financial interests, as the national levels have neither the interest nor the capacity to protect them. At the same time, the Commission justified its position by the fact that the existing Treaty, in Article 325 TFEU,[186] not only grants powers and

[183] Full name of the suggested Regulation is: Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office, COM (2013) 534 final, 2013/2055 (APP), Brussels, 17.7.2013., While the full text of the Regulation can be found on the following official website of the EU (EUR-lex): https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52013PC0534 Accessed: December, 15, 2025.

[184] Corpus Juris essentially included the provisions of substantive and procedural criminal law, which also contained a proposal for the introduction of the institution of a European public prosecutor with the aim of applying it in all member states. Likewise, the main characteristic of the latter is that it had a subsidiary nature, which meant that only in the case of gaps in the Corpus, national provisions would be applied. For more on Corpus Juris, see the official website of the EPPO (2025), the independent public prosecutor's office of the EU: https://www.eppo.europa.eu/de/hintergrund, Accessed: December, 20, 2025.

[185] Gstrein, Oskar Josef and Harvey, Darren (2014), The Role of National Parliaments in the European Union, Zeitschrift für Europarechtliche Studien (ZEuS) No. 3, 2014, Nomos, Baden-Baden, pp. 335-359, pp. 348-349, op.cit

[186] Article 325 TFEU (former Article 280 TEC) deals with the fight against fraud, i.e. criminal offences affecting the financial interests of the EU, and mandatory cooperation between EU institutions and the Member States. See: Consolidated version of the Treaty on the Functioning of the European Union, Official Journal C 326, 26/10/2012 P. 0001 – 0390, Available at: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF

competences, but also obliges the Union to act to protect its own financial interests. In this sense, Öberg emphasizes that the fact that the exclusive jurisdiction granted to the EPPO included all criminal offenses that in any way affected the financial interest of the EU meant that those cases that are not exclusively of a cross-border nature also fall under it. [187]

As previously pointed out, the EPPO proposal was based on Article 86 TFEU, so in the matter of subsidiarity control it is linked to Article 7(2) of Protocol 2, which stipulates that in order to trigger the early warning mechanism (yellow card), it is necessary to reach a lower threshold, namely one quarter of the votes, when it comes to issues falling within the area of freedom, security and justice.[188] Following the Commission's adoption of the proposal for a Council Regulation establishing the European Public Prosecutor's Office and its transmission to national parliaments, national parliaments sent sufficient reasoned opinions within eight weeks to trigger the yellow card procedure. The number of reasoned opinions, or votes from national chambers/parliaments, totalled 18, which obliged the Commission to reconsider its proposal. In this case, the opinions of the national parliaments were not absolutely collectively agreed upon, and they were clearly motivated by different points of view. Namely, while some adhered to a strict interpretation, or rather a general opposition to the violation of subsidiarity (for example, the Irish, British, and Dutch parliaments), others agreed on the fact that there was a need for a public prosecutor, but expressed concerns about the control that the Commission would have over him (for example, the Hungarian and Romanian parliaments). As Cygan points out when he emphasizes that the concept of subsidiarity was clearly more relevant for them.[189] Some parliaments (like the Austrian Parliament) emphasized subsidiarity, simply because they generally did not agree with the ambitious plan set out in the proposal. After the procedure and review of all reasoned opinions,

[187] Öberg, Jacob (2018), National Parliaments and Political Control of EU Competences, European Public Law, 24(4), pp. 695–731, pp. 705-708

[188] In this specific case, this meant that at that moment, a minimum of 14 votes from national parliaments were needed to trigger the yellow card (which constituted 1/4 of the total number of votes, i.e., 56 votes), while its final number reached 18, which in principle was sufficient for all other cases (for 1/3). Therefore, this number of votes would have been sufficient to trigger the procedure even if the areas of freedom, security, and justice were not at issue. See: Josef and Harvey, Darren (2014), The Role of National Parliaments in the European Union, Zeitschrift für Europarechtliche Studien (ZEuS) No. 3, 2014, Nomos, Baden-Baden, pp. 335-359, pp. 348-349, op.cit.

[189]Cygan, Adam (2021), Participation by national parliaments in the EU legislative process, ERA Forum (2021) No. 22, pp. 421-435, p. 429

although the commission decided to keep its proposal without any changes, the proposal was nevertheless significantly changed in the finally approved version.

Taking the latter into account, it can be concluded that the collective effort of the national parliaments, although not entirely uniform, still reflected a certain influence on the activities of the EU legislative bodies. This ultimately reflects one of the key purposes of the joint action: ensuring that their voices are taken into account.

Finally, the third "yellow card" was initiated in 2016 against the Commission's proposal for the revision of the Post Workers Directive from 1996,[190] where a total of 22 votes of national parliaments were raised. The characteristic of this one compared to earlier procedures is the increased activity in submitting reasoned opinions of the national parliaments of Central and Eastern Europe. The latter results from the content of their reasoned opinions in which they express a certain national concern, which in turn is the result of the previously expressed concern of their national governments regarding the consequences that proposing such legislation would have on the provision of cross-border services to their citizens.[191]

Regarding the content and objectives of the Directive, it follows from Article 1 of the Directive that the application of the Post Workers Directive applies to three types of posting. It primarily refers to "*the direct provision of services by the company under a service contract, posting in the context of an establishment or company belonging to the same group (intra-group posting), and posting through hiring out a worker through a temporary work agency established in another Member State*".[192] The main changes proposed by the Commission concerned the application of

[190] The full name of the suggestion Regulation is: Proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, COM/2016/0128 final - 2016/070 (COD), Strasbourg, 8.3.2016 Available on the official website of the EU: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52016PC0128 Accessed: December, 22 2025.

[191] Interestingly, the reform of the Directive was initiated by Western countries. Namely, the idea of the reform arose partly from an interparliamentary meeting organized by the French National Assembly on 18 May 2016, specifically to amend the Directive, and also from a COSAC meeting. In addition, representatives of the French National Assembly submitted a report to encourage the Commission to initiate an amendment to the Directive. For more information on this, see: Wysocka, Malgorzata (2019), The influence of national parliaments on the European Commission within the framework of the yellow card procedure in the context of the revision of the posting of workers directive. Krytyka Prawa, Niezalezne Studia and Prawem, 2019 (3), pp. 112-132

[192] Proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, COM/2016/0128 final - 2016/070 (COD), Strasbourg, 8.3.2016 Available on the official website of the EU: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52016PC0128 Accessed: December, 22 2025

identical rules applicable to cross-border and local agencies supplying workers, the application of the host country's labour law to posted workers' employment contracts lasting more than 24 months (unless the parties have agreed otherwise), and finally, that posted workers are subject to the same wage regulations as local workers.

When analysing the impact or influence that national parliaments had in this procedure, or on the Commission's actions, it is important to consider the circumstances of both parties, or to look at it from the perspective of the sending country (usually an Eastern European country) in the receiving country (usually a Western country). However, one of the more important reasons for the entire issue was related to the so-called 'social dumping'. The latter term covers, in this case, the difference in wages and working conditions between posted and local workers, which is usually implemented by the Commission. Namely, by comparing the differences between the average wage in the sending Member State (minimal wage) with the statutory minimum wage in the receiving Member State, the expected result is that the posted worker will certainly earn more than the minimum wage.[193] However, despite the opposition of quite a large number of national parliaments, the Commission asserted that the proposal did not violate the principle of subsidiarity and kept its proposal.

4.6.2. Some proposals for reform of the EWM - The Green and Red Cards

The idea of introducing green and red cards stems from discussions about whether national parliaments in their reasoned opinions assess violations of the principle of subsidiarity or the principle of proportionality and allocation of competences. The latter, therefore, raises questions about extending the control of national parliaments beyond the subsidiarity monitoring envisaged by the early warning mechanism. Namely, as previously discussed in the section on subsidiarity, although the text of Protocol no. 2 emphasizes subsidiarity, legislative proposals must comply with the principle of proportionality. The protocol, in a way, allows flexibility in interpretation, as it specifies procedural but not substantive aspects. In other words, in practice, it is not easy to separate all three principles, because they are interconnected. When conducting the overall

[193] Wysocka, Malgorzata (2019), The influence of national parliaments on the European Commission within the framework of the yellow card procedure in the context of the revision of the posting of workers directive. Krytyka Prawa, Niezalezne Studia and Prawem, 2019 (3), pp. 112-132, p. 116

assessment, three fundamental questions are taken into account: first, the question of competence, that is, whether the EU can act; second, the issue of subsidiarity, that is, whether it should act; and finally, the question of proportionality, that is, how it should function. Achieving the latter creates the conditions for broader oversight by national parliaments, including the political justification and effectiveness of proposals. The idea of the green card is based on the understanding that its use would allow national parliaments to participate even before the start of the legislative process, i.e., the right to propose new legislative initiatives, including the right to propose changes or repeal of existing legislation. This procedure would strengthen the legislative function of national parliaments and would also contribute to stronger cooperation with the Commission.

On the other hand, the use of the red card would primarily allow national parliaments to block a legislative proposal if a sufficiently large number of votes/reasoned opinions of national parliaments or houses (the mechanism requires a significantly higher threshold of 2/3) is collected, thereby strengthening their role. However, precisely because of this high threshold, it is unlikely that it would ever be activated. Especially considering that the orange card procedure, which has a higher threshold than the yellow card, has never been initiated, it can be assumed that such a high threshold required for a red card would be difficult, if not impossible, to achieve in practice.[194]

4.6.3. Reasoning behind considering National parliaments as the best guardians of the principle of subsidiarity

National parliaments have been regarded as guardians of subsidiarity, acting through the previously mentioned Early Warning Mechanism, although the mechanism has not been used as extensively as expected. On the other hand, as some scholars have pointed out, at the beginning of its application, the Commission did not perceive the mechanism as a tool for constraint, but rather as an instrument for justifying the exercise of EU authority. The factors contributing to the shortcomings in subsidiarity control stem from two potential causes. First, the political nature of

[194] Terrinha, Heleno Luís, (2017) The legisprudential role of national parliaments in the European Union, Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, PE 583.133, pp. 6-7. Available at the following webpage: https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/583133/IPOL_BRI(2017)583133_EN.pdf Accessed January 2026.

the principle of subsidiarity makes it less suitable for judicial review. Second, the EU's project of separating regulation and the implementation of the internal market from the national political level resulted in an expansion of EU competences, with the four freedoms taking priority over other principles. However, the participation of national parliaments in the earlier draft Constitutional Treaty, together with the intensification of Europeanisation, opened a new avenue for their engagement through the review of subsidiarity, supported by the Early Warning Mechanism.[195]

The EWM model essentially rests on two well-founded reasons. First, it is based on the assumption that national parliaments are the most appropriate, indeed the genuine, guardians of subsidiarity by virtue of their democratic authority. Second, given the earlier marginalisation of national parliaments and the perception that they had become victims of the relative lack of effective subsidiarity enforcement, and to avoid further loss of power, the EWM represents an opportunity for them to participate directly in reviewing compliance with subsidiarity. Accordingly, the entry into force of the Treaty of Lisbon was accompanied by the belief that the EWM would achieve two constitutionally valuable objectives: first, a new European activism of national parliaments through subsidiarity scrutiny; and second, the democratisation of the EU's ordinary legislative procedure. Some scholars further suggest that the mechanism would be used more effectively if certain other limitations inherent in the ordinary EU legislative procedure were addressed, highlighting in particular the progressive accumulation of technical expertise in law-making and the functionalist design of EU institutions.[196]

Furthermore, the special position of national parliaments in the EU legislative process, as Öberg emphasises, is reflected in the fact that they may be better placed than other EU institutions to oversee the exercise of EU competences. Such oversight is necessary to build the trust required for compromise, both among the Member States and among members of the European Parliament. If, for example, the guardians of subsidiarity were the Council or the European Parliament, they would find themselves acting against their own legitimate interest in expanding their powers. Likewise, assigning this role to the Court would not be likely to produce substantially different

[195] Jonsson, Cornell Anna, and Goldoni Marco (eds.), Introduction; National and Regional Parliaments in the EU-Legislative Procedure Post-Lisbon: The Impact of the Early Warning Mechanism, Oxford, London, Portland: Hart Publishing Ltd, 2017, pp. 2-3
[196] Ibid., p. 3

outcomes. For this reason, national parliaments function as a balance and represent the only credible alternative for protecting against illegitimate competence expansion. Öberg's conclusion is based on the fact that national parliaments alone lack an obvious institutional motivation to promote further EU integration. In other words, entrusting the monitoring of EU competences to national parliaments is logical precisely because they formally stand outside the EU legislative procedure.[197]

At the same time, it is questionable whether extending such powers to national parliaments is advisable. From the perspective of efficiency, broadening their mandate raises concerns. A wider application of the Early Warning Mechanism (EWM) would duplicate a function already carried out within the framework of the political dialogue, leading to an increased number of reasoned opinions. This, in turn, could delay the legislative process, as the Commission would be required to examine and respond to a wide range of arguments. Such an approach may also prove impractical, given that national parliamentarians operate under approximately 25 different mandates, schedules, and workloads, while at the same time being expected to manage a substantial number of EU legislative proposals. Furthermore, granting broader powers to national parliaments could disturb the institutional balance carefully established by the Treaties by shifting excessive control back to the Member States. Expanding their mandate risks blurring the distinction between their role and that of the European Parliament and the Council. National parliaments are primarily responsible for overseeing their own executives through the Council, rather than acting as co-legislators alongside EU institutions. The Council, which represents the Member States and thereby indirectly reflects the collective interests of national parliaments, together with the European Parliament, which represents the citizens of the Union, are the bodies formally entrusted with legislative responsibilities.[198]

Furthermore, scholarly debates on the direct influence of national parliaments in EU affairs, as noted earlier, have produced differing views, particularly regarding the effectiveness of the EWM. What is undisputed, however, is that the proper functioning of the EWM requires transnational cooperation and deliberation among parliaments. In practice, it is far from simple to secure agreement among a sufficient number of parliaments that a genuine breach of subsidiarity

[197] Jacob Öberg (2018), National Parliaments and Political Control of EU Competences, European Public Law, 24(4), pp. 695–731, pp. 702–705
[198] Ibid., pp. 702-705

has occurred, or to reach consensus on whether objections should be raised. Even where parliamentary preferences coincide, coordination in adopting a common collective position remains a challenge. In this context, Winzen offers an interesting observation. He suggests that instead of engaging in direct participation and transnational coordination, it might sometimes be simpler and more effective for parliaments to instruct their national governments to vote against a proposal in the Council. This approach could, in turn, reinforce domestic oversight strategies. The emphasis here is that direct participation through the EWM represents "individual efforts in a collective interest." Parliaments may choose to invest their time and resources in subsidiarity scrutiny, or to devote them to other issues; their participation is voluntary.[199]

In this sense, each parliament makes its own internal determination as to whether the EU has breached the subsidiarity principle, rather than being bound by any collective interparliamentary policy choice. Thus, even if most other parliaments do not consider a proposal problematic, this does not prevent an individual parliament from adopting a contrary position. The EU framework provides opportunities for cooperation and oversight, while leaving parliaments sovereign in their political decision-making. Winzen therefore concludes that subsidiarity scrutiny, the political dialogue, and interparliamentary conferences share an important characteristic: they create opportunities for cooperation and influence for national parliaments, their members, and their constituent parties to express their views, without imposing binding obligations or restricting parliamentary policy choices.[200]

4.6.4. Criticism and Justifications of the EWM

Just a few years after the introduction of the Early Warning Mechanism (EWM), while comparing the growing importance of the role of national parliaments, Raunio analyzed their role through the actual effects of the mechanism itself. He notes that the mechanism was largely introduced as a response to concerns about legitimacy, and he even argues that it might actually lead parliaments in the wrong direction. Raunio explains this claim by pointing out that the mechanism may potentially lead parliaments to waste resources on a harmless procedure, which

[199] Winzen, Thomas (2017), Chapter 2: The Democratic Deficit and Parliamentary Adaptation to Integration, In,book: Constitutional Preferences and Parliamentary Reform: Explaining National Parliaments' Adaptation to European Integration, Oxford University Press, pp. 11-39, p. 28
[200] Ibid., p. 29

ultimately has only a marginal impact on the EU legislative process. He concludes that, although the mechanism appears to provide opportunities for more democratic governance of the EU and for better law-making, in essence, the very structure of incentives works against the parliaments that actively make use of the instrument.[201]

Furthermore, analyzing the period immediately after the introduction of the mechanism, Raunio emphasizes that there is ample evidence showing that parliaments have exercised stricter oversight of their governments in EU matters compared to earlier periods. Reflecting on the collective role of national parliaments, Raunio notes that this issue has entered the political agenda, while debates have increasingly focused on strengthening inter-parliamentary cooperation.[202]

However, with regard to the effectiveness of the Early Warning Mechanism, Raunio adopts three positions. First, he argues that the scope and rules of the mechanism do not, in fact, create incentives for its use. Second, he maintains that, contrary to optimistic expectations, the mechanism will not result in any real increase in inter-parliamentary cooperation. Finally, he contends that the incentive structure itself does not operate in a way that would sufficiently encourage or interest MPs.[203]

As Fabbrini argues, the role of national parliaments in monitoring compliance with the principle of subsidiarity is, from a functionalist perspective, entirely justified. However, there is little evidence to suggest that national parliaments ought to be tasked with reviewing other substantive features of a draft EU legislative proposal. According to Fabbrini, although national parliaments may, through their oversight, internalize the costs associated with the transfer of competences to the EU level, the appropriateness of the existing institutions of the EU legislative procedure proves to be a more suitable option than reliance on national parliaments. Fabbrini maintains that other EU institutions are better positioned to assess the substance of a legislative

[201] Raunio, Tapio (2013). Misguiding National Parliaments: A Critical Review of the Early Warning Mechanism. Revue internationale de politique comparée 2013/1 Vol. 20, pp. 73-88, op.cit.

[202] During this period, a special Working Group (WG IV) was established by the European Convention to examine the role of national legislatures. (Declaration No. 23 annexed to the Treaty of Nice – Official Journal C 80, 10 March 2001 – identified four key issues to be addressed by the Intergovernmental Conference, among which was the role of national parliaments in the European architecture. The Laeken Declaration of December of the same year provided somewhat greater precision, seeking to respond to some of these key questions, such as the potential need for their representation alongside the European Parliament and the Council. For more on this, see: Raunio, Tapio (2013).)

[203] Raunio, Tapio (2013). Misguiding National Parliaments: A Critical Review of the Early Warning Mechanism. Revue internationale de politique comparée 2013/1 Vol. 20, pp. 73-88

draft, its proportionality, as well as the correctness of its legal basis. Moreover, these institutions are able to act with greater objectivity, i.e., to evaluate more adequately the merits of a proposal, whereas national parliaments may tend to prioritize the pursuit of national interests, thereby displaying a degree of bias, which in turn reduces their propensity to take broader concerns into account. Beyond this, Fabbrini further considers that EU institutions possess a greater capacity than national parliaments when it comes to assessing the principle of proportionality of a legislative proposal, given the need for a more complex evaluation of the necessity of a measure, its suitability for achieving the intended objective, and its reconciliation with competing interests.[204] In light of all the foregoing, and particularly bearing in mind that the EU political process allows for the expression of multiple interests and ensures compliance with the test of the least restrictive means, Fabbrini argues that such objectives can be more effectively achieved through the interaction of various EU institutions than through the individual assessments of separate national parliaments. In this respect, he emphasizes in particular the role of the Court of Justice of the European Union, as the ultimate interpreter of the Treaties, which, in its capacity as guardian of the legality of EU legislative acts, also possesses the requisite expertise and technical competence necessary to determine whether, in a given case, the EU holds the authority to act within a particular field.[205]

Thus, in theory, the Early Warning Mechanism was primarily conceived as an instrument for monitoring subsidiarity, enabling national parliaments, at the pre-draft consultation stage, to express their concerns, through reasoned opinions, regarding the substance of proposed policies and their proportionality, including through the political dialogue and its contribution. Huysmans and Gruisen, taking into account the practice surrounding the issuance of yellow cards and the notable activity of Central and Eastern European countries in the case of the Posted Workers Directive, where they pointed to the expected negative economic consequences for their economies, argue that any analysis of the mechanism must also consider the economic dimension of conflict within the EWM. They contribute to the theory of the EWM by conducting a comprehensive quantitative test, confirming that substantive dimensions of conflict do indeed exist within the mechanism. They emphasise that the debate is not limited to subsidiarity alone, but also

[204] Fabbrini, Federico (2016). The Principle of Subsidiarity. iCourt Working Paper Series, No. 66/2016. The Danish National Research Foundation's Centre of Excellence for International Courts. Forthcoming in Takis Tridimas and Robert Schutze (eds.), Oxford Principles of EU Law (OUP 2016). p. 21 and forward
[205] Ibid.

concerns the substance of the proposals. Furthermore, they find that the joint issuance of reasoned opinions (ROs) is largely explained by similar levels of economic development among the participating states. Finally, they note an upward trend in the joint issuance of ROs between 2010 and 2018, attributing this increase to improved coordination among national parliaments through processes of transnationalisation.[206]

On the other hand, Kiiver argues that a broader perspective is required, rather than relying solely on the constitutional theory claim that national parliaments should be given a stronger role. In his view, such an approach would focus primarily on identifying the sources of democratic legitimacy within the political process- an issue that has already been extensively addressed in theory. At the same time, this line of argument could easily overlook the diversity among national parliaments, as well as the existence of specific motivations and incentives shaping the conduct of individual parliamentarians, for example, in light of their position in government or opposition and their natural inclination toward re-election. Kiiver therefore suggests that the EWM should instead be understood through the duty of Brussels to explain and justify its legislative proposals, rather than through the veto power of national parliaments. In doing so, he clearly shifts the centre of gravity of the mechanism's effects to the European level. This argument is noteworthy for several reasons. Among other things, it calls for greater transparency, accountability, and the promotion of dialogue across all spheres of governance. According to Kiiver, it is precisely the achievement of these objectives that justifies both the introduction and the entry into force of the EWM.[207]

Furthermore, regarding the behaviour of national parliaments in the EWM, Cygan notes that the Working Group IV acknowledges the diversity in the participation of national parliaments in EU affairs. While it is often assumed that monitoring subsidiarity enhances legislative legitimacy, this assumption is questionable, as it concerns a procedural mechanism that does not address issues of institutional legitimacy or transparency. Nor is there evidence that parliaments perceive themselves as a bridge between citizens and the EU.[208] It may therefore be concluded that

[206] Huysmans, Martijn and Van Gruisen, Philippe (2022), Substance and subsidiarity: the economic dimension of conflict in the early warning system, Journal of European Integration, 44:3, pp. 411-427
[207] Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional theory and empirical reality, Rothledge, pp. 16-17
[208] Cygan, Adam (2013), Chapter 6: Subsidiarity control after Lisbon, in: Accountability, Parliamentarism, and Transparency in the European Union, Edward Elgar Publishing, pp. 156-184, p. 159

subsidiarity monitoring is primarily aimed at preventing the EU from exceeding its competence at the expense of national parliaments, rather than at legitimising EU action.

Cygan further points out that the Lisbon Treaty assigned the task of monitoring subsidiarity to national parliaments for two main reasons. First, to reduce the differences between stronger and weaker parliaments by establishing minimum standards of scrutiny in Protocol No. 2, thereby enabling coordinated horizontal parliamentary participation and facilitating political dialogue. Second, because such monitoring confers a degree of output legitimacy on EU legislative acts. He also notes that the EWM incorporates a form of quasi-obligatory political dialogue among parliaments as part of the EU legislative process, which includes trialogues preceded by policy formulation. However, increased reliance on trialogues and early agreements between the European Parliament and the Council at first reading has the effect of reducing the ability of national parliaments to exert direct influence on the legislative process. Cygan ultimately concludes that subsidiarity monitoring can be described as "inspid with only mixed results" and as "a procedural device which seeks to exert control over a particular element of the policy and legislative process ". [209] Furthermore, placing national parliaments at the centre of subsidiarity monitoring is justified by several considerations. First, EU institutions themselves are not inclined to apply the principle, and subsidiarity concerns the vertical allocation of powers between levels of governance, requiring decision-making at the lowest possible level. Second, national parliaments lack an inherent institutional interest in transferring competences to the EU level, which has also raised questions regarding the application of Articles 5 and 6 TFEU and complementary competences. Finally, given their proximity to citizens, national parliaments are more likely to reflect public opinion on such matters. [210]

4.7. The Political Dialogue

The original idea of the political dialogue, as another instrument available to national parliaments in EU affairs, dates back to 2006. It was introduced by the then President of the Commission, José Manuel Barroso, and the first Vice-President, Margot Wallström. This political

[209] Cygan, Adam (2013), Chapter 6: Subsidiarity control after Lisbon, in: Accountability, Parliamentarism, and Transparency in the European Union, Edward Elgar Publishing, pp. 156-184, p. 161, op.cit.
[210] Ibid., p. 163

instrument allowed national parliaments to communicate with the Commission on a broad range of issues by submitting their opinions. Unlike the EWM, it is not limited to specific grounds such as subsidiarity or proportionality.[211]

In a certain sense, the political dialogue may be regarded as a precursor to the EWM. However, unlike the EWM, it does not and has never possessed formal powers capable of obliging the Commission to review a legislative proposal. Before the entry into force of the EWM, the political dialogue constituted the primary framework for communication. With the entry into force of the Treaty of Lisbon and the establishment of the EWM, the political dialogue became a complementary and parallel form of communication between national parliaments and the Commission, both preceding and following the EWM procedure. The political dialogue encompasses all documents not covered by the EWM. Outside the definition of draft legislative acts (within the meaning of Article 2 of Protocol No. 1 to the Lisbon Treaty), it primarily concerns consultation documents distributed before the submission of a formal proposal. It may also include existing legislation on which national parliaments may wish to express an opinion, as well as amendments proposed during the legislative procedure.[212]

The political dialogue also includes letters addressed to the Commission that do not deal with subsidiarity, as well as letters concerning draft legislative acts outside the EWM time frame. It further covers broader political considerations that may, at any stage, be shifted from the EWM framework to the political dialogue and answered accordingly. When such a transfer occurs, national parliaments will receive a response within the political dialogue framework, but their letters will not count towards the thresholds required under the EWM. For example, Member States will not be required to respond, nor will votes be counted within the EWS, where the opinions submitted are unrelated to subsidiarity, particularly where such opinions originate from parliaments of Member States that did not participate in the underlying initiative. A particularly important distinction between the EWM and the political dialogue is that the political dialogue concerns only the Commission. Other initiators of EU legislation are not involved.[213] In practice, since the adoption of the Lisbon Treaty, the Commission has developed the practice of treating

[211] See: Kreilinger, Valentin (2023), National Parliaments and the Commission: The Political Dialogue as a Two-Way Street, Swedish Institute for European Studies (SIEPS), European Policy Analysis, May 2023.
[212] Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional theory and empirical reality, Rothledge, p. 23
[213] Ibid., p. 23

parliamentary objections (reasoned opinions) concerning subsidiarity as contributions to the political dialogue. [214]

Furthermore, when discussing the EWM and the political dialogue, Peter Lindseth emphasises that "the history of national parliaments as channels of mediated legitimacy in EU governance has certainly not ended with the adoption of the EWM." On the contrary, a "paradoxical combination of resilience and resignation" on the part of national parliaments remains visible in the ongoing tension between two opposing forces: on the one hand, national democratic and constitutional legitimacy, and on the other, the functional and technocratic imperatives of EU regulatory power.[215]

Lindseth further argues that a certain degree of resilience can be observed in the relationship between national parliaments and the Commission, both in the political dialogue and within the EWM. However, he notes that despite the initial vision of the political dialogue as a "structured process" in which Commissioners and Commission representatives would assist national parliaments by explaining Commission policies and providing overviews of recent EU developments, this channel of communication has, to some extent, merged with the EWM into a hybrid procedure serving two purposes. Lindseth supports this conclusion by referring to earlier theoretical analyses of the effects of the first yellow card, triggered in 2012 in relation to the so-called Monti II Regulation. In that case, although most parliamentary objections were not strictly based on subsidiarity, the strong political opposition led to the activation of the yellow card procedure and ultimately compelled the Commission to reconsider and withdraw its proposal. The withdrawal was largely motivated by anticipated difficulties in securing agreement in the Council.[216]

Lindseth concludes that the resilience of parliaments must be assessed in light of the continuing manifestations of resignation among national representatives confronted with the

[214] Winzen, Thomas (2017), Constitutional Preferences and Parliamentary Reform: Explaining National Parliaments' Adaptation to European Integration, Chapter 2: "The Democratic Deficit and Parliamentary Adaptation to Integration", Oxford University Press, p. 26.
[215] Lindseth, Peter (2017), National Parliaments and Mediated Legitimacy in the EU: Theory and History, in: Jančić, Davor (ed.), National Parliaments after the Lisbon Treaty and the Euro Crisis: Resilience or Resignation? Oxford University Press, pp. 37-58, pp. 54-55, op. cit.
[216] Lindseth, Peter (2017), National Parliaments and Mediated Legitimacy in the EU: Theory and History, in: Jančić, Davor (ed.), National Parliaments after the Lisbon Treaty and the Euro Crisis: Resilience or Resignation? Oxford University Press, pp. 37-58, pp. 55.56

functional demands of integration. Although the gradual yet intensified expansion of EU powers in fiscal and macroeconomic supervision may appear at first glance to encroach upon national parliaments' authority over fiscal resource mobilisation, Lindseth argues that this has not eliminated national involvement in EU affairs. On the contrary, their role has been strengthened in at least two respects. First, increased supervision at the national level has led political parties to seek both formal and informal instruments to scrutinise EU intervention in domestic matters, thereby becoming more active guardians of national interests within the EU. Second, the EU still lacks sufficient autonomous resources to implement policies independently of Member States. It does not possess a substantial capacity to mobilise national resources on its own, despite its supervisory powers, because national parliaments retain decisive authority. Consequently, even though the EU exercises oversight, it remains dependent on the democratic and constitutional legitimacy of national institutions and cannot operate without national parliaments.[217]

Taking into account that the core of political dialogue is to allow national parliaments to provide feedback and possible concerns from the perspective of their countries regarding the direction in which the Commission is heading, it is difficult to expect that political dialogue will have an impact on changing already established political positions of the Commission. Likewise, there is no specific mechanism or legal instrument through which the Commission could be sanctioned for potentially disregarding reasoned opinions submitted by national parliaments within the framework of political dialogue. What, for example, Jančić emphasizes is precisely the fact that political dialogue is a soft mechanism intended only for consultation and discussion, which essentially make sit non-biding, informal, and often one-sided. [218] The original idea of political dialogue, as also highlighted by Barroso in his speech, was essentially aimed at several key aspects that had, in a way, kept national parliaments marginalized. Namely, the aim of the mechanism was to inform national parliaments, and at the same time make it easier for them to oversee their governments, and ultimately to provide national parliaments with the opportunity to take a more proactive approach to European issues. Finally, all of the mentioned is important not only because it gives national parliaments the opportunity to participate, but also because it ensures that they

[217] Lindseth, Peter (2017), National Parliaments and Mediated Legitimacy in the EU: Theory and History, in: Jančić, Davor (ed.), National Parliaments after the Lisbon Treaty and the Euro Crisis: Resilience or Resignation? Oxford University Press, pp. 37-58, p. 56

[218] Jančić, Davor (2012), The Barroso Initiative: Window Dressing or Democracy Boost? Utrecht Law Review, Vol. 8, Issue 1, January 2012, pp. 78-91, p. 81

can consistently represent their national positions, which will ultimately be shaped on the basis of the contribution of well-informed parliaments.[219] It could be concluded that the goal of the Barroso initiative, that is, political dialogue, lies precisely in opening the way for national legislators to become more active in shaping EU policies.

4.8. On different categorisation of National Parliaments

In theory, there have been multiple ideas of categorisation of national parliaments, differing in their roles, structure, or influence, and all other possible distinctions. First of all, concerning the various instruments and oversight activities through which national parliaments take part in EU affairs, Kreilinger groups them into several categories. He explains that they can be divided into six ideal-typical models: the Traditional Scrutiniser, the Policy Shaper, the Government Watchdog, the Public Forum, the Expert, and the European Player.[220]

As for the first type, the Traditional Scrutiniser, these parliaments are also referred to as "gatekeepers" because their role is based on traditional features of parliamentary control. This means that they either have very limited domestic oversight rights in EU affairs or they rely on standard scrutiny methods when assessing EU legislative proposals. In other words, they use ex ante control carried out by their specialised parliamentary committees. By overseeing their government's conduct in the Council and examining proposals from the Commission, they focus mainly on the ordinary legislative procedure. However, they make little effort to influence their governments or the European Commission, nor do they seek to turn their activities into broader public debates.[221]

The second model, the Policy Shaper, seeks to shape policy through ex ante control, relying on strong formal powers at the national level in order to achieve binding outcomes at the European level. A key feature of this model is that its mandate may be politically binding, and in some cases this binding force may stem from constitutional provisions. The main stage for shaping political

[219] Jančić, Davor (2012), The Barroso Initiative: Window Dressing or Democracy Boost? Utrecht Law Review, Vol. 8, Issue 1, January 2012, pp. 78-91, p. 82

[220] This classification by Kreilinger was originally proposed by Wessels et al. (2012) and Rozenberg and Heffler (2015). For more, see: Kreilinger, Valentin (2023), National Parliaments and the Commission: the Political dialogue as a two-way street, Swedish Institute for European Studies (Sieps), European Policy Analysis, May 2023, pp. 4-5

[221] Kreilinger, Valentin (2023), National Parliaments and the Commission: the Political dialogue as a two-way street, Swedish Institute for European Studies (Sieps), European Policy Analysis, May 2023, pp. 4-5

positions takes place within specialised committees, primarily the committee on European affairs, with an advisory role played by sectoral committees. This model is also characterised by the use of classic legislative powers, such as the right of veto, the power to delay decisions, amend legislation, or act within a broader political agenda.

The third model, the Government Watchdog, describes parliaments that generally lack extensive powers, such as the right to delay, veto, or issue binding mandates. As a result of these limited powers, they are unable to shape policy in advance. Nevertheless, they compensate for this by holding their governments accountable through political scrutiny, with a particular focus on policy matters. This process takes place *ex post*. Despite being retrospective, this type of control can still be highly effective, especially through political criticism made public, thereby increasing transparency and publicity. However, this model has greater real ex post opportunities to criticise the government in domestic affairs than in EU matters. This is because national parliaments cannot overturn final decisions already adopted at the EU level.[222]

The fourth model is the Public Forum. As the name suggests, the national parliament serves as a public forum for EU affairs. Plenary sessions play a particularly important role, as they allow a wide range of issues to be debated. They enable members of parliament to hold the government accountable, to represent citizens' views consistently, and to communicate policies to the public. The fifth model, the Expert parliament, is characterised by a high level of expertise in EU matters. This allows the parliament to assess developments independently and respond at an early stage of various processes. This approach is typical of committee work, especially within the committee on European affairs, but also within sectoral committees. Differences of opinion within committees usually remain internal and do not attract the same public attention as plenary debates.

Finally, the sixth model, the European Player, is marked by a strong understanding of EU affairs and of negotiations taking place at the EU level, extending beyond the parliament's domestic framework. It involves active networking with supranational institutions in order to obtain important information that may not be available through the government alone. It also includes monitoring and learning from the practices of other parliaments.[223] Learning is a key element not

[222] Ibid., pp. 4-5
[223] Ibid., pp. 4-5

only of this model but also of certain post-Lisbon interpretations of representative democracy, such as the concept of the multilevel parliamentary field.[224]

In sum, the European Player model includes those national parliaments that actively use both formal and informal opportunities for interparliamentary cooperation and collaboration with EU institutions. Kreilinger concludes that, in practice, parliaments tend to combine elements of several of the models described above. National parliaments use their powers in policy-making in different ways, influencing policy through various mechanisms, from vetoes and amendments to consultations. Questioning ministers, conducting inquiries, and holding hearings are some of the tools national parliaments use as part of their oversight responsibility. At the same time, there are significant differences in how national parliaments scrutinise EU matters. Since these practices are subject to change, Kreilinger concludes that assessing the effectiveness of a particular accountability system depends on its adaptability, that is, its ability to improve executive action through repeated efforts to align and adjust actions.[225]

In addition to previouse classification, Kiiver notes that theory has produced several other ways of categorising national parliaments, mainly to simplify their ranking according to their political influence over their own governments. Therefore, Kiiver notes that Norton, for example, divided parliaments into three categories depending on their influence in policy-making. The first category includes parliaments with sufficient influence to change government policy and even replace it with their own, thus qualifying as strong policy-makers. The second category includes a moderate group with enough political influence to potentially reject or amend government policy. The final category refers to parliaments with little or no influence over policy.[226] Similarly, Kiiver points out that Bergman classified parliaments according to the binding nature of parliamentary opinions on governments and the internal organisation of the parliament. Rather than ranking

[224] Regarding the concept of the multilevel parliamentary field, there is a full study exploring this specific approach. The study uses this concept as a tool to analyse the structure of democratic representation in the EU through two main channels: direct representation through the European Parliament and indirect representation through national parliaments and their governments. The approach departs from traditional concepts of democratic representation and seeks to develop an appropriate framework capable of capturing all the features of a multi-level representative system such as the EU. For more on this topic, see: Crum, Ben and Fossum, John E. (2009), Multilevel Parliamentary Field: A framework for theorizing representative democracy in the EU. European Political Science Review (2009), 1:2, pp. 249–271.

[225] Kreilinger, Valentin (2023), National Parliaments and the Commission: the Political dialogue as a two-way street, Swedish Institute for European Studies (Sieps), European Policy Analysis, May 2023, p. 5

[226] Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional theory and empirical reality, Rothledge, pp.12-13

parliaments, Wessels and Maurer used a matrix to assess parliamentary performance in EU affairs, taking into account both national and European levels of activity. Focusing on oversight methods, Kiiver points out that Fraga categorised parliaments as "mandate givers" (those that pay particular attention to briefing the responsible minister immediately before meetings of the Council), "systematic controllers" (which filter all EU documents and retain the right to adopt resolutions), and "informally influential actors" (characterised by flexible and informal expression of views).[227]

Finally, Kiiver himself proposed several approaches to categorising parliaments, primarily based on mechanisms of parliamentary scrutiny in EU matters. He identified five different dimensions. The first concerns the timing of scrutiny (*ex post* or *ex ante*). The second relates to the relative centralisation of scrutiny (involving sectoral committees and committees on European affairs). The third dimension concerns the methods through which parliament influences the government (mandating systems, systematic document filtering, ad hoc resolutions, or scrutiny reserves). The fourth relates to the legal basis of scrutiny (constitutional, statutory, or conventional). Finally, the fifth dimension addresses the relative "strength" of national parliaments' influence in EU scrutiny procedures (weak, moderate, or strong).[228]

Kiiver also introduced the categorisation of national parliaments in accordance with his findings regarding the empirical analysis of the national parliaments' use of the EWM, i.e., according to their behaviour under the EWM. Kiiver divided parliaments into four groups, named: Literalist, Pseudo-Colegislator, Pre-emptors, and Absentees. [229] This categorisation partially coincides with Kiiver's more general typology of weak, moderate, and strong parliaments. Characteristics of the first group, the parliaments/individual chambers that would fail within the category of "Literalist" are characterised by their strict adherence to a narrow subsidiarity review, precisely as required by the Treaties, while at the same time refraining entirely from treating the EWM as an innovation to engage with consultation documents (here Kiiver includes the French Senate, both Dutch chambers, the Austrian Bundesrat, both Italian parliamntary chambers, as well as the Portuguese and Greek Parliaments). The group of "Pseudo-Colegislatiors" is characterised

[227] Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional theory and empirical reality, Rothledge, p. 13
[228] Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional theory and empirical reality, Rothledge, p.12, op.cit.
[229] Kiiver, Philipp (2012), The Early Warning System for the Principle of Subsidiarity, Constitutional theory and empirical reality, Rothledge, p.136-137

by a somewhat more flexible approach. Kiiver notes that this group displays a tendency to disregard, to some extent, the formal constraints of the EWM, treating it more as a form of political consultation (his examples include the German Bundesrat and the UK House of Lords). Furthermore, in the category termed "Pre-empters", Kiiver places the Nordic parliaments (the Swedish, Finnish, and Danish parliaments), whose defining feature lies in their lack of interest in, or general refusal to participate in, the EWM, instead preferring to react to EU consultation documents. Finally, the last group, labelled "Absentees", comprises parliaments that do not participate in the EWM at all (here Kiiver primarily refers to parliaments from Eastern and Southern Europe).[230]

One more categorisation of parliaments was introduced by Cooper. Firstly, Cooper argues that the latter Kiiver's classification is not genuinely grounded in an analysis of EWM practice, but rather largely speculative. He supports this view by pointing out that Kiiver's typology is based on the analysis of subsidiarity tests conducted by COSAC between 2004 and 2009, i.e. prior to the entry into force of the Lisbon Treaty. Cooper further notes that, for example, the position of the Dutch chamber, which during the COSAC tests adopted a literal approach, thus placing it within Kiiver's first group of Literalists, subsequently changed under the influence of political factors. [231] The latter political factor refers to a situation in which civil servants responsible for preparing reasoned opinions altered their previous methods. While continuing to provide balanced advice to their principal, they increasingly left the final choice of argument to political actors. As Högenauer observes, this development contributed to the politicisation of the process, with reasoned opinions being used more frequently as instruments of policy, whether in support of or opposition to particular measures. [232]

[230] Ibid., pp. 136-137

[231] Cooper, Ian (2017), Is the Early Warning Mechanism a Legal or a Political Procedure? Three Questions and Typology, In book: Jonsson Cornell, Anna and Godoni, Marco (eds.), National and Regional Parliaments in the EU legislative procedure post-Lisbon: The Impact of the Early Warning Mechanism, Oxford, London, Portland, Hart Publishing Ltd, 2017, pp. 17-49, p. 22-23

[232] Högenauer, Anna-Lena (2015), Chapter 12: The Dutch Parliament and the EU Affairs: Decentralizing Scrutiny, In: Hefftler et. Al., The Palgrave Handbook of National Parliaments and the European Union, Palgrave Macmillan, pp. 252-271, pp. 260-261, op. cit.

V. National Parliaments of CEE countries: Croatia, Hungary, and Poland

5.1. CEE Countries on the way to the EU

The transitional period from socialism to democracy (end of the 80s, beginning of the 90s) in the countries of Central and Eastern Europe moved in two directions. At the same time, the first option was a return to the pre-communist constitutional framework, the second option was the establishment of a new constitution from scratch, which implied the creation of a completely new normative framework in accordance with the constitutional tradition. The first step towards this meant that all the foundations of the democratic system had to be laid before the first democratic elections were held, which essentially meant that all changes had to be accepted by the parliaments of the old regime. In addition to the electoral framework itself, new parties had to be founded to establish a democratic multi-party system, and independent judicial supervision and constitutional trials had to be established.[233]

The next step that the three CEE countries had to accomplish in order to become part of the EU was the fulfilment of the steps and necessary conditions. Namely, the process of joining the EU involves a sequence of stages and requirements that must be met, a relatively large number of reforms and adjustments, where the role of the candidate country's parliament becomes crucial. Mainly, any European state that respects the values and the Union's democratic principles and is committed to promoting them may apply for membership under Article 49 of the Treaty on European Union (TEU).[234] The process is made up of several key phases, but before submitting an application, a country must satisfy the Copenhagen criteria,[235] established by the European Council in 1993 at its meeting in Copenhagen (three main categories: political, economic, and legal). In addition to these three, in late 1995, it was also introduced as a fourth, the Madrid conditions (administrative conditions).[236] Furthermore, the accession is not a one-sided process.

[233] Szabó, István (2022), Chapter 4: The Constitutional Development of Hungary After 1918, In: Comparative Constitutionalism in Central Europe: Analysis on Certain Central and Eastern European Countries. (Csink, L. and Trócsányi, L. eds.), Miskolc-Budapest: Central European Academic Publishing. pp. 73–87, p. 86

[234] Consolidated version of the Treaty on European Union, Official Journal of the European Union. C 326/13, 26.10.2012. Also available on the webpage of the EU: https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF (Accessed 4 May 2025)

[235] See: EUR-Lex (2024), an official page of the European Union, Access to European Union Law, Accession criteria (Copenhagen criteria). Available at: https://eur-lex.europa.eu/EN/legal-content/glossary/accession-criteria-copenhagen-criteria.html (Accessed at: 25 January 2024)

[236] The political requirement means that a country must have stable institutions that ensure democracy, uphold the rule of law, and protect human rights, including the rights of minorities, while also accepting the Union's political objectives. The economic requirements call for a functioning market economy and the ability to handle competitive

While the candidate country is required to adopt and implement the EU's legal framework (*the acquis communautaire*) and adjust its policies before membership, the Union must also be institutionally and financially prepared to integrate new members. This involves ensuring that EU policies can be extended to additional states and that its institutions can accommodate representatives from those countries. Progress in accession negotiations depends on meeting the required criteria, and most reforms are expected to be completed during the pre-accession phase, which is why transitional arrangements are generally limited in both scope and duration.[237] In that regard, Croatia had the most difficult path, given that shortly after seceding from the former Yugoslavia, it faced conflict in the Homeland War, resulting in tough post-war circumstances. The latter influenced slowing all processes, both the establishment of the rule of law and the adoption of the first Croatian Constitution. Furthermore, since certain chapters of the *acquis communautaire* had previously been grouped together and later divided into several parts, the acquis was divided into 35 chapters for negotiations with Croatia instead of the standard 31. The decision to split some chapters was made in light of previous difficult and large-scale experiences. Croatia initially intended to complete the negotiations in time to join the EU in 2007, together with Bulgaria and Romania. However, in several areas, the negotiations proved more challenging than expected. In the case of Hungary, the National Assembly played a central role in the country's accession to the EU and its subsequent integration, particularly through constitutional and institutional reforms designed to balance the legislative and executive branches of power. For Poland, parliament played a major role in overseeing the harmonisation of Polish law with EU law. A key forum for dialogue was the Joint Parliamentary Committee of Poland and the EU, which facilitated cooperation with the European Parliament and monitored accession progress.

pressure within the EU. The legal requirement involves the capacity to take on and effectively apply the obligations of membership, particularly involving the adoption of the EU legal acquis (acquis communautaire). While the administrative criterion requires that a country have a well-functioning public administration, which is necessary because the proper application of EU law depends on an effective and capable administrative system.
For more on this topic, see: Jano, Dorian (2024). EU Accession Criteria and Procedures: Up for the Challenge? EuZ - Zeitschrift für Europarecht. 4/2024

[237] Kühnhardt, Ludger (2008). From National Identities to European Constitutionalism, European Union - The Second Founding, (pp. 27-70), Publisher: Nomos Verlagsgesellschaft mbH. pp. 27-70, p. 38- 41.
Also Available at: https://www.loc.gov/item/2021758945/ (Accessed: 27 September 2025).

5.2. The Croatian Parliament (Hrvatski Sabor)

5.2.1. History of the Croatian Parliament

In early Croatian history, between the 7th and 12th centuries, during the period of national rulers, the first forms of assemblies of representatives of the people appeared. These assemblies were convened to discuss and decide on important matters concerning the entire community or parts of it, and they can be seen as predecessors of today's Parliament (Sabor). These forms of representative gatherings were known by various names, including the term sabor, which has been preserved to this day. [238] The assemblies were essentially the result of a need to establish a system of rules in order to create a certain level of security. In these early periods, assemblies existed at the state level (usually led by tribal leaders/prefects, *cro. župani*), but also in the form of regional gatherings, which together with prominent warriors, elected princes (*cro. knezovi*). The first recorded state sabor of the Croats is linked to the election of Knez Vladislav in 821. In addition to these, there were also church councils with certain important political features. However, in 925, with the transition to a kingdom, state assemblies became coronation assemblies (the last recorded coronation assembly is associated with the year 1089, during the coronation of King Stjepan II).[239]

The first known assembly for which records and decisions exist was held in Zagreb on 20 April 1273, often referred to as the Slavonian assembly (*cro. Slavonski sabor*). From its records, the Latin name of the assembly is visible, while the full name was "Sabor of the Kingdom of Croatia, Dalmatia and Slavonia" (lat. *Congregacio Regni tocius Sclavonie generalis*). The decision of that assembly, as provisions with legal effect, was also given a Latin title "*statuta et constitutiones*". [240] The decisions of the assembly contained the seal of approval of the ban, symbolising his authority. The importance of this assembly lies in its effort to establish judicial procedures that would regulate and guarantee property rights, as well as certain issues of tax

[238] These names were: stanak, shod, shodišće, spravišće, sbor, sborišće, sabor, vijeće, skupština, and similar. For more details, see the official webpage of Sabor. Hrvatski Sabor (2026), Sabor u vrijeme narodnih vladara, Saborske povijesne zanimljivosti. Available at: https://www.sabor.hr/hr/o-saboru/povijest-saborovanja/zanimljivosti (Accessed at 5 January 2026)

[239] Hrvatski Sabor (2026), "Slavonski Sabor" - prvi sabor sjeverno od Gvozda, Saborske povijesne zanimljivosti. Available at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/slavonski-sabor-prvi-sabor-sjeverno-od-gvozda (Assessed at 5 January 2026)

[240] Note: The use of Latin reflects the fact that Latin was the official language at the time. Although the Croatian language became the official language of the Croatian Parliament in 1847, in accordance with a clause in the Parliament's Rules of Procedure, Croatian as an official language in public use was established somewhat later.

obligations. Following the course of history, the year 1350 is recorded, along with the establishment of a personal union with Hungary, when Croatia was administratively divided into two banates: the Slavonian Banate and the Croatian-Dalmatian Banate. Kings Karlo and Robert, and his successor Ludovik, in their need to protect themselves from the Croatian-Dalmatian nobles, gained the support of that same nobility, and the assembly began to be convened only after the king had strengthened his position. During this period, the assembly represented as an estate-based association known as the alliance of the nobility, "the twelve tribes of the Kingdom of Croatia". However, to preserve their old privileges, representatives of the nobility established their own estate assembly, whose first session is recorded in 1350 under the name General Assembly of the Kingdom of Dalmatia and Croatia (lat. *Congregatio generalis regnorum Dalmatiae et Croatiae*).[241]

Due to increasingly frequent and stronger Ottoman attacks on Croatian territory, especially the area of Slavonia, known as the Kingdom of Slavonia, which was under the rule of the Croatian-Hungarian king Matijaš Korvin, the king ordered the convening of the Slavonian sabor with the estates of the Kingdom of Slavonia. At that sabor (lat. Regnum Slavoniae), measures for defense and the selection of a person to cooperate with the ban were to be agreed upon. This sabor was important because it adopted, for the first time, a special law on a general armed uprising in Slavonia (a law on insurrection) [242] for defense against the Ottomans. [243]

The unification of the Slavonian and Croatian assemblies into a single estate assembly was the result of the continuous reduction of the Croatian Kingdom due to constant Ottoman conquests. The first session of the unified estate assembly was held in 1558 under the name Sabor of the Kingdom of Croatia and Slavonia (lat. *Congregation Regni Croatiae et Slavoniae*), and within the

[241] Hrvatski Sabor (2026), Zasjedanje prvog Općeg sabora Kraljevine Dalmacije I Hrvatske 1350.godine, Saborske povijesne zanimljivosti. Available at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/zasjedanje-prvog-opceg-sabora-kraljevine-dalmacije-i (Accessed at 5 January 2026)

[242] Hrvatski Sabor (2026), Sabor u Zdenicima 1478 godine, Saborske povijesne zanimljivost. Availabe at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/sabor-u-zdencima-1478-godine (Accessed at 5 January 2026)

[243] Shortly after the Slavonian sabor elected Ivan Zapolju as king in 1527, a period of civil war followed, weakening forces and facilitating Ottoman incursions. At the same time, the Assembly in Cetin (1527) was established, resulting in the so-called Cetin Charter, by which Croatian nobles confirmed with their seals the decision to elect the Austrian Archduke Ferdinand of Habsburg as Croatian king. In return, he promised to respect their existing rights and provide protection, which he ultimately fulfilled. For more see: Hrvatski Sabor (2026), Sabor u Cetinu 1527 godine. Availabe at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/sabor-u-cetinu-1527-godine (Accessed at 5 January 2026)

next hundred years, Dalmatia was also included, leading to the expanded name (lat. *Congregatio Regnorum Croatiae, Dalmatiae, et Slavonie*). [244] Furthermore, until the 16th century, parliamentary sessions were held exclusively by order or authorisation of the king. However, in 1567, King Maksimilijan Habsburg granted the ban (of Croatia, Dalmatia, and Slavonia) the right to convene the Sabor independently. This right arose from the need to convene assemblies ini n times of immediate military danger. Nevertheless, the king retained the right to confirm decisions, which then acquired the force of law. All parliamentary decisions until the 15th century were referred to as *acta*, *decreta*, or *consitutione*s, while later the term *articulus* (article) was used.[245]

The final formation of the estate assembly/sabor (as a unicameral body) took place in the 17th century. It consisted of estates, including the "orders of the kingdom" (lat. S*tatus et ordines regni*). The first estate consisted of prelates (bishops and church leaders), the second included magnates (counts, barons, prefects, and the ban) with personal voting rights, the third consisted of the nobility (represented through delegates), and the fourth included free royal cities (two representatives each) and three privileged territories. Members enjoyed inviolability and written guarantees (lat. *Status conductus*). They were exempt from taxes, and service in the assembly was considered an honor. The ban presided, maintained order, and could impose fines for excessive speech, known as the "redemption of the tongue" (lat. *emenda linguae*).[246] An important historical document, the so-called Pragmatic Sanction, was adopted in 1712, when the assembly passed Article VII, granting the Habsburg Monarchy the right of succession to the Croatian-Hungarian throne through the female line. Previously, only male succession had been allowed, which caused issues since the ruler had no male heirs. This decision was significant as it was also seen as an expression of Croatian state autonomy. [247]

[244] Hrvatski Sabor (2026), Jedinstveni staleški Sabor. Available at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/jedinstveni-staleski-sabor (Accessed at 6 January 2026).
[245] Hrvatski Sabor (2026), Prva Saborska samostalnost. Available at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/prva-saborska-samostalnost (Accessed at 6 January 2026).
[246] Hrvatski Sabor (2026), Konačno ustrojstvo staleškog Sabora, Saborske povijesne zanimljivosti. Availabe at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/konacno-ustrojstvo-staleskog-sabora (Accessed at 6 January 2026).
[247] For more on this topic see: Hrvatski Sabor (2026), Hrvatska pragmatična sankcija iz 1712 godine, Abailable at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/hrvatska-pragmaticka-sankcija-iz-1712-godine (accessed 7 January 2026)

The first known budget of the Croatian Kingdom (1729) is linked to a six-member committee established as a reserve body to act when the assembly could not convene. Its name was Conference of the Kingdoms of Croatia, Dalmatia, and Slavonia (lat. *Conferentia Regnorum Croatiae, Dalmatiae et Slavoniae*). It was also called the Croatian Royal Conference and remained active for centuries. Members were appointed by the assembly and included the ban, nobles, and a bishop. Besides the budget, the committee adopted financial and administrative acts approved by the assembly.[248]

Nevertheless, the assembly/sabor began to resemble a representative body in 1848. On 5 June 1848, the first session of the Assembly of the Triune Kingdom of Croatia, Dalmatia, and Slavonia was held, considered the first modern representative assembly. Before that, important decisions of the Ban's Council were adopted, including electoral rules.[249] That year marked the end of estate assemblies, as representatives were now elected through suffrage that was limited by gender, property, and education (only about 2% of men had voting rights). Representatives still represented institutions rather than the people directly.[250] At this session, all social groups of the Triune Kingdom were represented, and an important document called 'Demands of the People' (cro. 'Zahtjevanja Naroda') was adopted, addressing issues such as parliament, finances, language, education, freedom of speech and press, suffrage, abolition of privileges, and equality before the law. [251] It is important to point out that throughout history, there have been periods of occasional interruptions in parliamentary work, because some rulers ruled in an absolutist manner, therefor during these periods, there have not been established parliamentary institutions at all.[252]

The significance of the 1848 Sabor lies in its modern character, representative nature, unification of territories, promotion of civil rights, limitation of monarchial power, and the fact

[248] Hrvatski Sabor (2026), Hrvatska kraljevinska konferenecija iz 1729. Donijela prvi proračun hrvatskog kraljevstva, Available at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/hrvatska-kraljevinska-konferencija-iz-1729-donijela (Accessed at 7 January 2026).

[249] Hrvatski Sabor (2026), Odluke Banskog vijeća uoči sabora 1848. godine, Available at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/odluke-banskog-vijeca-uoci-sabora-1848-godine (Accessed at 7 January 2026).

[250] Hrvatski Sabor (2926), Saborski izborni red iz 1848.godine, Availabe at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/saborski-izborni-red-iz-1848-godine (Accessed at 7 January 2026)

[251] More on this topic see: Hrvatski Sabor (2026), "Zahtijevanja Naroda"- početak modernog Sabora, Available at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/zahtijevanja-naroda-pocetak-modernog-sabora (Accessed at 7 January 2026)

[252] Bačić, Arsen (2000), Leksikon Ustava Republike Hrvatske, Pravni fakultet Saveučilišta u Splitu, p. 138

that it was the first to operate in the Croatian language.[253] Finally, the sabor was also notable for having its own newspapers. After the session, the first parliamentary record, "Saborske novine", was published to promote national interests.[254] An interesting feature of the so-called „Great Sabor" of 1861, often called the most intellectual sabor, was that it reflected the views of the People's Party, advocating federalisation of the Habsburg Monarchy while maintaining ties with Hungary. A law from that period is often referred to as Article 42 due to a specific provision defining relations with Hungary.[255] The Rules of Procedure of that sabor also included an interesting rule in Article 52, prohibiting reading speeches: "No member of the Sabor is allowed to read his speech." This rule was retained later in the 1942 Rules of Procedure.[256] The latter was the First Sabor's Rules of Procedure, which established the internal functioning of the Sabor.

Next, the Rules of Procedure were introduced 14 years later with the shorter version, but establishing a few of the permanent working bodies, such as the Judiciary Committee. The latter also included some new features, such as the procedure of voting of the parliamentarians (staying seated or getting up if they vote for or against a specific question). Nevertheless, some provisions from those mentioned Rules of Procedure are still in effect today, such as provisions regarding parliamentarians' interpellations, reminders to representatives, three readings of the bill, or roll call voting. Rules of Procedure are usually followed after the changes to the state order. Therefore, after the mentioned Rules, the Rules of Procedure of the Constituent Sabor of the People's Republic of Croatia, just a year after the Rules of Procedure of the People's Republic of Croatia were adopted, in 1947, the 1947 constitution also prescribed the Sabor as unicameral. Sabor's presidium was dealing with the main functions of the collective of the head of the state, while, if necessary

[253] Hrvatski Sabor (2026), 5. Lipnja 1848.- prvi reprezentativni Sabor, Available at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/5-lipnja-1848-prvi-reprezentativni-sabor (Accessed at 7 January 2026).

[254] Note: Shortly after, in 1954, the Croatian Parliament launched its official publication "Bulletin of the Parliament of the People's of Croatia". Ten years later, it became "Bulletin of the Parliament of the Socialist Republic of Croatia". While in 1975 it changed to "Delegates' Gazette", and in 1990 it was replaced by "Reports of the Croatian Parliament ", published until 2009, then electronically until 2012. More on this see: Hrvatski Sabor (2026), Prve hrvatske saborske novine iz 1848.godine. Available at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/prve-hrvatske-saborske-novine-iz-1848-godine (Accessed at 7 January 2026).
Since 2013, with Croatia's accession to the EU, a monthly bulletin „European Affairs in the Croatian Parliament" has been published. For more on this bulletin: https://www.sabor.hr/hr/europski-poslovi/bilten-o-europskim-poslovima

[255] Hrvatski Sabor (2026), Veliki Sabor iz 1861 godine https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/veliki-sabor-iz-1861-godine (Accessed at 7 January 2026).

[256] Hrvatski Sabor (2026), Govorništvo u Saboru, Available at: https://www.sabor.hr/index.php/hr/o-saboru/povijest-saborovanja/zanimljivosti/govornistvo-u-saboru (Accessed: 7 January 2026).

also functions of the sabor's (parliamentary) plenum. Afterwards, with the Constitutional law of the People's Republic of Croatia from 1953, Sabor was defined as a bicameral body (The Council of the Republic and the Council of Producers). Furthermore, in 1963, the Sabor again changed its structure, and with the Constitution of the Socialist Republic of Croatia, the Sabor had five councils.[257]

Despite the fact that the latter parliament or the federal assembly has a five-chamber structure, the Constitution does not introduce the principle of five chambers in the work and exercise of competencies. Namely, the constitution still basically confirms the principle of bicameralism, however, in a relatively new form in this sense, because most of the competences are still exercised by the Federal Council as a permanent house, while the second house often has opinions in relation to the content and characteristics of the affairs on which the Assembly decides.[258]

Furthermore, with constitutional changes in 1971, the special Presidency of Sabor was established, which represents Croatia in international relations. A few years later, in 1976, the parliament was constituted with three chambers.[259] The Rules of the Procedure changed after Croatia gained independence in 1990, when it established a two-chamber system, the House of Representatives and the House of Counties, each with its own Rules of Procedure. Finally, with constitutional changes in 2001, the Rules of Procedures also changed, and it has been established as a unicameral system, abolishing the House of Counties. [260]

Nevertheless, going back to the period just before and during the Second World War, the organization of state institutions, on the territory of the then Federal State/People's Republic of Croatia, drew its foundations from the work of the National Anti-Fascist Council of the National Liberation of Croatia (cro. *Zemaljsko antifašističko vijeće narodnog oslobođenja Hrvatske*;

[257] While the last changes to the Rules of Procedure were before Croatia acceded to the EU in 2013. For more detail on this topic see: Hrvatski Sabor (2026), Iz povijesti saborskih poslovnika. Available at: https://www.sabor.hr/hr/o-saboru/povijest-saborovanja/zanimljivosti/iz-povijesti-saborskih-poslovnika (Accessed 8 January 2026)

[258] Đorđević, Jovan (1964), Glava V, Savezna Sakupština, In: Novi Ustavni Sistem, Biblioteka društevnih nauka, 1964 Savremena Administracija, Beograd, pp. 295-365, p. 322

[259] These were called: The Council of Associated Labor, the Council of Municipalities, and the Socio-Political Council.

[260] For more details, see: Hrvatski Sabor (2026), Ustroj Sabora od Drugog svjetskog rata do samostalnosti Hrvatske, Available at: https://www.sabor.hr/hr/o-saboru/povijest-saborovanja/zanimljivosti/ustroj-sabora-od-drugog-svjetskog-rata-do-samostalne (Accessed 9January 2026)

hereinafter: ZAVNOH), or rather its presidium (a collegial body composed of parliamentary representatives). Namely, the aforementioned ZAVNOH was established by the national liberation movement, with the main function of restoring Croatian statehood, taking into account that there were no elections or an elected legislative body. Moreover, in the period 1945-1953, in Croatia, the representative body was the Parliament, but in practice, its Presidium (presidency) played an important role. After World War II, in 1945, the former ZAVNOH became the Croatian National Sabor, which formally represented the people. In the early years (especially 1945-1946), the Presidium of the Sabor was the main legislative body, as the Sabor itself met very briefly and performed other functions of government, such as representing the state. Although the Sabor was formally the highest representative body, real power was in the hands of the Communist Party, and the Presidium mainly implemented its decisions.[261]

It can be concluded that the constitutions adopted in 1947, 1963, and 1974 changed the structure of the Parliament during the period when the Republic of Croatia was one of the federal units of the Socialist Federal Republic of Yugoslavia. During the latter period, parliament functioned as a formal institution within a one-party system; although it was the highest organ of the state, it was only so in theory. After the first democratic multiparty elections, it became a bicameral parliament. However, in all these constitutional solutions, the Parliament was established formally as the highest organ of state power.

5.2.2. The transitional period: On the way to democracy

After the first democratic elections held on 30 May 1990, Croatia established its first multi-party Parliament based on a new electoral law, which relied on the French model.[262] This period was marked by the fact that parliament was subordinated to the executive, although institutionally stable, with limited mechanisms of democratic oversight. The latter was partly because, in that period, the power was concentrated in the hands of the president, as Croatia opted for the semi-

[261] For more on this specific topic, see: Bukvić, Nenad (2017), Prilog povijesti institutcija: Prezidijum Sabora Narodne Republike Hrvatske 1945.-1953, Arhivski Vijeesnik 60 (2017), pp. 61-88

[262] This French model implied the following: single-member constituencies and a two-round voting system. All candidates who won more than 7% of the votes in the first round advanced to the second round, even if no one achieved a majority. Elections were held for all three chambers of the Parliament, with each person being able to vote in only one or a maximum of two chambers, depending on their employment status or student status.

presidential system.[263] Furthermore, the adoption of the first Constitution was on December 22, 1990, the so-called "Christmas Constitution". [264]

Starting from the fact that a constitution, as the highest legal and political act, determines the fundamental characteristics of a state's legal and political system, its adoption also signified the formation of a new Croatian constitutional identity.[265] Its importance lies in organizing the overall social and governmental structure, which is why it must enshrine the core values of a democratic society, including the protection of human rights, basic freedoms, and the rule of law. This is reflected in the Decision to open discussions on amendments to the Constitution of the Socialist Republic of Croatia (hereinafter: Decision). [266]

Croatia's commitment to building a democratic system and ensuring a swift transition is evident not only in this Decision but also in Amendments LXIV to LXXV to the Constitution of the Socialist Republic of Croatia. These amendments created the foundation for drafting a new democratic constitution. Both the Decision and, even more clearly, Amendment LXVI, which

[263] While in practice it was more pure presidentialism, as the Lalović, during an analysis of the logic of the Croatian semi-presidential parliamentary system, which was an imitation of the French model, citing opinions of many scolars which explained on the question how it "can be functional in a situation where the political body is ideologically considerably fragmented, the constitutional consensus does not exist, and the civil society is insufficiently liberalized and therefore incapable of expressing itself adequately in a pluralistic fashion by means of a pure parliamentary system". Lalović points out that, in Croatia's case, "in its politico-constitutional system, Croatia took over the institution of the head of state, which is the most powerful organ of political authority and the central figure of the entire polity. Therefore, in Croatia too, the president of the Republic is conceived as the fundamental institution of a sovereign legal state; they are the democratic arbiters and the constitutional guardians of the order's political stability, and are legitimized by universal direct suffrage. It is this central institution that is the permanent focal point where the real tension of the actual Croatian republic is revealed most obviously and most intensely. It is only insofar as the President consistently operates as the state's public and above-all-parties leader of all citizens, as the Prime Citizen of the Croatian Republic, that he essentially coforms Croatia as a national State of the democratic type (a sovereign Etat-Nation)."
See: Lalović, Dragutin (2000), Crisis of the Croatian Second Republic (1990-1999): Transition to Totalitarianism or to Democracy?, Politička misao, Vol. XXXVII, No. 5, pp. 47-60, p. 54, op. cit. Available at: https://hrcak.srce.hr/file/42348 (Accessed 5 May 2025)

[264] The term Christmas Constitution lies in the fact that it was adopted and proclaimed just before Christmas, passed in the 10th joint session on 21 December, by all chambers of Parliament. Can be found at the Official Gazette of the Republic of Croatia, Narodne Novine No. 56/90, on the following link: https://narodne-novine.nn.hr/clanci/sluzbeni/1990_12_56_1092.html (Accessed 5 May 2025)

[265] For the detailed analysis of Croatian constitutional identity see Bačić, Petar (2023), On Croatian constitutional identity and European integration, 105-133 pp, COMMON VALUES AND CONSTITUTIONAL IDENTITIES – CAN SEPARATE GEARS BE SYNCHRONIZED?, Lilla Berkas and Andras Zs. Varga (eds.), Central European Academic Publishing, Miskolc-Budapest. pp. 105-133.

[266] Odluka da se pristupi raspravi o promjeni Ustava Socijalističke Republike Hrvatske u Izvješću Hrvatskog Sabora, br. 1,5 VII, str. 3. (eng. Decision to initiate debate on amending the Constitution of the Socialistic Republic of Croatia in Reports of the Croatian Parliament, No. 1, July 5, 1990, p. 3. Also available in the Official Gazette: "Narodne Novine", No. 2/1990 (January 17, 1990).

previously referred to certain "para-institutional bodies within Parliament", demonstrate a move toward a more contemporary understanding of the role of a representative and legislative body.[267] The initiative for a new constitution also arose from the awareness that partial amendments could not bring about the required level of change. Therefore, it became necessary to draft an entirely new constitutional text. Therefore, following the multi-party elections held on April 22 and May 6, 1990, under the 1974 Constitution of the Socialist Republic of Croatia and the Law on the Election and Recall of Delegates and Representatives, the highest representative body of the Republic decided on July 25, 1990, to begin preparing a new Constitution, acting on a proposal from the Presidency of the Republic. [268]

Drafting the new Constitution proved to be an especially complex task. It needed not only to incorporate democratic values and the rule of law, but also to ensure both internal and external stability, respond to the political realities of the period, and anticipate Croatia's transition toward a democratic political system combined with a market economy. The difficulty of this process is reflected in the fact that six different constitutional proposals were prepared before the adoption of the final "Christmas Constitution", starting with the so-called "Krk Constitution".[269] The German constitutional theorist Peter Häberle later characterized the Croatian Constitution as a "pioneer constitution" among Eastern European countries, emphasizing that its accomplishments can only be properly understood within the specific context of its creation. He pointed out that, unlike many other constitutions in the region, it was not modeled on the transitional experiences of other post-socialist states.[270]

One of the central questions during the drafting phase was the choice of the system of government. Discussions about whether more power should be assigned to the parliament or to the president took place within the Parliamentary Committee on Constitutional Affairs, the Constitutional Commission, and eventually in Parliament itself. The main issue revolved around selecting either a parliamentary system, with a dominant legislature and a weaker president, or a

[267] Amendments LXIV to LXXV to the Constitution of the Socialist Republic of Croatia are available in the Official Gazette; "Narodne novine" No. 31/90). Also available on the following link: https://narodne-novine.nn.hr/clanci/sluzbeni/1990_07_31_610.html

[268] Šarin, Duška (2016). Značaj i okolnosti donošenja Ustava Republike Hrvatske (The Significance and Circumstances of the Adoption of the Constitution of the Republic of Croatia). Krčki zbornik 74. pp. 137–138

[269] More detailed on this topic, see: Šarin, Duška (2016), p. 144 and further.

[270] Häberle, Peter (2000). Hrvatski ustav 1991. u europskoj pravnoj usporedbi. Politička misao, Vol XXXVII, br. 1, str. 49-55 (eng. The 1991 Croatian Constitution in the European Legal Comparison). p. 49, op.cit.

presidential system, where the president would hold stronger authority and parliament a more limited role. In the end, the latter option prevailed, as the adopted constitutional text favored a stronger presidential position.[271]

Under the new Constitution, Parliament was structured into two chambers. The House of Citizens (cro. *Vijeće Građana*; later renamed the House of Representatives; cro. *Zastupnički dom*) held legislative power, with its members elected through equal suffrage, while the County House (*cro. Županijski dom*) functioned primarily as an advisory body with the authority to exercise a suspensive veto.[272] During the first decade after the fall of communism, parliamentary elections for the full assembly or its lower chamber were held in 1992 and 1995, following the initial 1990 elections. Elections for the upper chamber took place only twice, in 1993 and 1997, before it was abolished through constitutional reform in 2001. As a result, Croatia operated under a semi-presidential system throughout the 1990s. As leader of the Croatian Democratic Union, President Franjo Tuđman was elected twice in the first round by direct vote. Although his party held a majority in both parliamentary chambers, parliament itself remained weaker than the executive branch and the presidency. This positioned Croatia alongside certain post-Soviet states characterised by so-called "super-presidential" systems, where the president exercises dominant control over other branches of government. [273]

From a theoretical perspective, semi-presidential systems are defined by the dual accountability of the government. In such arrangements, the government is responsible to both the parliament and the president, an approach that was in effect in Croatia between 1990 and 2000. While this feature is seldom explicitly stated in constitutional text (and is not clearly articulated even in the Constitution of the Fifth French Republic), it was expressed in a particularly clear and explicit manner in Croatia's first Constitution.[274]

[271] Bačić, Arsen and Bačić, Petar (2007). Legislature i parlamentarizam (ustavnopravna hrestomatija). Split. Pravni fakultet Sveučilišta u Splitu. 310 p., p. 19-20.
[272] Boban, Davor (2016). The Croatian Parliament and the Transformation of the Political System. In: Democratization in the Western Balkans, Promoting Multi-Ethnic Open Societies to Counter Radicalization and Polarization. (Esch Valeska, ed.). Berlin: The Aspen Institute, Germany. Pp. 32-38, p. 33
[273] Boban (2016). pp. 33-34
[274] Kasapović, Mirjana (2007). Komparativna istraživanja polupredsjedničkih sustava u srednjoj i istočnoj Europi: Problemi koncepcijske rastezljivosti, selekcijske pristranosti, tipologiziranja i denominiranja. Hrvatsko politološko društvo. Anali Hrvatskog politološkog društva 2006. Godište III, Zagreb, 2007. pp. 27-54. p. 34

However, afterwards, the constitutional changes in 2000 and 2001, among other things, established accountability of the government exclusively to the parliament.

Conversely, when analyzing the first democratic Sabor, Smerdel takes into account the experiences of previous Sabor and warns that it should be cautious against the risk of sidelining the legislative branch, particularly when political attention is centered predominantly on the president, stressing that Parliament's primary function should be to oversee the executive.[275] At the same time, part of the criticism was directed at the very choice of a semi-presidential system; according to Sokol, even if a fully parliamentary model had been introduced from the outset, issues related to the concentration of power would likely have persisted, merely shifting from the presidency to the government.[276]

Overall, although the performance of the first Parliament may be viewed as limited, its shortcomings can largely be understood in light of the specific post-war context in which it operated, setting it apart from the experience of Western European democracies.

5.2.3. Important Legal Framework: Constitutional Provision related to the Croatian Parliament and Cooperation Act

The Croatian Parliament is considered part of the group of relatively small legislatures and is often described as a "debating parliament", meaning that its plenary sessions are accessible to the public through electronic media for anyone interested in political affairs. Operating under such visibility, representatives are effectively engaged, held quite frequently, and approached. At the same time, strong party discipline contributes to highly predictable voting outcomes, even when debates themselves may appear as true delegates and the overall quality of their work.[277] Following the constitutional reforms of 2001, which abolished the County House, the Parliament became unicameral and has remained so ever since. Furthermore, the role of parliament in Croatia's

[275] Smerdel, Branko (1993). Nekoliko poredbenih počela za raspravu o hrvatskom parlamentu. Politička misao, Vol. XXX, No. 4, str. 40-52, pp. 49-50. Available at: https://hrcak.srce.hr/file/163724 (Accessed 5 May 2025)
[276] Sokol, Smiljko (1993). Prijepori oko hrvatskog parlamentarizma. Politička misao, Vol. XXX, No. 4, pp. 24-39. Available at: https://hrcak.srce.hr/111119 (Accessed 5 May 2025)
[277] Ilišin, V., (2001), Hrvatski Sabor 2000.: strukturne značajke i promjene, Politčka misao, Vol XXXVIII, 2001, Br. 2, str. 42-67; (eng. Croatian parliament 2000: structural features and changes, Political thought, Vol XXXVIII, (2001), Nu 2, pp 42-67), Available at: https://hrcak.srce.hr/24923 (Accessed 30 November 2023). p. 46

political system significantly increased in 2000, when the semi-presidential system was replaced by a parliamentary one. The Constitution of the Republic of Croatia[278] defines Parliament's position, as well as the rights and duties of its members, while its internal organisation and procedures are regulated by the Rules of Procedures (Standing Orders). [279] Additionally, relations with the Government on European Union matters are governed by a specific law on cooperation. [280]

The opening section of the Croatian Constitution outlines the historical foundations of the Croatian nation, including the status of minorities. This is followed by fundamental provisions that define the Republic of Croatia and the source of its authority. Article 1, prescribes as follows:

"(1) *The Republic of Croatia is a unitary and indivisible democratic welfare state.*

(2) Power in the Republic of Croatia derives from the people and rests with the people as a community of free and equal citizens.

(3) *The people exercise this power through the election of representatives and direct decision-making.*"

While Article 2 of the Constitution prescribes that:

" (4) *The Croatian Parliament and people shall directly, independently, and in compliance with the Constitution and law, decide upon: 1. the regulation of economic, legal, and political matters in the Republic of Croatia; 2. the preservation of natural and cultural wealth and use of the same; 3. association in alliances with other states.* "

[278] Ustav Republike Hrvatske (pročišćena verzija); The Constitution of the Republic of Croatia (consolidated text), Official Gazette Nos 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10 and 5/14.
The consolidated text of the Constitution of the Republic of Croatia encompasses the Constitution of the Republic of Croatia (as published in the official journal of the Republic of Croatia, Narodne novine, no. 56/90, 135/97, 8/98 – consolidated text, 113/2000, 124/2000 - consolidated text, 28/2001, 41/2001 - consolidated text, 55/2001 - correction) and the Amendments to the Constitution of the Republic of Croatia published in Narodne novine, no. 76/2010, in which the date of their entry into force is indicated, translated into English, can be found on the following webpage: https://www.sabor.hr/sites/default/files/uploads/inline-files/CONSTITUTION_CROATIA.pdf (Accessed at 5 October 2025).
[279] See: Standing Orders of the Croatian Parliament, Official Gazette No. 81/2013.
[280] The Act on the Co-operation between Parliament and the Government on EU Affairs, Official Gazette No. 81/2013

(5) The Republic of Croatia may conclude alliances with other states, retaining its sovereign right to decide upon the powers to be so delegated and the right to freely withdraw therefrom. "[281]

Regarding Parliament's role, the Constitution specifies in Article 8 that any change to Croatia's borders can be decided only by Parliament. Its position is further clarified in Article 71, which states that the Croatian Parliament is the representative body of the people and holds legislative power. Article 72 determines that Parliament must consist of between 100 and 160 deputies elected through direct, universal, and equal suffrage by secret ballot, while Article 73 sets their term of office at four years. Articles 81 and 82 outline Parliament's powers and decision-making procedures, including the requirement that decisions are adopted by a majority vote, provided a quorum is present.[282]

Beyond their regular salaries, deputies enjoy additional legal protections, including immunity from criminal procedures, which allows them to perform their duties without interference from the executive branch. While decisions regarding immunity are made by Parliament, or, when it is not in session, by its Credentials and Immunity Committee. Parliament holds two regular sessions each year, from mid-September to mid-December and from mid-January to mid-July, while extraordinary sessions may be convened at the request of the President of the Republic, the Government, or a majority of members of Parliament. The Speaker may also call such a session after consulting parliamentary groups. The Constitution also regulates the dissolution of Parliament and the calling of early elections. A majority of representatives may decide to dissolve Parliament, particularly in situations such as a successful vote of no confidence in the Government or failure to adopt the state budget within 120 days of its proposal. In certain cases, the President of the Republic may dissolve Parliament upon a proposal by the Government, with the countersignature of the Prime Minister and after consultations with parliamentary party groups. However, under Article 105, the President cannot dissolve Parliament if impeachment proceedings have been initiated against them for violating the Constitution.[283]

[281] The Constitution of the Republic of Croatia (consolidated text), Official Gazette Nos 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10 and 5/14.
[282] Ibid.
[283] Smerdel, Branko (2014), The Republic of Croatia (pp. 191-248), Constitutional Law of the EU Member States, Besselink, L., Bovend'Eert, P., Broeksteeg, H., et al. (eds), The Radboud Repository of the Radboud University

Finally, Article 144 (2), introduced in June 2010, establishes that the Croatian Parliament participates in the European legislative process in accordance with the EU founding treaties, affirming the role of national parliaments as recognized by the Treaty of Lisbon. This participation is further regulated by the Law on Cooperation between the Croatian Parliament and the Government in European Affairs and by the Parliament's Standing Orders, covering areas such as monitoring compliance with the subsidiarity principle, involvement in financial agreements, and oversight of bodies like Europol and Eurojust.[284]

The Cooperation Act[285] between the Croatian Parliament and the Government enables the Sabor to take part in the European Union's decision-making process across three key stages. First, it exercises oversight when the Government formulates its positions for meetings of the EU Council's working group. Second, it supervises the preparation of positions for the Council of Ministers. Third, it monitors the Government's preparations for meetings of the European Council, where heads of state and government convene. Through this structure, the Sabor can track the development of EU initiatives, from their initial consideration at the European Council level, through technical discussions in working groups, and subsequent political negotiations in the Council of Ministers, all the way to evaluating final policy outcomes. This system is also significant because it allowed the Sabor to develop its own procedural approach, particularly by selectively reviewing EU documents to streamline its participation in the Union's legislative process. One notable tool for shaping priorities in European affairs has been the adoption of the Work Programme.[286]

An analysis of Croatia's parliamentary system in the EU context further shows that relations between the Sabor and the Government are formally organized according to a mandate-based model, in which the Parliament holds institutional primacy. This is especially evident in the Sabor's

Nijmegen, Kluwer and Wolters Business, Denver; Available at: https://hdl.handle.net/2066/133942. (Accessed: 15 October 2025), p. 213 and further.

[284] Briški, Tatjana and Špiljak, Jelena (2014), Posredno uključivanje nacionalnih parlamenata u europski zakonodavni process: prioritet Hrvatskog Sabora u europskim poslovima, Suvremene teme: međunarodni časopis za društvene i humanističke znanosti, Vol. 7 No. 1, 2014, pp. 7-28, Available at: https://hrcak.srce.hr/clanak/195119 (Accessed: 25th of September 2025), p. 16

[285] Full name of the Act: The Act on Co-operation between the Croatian Parliament and the Government in the EU Affairs. Cro. Zakon o suradnji Hrvatskog Sabora i vlade Republike Hrvatske u Europskim poslovima, published in the official gazette of the Republic of Croatia, Narodne novine, under No. 81/2013. Available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2013_06_81_1698.html (Accessed 7 May 2025).

[286] Briški and Špiljak (2014), pp. 17-18

authority to issue binding instructions requiring the Government to represent a specific position at the EU level, thereby reinforcing its independent supervisory role over Croatia's actions within the Union. Importantly, once the Sabor, or, through delegation, its Committee on European Affairs, adopts a conclusion on a particular matter, the Government can no longer follow its earlier position and must instead act in accordance with the parliamentary decision. Constitutional provisions, particularly Article 144(3), confirm the existence of this mandate-based model of indirect parliamentary involvement. Although the Constitution does not explicitly refer to "binding mandates", it establishes that the Sabor may adopt conclusions that guide the Government's conduct within EU institutions. The use of the term "conclusion" is especially relevant, as the Act on Cooperation gives such acts binding force by obliging the Government to inform the Sabor if it departs from the agreed position. At the same time, the Sabor is not legally required to adopt such conclusions, as doing so remains entirely at its discretion.[287]

A crucial element of mandate-based parliamentary oversight is its timing, specifically, whether control is exercised before (ex ante) or after (ex post) decisions are made. By definition, a mandate system relies on ex ante control. Both legislative practice and the Act on Cooperation indicate that the Sabor indeed exercises this type of early-stage supervision, intervening at the initial phases of EU decision-making. Additionally, Croatia's constitutional framework establishes a functioning parliamentary system by ensuring Government accountability to the Sabor, including both collective responsibility and the individual accountability of the Prime Minister and ministers. Nevertheless, despite this formal predominance of the legislature, in practice the executive often holds greater influence, as evidenced by the fact that more than 90% of legislative proposals considered by the Sabor originate from the Government. [288]

It should also be emphasized that, in line with broader European trends, parliaments frequently do not fully utilize the powers available to them, and the Sabor is no exception. In practice, it tends to adopt conclusions supporting Government positions on EU legislative proposals, while often failing to issue conclusions regarding positions for EU Council meetings. As a result, it misses opportunities to reinforce democratic accountability of the executive. Earlier studies on national parliaments have generally focused on legal frameworks and found that

[287] Briški and Špiljak (2014), p. 21
[288] Ibid.

effective oversight is most likely when two conditions are met: strong parliamentary committees and relatively late EU accession. Croatia meets both criteria, having joined the EU at a later stage and possessing well-established parliamentary committees, particularly the Committee on European Affairs, which is entrusted with managing EU-related matters on behalf of the Sabor.[289]

5.2.4. The Pre-accession period

Croatia had already in the late 1990s, begun to intensify its relations with the EU, while some further substantial progress was made during the 2000s. Namely, at the beginning of the 2000s, following the electoral victory of the opposition in both parliamentary and presidential elections, Croatia entered a new phase marked by a stronger orientation toward parliamentarism and constitutional reform. The new governing coalition sought to reduce the extensive powers previously held by the president under the 1990 Constitution and to address the negative economic consequences associated with the earlier system. The aim was to redefine the balance between the legislative and executive branches and to develop a more suitable model of parliamentary governance. In this context, President Stjepan Mesić and Prime Minister Ivica Račan were tasked with reshaping institutional relations, a process that proved more demanding than initially anticipated.[290] Subsequent constitutional amendments adopted under the new administration strengthened the role of Parliament while also clarifying the position of the executive. Taken together, these changes contributed to the establishment of a more balanced and democratic political and institutional framework, marking a significant step forward in the country's democratization.[291]

However, some scholars have pointed to persistent shortcomings in the functioning of Parliament during this period. Among them, Boban emphasizes issues related to the performance and structure of political parties. Since the introduction of a multi-party system, parties have not consistently fulfilled key roles such as articulating social interests, representing different segments of society, linking citizens with the state, and preparing members for public office. A second issue

[289] Ibid.
[290] Bačić, Arsen and Bačić, Petar (2007), Legislature i parlamentarizam (ustavnopravna hrestomatija); eng. Legislatures and Parliamentarism (Constitutional and Legal Chrestomathy). Faculty of Law Split. pp. 24-25
[291] Ibid., pp. 24-25

concerns Parliament's limited influence in decision-making. Although the new governing coalition restructured the political system, the executive branch remained dominant, while Parliament's role was comparatively weaker. The use of closed electoral lists (in place until 2015), determined by party leadership, further reinforced party control over representatives and reduced Parliament's capacity for independent oversight. A third issue relates to longer-term structural challenges, including the assumption, common in academic literature, that a strong parliament combined with a constrained executive presidency provides the most effective foundation for democratic consolidation.[292]

The renewal of democratic processes coincided with Croatia's increased international engagement and the revival of its EU accession path. The European Union strongly supported the reform efforts of the new government, along with the expansion of Croatia's political, economic, and cultural cooperation abroad. Key milestones in this process included the opening of accession negotiations, the granting of candidate status, and membership in NATO. The beginning of formal accession efforts can be traced to the Zagreb Summit 2000, where EU member states and five Southeast European countries endorsed the objectives of the Stabilization and Association Process. Negotiations on the Stabilization and Association Agreement (hereinafter: SAA) between Croatia and the EU followed shortly thereafter, culminating in its signing in 2001.[293] The SAA was generally considered to be a sui generis international treaty, as it primarily served as a legal framework for regulating pre-accession relations with the EU, but it was also directly applied by courts and other bodies, which was in accordance with the provisions of Article 141 of the Constitution of the Republic of Croatia, which regulates the application of international law, and which also grants primacy to EU law.[294]

Parallel to addressing post-war challenges, Croatia initiated the process of aligning its domestic legislation with EU law. In 2002, Parliament amended its Standing Orders to require that all draft laws intended for harmonization with EU legislation be marked as "P.Z.E.". Such

[292] Boban, Davor (2016). pp. 35-36
[293] Thorp, Arabella (2011), Croatia: the closing stages of EU accession, House of Commons Library, pp. 2-8. Available at: https://commonslibrary.parliament.uk/research-briefings/sn06157/.p. 3
[294] Bačić, Petar (2023), Chapter IV: On Croatian Constitutional Identity and European Integration, In: András Zs. Varga - Lilla Berkes (ed.) Common Values and Constitutional Identities- Can Separate Gears Be Synchronised?, pp. 105-133. Miskolc-Budapest, Central European Academic Publishing, pp. 115-116. Available at: https://books.ceapublishing.hu/index.php/ceaprofnet/catalog/book/34 (Accessed 20 June 2025)

proposals were typically adopted through a shortened legislative procedure, involving a single reading and reduced timeframes for parliamentary review. Oversight of this process was entrusted to the European Integration Committee, established in 2001, which monitored the compliance of these proposals with EU standards, while sector-specific committees evaluated their substantive content.[295] At the same time, Croatia undertook extensive reforms across key areas of public policy, including public finance, pensions, social welfare, education, healthcare, and taxation. Although these reforms were not always consistent or fully completed, they went beyond political rhetoric and produced tangible results.[296]

A significant benchmark in assessing Croatia's progress was the publication of the first report on the Stabilization and Association Process by the European Community on April 4, 2002. This report provided a basis for evaluating Croatia's advancement in comparison with other countries. It highlighted the importance of meeting political criteria, particularly in areas such as regional cooperation, human rights, minority protection, and adherence to democratic principles and the rule of law. While the report found that Croatia's democratic institutions were generally functioning satisfactorily, it identified serious weaknesses in the judiciary, including organizational deficiencies, procedural inefficiency, lack of expertise, and excessively lengthy proceedings. Limited progress in addressing these issues was noted, indicating the need for substantial reform, especially given their direct impact on the effective implementation of the rule of law.[297]

5.2.5. The accession period

The Croatian Parliament adopted the Resolution on the Accession of the Republic of Croatia to the European Union on 18 December 2002. Shortly thereafter, on 21 February 2003,

[295] Butković, H. (2015), The Croatian Parliament in the European Union: Ready, Steady, Go! The Palgrave Handbook of National Parliaments and the European Union (Chapter 23; pp. 462-477), Hefftler C., Neuhold, C., Rozenberg, O. and Smith, J.(eds) Palgrave Macmillan. Available at: https://doi.org/10.1007/978-1-137-28913-1_23, (Accessed: 26 September 2023). p. 463.
[296] Maldini, Pero (2019), Croatia and the European Union, Oxford Encyclopedia of European Union Politics, Oxford University Press, Oxford, UK, pp.1-26, p. 9.
[297] Rodin, Siniša (2003), Croatian accession to the European Union: the transformation of the legal system, Ott, K. (Ed.), Vol. 1, Economic and legal challenges (pp. 223-248), Zagreb: Institute of Public Finance, Zagreb. Available at: https://www.ssoar.info/ssoar/bitstream/handle/document/6172/ssoar-2003-rodin-croatian_accession_to_the_european.pdf?sequence=1 (Accessed: 3 November 2025). p. 230.

Croatia formally submitted its application for EU membership in Athens. The process advanced on 18 June 2004, when the European Council granted Croatia candidate status at its Brussels meeting. Further guidance was provided by the European Commission, which issued the Pre-Accession Strategy for Croatia on 6 October 2004, outlining the necessary steps and conditions for full membership. On 16 March 2005, the Council of Ministers approved the Negotiating Framework for Croatia, and formal accession negotiations began on 3 October 2005 at the EU–Croatia Intergovernmental Conference.[298]

The initial phase of negotiations consisted of the so-called screening process, which lasted until 18 October 2006 and involved a detailed assessment of the compatibility of Croatian legislation with EU law. This was followed by the main phase, during which Croatia, as a candidate country, was required to accept the conditions for adopting and implementing the acquis communautaire. Despite being referred to as "negotiations", this stage did not involve bargaining over the substance of EU law; rather, it focused on determining the timetable for its implementation. In earlier enlargement rounds, the acquis had been divided into 31 chapters, but for Croatia, this number was expanded to 35, reflecting a broader and more demanding framework. As a result, Croatia faced more extensive requirements than previous candidates. During this period, Croatia also became a member of NATO in 2009.[299]

One of the main difficulties in the accession process lay in the evolving nature of the acquis itself. EU law continued to develop throughout the negotiations, requiring constant adjustments by the candidate country. This created particular challenges in situations where Croatia was expected to align its legislation with new legal instruments, often directives, within specified deadlines, sometimes even before existing member states were required to do so. In such cases, the objectives were clear, but the practical guidance for implementation was not always sufficient. The EU also introduced a revised negotiation approach that placed greater emphasis on institutional capacity, legal alignment, and demonstrated implementation (track record). Croatia was required to meet

[298] Barić, Sanja and Ružić, Lena (2008), Sekundarno zakonodavstvo EU i parlamentarni nadzor nad nacionalnom egzekutivom, (eng. The EU Secondary legislation and parliamentary supervision of the national executive), Zbornik Pravnog fakulteta Sveučilišta u Rijeci (1991), v. 29, br. 2, 787-824; Available at: https://hrcak.srce.hr/file/63799 (Accessed: 4 November 2025). p. 819

[299] Maldini, Pero (2019). Croatia and the European Union, Oxford Encyclopedia of European Union Politics, (pp.1-26), Publisher: Oxford University Press, Oxford, UK, DOI:10.1093/acrefore/9780190228637.013.1101, (Accessed: 26 September 2023) Maldini, 2019, p. 11

numerous benchmarks before individual negotiation chapters could be opened or closed. The European Commission developed detailed guidelines covering several hundred such conditions. However, these benchmarks were not always clearly defined, which occasionally made it difficult to determine whether they had been fulfilled. Their use also meant that many chapters could not be opened until preliminary conditions were met, effectively shifting the burden of compliance to the early stages of the process.[300]

In addition, Croatia had to engage with a larger number of member states and a more complex body of legislation than earlier candidates. Each negotiation position required agreement not only within EU institutions but also among the member states, which prolonged the process. At times, individual states introduced additional demands during discussions in the European Council, further complicating negotiations and reducing the Commission's influence.[301]

Throughout the accession period from 2005 to 2011, the Croatian Parliament played an important role in maintaining political consensus. The process itself was not without interruptions, including delays caused by Slovenia's unilateral blockage and concerns regarding cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). At the same time, the legislative dimension of accession often reduced Parliament's role to that of approving complex, largely technical measures, leaving limited scope for broader policy debate or more substantive oversight of the Government.[302]

When it comes to constitutional changes, there are several important constitutional amendments that have been made regarding further progress. Firstly, in 2010, the Constitution was amended to include a new chapter (Chapter VIII), titled "European Union" as part of preparations for EU membership. This amendment was drafted by a group of experts and submitted for political approval. It consists of four articles, along with a provision specifying that it would take effect upon Croatia's accession to the EU. These articles address key aspects of EU membership: the first establishes the constitutional basis for joining the Union (and is also relevant for future treaty

[300] Emmert, Frank and Petrović, Siniša (2014). The Past, Present, and Future of EU Enlargement, Fordham International Law Journal, Vol. 37, Issue 5, pp. 1349-1420, Available at: https://ir.lawnet.fordham.edu/ilj/vol37/iss5/2 (Accessed: 29 September 2025). pp. 1392-1393

[301] Butković, Hrvoje, Samardžija Višnja (2014), Challenges of continued EU enlargement to the Western Balkans-Croatia's experience, Economics and Business Review, January 2014, Poznan University of Economics Reviews, Vol. 14, No. 4, p. 98

[302] Škrabalo, Marina (2012), Open Parliaments Bulletin 2012- Croatia, SEE; Dialogue South-East Europe, Schubert, R. (ed.); Transparency and Accountability of Parliaments in South-East Europe; December 2012, pp. 45-62. p. 45

amendments), the second outlines the roles of Croatian institutions within the EU and provides a basis for regulating these relations by law, the third governs the relationship between national and EU law, and the fourth defines rights of citizens derived from EU membership.[303]

The second one is related to strengthening the constitutional guarantee of the independence of the State Audit Office. This change followed the European Commission's assessment that oversight of political party financing had been inadequate, which led to transferring certain supervisory responsibilities to the State Electoral Commission. The Constitution in Article 54 explicitly safeguards the independence of the State Audit Office. Another significant amendment involved reinforcing the position of the Ombudsman as an independent institution responsible for protecting human rights, as prescribed in Article 93 of the Constitution. In addition, the Constitution establishes in Article 53 the independence of the Croatian National Bank, which was an important requirement for participation in the European system of monetary policy.[304]

On the other hand, further essential reform focused on enhancing the protection of human and minority rights through broader institutional and legislative changes, which strengthened the framework for political and civil rights.[305] In the end, as noted by Ćapeta, Croatia, as the EU's newest member at the time, entered a legal system with elements resembling a federal structure. This was reflected in its Constitution, which incorporated fundamental principles of EU law, including the direct effect of EU rules and their primacy over national legislation. Even when not expressly stated, these principles were integrated into the constitutional system. In practice, where questions or conflicts between domestic law and EU law have arisen, ordinary courts have played a central role, generally upholding the core principles of EU law.[306]

[303] Ćapeta, Tamara, (2020), Croatian Constitution in EU Integration, Member States' Constitutions and EU Integration, Griller, M. Claes, L. Papadopoulou & R. Puff (eds.), Oxford, Hart Publishing, Available at: https://www.academia.edu/41886150/Croatian_Constitution_in_EU_Integration, (Accessed 27 November 2023), p. 8
[304] See: Odluka o proglašenju promjene Ustava Republike Hrvatske, od 16.lipnja 2010., Narodne novine: No. 76/2010. Available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2010_06_76_2214.html (Accessed 20 May 2025)
[305] Regarding the rights of national minorities, there has been a Decision on promulgation of Constitutional Law amendments on the rights of National minorities of the Croatian Sabor, from 16th June 2010 (cro. Odluka o proglašenju Ustavnog Zakona o izmjenama I dopunama Ustavnog Zakona o pravima nacionalnih manjina), Official Gazette of the Republic of Croatia, No. 80/2010. Available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2010_06_80_2275.html (Accessed 9 May 2025)
[306] Ćapeta, Tamara (2020), Croatian Constitution in EU Integration, In: Member States' Constitution and EU Integration, (eds. Griller, M. Claes, L. Papandopoulou and R. Puff). Oxford, Hart Publishing. pp. 28-29

5.2.6. Parliamentary oversight of the Executive and the Working bodies of Sabor

In the question of controlling the Government, according to the Croatian Constitution, several instruments are prescribed in Article 86 for parliamentary oversight. According to the first paragraph, Members of Parliament (MPs) have the right to put parliamentary questions to the Government of the Republic of Croatia as well as to individual ministers. While in the second paragraph, it is prescribed that at least one-tenth of the MPs may initiate an interpellation concerning the work of the Government or one of its members. An interpellation allows for a debate during a parliamentary session on the overall activities of the Government or on a specific decision taken by the Government or a ministry, particularly when such action departs from established policies or from the general approach to implementing laws.[307] The detailed procedure governing interpellation is further regulated by the Standing Orders of the Croatian Parliament, specifically in Chapter V, Part Seven (Articles 145 to 151). [308]

From the outset of Croatia's path toward EU membership, the Croatian Parliament and several of its working bodies played an important role in managing European affairs. In the early 2000s, Parliament created its first specialized body in this field, the European Integration Committee. Its main task was to supervise cooperation with the European Union and to monitor the alignment of Croatian legislation with the acquis communautaire. In practice, the Committee reviewed draft laws marked as P.Z.E., focusing not on their substantive content but on accompanying documents such as statements of compliance and comparative analyses, in order to assess the degree of harmonization with EU law. Croatia's formal contractual relationship with the EU began with the signing of the Stabilization and Association Agreement in October 2001, which was ratified by Parliament later that year and entered into force in 2005 after approval by all EU member states and the European Parliament. [309] From 2004, when Croatia obtained candidate status, the Committee also participated as an observer in COSAC meetings. In addition, it monitored the implementation of international obligations, followed EU assistance and

[307] The Constitution of the Republic of Croatia (consolidated text), Official Gazette Nos 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10 and 5/14.

[308] The Standing Orders of the Parliament (cro. Poslovnik Hrvatskog Sabora), Official Gazette No. 81/2013., 113/2016., 69/2017., 29/2018., 53/2020., 119/2020., 123/2020. and 86/2023. Consolidated and translated version is available at the webpage of the Croatian Parliament under the following: https://www.sabor.hr/en/information-access/important-legislation/standing-orders-croatian-parliament-consolidated-text (Accessed 9 May 2025).

[309] Bačić, A., Bačić, P. (2007), Legislature i parlamentarizam (ustavnopravna hrestomatija); eng. Legislatures and parliamentarism (constitutional and legal chrestomathy); Faculty of Law Split. pp. 97-99

cooperation programs, and engaged with other institutions involved in European integration. The Committee remained active until Croatia joined the EU on 1 July 2013.[310]

Alongside this body, two additional parliamentary committees were established, each with a distinct role in the accession process. The first was the Joint Parliamentary Committee, composed of members of both the European Parliament and the Croatian Parliament. Created in 2004 within the framework of the Stabilization and Association Agreement, it served as a platform for dialogue and communication about the accession process to both Croatian and European audiences. Its membership reflected the political composition of both parliaments. Meeting twice a year, the Committee addressed issues related to Croatia's accession as well as broader topics concerning the functioning and development of the EU, including questions of security, stability, and cooperation in foreign and security policy. It regularly adopted joint declarations and recommendations.[311]

The second body, the National Committee, was established in 2005 with the purpose of overseeing the political aspects of accession negotiations and facilitating cooperation between the Government and parliamentary parties. Its creation reflected a broad political consensus that EU membership was a strategic objective and that the process required transparency and coordination between the two branches.[312] The Committee monitored the course of negotiations, issued opinions on proposed negotiating positions, reviewed reports on progress, and assessed the performance of negotiation teams. It also maintained regular consultations with key political actors, including the President of the Republic, the Prime Minister, and the Speaker of Parliament, as well as with chief negotiators and other officials. This body remained active until the conclusion of negotiations in June 2011. In addition to these three bodies, a number of other parliamentary committees contributed to the accession process and continue to operate today. Among them, the most significant is the European Affairs Committee (EAC), established on 1 July 2013 following

[310] Hrvatski Sabor (2025), 7. saziv Hrvatskoga sabora (22.12.2011. - 28.12.2015.) Odbor za europske integracije. Available at: https://www.sabor.hr/hr/radna-tijela/odbor-za-europske-integracije-7-saziv (Accessed: 29 November 2025)

[311] Bačić, Petar (2016), National parliaments and the European parliament: The Croatian parliament and the EU affairs, 53-69 pp, EL PARLAMENTARISME EN PERSPECTIVA HISTORICA, PARLAMENTS MULTINIVELL, VOLUM I, Sebastian Serra Busquets and Elisabeth Ripoll Gil (eds.), Parlament de les Illes Balear, Institut d'Estudis. p. 64

[312] Croatian Parliament (2025), Sabor in the EU Accession Process, official webpage. Available at: https://www.sabor.hr/en/european-affairs/sabor-eu-accession-process (Accessed: 25 October 2025)

Croatia's entry into the EU. [313] This Committee functions as the central parliamentary body responsible for European matters. It consists of 17 members, including a chair and two deputy chairs, one representing the parliamentary majority and the other the opposition, making it unique among parliamentary committees.[314] The EAC's structure and responsibilities are defined by the Parliament's Standing Orders. Its core functions include coordinating parliamentary activities related to EU affairs, reviewing EU documents and Croatia's positions on them, adopting conclusions where appropriate, and monitoring Government reports on meetings of the EU Council. It also participates in the nomination of Croatian representatives to EU institutions, oversees compliance with the subsidiarity principle, and adopts the Work Programme for considering Croatia's positions in EU matters.[315]

Finally, it can be concluded that, compared to the earlier European Integration Committee, which focused primarily on aligning national legislation with existing EU law, the European Affairs Committee is involved in shaping Croatia's role in the development of new EU policies.[316] This shift illustrates how the Croatian Parliament has evolved from a body mainly tasked with transposing EU rules into domestic law into a more active participant in European decision-making. Despite the formal conclusion of negotiations on 30 June 2011, Croatia had not fully met all political criteria for membership, particularly regarding the stability of institutions, the rule of law, and the protection of minorities. A key issue was the incomplete implementation of obligations arising from the acquis, which affected the consistency of institutional functioning. As a result, the EU decided to continue monitoring Croatia’s progress even after negotiations had ended and following the signing of the Accession Treaty. This post-negotiation oversight,

[313] Hrvatski Sabor (2023), Odbor za Europske poslove obilježio 10 godina rada. On the 1st of July 2023, it was the 10th anniversary of forming this committee as well as the 10th anniversary of Croatia entering the EU. Available at: https://www.sabor.hr/hr/press/priopcenja/odbor-za-europske-poslove-obiljezio-10-godina-rada

[314] Bačić, Petar (2016), National parliaments and the European parliament: The Croatian parliament and the EU affairs, 53-69 pp, EL PARLAMENTARISME EN PERSPECTIVA HISTORICA, PARLAMENTS MULTINIVELL, VOLUM I, Sebastian Serra Busquets and Elisabeth Ripoll Gil (eds.), Parlament de les Illes Balear, Institut d'Estudis Autonomics. pp. 65-66

[315] Hrvatski Sabor; Croatian Parliament (2025), 10th term of Croatian Parliament (22 July 2020). Available at: https://www.sabor.hr/en/committees/european-affairs-committee-10-term (Accessed: 25 October 2025)

[316] Bačić, Petar (2016), National parliaments and the European parliament: The Croatian parliament and the EU affairs, 53-69 pp, EL PARLAMENTARISME EN PERSPECTIVA HISTORICA, PARLAMENTS MULTINIVELL, VOLUM I, Sebastian Serra Busquets and Elisabeth Ripoll Gil (eds.), Parlament de les Illes Balear, Institut d'Estudis Autonomics. p. 66

predicted by Article 36 of the Accession Act, focused especially on obligations under Chapter 23, which concerns the judiciary and fundamental rights. In this context, the sixth parliamentary term played a particularly important role, as it oversaw both the opening and closing of Chapter 23 and the final phase of accession negotiations with the European Union.

5.2.7. Process of the Harmonisation and the Post-accession developments

The entry into force of the Treaty of Lisbon marked an important step in strengthening the position of national parliaments within the European Union. It introduced new mechanisms that enabled their more direct involvement in EU affairs, the two accompanying protocols (Protocol No. 1 on the role of national parliaments and Protocol No. 2 on the application of the principles of subsidiarity and proportionality), which set out the framework for such participation. Under these provisions, EU institutions are required to forward legislative proposals directly to national parliaments, which then have eight weeks to issue a reasoned opinion if they consider that a proposal does not comply with the subsidiarity principle. The effectiveness of this procedure depends not only on meeting the deadline but also on the strength of the arguments presented. [317]

One of the key aims of the Lisbon Treaty was to address the so-called democratic deficit by expanding the role of national parliaments, which had previously been limited mainly to indirect oversight of EU activities. Croatia provides a useful case for examining these changes, as it was the first country to join the Union after the Treaty entered into force. Despite the new opportunities for direct participation, the Croatian Parliament has continued to focus primarily on monitoring the actions of the Government within EU institutions. This approach reflects established domestic priorities and may also be linked to the fact that Croatia did not participate in the earlier phases of the Treaty's development and implementation. The Lisbon framework allows national parliaments to participate directly in several areas, including treaty amendments, the use of certain decision-making clauses, and the monitoring of subsidiarity through the early warning mechanism. In

[317] As it was mentioned earlier, since 2009, national parliaments have shared two votes within the framework of the EWM; in bicameral systems, each chamber has one vote. A 'yellow card' is activated when one-third of the total votes, and one-fourth of the votes in the Area of Freedom, Security, and Justice, are accounted for by the reasoned opinions that NP submit to the European Commission within the eight weeks following the transmission of an EU legislative proposal. If this amount is equal to half of the total votes cast, it is the “orange card“. The Commission has not yet received an orange card.

Croatia, these functions are mainly carried out by the European Affairs Committee, although the procedure may be initiated by individual members of Parliament, parliamentary groups, committees, or the Government.[318]

An example of this mechanism in practice occurred in October 2014, when the Committee issued a reasoned opinion finding that several EU legislative proposals in the field of waste management were not in line with the subsidiarity principle. The Committee argued that the proposals did not sufficiently take into account differences between national systems and could negatively affect balanced development across member states. Although the opinion was submitted within the prescribed timeframe, only a small number of national parliaments expressed similar concerns, and the threshold required to trigger a formal "yellow card" procedure was not reached. [319]

In the same year, the Croatian Parliament also contributed to the Commission's political dialogue by submitting three opinions on various legislative initiatives, including the establishment of the European Public Prosecutor's Office, the application of subsidiarity in legislative procedures, and amendments to regulations concerning food supply programs in educational institutions.[320] The Croatian Parliament became more visibly involved in the early warning mechanism during the so-called third "yellow card" procedure, which concerned proposed amendments to Directive 96/71/EC on the posting of workers. In this case, a sufficient number of national parliaments, 14 chambers from 11 member states, raised objections, including Croatia. [321] The European Affairs Committee argued that the proposal lacked adequate justification in terms of subsidiarity and proportionality, restricted the freedom to provide services, and created legal uncertainty due to overlaps with existing legislation. Despite these concerns, the European Commission maintained its proposal, concluding that the issue of posted workers required action at the EU level. This episode has been interpreted by some scholars as evidence of increased

[318] Briški and Špiljak (2014), pp. 7-9
[319] Goldner Lang, Iris; Đurđević, Zlata and Mataija, Mislav (2019), The Constitution of Croatia in the Perspective of European and Global Governance, pp. 1139-1177, A. Albi and S. Bardutzky (eds.), National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law, pp. 1148-1149. pp. 1148-1149.
[320] Goldner Lang, Iris; Đurđević, Zlata and Mataija, Mislav (2019), p. 1149
[321] IPEX (2025), Reasoned opinion of Croatian Parliament, European Affairs Committee from 5th of May 2016, Available on the following link: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-0128/hrhrv (Accessed 24 October 2025)

coordination among national parliaments, particularly those from Central and Eastern Europe, which appeared to act collectively in expressing reservations about certain proposals.[322]

Since joining the Union, the Croatian Parliament has also introduced a regular publication, the "European Affairs Bulletin" (cro. *Bilten Europski poslovi u Hrvatskom Saboru*), which provides an overview of EU-related activities, including received documents and interparliamentary cooperation.[323] In recent years, Croatia has faced several demanding situations that required prompt institutional responses. These included the COVID-19 pandemic and the earthquake in Zagreb in 2020. During the same period, Croatia held the rotating presidency of the Council of the European Union for the first time, from January to June 2020. This role involves chairing Council meetings (with the exception of foreign affairs) and representing the Council in its relations with other EU institutions. Presidencies are organized in groups of three member states, which coordinate their priorities over an 18-month period; Croatia formed part of a trio with Romania and Finland.[324]

During its presidency, Croatia focused on four main priorities: strengthening connectivity, supporting development, enhancing security, and promoting the EU's global role. The period was marked by several broader challenges, including institutional changes within the EU, the consequences of the United Kingdom's withdrawal from the Union, negotiations on the Multi-annual Financial Framework for 2021-2027, climate-related concerns, and increased migration pressures at the EU's external borders.[325] Further developments followed in 2023. After receiving support from the European Parliament, Croatia joined the Schengen Area on 1 January 2023, thereby becoming part of the EU's free movement zone. On the same date, it also adopted the euro as its official currency, marking another step in its integration into the Union.

Under the EU's founding treaties, national parliaments are tasked with ensuring that proposed legislation respects the principle of subsidiarity. In Croatia, this function is performed

[322] Fromage, Diane, and Kreilinger, Valentin (2017). National parliaments' third yellow card and the struggle over the revision of the Posted Workers Directive, European Journal of Legal Studies, Vol. 10, No. 1, pp. 125-160. p. 146.
[323] Hrvatski Sabor (2025) European Affairs Bulletin, Official page. Available at: https://www.sabor.hr/en/european-affairs/european-affairs-bulletin (Accessed 20 October 2023)
[324] Hrvatski Sabor (2025), Parliamentary Dimension of the Council Presidency, official website. Available at: https://www.sabor.hr/en/european-affairs/parliamentary-dimension-council-presidency (Accessed: 30 October 2023)
[325] Bandov, Goran (2020). 'Croatia's EU Presidency: A strong Europe in a world of challenges', Wilfried Martens Centre for European Studies, European View 2020, Vol. 19(2), 188-196. pp. 188-189.

by the European Affairs Committee of the Croatian Parliament.[326] The Committee may examine legislative proposals forwarded by the Speaker, either on its own initiative or at the request of members of Parliament, parliamentary bodies, or party groups, within the eight-week deadline. When the Committee adopts a reasoned opinion, it effectively expresses the view that the proposal does not comply with subsidiarity. Such opinions are then sent to the presidents of the European Commission, the European Parliament, and the Council. If a sufficient number of national parliaments raise similar objections, the Commission must review the proposal. Even after a legal act has been adopted, the Croatian Parliament may adopt a conclusion that enables the Government to bring the matter before the Court of Justice of the European Union.[327]

As one of the first parliaments to shape its procedures in line with the Lisbon framework, the Croatian Parliament has taken an active role in monitoring subsidiarity. This includes participation in the 2013 yellow card procedure concerning the European Public Prosecutor's Office and the 2016 procedure related to the posting of workers. In addition, through the so-called Barroso initiative, it has submitted 17 opinions to the Commission, with the European Affairs Committee and the Committee on Agriculture being particularly active.[328] Beyond this oversight function, Parliament has also played a significant role in aligning national legislation with EU law, adopting numerous P.Z.E. acts during its first decade of membership, with legislative activity reaching its peak in 2018.[329]

[326] More on Sabors's activity, see in the last chapter of the analysis.
[327] For more, see the webpage of the Hrvatski Sabor: Croatian Parliament, European Affairs. Accessed: 25 October 2025. Webpage: www.sabor.hr
[328] Ured za međunarodne I europske poslove, Odjel za europske poslove. Pregled aktivnosti Hrvatskog Sabora u prvih deset godina članstva u Europskoj Uniji (1. Srpnja 2013 -30. Lipnja 2023). 3. Srpnja 2013. (Office for International and European Affairs, Department for European Affairs. Overview of the activities of the Croatian Parliament in the first ten years of membership in the European Union (1 July 2013 - 30 June 2023). Data taken from the records of the Croatian Parliament, from the website:
https://www.sabor.hr/hr/press/javnost-rada/arhiva/10-godina-clanstva-u-eu-pregled-obavljanja-europskih-poslova-od-1-srpnja (Accessed 20 October 2025)
[329] See the official webpage of the Croatian Parliament: www.sabor.hr

5.3. The Hungarian Parliament (Országgyűlés[330])

5.3.1. History of the Hungarian Parliament

The origins of Hungarian parliamentarism can be traced back to early historical sources. As a kind of predecessor of the Hungarian National Assembly, some historical researchers associate it with the 11th century, during the reigns of King László I and King Kálmán, when assemblies were held at the national level, attended by both secular and ecclesiastical leaders. Although the claims that the latter created rules and made decisions support the fact that they could be considered the forerunners of today's Hungarian National Assembly, one should still be cautious in concluding.[331]

The Gesta Hungarorum, a 13th-century chronicle attributed to Anonymus, notes that "the leader and the nobility established common and unwritten laws of the people, regulating how to serve the leader and the nobles, as well as how to adjudicate committed acts." Although Saint Stephen I is regarded as the founder of the Hungarian state, the kings who followed him governed in an essentially absolutist manner, exercising both legislative and executive authority under the principle of ruling "by the will and grace of God". At the same time, assemblies such as church synods were convened at the kingdom level, where decisions of legislative significance were made, and rules were established. A significant step toward limiting royal absolutism occurred in 1222, when Andrew II issued the Golden Bull. This decree required the king to involve the broader nobility in governing the realm, introducing the idea of shared political participation. It also included a clause granting the nobility the right to resist the king lawfully if he violated his

[330] Word that describes most closely in common translation as National Assembly (Országgyűlés, but also Nemzetgyűlés, which also indicates National Assembly). Neither one is completely correct. Historically, during the feudal period, there have been many Latin expressions for the Hungarian parliament, such as *congregatio, conventio, comitia, and diaeta*, mostly used with attributes, in possessive form, or in combination therewith. While the Latin expression *parlamentum* was rather exceptional. Word Országgyűlés has been in use since 1844, when the Hungarian language was made official by Act II of 1844. More on the origin of the word of the Hungarian parliament, see:
Képes, György (2019), The name of the game – the historical names of the Hungarian parliament, Central European Papers 2019/VII/2, pp. 9-32. Available at: https://cep.slu.cz/pdfs/cep/2019/02/01.pdf (Accessed: 20 January 2026)
It should also be careful not to mix the name of the National Assembly with the Hungarian parliament building, which is called Országház (built in a neo-Gothic style), which could be translated as the House of the Nation.

[331] Szente, Zoltán (2007), The Historic Origins of the National Assembly in Hungary, Historia Constitucional (revista electrónica), n. 8, 2007. Available at: https://dialnet.unirioja.es/ejemplar/166590 (Accessed 20 January 2026), pp. 227-244, pp. 229-230

commitments, including by his successors. Inspired by the English Magna Carta, the Golden Bull is considered the first constitutional document in Hungarian history.[332]

Early forms of parliamentary practice appeared in the so-called annual legislative gatherings held at Székesfehérvár, often conducted in open spaces such as the Royal Council or the assemblies at Rákos field. For the aforementioned king's days, i.e., assembly days (these assemblies had a judicial function at that time), the king's jurisdiction was not so strictly limited to passing judgments in individual cases, which soon resulted in the king interpreting and sometimes confirming various laws on the mentioned days. However, since the mentioned days were also an opportunity for those present to express their views and complaints directly to the king, they are also considered a certain tool for controlling the king's power.[333]

A more structured, estates-based parliament was established in 1608, when Matthias II of Habsburg, following his coronation, enacted Act I and laid the groundwork for a bicameral system. From then on, the parliament consisted of two chambers: an Upper Chamber made up of high-ranking clergy, magnates, and royal officials, and a Lower Chamber representing counties, free royal towns, and ecclesiastical bodies. The parliament functioned as the main arena for decisions on legislation, taxation, and military matters, requiring cooperation between the monarch and the estates. This arrangement helped maintain a balance of power and preserve Hungary's autonomy within the Habsburg Monarchy, even though executive authority formally remained with the king. Attempts by later Habsburg rulers to bypass the parliament and impose absolutism were met with resistance, allowing the estates to safeguard their constitutional traditions. Over time, the parliament became a key institution ensuring the continuity of Hungarian statehood, symbolized by the Holy Crown, which was essential for a king's full legitimacy.[334]

---

[332] See Book: Feilt, Irisz et al. (2018), The National Assembly of Hungary 2018. Second, extended edition. (ed. Margit Kerekes). Authors: Irisz Feitl, György Gyarmati, István Kukorelli, Eszter Légrády, Tamás Melkovics, Péter Smuk, István Soltész, Judit Villám. (2018). The history of Hungarian parliamentarism. (István Soltész (The organisation, tasks, and operation of the National Assembly). György Csorba, József Sisa, Tamás Wachsler (The Parliament building and the Main Square of the Nation). Published by: the Office of the National Assembly. PUBLISHER György Such. or https://www.parlament.hu/documents/1779743/0/a_magyarorszaggyules_2019_en.pdf/aa45200e-81aa-bc06-1bb7-ed6ff4fdfd45?t=1579529427870 or www.orszaghazkonyvkiado.hu, p. 9

[333] Szente, Zoltán (2007), The Historic Origins of the National Assembly in Hungary, Historia Constitucional (revista electrónica), n. 8, 2007. Available at: https://dialnet.unirioja.es/ejemplar/166590 (Accessed 20 January 2026), pp. 227-244, p. 230, op. cit.

[334] Feitl, Irisz et al. (2018). The National Assembly of Hungary 2018, pp. 9-15

In the early 19th century, a reform movement emerged, placing the parliament at the center of political life. Many nobles and intellectuals began advocating social and economic modernization, stressing the need to move from a feudal system toward a civic society. A decisive turning point came with the revolution of 1848, when the estates-based parliament was transformed into a modern body grounded in popular representation. The Lower Chamber became the House of Representatives, and elections were conducted under relatively broad suffrage, with about one-third of men eligible to vote, placing Hungary among the more progressive European states in terms of participation. Although suffrage was not universal, the core principles of representative government were established. Parliament gained authority over legislation, finances, military affairs, and oversight of the executive. Even though the revolution was ultimately crushed in a violent conflict with the Habsburgs and their allies, it remains a defining moment, marking Hungary's shift from feudalism toward modern parliamentary governance.[335]

In the late 20th century, the Hungarian National Assembly played a central role in the country's democratic transition and was instrumental in guiding the process of joining the European Union. Its work extended beyond constitutional changes to redefining the balance between the legislative and executive branches. Although the executive later gained greater influence, Parliament continued to serve as a crucial source of democratic legitimacy. After World War II, the institution underwent significant structural changes, alternating between bicameral and unicameral systems while rebuilding its legislative framework. In preparation for EU membership, it also developed a comprehensive system of parliamentary oversight for European affairs. This framework operates across constitutional, legislative, and sub-legislative levels, ensuring that government actions within the EU are subject to scrutiny. Such mechanisms have helped address concerns about the EU's democratic deficit.

5.3.2. The transitional period: On the way to democracy

In the 1990s, political scientists Hibbing and Patterson, examining both the similarities and differences among political systems in Central and Eastern Europe, turned their attention to the origins of parliamentary institutions. They linked these origins mainly to processes of

[335] Feilt, Irisz et al. (2018), The National Assembly of Hungary 2018, p. 9

institutionalization shaped by several shared criteria across the region. An important aspect they emphasized was the fluctuation of public trust in parliaments. At the outset of the democratic transition, trust was generally low, largely due to difficult economic conditions. As economic stability improved and governments proved more capable of addressing earlier challenges, confidence in parliamentary institutions gradually increased.[336]

Therefore, with the end of communism at the end of the 80s, Hungary first introduced changes to the 1949 constitution through an amendment, in order to enable the transformation from a people's republic to a republic based on democratic characteristics (1989). Namely, unlike other post-communist countries, Hungary did not immediately adopt a new constitution (the preamble emphasized that it was a temporary basis of government until a new one was adopted). Thus, the latter constitution, with multiple amendments, was valid until 2010, when it finally managed to gather the necessary parliamentary majority (2/3).[337]

Concerning Hungary, the parliamentary model envisioned by the 1989 Constitution sought to create a strong, competitively dominant legislature, supported by a robust committee system and mechanisms for managing political conflict. However, this framework was short-lived, as the constitutional changes introduced in 1990 significantly altered it. The revised system moved toward a more subordinate legislative model, in which the executive gained considerable influence over lawmaking, despite formal efforts to preserve a balance of power. Over time, the Hungarian Parliament nevertheless played an essential role in the constitutional transformation toward democracy, even if its capacity to check the executive and manage political conflicts remained relatively limited.[338]

From a broader political science perspective, the process of policymaking within the Hungarian Parliament underwent substantial changes during the early years of democracy. The first and second post-transition parliaments were especially important in shaping the country's political environment. Their effectiveness, however, was influenced by structural constraints, ideological

[336] Hibbing, J. R. and Patterson, S.C. (1994), Public Trust in the New Parliaments of Central and Eastern Europe, Political Studies (1994). XLII, pp. 570-592, p. 571

[337] Szabó, István (2022), Chapter 4: The Constitutional Development of Hungary After 1918, In: Comparative Constitutionalism in Central Europe: Analysis on Certain Central and Eastern European Countries. (Csink, L. and Trócsányi, L. eds.), Miskolc-Budapest: Central European Academic Publishing. pp. 73–87, p. 86

[338] Ágh, Attila (1995), The Experiences of the First Democratic Parliaments in East Central Europe, In: Communist and Post-Communist Studies, Vol. 28, No. 2, University of California Press (June 1995), pp. 203-214, pp. 211-212

divisions, and shifting approaches to governance. Despite these challenges, both parliamentary terms contributed to the gradual development of a functioning and democratic legislative system.[339]

Some analysts have drawn comparisons between Hungary's early democratic framework and the German constitutional model, pointing to a relatively balanced distribution of power between the executive and legislative branches. Unlike more traditional parliamentary systems, this arrangement spreads institutional constraints more evenly. Consequently, the government faces notable limitations when attempting to dissolve parliament and is less vulnerable to changes in parliamentary majorities, while the legislature has fewer tools, such as no-confidence motions, to remove the government. This institutional setup has shown considerable resilience. Even after the adoption of a new constitution in 2011, which introduced a range of reforms, the basic balance between the two branches remained largely unchanged. The system continues to operate on the principle of equilibrium, although any legal analysis must also take into account ongoing political developments. In practice, informal political dynamics have often strengthened the executive at the expense of the legislature, sometimes beyond what is formally prescribed by the constitution.[340]

Although such developments do not directly amend the constitutional framework, they nonetheless affect the position and influence of national parliaments. Scholars note that this tendency is particularly visible in Hungary, where the government retains a certain degree of autonomy from parliament. At the same time, their relationship was formally regulated in 2004 through the "EU Consultation Meeting", which led to the adoption of Act LIII of 2004 on cooperation between Parliament and the Government in European Union affairs. This arrangement was later updated by Act XXXVI of 2012, which renamed the institution the Consultative Body on EU Affairs.[341]

[339] Ágh, Attila (1997), Parliaments as Policy-Making Bodies in East Central Europe: The Case of Hungary, International Political Science Review (1997), Vol. 18. No. 4, Sage Publications, Ltd., pp. 417-432, pp. 424-429
[340] Navracsics, Tibor (2021), Europeanisation or simply Institutional Change? The Impact of the EU Membership on the Polity of Hungary, Pro Publico Bono- Public Administration. 4/2021. pp. 6-19, pp. 9-10
[341] Navracsics, Tibor (2021), Europeanisation or simply Institutional Change? The Impact of the EU Membership on the Polity of Hungary, Pro Publico Bono- Public Administration. 4/2021. pp. 6-19, pp. 11-12

5.3.3. Important Legal Framework: Constitutional provisions (The Fundamental Law)[342] and the Cooperation Act [343]

The Hungarian Parliament (the National Assembly) operates as a unicameral body and serves as the highest organ of popular representation, where sovereignty is exercised through elected officials, as defined in Article B(4) of the Fundamental Law of Hungary. This status is reaffirmed in Article 1, which explicitly identifies the National Assembly as a "*supreme organ of popular representation*". [344]

According to Article 2 of the Fundamental Law, parliamentary elections are held in April or May of the fourth year following the previous election cycle, unless early elections occur due to the voluntary or mandatory dissolution of Parliament. Voting customarily takes place on Sundays, and parliamentary mandates last four years, with the exact election date set by the President of the Republic.[345]

The detailed rules governing the electoral system are laid down in a separate statute adopted after the 2011 constitutional reforms, namely Act CCIII of 2011 on the election of Members of the National Assembly.[346] Before this reform, Parliament consisted of 386 members, but the new legislation reduced this number to 199. It also reshaped the electoral system by introducing a three-level structure composed of single-member constituencies, a national compensatory list, and regional multi-member constituencies. Under this system, 106 representatives are elected directly in single-member districts, while the remaining 93 seats are distributed from national party lists. The mixed nature of the system was preserved, with voters casting two ballots, one for an individual candidate and another for a party list, while the second round of voting was abolished to simplify the process. To enter Parliament, parties must obtain at least five percent of the total

[342] The Fundamental Law of Hungary, (as in force on 15 April 2025). English translation (by Ministry of Justice) of the consolidated version incorporating the fifteenth Amendment to the Fundamental Law of Hungary, can be found on the following webpage: https://njt.hu/jogszabaly/en/2011-4301-02-00 (Accessed 20 December 2025)
[343] The legal Act that would functionally be equivalent to the Cooperation Act, in the Hungarian case, which regulates relations between the Hungarian Parliament and the government, is as follows: Act XXXVI of 2012 on the National Assembly. The translated English version is available at the following webpage: https://njt.hu/jogszabaly/en/2012-36-00-00 (Accessed 5 May 2025).
[344] Ibid.
[345] Ibid.
[346] Hungarian National Assembly, Act CCIII of 2011 on the election of the Members of the National Assembly (as in force on 31 December 2024). English translation of the consolidated version (by the Hungarian Ministry of Justice) is available on the official webpage: https://njt.hu/jogszabaly/en/2011-203-00-00 (Accessed 21 December 2025).

vote. The revised rules also tightened the conditions for candidacy and party-list formation, increasing both the number of required supporting signatures and the thresholds for submitting a national list. In addition, specific provisions were introduced for national minorities, enabling them to secure representation through dedicated lists. [347]

As for the mandate of members of Parliament, the rules broadly align with those in other European systems. The Constitution guarantees equal rights and duties for all representatives and emphasizes that they must act in the public interest. It also sets out the grounds for termination of a mandate, including prolonged absence from parliamentary work; in such cases, a two-thirds majority of those present is required to confirm the termination. Similar majority requirements apply when determining conflicts of interest. Existing incompatibility rules prohibit members from holding managerial roles in state or private companies, and they are required to declare their assets.[348]

Beyond these provisions, the Fundamental Law, particularly Article T, establishes a hierarchical structure of legislation consisting of four levels. At the top stands the Fundamental Law itself, followed by acts of Parliament (*törvény*), then government and ministerial decrees (*kormányrendelet and miniszteri rendelet*), which enter into force only after publication in the Magyar Közlöny, Hungary's official gazette, and finally local government regulations (*önkormányzati rendelet*). Most parliamentary decisions are adopted by a simple majority, but so-called "cardinal laws" (*sarkalatos törvény*) require a qualified majority. In practice, when such a majority is lacking, these laws can make it more difficult to amend ordinary legislation, even though no formal hierarchy exists between them in theory. The Fundamental Law also specifies that certain areas must be regulated exclusively by statute, while at the same time allowing Parliament to legislate in fields that were previously unregulated or only partially addressed. Once enacted, a law can be amended or repealed only by another law, which has contributed to the substantial volume of legislation adopted over time. [349]

[347] Tóth, Gábor Attila (2014), Hungary, In: Constitutional Law of the EU Member States (eds. Besselink, Leonard; Bovend'Eeart, Paul et al.) Kluwer, a Wolters Kluwer Business. Deventer, 2014, pp.773-836, pp. 796-798
[348] Tóth, Gábor Attila (2014), Hungary, In: Constitutional Law of the EU Member States (eds. Besselink, Leonard; Bovend'Eeart, Paul et al.) Kluwer, a Wolters Kluwer Business. Deventer, 2014, pp.773-836, p. 798
[349] Szabó, Zsolt (2020), Hungary, In: The Cradle of Laws: Drafting and Negotiating Bills within the Executives in Central Europe. (ed. Zbiral, Robert), Baden-Baden: Nomos, 2020, pp. 85-106, pp. 87-88

Today's National Assembly is a unicameral body, but over the course of its long development, the Hungarian Parliament has alternated several times between unicameral and bicameral forms. From the early 17th century onward, it generally operated as a bicameral body, with an upper chamber made up of clergy and aristocrats, and a lower chamber representing the lesser nobility. Across different periods, however, this structure shifted repeatedly between one and two chambers. In the 19th century, particularly around the time of the 1848 revolution under Habsburg rule, the composition of the lower chamber changed significantly, as it came to include representatives of the broader population, while the designation of the upper chamber evolved somewhat later. In the interwar period, the National Assembly elected in 1929 functioned as a unicameral body consisting only of the lower house. This arrangement was partly a response to earlier issues, including restricted suffrage and the upper chamber's resistance to reforms in its composition. Soon afterward, in 1926, the House of Lords Act reintroduced a second chamber, though its authority was initially curtailed. These limitations proved temporary, as the powers of the upper house were reinstated in 1937. Following World War II, however, a comprehensive restructuring of the political system led to the abolition of the upper chamber in 1945. From that point onward, Hungary has maintained a unicameral National Assembly, a structure that continues to the present day.[350]

Parliament's role in EU affairs is primarily regulated by legislation adopted in 2004 and 2012. Act LIII of 2004 on cooperation between the Government and Parliament in EU matters was a key condition for accession and laid down general principles that were subsequently refined through additional provisions and procedural rules. Act XXXVI of 2012 on the National Assembly provides a more detailed framework, devoting a full chapter to EU-related functions and incorporating elements of the Parliament's internal rules of procedure. This legislation clarifies the oversight process, identifies the actors involved, and defines the procedures governing scrutiny and decision-making in EU matters. Parliament's legislative role is particularly evident in areas where EU law requires national implementation. In addition to the previously mentioned Constitutional provisions, Act CXXX of 2010 on legislation forms part of the relevant legal framework. When EU measures must be transposed into domestic law and fall within the scope of

[350] Szabó, István (2022), Chapter 4: The Constitutional Development of Hungary After 1918, In: Comparative Constitutionalism in Central Europe: Analysis on Certain Central and Eastern European Countries. (Csink, L. and Trócsányi, L. eds.), Miskolc-Budapest: Central European Academic Publishing. pp. 73–87, p. 77-79

these rules, Parliament adopts new legislation or amends existing acts to ensure compliance. In such cases, laws implementing EU obligations carry the same legal status as other national statutes.[351]

5.3.4. The Pre-accession Period: Important Parliamentary Committees

During Hungary's transition toward EU integration in the late 1980s and 1990s, the National Assembly played a central role. As in other Central and Eastern European countries, the parliament was a key institution in the process of democratisation. An important step in reinforcing its position was the 1989 constitutional amendment, which introduced a requirement for a two-thirds majority in certain decisions and limited the ability of the head of state or government to dissolve parliament. Later amendments, however, sought to strengthen the executive by narrowing the scope of a qualified majority requirement and introducing the constructive vote of no confidence. Despite these adjustments, the unicameral parliament remained a cornerstone of Hungary's constitutional system.[352]

A large portion of parliamentary work is conducted within committees made up of members of parliament. These committees may be either permanent (standing) or temporary (such as inquiry or ad hoc committees), and their members are typically specialists in the relevant fields. Their importance is evident both in the breadth of their responsibilities and in their central role in the legislative process. Together with the opposition and governing parties, committees significantly shape policymaking and introduce key legal amendments, whereas the full parliament tends to exert a more moderate level of political influence.[353]

Parliamentary committees function as extensions of the parliament itself. In Hungary, they have traditionally held broader powers compared to their counterparts in many other European countries. The Hungarian constitutional framework granted committees both legislative and

[351] Ilonszki, Gabriella (2015). The Hungarian Parliament and EU Affairs: A Modest Actor Dominated by the Executive, The Palgrave handbook of National Parliaments and the European Union (eds. Hefftler, Neuhold, Rozenberg and Smith), Palgrave Macmillan, 2015, pp. 531- 547, p. 534
[352] Takács, Tamara (2009). Participation in EU Decision Making, Implications on the National Level, T.M.C. Asser Press, Hague, 2009, p. 233-234
[353] Takács, Tamara (2009). "Participation in EU Decision Making, Implications on the National Level", T.M.C. Asser Press, 2009, op. cit. p. 234

political authority by allowing them to initiate and approve legislation, as well as to perform oversight functions, including summoning individuals to provide information on specific matters.[354]

Decisions regarding the establishment of committees, including their number, structure, scope of activity, and membership, are typically made by the National Assembly during its inaugural session. However, since the early 1990s, the configuration of standing committees has often been shaped through agreements among parliamentary groups. Their competencies and organizational details may also be adapted to align with governmental priorities or the internal needs of the National Assembly, such as addressing issues related to the status of members.[355]

While back in the early 1990s, when the National Assembly established 14 standing committees, this number has fluctuated over time. It increased significantly, reaching a peak of 25 committees between 2002 and 2006, before gradually declining again. In recent years (2014-2018), the number stabilized at 14, excluding certain special committees. According to legal provisions and the Rules of Procedure, standing committees are empowered to initiate proposals, express opinions, make recommendations, participate in government oversight, and take decisions based on these activities. Their purpose is not only to support legislative and supervisory functions but also to enhance the efficiency of parliamentary debate by allowing detailed discussions to take place within committees rather than in plenary sessions. Committees may independently initiate debates on issues they consider important and have authority over all matters within the competence of the National Assembly. They also play a key role in personnel decisions through candidate hearings. Although their significance varies, their work is closely tied to the core responsibilities of parliament. Committees may also establish subcommittees to handle specific tasks, particularly in monitoring the implementation and impact of legislation, as well as deregulation processes.[356]

---

[354] Takács, Tamara (2009). "Participation in EU Decision Making, Implications on the National Level", T.M.C. Asser Press, 2009, p. 236. Note: This wider role of committees was the provision of the earlier Hungarian Constitutions, from 1949, so-called Act XX of 1949.

[355] Hungarian National Assembly (2025), About parliamentary committees, Official webpage of National Assembly: https://www.parlament.hu/web/house-of-the-national-assembly/about-standing-committees, asp, 10th January 2025.

[356] Hungarian National Assembly (2025), About parliamentary committees. Official webpage of the National Assembly: https://www.parlament.hu/web/house-of-the-national-assembly/about-standing-committees. asp, 12th January 2025.

Ad hoc committees are typically formed to address current issues, while inquiry committees are established to investigate specific matters in greater depth, often relating to the accountability of the government or individual ministers. The functioning of inquiry committees is regulated in detail by specific provisions of the Law on the National Assembly. One-fifth of the members of parliament may propose the creation of such a committee, after which the Assembly votes on the proposal. Both types of committees may be created and dissolved throughout a parliamentary term, with their mandates defined by parliamentary resolutions.[357]

Another key body supporting the National Assembly since 1990 is the House Committee. It is chaired by the Speaker and includes deputy speakers and leaders of parliamentary groups. Its primary role is to ensure the efficient functioning of the Assembly by organizing its work and maintaining order. Unlike other committees, its main responsibility lies in preparing the conditions necessary for parliamentary decision-making. This includes setting the agenda, determining how proposals will be debated, and planning the schedule of sessions. Its meetings consistently address two main items: the detailed agenda for the upcoming plenary session and the provisional agenda for the next three sessions. The House Committee also provides opinions on issues such as whether debates should be public, addresses disciplinary matters involving members, and may propose deviations from standard procedural rules, including time limits for speeches. Its overall aim is to facilitate smooth parliamentary operations, ideally based on consensus.[358]

5.3.5. The Accession Period and Working Bodies of the Parliament

The process of Hungary's accession to the European Union largely followed the pattern seen in other Central and Eastern European states. It required a broad set of economic, political, and legal reforms, in which the role of the Hungarian Parliament was particularly significant. As a result, the structure of committees has evolved in response to both domestic needs and the stages of European Union integration. During the accession period, the Committee on European

[357] Hungarian National Assembly (2015), About parliamentary committees. Official webpage of the National Assembly: https://www.parlament.hu/web/house-of-the-national-assembly/about-standing-committees. asp, 12th January 2025.
[358] Hungarian National Assembly (2025), About parliamentary committees. Official webpage of the National Assembly: https://www.parlament.hu/web/house-of-the-national-assembly/about-standing-committees. asp, 12th January 2025

Integration was created to oversee and support the integration process, particularly by monitoring accession negotiations and ensuring the alignment of national legislation with EU standards. Following Hungary's accession to the EU on 1 May 2004, this body was renamed the Committee on European Affairs. Its focus shifted toward overseeing government activity in EU matters, reviewing legislative proposals, and representing Hungary's position at the EU level. With the entry into force of the Lisbon Treaty, its responsibilities expanded further to include participation in subsidiarity monitoring procedures, involvement in the Advisory Body for EU Affairs, and engagement in political dialogue with the European Commission.[359]

Following reforms after 2010, the Legislative Committee emerged as a particularly influential body within the committee system. Unlike similar committees in other countries, which primarily focus on ensuring the constitutionality of legislation, this committee plays a broader political role. It effectively acts as a "supercommittee", capable of overriding the majority opinion of other standing committees. Its main task is to prepare consolidated versions of draft laws and preferred amendments. Given that plenary sessions often lack sufficient time for detailed debate, the Legislative Committee assumes a central role in discussing legislative proposals in depth. As a result, plenary sessions may become more formal in nature, typically limited to approving or rejecting proposals developed by the committee. Due to this significant influence, some scholars have described it as a small parliament.[360]

A parliamentary body dealing with EU affairs has existed in Hungary since 1992, although under a different name. Following Hungary's accession to the EU in 2004, it adopted its current title, the Committee on European Affairs. This committee was among the earliest of its kind in Central and Eastern Europe and was initially established as an ad hoc body before becoming a standing committee two years later.[361] From the outset, it was assigned several key responsibilities, most notably decision-making in EU-related procedures, which were later formally regulated in Act XXXVI of 2012 on the National Assembly.[362]

---

[359] Hungarian National Assembly (2025), About parliamentary committees, Official webpage of National Assembly: https://www.parlament.hu/web/house-of-the-national-assembly/about-standing-committees, asp, 10th January 2025.
[360] Szente, Zoltán (2021). "The Twilight of Parliament - Parliamentary law and practice in Hungary in populist times", International Journal of Parliamentary Studies, 1/2021, p. 131-132
[361] Note: The previously mentioned Act XXXVI from 2012 stipulates the permanent establishment of the Committee for European Affairs.
[362] Note: The Act XXXVI of 2012 on the National Assembly defines in Chapter III all necessary details about standing committees, from Section 13 to Section 21. Afterward, in later provisions, it regulates each of the committees

One of the committee's most important formal roles is its oversight function, particularly in situations where the Hungarian government presents its negotiating position before the Council of the European Union. At the beginning of each EU Council presidency, the government prepares an indicative list of priority issues relevant to Hungary within the EU decision-making framework. In doing so, it must justify the legislative relevance of these issues and provide a preliminary statement of its position. This submission includes core elements such as a summary of the EU initiative, an outline of the decision-making procedure and expected timeline, the objectives and supporting arguments, the government's official stance, and any anticipated legal consequences.[363]

A key role in this process is played by the EU Coordination Committee, a governmental body responsible for transmitting the government's positions to the parliamentary committee. Operating under the authority of the Minister of Foreign Affairs, it oversees the coordination of EU matters and contributes to shaping the government's final positions. Its membership consists of deputy state secretaries from all ministries, and its functioning is regulated by a government decree. Although both the Parliament and the Committee on European Affairs may request that the government submit its position on EU legislative matters, the government ultimately retains discretion over whether to comply with such requests.[364]

Scholars often highlight that EU affairs committees differ from other parliamentary committees due to their broader and more comprehensive scope. Unlike sector-specific committees, they deal with the full range of European integration issues, which has led to their characterization as “watchdogs“ in EU matters. However, because EU-related discussions are concentrated within these committees while final decisions are made elsewhere, governing parties tend to show less interest in tightly controlling them compared to other influential standing

separately. Namely, the committee on legislation, the committee representing national minorities, ad hoc committees, and the committee of inquiry, while by the end of the same Chapter, it regulates all the details of the latter committee about investigating activity.

[363] Ilonszki, Gabriella (2015). “The Hungarian Parliament and EU Affairs: A Modest Actor Dominated by the Executive“, The Palgrave handbook of National Parliaments and the European Union (eds. Hefftler, Neuhold, Rozenberg and Smith), Palgrave Macmillan, 2015, p. 536

[364] Ilonszki, Gabriella (2015). p. 536

committees. Despite this, the EU Affairs Committee still plays an important supporting role in shaping national positions on EU policies.[365]

In conclusion, the Committee on European Affairs holds a distinctive and prominent position within the Hungarian parliamentary system. In the context of EU matters, its role can be considered more significant than that of the plenary or other committees, as it is specifically empowered to adopt official positions on government proposals independently, without requiring input from other standing committees responsible for particular policy areas.

5.3.6. Parliamentary Oversight of the Executive

Hungarian law provides for three interconnected levels of parliamentary scrutiny over EU decision-making: constitutional, statutory, and sub-statutory. At the constitutional level, an amendment adopted at the end of 2002 introduced a European clause into Article 2/A, affirming that the European Union derives its competences from the member states and setting the limits of any transfer of sovereignty. As for legislative oversight, Article 35/A of the Constitution, alongside provisions on cooperation, requires the Government to keep Parliament fully informed about proposals under consideration at the EU level. The third layer, regulated by Act LIII of 2004, concerns more detailed rules of cooperation and establishes the main instruments through which the National Assembly examines EU-related matters. These include traditional forms of oversight, such as plenary debates, questions, and interpellations, as well as more specialized procedures, including the review of government positions, the adoption of parliamentary opinions, and the selection of relevant EU proposals for scrutiny. In addition, a further mechanism was previously reviewed in the form of hearings and reports addressing the government's activities in EU affairs.[366] Parliamentary oversight ensures that national parliaments can actively engage by expressing their views on the positions taken by governments or ministerial representatives. In this way, parliaments are equipped with a means of safeguarding the democratic character of decisions

[365] Ágh, Attila (1997). "Europeanization and Democratization: Hungarian parliamentary committees as central sites of policy-making". The Changing Roles of Parliamentary Committees, (eds. L. Longley and A. Ágh), 19 Wisconsin, Lawrence U. P. 1997, p. 99-104

[366] Szalay, Klara and Juhász-Tóth, Angéla (2007), Control of EU Decision-making in the Hungarian National Assembly: the Experience of a new Member State, In: National Parliaments and European Democracy. A Bottom-up Approach to European Constitutionalism, (eds. Tans, Oldaf; Zoethout, Carla and Peters, Jit), Europa Law Publishing, Groningen 2007, pp. 119-139, pp. 123-124

made within the EU's intergovernmental framework, particularly by holding ministers accountable. Since the Council of the European Union is composed of national ministers who act on behalf of their governments and represent their states, effective supervision of their actions is essential. Parliamentary scrutiny enables national legislatures to exercise political control over the positions adopted by government representatives at Council meetings. This function is significant not only for domestic accountability but also for preserving the ability of parliaments to oversee how their governments act within EU legislative processes. Strengthening oversight thus allows national parliaments to participate indirectly in EU decision-making and contributes to addressing concerns about the Union's democratic deficit. At the same time, such control enhances the legitimacy of governmental action and reinforces the role of parliaments in shaping national positions within the EU framework.[367]

5.3.7. Process of the Harmonisation and the Post-accession developments

Since the implementation of Law LIII of 2004 on the collaboration of the Government in matters relating to the European Union (passed as a result of the Maastricht Treaty), the right of the parliaments of member states to review proportionality and subsidiarity has been regulated. Although the Hungarian Parliament has a rather lengthy tradition of conducting subsidiarity studies, the Treaty of Lisbon greatly expanded the power of the member state parliaments. As already stated, Protocol No. 2 of the Treaty of Lisbon on subsidiarity and proportionality grants national parliaments the right to issue "reasoned opinions" (RO) on draft legislation proposed by the European Commission, thereby positioning them as key actors in safeguarding subsidiarity.[368] The examination of draft legislation from a subsidiarity perspective is closely linked to the cooperation between national parliaments and governments, particularly in shaping a Member State's position on EU proposals. Furthermore, Article 8 of the protocol allows for an action for

[367] Takács, Tamara (2009). Participation in EU Decision Making, Implications on the National Level, T.M.C. Asser Press, Hague, 2009, p. 220

[368] Gárdos-Orosz, Fruszina (2013). "The Constitutional and Statutory Framework of the Application of EU Law in Hungary", Acta Universitatis Carolinae- Iuridica 4 (2013), p. 326

annulment to be brought before the Court of Justice of the European Union after legislation has been adopted, if subsidiarity is considered to have been violated.[369]

Preparing national systems for EU membership typically begins with the transfer of competences, the establishment of authorization provisions, and the incorporation of EU law into domestic legal systems. This process also reflects a broader openness toward European legal norms. The transfer of competences significantly affects constitutional arrangements, as many countries introduce specific constitutional provisions either addressing international organizations generally or the EU specifically. One major consequence of this shift is a rebalancing of power within national systems: legislative authority tends to diminish, while the executive branch gains a stronger role, particularly in EU decision-making processes.[370]

In Hungary, the path toward EU accession largely involved proposed constitutional amendments aimed at integrating EU law into the domestic legal order. An initial objective was to clarify the relationship between national and EU law by affirming the supremacy of EU law. However, this effort faced resistance, particularly due to the position of the Hungarian Constitutional Court and the prevailing political environment. As a result, the final amendments avoided explicitly defining the supremacy of EU law, leaving the relationship between the two legal systems somewhat ambiguous.[371]

This ambiguity created potential challenges for the consistent application of EU law in Hungary, contributing to legal uncertainty for citizens and raising concerns about Euroscepticism. It also complicated the adaptation of the national judiciary to EU legal standards. The issue is particularly evident in the practice of the Hungarian Constitutional Court, especially regarding its review of EU legislation. In the absence of clear constitutional guidance and given its broad powers, the Court could issue decisions that might conflict with the principle of EU law supremacy.[372] In several instances, the Hungarian Constitutional Court, drawing inspiration from the jurisprudence of the Federal Constitutional Court of Germany, has assessed whether EU

[369] Gárdos-Orosz, Fruszina (2013). "The Constitutional and Statutory Framework of the Application of EU Law in Hungary", Acta Universitatis Carolinae- Iuridica 4 (2013), p. 326
[370] Takács, Tamara (2009). "Participation in EU Decision Making, Implications on the National Level", T.M.C. Asser Press, 2009, op. cit., p. 49-51
[371] Takács, Tamara (2009). "Participation in EU Decision Making, Implications on the National Level", T.M.C. Asser Press, 2009, p. 60-64
[372] Ibid.

secondary legislation complies with the Hungarian Constitution. In doing so, it has followed the German approach rather than fully embracing the absolute primacy of EU law. Meanwhile, ordinary Hungarian courts contribute to the application of EU law primarily through submitting preliminary references to the Court of Justice of the European Union. Although expanding this practice could further align Hungary with EU legal principles, the precise role of these courts in the broader system remains somewhat uncertain.[373]

In Hungary, after the entry into force of the Treaty of Lisbon, the national parliament gained a stronger role in monitoring EU legislative proposals, with the parliamentary committee for European affairs playing a key role. His role was to participate in the process of assessing violations of the principle of subsidiarity and to have the authority to propose questions for plenary discussion. Through practice, it has been shown that committee members dealing with EU issues are capable of making responsible decisions aimed at protecting Hungarian national interests, with certain political support and a well-organized control system.[374]

5.4. The Polish Parliament (Sejm and Senat)

5.4.1. History of the Polish Parliament

The development of Polish parliamentarism is closely linked to the development of the state itself. Consequently, the earliest traces of parliamentarism can be found in the restored Kingdom of Poland in the first half of the fourteenth century. While, in theory, there has been inevitable disagreement regarding the exact time of the emergence of the Polish parliamentary system, that is, the Sejm. Some historians have argued that it originated in 1468, while others have advocated 1493 as the founding year. Although 1493 was for the most part accepted as the year of origin, in 2009 the historian Wacław Uruszczak presented evidence indicating that the earlier date, 1468, should in fact be regarded as the beginning of the development of the Sejm.[375]

[373] Ibid.
[374] More on the Országgyűlés activity, see in the last chapter of the analysis.
[375] For more on this, see: Lewandowska-Malec, Izabela, Early Modern Polish Parliamentarism (16th–18th C.): Directions of the Newest Research, Krakowskie Studia z Historii Państwa i Prawa 2018; 11 (1), pp. 35–45, p. 35.

During this period, the power of the monarch was limited by various privileges of the estates. These estates effectively constituted a form of political group composed of the nobility, the clergy, and the burghers, who were able to participate in public affairs depending on their actual power and the rights they possessed. The origins of the Senate are linked to the Royal Council, which is regarded as its predecessor. The Royal Council was established in the mid-fourteenth century and served as an advisory body to the monarch, operating under royal authority. Its composition was not permanent, as its members were appointed anew by the king on each occasion. Nevertheless, certain offices were granted for life, particularly to high central dignitaries holding important functions, such as the chancellor, crown marshals, treasurers, deputy treasurers, as well as Roman Catholic bishops and archbishops. Although the functions of the Council were not legally regulated, in practice it played a stabilising role and made decisions on important matters of both internal and foreign policy. The participation of the Council also extended to provincial and general assemblies convened by the monarch, which were held primarily in order to secure social support for the king, especially in fiscal matters. These assemblies most likely acquired a ceremonial character during the fifteenth century, as according to established custom they included joint deliberations of the Royal Council with the king, while other participants deliberated separately.[376]

Likewise, from the late fourteenth century, members of the Royal Council took part in general sejms that differed from the later representative sejms; these gatherings took the form of large assemblies. In contrast to the Senate, the predecessors of the Sejm are considered to be the general assemblies, which, beginning with the assembly in Piotrków (1493), gradually developed into bodies composed of representatives of the nobility delegated to the sessions. These representatives were elected at provincial assemblies of the voivodeships, which ultimately resulted in the formation of the Chamber of Deputies.[377]

Building upon the Royal Council mentioned above, it gradually assumed a political role while simultaneously representing both the nobility and the clergy, composed of bishops, palatines, and castellans. Although, as many scholars emphasise, the Polish Sejm did not develop simultaneously with other European parliamentary institutions, owing to the later development of

[376] Grzegorz Pastuszko, Halina Zięba-Załucka and Małgorzata Grzesik-Kulesza (2020), Polskie prawo parlamentarne. Zarys problematyki, Wydawnictwo Sejmowe, Warszawa 2020, pp. 32-33

[377] See: Senate of the Republic of Poland (2025), Notes on the Senate; The History of the Polish Senate, available at: https://www.senat.gov.pl/gfx/senat/userfiles/_public/k11eng/noty/04/18_04_24_en.pdf (Accessed 7 November 2025)

the estate-based system of representation, it nevertheless followed similar principles of institutional development. A turning point in its further evolution occurred with the recognition of the right of female succession (at the parliament in Košice), which was granted in exchange for significant privileges to the nobility. This development also enabled the community of the kingdom (*communitas regni*), despite the absence of a permanent institution, to emerge for the first time as a political actor. Subsequent developments were directed toward securing taxation, which, due to more frequent communication between the nobility and individual regions, resulted in the emergence of sejmiks (local assemblies).[378]

Furthermore, during the fifteenth century, the development of the Sejm led to the formation of a general assembly as a unicameral body without a distinct representative chamber, which was formally convened once a year. Participation in the assembly was open to all members of the nobility, with decision-making conducted by acclamation, while the participation of towns was rare. In this period, actual power in practice remained with the Royal Council, whose decisive role was evident in its legislative functions and in the confirmation of fundamental privileges. Although there were attempts to broaden political participation, the early development of the Polish parliament was characterised by the dominance of the ruling aristocracy.

During the period of the Polish-Lithuanian Commonwealth (1569–1795)[379], the General Sejm was constituted as a tripartite, or three-estate, parliament composed of the king, the Senate, and the Chamber of Deputies. More precisely, the parliament consisted of deputies elected by the nobility, senators appointed by the king, and the monarch himself, who was elected by the nobility in free elections. Although the General Sejm was formally a tripartite parliament, in practice it functioned as a bicameral body, given that the king presided over the Senate. While the monarch initially played a pivotal role, by the mid-sixteenth century, a balance had been achieved between the king, the Senate, and the deputies elected by the nobility at local assemblies, ultimately resulting in the strengthening of the Chamber of Deputies.[380]

[378] Karol Górski, V. Raczyńska and C. Raczyńska, The Origins of the Polish Sejm, The Modern Humanities Research Association and University College London, School of Slavonic and East European Studies, The Slavonic and East European Review, Jan. 1966, Vol. 44, No. 102, pp. 122–138.

[379] For interesting historical facts of this era and description of other interesting facts about Poland's political history, see in: Courtis, Glenn E. (ed.), Poland: a country study; Federal Research Division, Library of Congress, "Research completed October 1992", Third edition, 1994, pp. 10-17

[380] Lewandowska-Malec, Izabela, Early Modern Polish Parliamentarism (16th–18th C.): Directions of the Newest Research, Krakowskie Studia z Historii Państwa i Prawa 2018; 11 (1), pp. 35–45.

During the seventeenth century, the influence of the so-called "small senate," whose advice was used by the king and which consisted of a trusted group of senators, increased. In this period, the Senate's right of veto over acts adopted by the deputies was used more intensively; this right had originally developed as a consequence of the requirement that Sejm statutes be adopted by acclamation. Over time, the veto came to be regarded as a generally accepted right of every deputy and senator as a means of challenging any part of the proceedings (liberum veto). However, due to its frequent use and the resulting interruptions of deliberations, this mechanism often led to paralysis of the Sejm's work, ultimately resulting in the annulment of legislative outcomes. A solution was found in convening the Sejm after the establishment of confederations, the defining feature of which was the impossibility of dissolving the assembly, while decisions were taken by majority vote following joint deliberations of senators and deputies.[381]

During the eighteenth century, the state crisis deepened. The Cardinal Laws of 1768 confirmed the fundamental principles of the political system, including a limited right of veto, which resulted in the expansion of the Senate and, several years later, in the establishment of the Permanent Council as a new administrative body. The constitutional amendments of 1791 represented a major turning point in the state system, once again reducing the role of the Senate while strengthening the position of the Chamber of Deputies. At the same time, the status of the king as a separate deliberative estate ceased to exist, and the monarch became the president of the Senate. This constitution, however, was short-lived, as it was repealed only two years later at the Sejm held in Grodno, which established a unicameral Sejm alongside the restored Permanent Council.[382]

The subsequent course of history points to the establishment of the Duchy of Warsaw in 1807, which was granted a constitution by Napoleon while partially preserving certain Polish traditions. The Sejm consisted of a Chamber of Deputies and a Senate. The latter was composed of privileged dignitaries appointed for life by the king, who deliberated under the leadership of the monarch or another person designated by him. As regards the division of powers between the Sejm and the Senate, the powers of the Sejm were limited to decisions on taxation and financial appropriations, as well as the authority to amend provisions of criminal and civil law. The powers

[381] Senate of the Republic of Poland (2025), Notes on the Senate; The History of the Polish Senate, available at: https://www.senat.gov.pl/gfx/senat/userfiles/_public/k11eng/noty/04/18_04_24_en.pdf (Accessed 7 November 2025)
[382] Ibid.

of the Senate, by contrast, consisted in supervising compliance with the constitution and the legislative procedure followed by the Chamber of Deputies. Among other responsibilities, the Senate also supervised electoral registers and decided on the validity of elections to the Chamber of Deputies, as well as to municipal and provincial assemblies. However, the existence of the Duchy was short-lived, as it was abolished in 1815 at the Congress of Vienna. On the territory of the former Duchy, a Kingdom of Poland was subsequently formed on the basis of a constitution granted by the emperor, as a constitutional monarchy linked by a real union to the Russian Empire. In this period, the parliament of the Kingdom was tripartite, consisting of the king, the Senate, and the Chamber of Deputies. The Senate was composed of voivodes, castellans, and bishops, who, although they could not exceed half the number of deputies, possessed powers equal to those of the Chamber of Deputies. The powers of the Sejm included a wide range of legislative competences, from minting coinage, budgeting, and taxation to the enactment of laws in the administrative and judicial fields, as well as supervision of the government. In practice, however, the Sejm focused primarily on amendments to criminal and civil law. Notably, during this period the Senate was assigned a specific role as a Sejm court, which involved adjudicating cases of the most serious political crimes, including treason and the constitutional responsibility of officials. Finally, following the uprising of 1830–1831, also known as the November Uprising, the Sejm was abolished and the constitution of the Kingdom was replaced by the Organic Statute, while the Kingdom itself was incorporated as a province into the Russian Empire.[383]

In the further course of development, with the regaining of independence and the adoption of the constitution in March 1921, the re-establishment of a bicameral legislative branch was made possible by holding elections for the Senate. The powers of the Senate were also limited during this period, and its number was limited to a quarter of the number of representatives in the Sejm, i.e. 111 senators with a mandate of five years. Although limited in their powers to control the government and other powers that belonged to the Sejm, senators had the right to ask parliamentary questions. However, the Sejm and the Senate together formed the National Assembly, which had the power to elect the President of the Republic. On the other hand, the Senate had the possibility of both considering legislative drafts adopted by the Sejm and proposing amendments or submitting objections to them. The Senate's activities could end either upon the expiration of its

[383] Ibid.

mandate or by joint dissolution with the Sejm, the dissolution of the latter requiring the consent of three-fifths of the Senate.[384]

The adoption of the constitution in 1935 made it possible to strengthen the position of the Senate in relation to the Sejm, namely, the constitution limited the powers of the parliament in favor of the president of the republic. The latter thus stipulated that the Marshal of the Upper House would, in the event of the incapacity or death of the president, take over the president's duties, which differed from the earlier provisions under which the president was replaced by the Marshal of the Sejm. Furthermore, the role of the Marshal of the Senate was to convene joint sessions of the houses, but also to chair the Electoral College. However, although the constitution did not provide for the Senate's right to legislative initiative, the constitution changed the majority in the Sejm that was required to reject the Senate's decision to reject a draft law, or the rejection of senatorial amendments, because it increased the required majority. It is interesting to note that the Senate was also given a limited role in supervising the government, because both houses could jointly call the prime minister or ministers to constitutional responsibility. During this period, the Senate's mandate also lasted five years, and it consisted of 96 members, most of whom were appointed by the president, while the rest were indirectly elected.[385] According to the aforementioned 1935 Constitution, Article 47 provided for two legislative acts: firstly, bills (acts) and then Decrees of the President of the Republic.[386]

Furthermore, during the interwar period, five convocations of the Senate were held, while its work was interrupted in 1939 following the dissolution of parliament. Despite its changing composition, the Senate endured for a long time, indeed, until the communist authorities abolished it after the Second World War, which regarded the Senate as an undemocratic chamber. As a consequence, until 1989 the parliament functioned as a unicameral body, until the convening of the Round Table (which was the result of negotiations between the government and the opposition), when it was re-established as a bicameral parliament.[387] With regard to the process of elections to the parliamentary chambers, the agreement reached at the aforementioned Round

[384] Ibid.
[385] Ibid.
[386] Lachs, Manfred (1942), Polis Legislation in Exile, Journal of Comparative Legislation and International Law, Vol. 24, No. 1 (1942), pp. 57-60, Published by: Cambridge University Press on behalf of the British Institute of International and Comparative Law, p.57
[387] Wiatr, Jerzy J. (1997), Poland's Three Parliaments in the Era of Transition, 1989-1995, International Political Science Review / Revue internationale de science politique, Oct. 1997, Vol. 18, No. 4, Elections and Parliaments in Post-Communist East Central Europe, pp. 443-450, p. 444.

Table prescribed different procedures. Thus, the Sejm was to be elected according to a complex system of contractual allocation of seats between the ruling party, its allies, and the opposition, while elections to the Senate were to be conducted through free voting. The constitutional amendments also resulted in a reduction of the Senate's powers in relation to the Sejm, which was particularly evident in the fact that the Sejm had the authority to decide on the composition of the cabinet as well as the power to dismiss it; moreover, the Sejm held the final say in legislative matters.[388]

On the other hand, regarding the position of the Sejm, some political science scholars of the period emphasized that the composition of the Sejm should change in line with the country's socio-economic transformation, so as to reflect the actual structure of society as a whole, while taking into account the social and political roles of different social strata and groups. However, according to these authors, the contemporary composition of the Sejm was instead the result, or consequence, of the leading role of the Marxist-Leninist party. Therefore , they referred to the Sejm as a "minimal parliament," stressing that a socialist parliament could develop within a restrictive yet changing political context. Moreover, during the communist regime, there existed continuity and formal legitimacy of the Sejm, alongside a simultaneous capacity for adaptability, coherence, complexity, and potential autonomy. They defined this process as a specific form of institutionalization of the Sejm, comprising two components: the changing composition of the Sejm and the structural development of its specialized committees. The first component of the institutionalization of the Polish parliament, is manifested through the parliament's capacity, defined as a set of abilities that a legislative system may possess in order to function effectively. In this case, these include characteristics such as legislative status, leadership quality, organizational structure, public support, intelligence-gathering capacity, degree of importance in policymaking, and formal powers. The second component concerns the influence of the structure of specialized committees and their effectiveness in relation to the activity of the Sejm itself.[389] Similarly, according to the views of some scholars, the drafting of a new constitution, that is, the process of approving a full and permanent constitution, was in fact one of the driving forces behind

[388] Simon, Maurice D. and Olson, David M. (1980), Evolution of a Minimal Parliament: Membership and Committee Changes in the Polish Sejm, Legislative Studies Quarterly, Vol. 5, No. 2, May 1980, pp. 211–232.
[389] For more on the political science aspects and views on this topic, see: Simon, Maurice D. and Olson, David M. (1980), Evolution of a Minimal Parliament: Membership and Committee Changes in the Polish Sejm, Legislative Studies Quarterly, Vol. 5, No. 2, May 1980, pp. 211–232.

the election of the Sejm in early 1947, as well as the establishment of the Council of State, which functioned as the supreme legislative body between sessions of the Sejm.[390]

5.4.2. The transitional period: On the way to democracy

Furthermore, during the transitional period from communism to democracy, Poland, when compared with other East-Central European countries, entered this process earlier and in a markedly different manner. Unlike other countries, the parliament played a key political role in Poland. The first parliament (1989-1991) of the transitional period, also referred to as the contractual parliament, lasted only 27 months but is considered the most effective parliament in terms of democratic transformation, as it adopted a record number of legislative acts, 248 in total. However, as Wiatr emphasizes, this can be explained by two main factors, primarily the fact that during this period Poland implemented a rapid cycle of economic reforms, including the introduction of a free and open market, moderate taxation, and private investment.[391] This process was named after the Deputy Prime Minister responsible for economic affairs, Leszek Balcerowicz, and became known as the Balcerowicz Plan.[392]

On the other hand, the plan received strong support from all political parties, as well as from Wojciech Jaruzelski (president elected by the parliament in July 1989 and the first president during the transition phase) and Lech Wałęsa (leader of Poland's Solidarity trade union and later the first democratically elected president). This period was also marked by significant cooperation between the executive and legislative branches. During his term, Wojciech Jaruzelski adopted a restrained approach, recognizing his weak political position and leaving all major decisions to

[390] Staar, Richard F. (1961), Legislative Foundations of Contemporary Poland, Études Slaves et Est-Européennes / Slavic and East-European Studies, Spring–Summer 1961, Vol. 6, No. 1/2, pp. 62–75, p. 64.

[391] Wiatr, Jerzy J. (1997), Poland's Three Parliaments in the Era of Transition, 1989-1995, International Political Science Review / Revue internationale de science politique, Oct. 1997, Vol. 18, No. 4, Elections and Parliaments in Post-Communist East Central Europe, pp. 443-450, pp. 444-445

[392] The Balcerowicz Plan, also known as "shock therapy", consisted of several phases involving necessary steps, including a decisive break with the communist system, a transition to a market economy, private ownership and a free market, integration into world markets, and a stabilization programme aimed at ending hyperinflation. The pillars of the programme focused on macroeconomic stabilization, liberalization, privatization, the construction of a social safety net (unemployment compensation), and the mobilization of international financial assistance.
For more information, see: Smuniewski, Cezary; Urych, Ilona; Zanini, Andrea (2021), The Principles of Economic Transformation in Poland after 1989, according to President Lech Wałęsa, European Research Studies Journal, Vol. XXIV, Issue 2, pp.1227-1242. Also, see: Wolf-Rodda, Howard A. (1993), The Support for Eastern European Democracy Act of 1989, Maryland Journal of International Law, Vol. 17, Issue 1, Article 7, pp. 107–134.

Prime Minister Tadeusz Mazowiecki. By contrast, President Wałęsa held a considerably stronger position due to the office he inherited, characterized by a strong popular mandate, having received 75% of the vote in the second round; nevertheless, during his presidency the legitimacy of the parliament was also questioned.[393] It may be concluded that the constitutional model of this transitional period, in terms of its structural features, lay somewhere between a parliamentary and a semi-presidential system, although in practice the system functioned more as a parliamentary one.[394]

The 1989 Constitution thus significantly influenced the shaping of the Polish parliament, alongside the non-negligible impact of frequently amended electoral laws, the development of the party system, and the role of the human factor, namely, politicians and voters. The transitional period in Poland was, as some scholars emphasize, marked by the absence of an appropriate model, which in turn resulted from the lack of a new constitutional act and an unstable socio-economic and political situation.[395] Furthermore, due to the aforementioned shortcomings, greater importance was assigned to informal rules, which thereby became crucial in the process of democratic institutionalization. This was particularly evident in legislative practice, since the absence of formal rules made it difficult both to understand and to predict how such rules would be applied.[396] This situation of institutional change or adaptation may be the result of deliberate actions by political actors aimed at a specific model, but it may also arise as a spontaneous process. The Polish parliament during this transitional period was also characterized by shortened parliamentary terms.[397] Decisions to shorten parliamentary terms are justified in situations where they result from specific radical socio-political changes, characterized by heightened activity of

[393] Wiatr, Jerzy J. (1997), Poland's Three Parliaments in the Era of Transition, 1989-1995, International Political Science Review / Revue internationale de science politique, Oct. 1997, Vol. 18, No. 4, Elections and Parliaments in Post-Communist East Central Europe, pp. 443-450, p. 445

[394] Boban, Davor (2007), Ustavni modeli polupredsjedničkih sustava vlasti u Rusiji i Poljskoj, Anali hrvatskog politološkog društva, 2006, pp. 55-82, pp. 67-68

[395] Jackiewicz, I. and Jackiewicz, Z. (1996), The Polish Parliament in the Transitional Period: The Search for a Model, Politička misao, Vol. XXXIII, No. 2-3, pp. 100-120, p. 101, op.cit.

[396] This situation leaves room for two possible types of behavior, both of which were observable in the Polish case, as noted by political scientists. The first involves testing different institutional arrangements until an appropriate one is identified through analysis of the results obtained. The second involves the adoption of easily changeable rules-that is, rules that can be more readily adapted.

[397] Although the duration of the parliamentary term under the constitution at the time was set at four years from election, the parliament itself decided to dissolve after only 28 months, while the subsequent term lasted 18 months. The constitution allowed for the parliament to dissolve itself by a three-quarters majority vote, or for the president to dissolve it under exceptional circumstances. For more, see: Jackiewicz and Jackiewicz (1996), p. 102.

political elites seeking to resolve emerging conflicts. However, shortened terms have a negative impact on legislative work, as a large number of legislative initiatives remain unfinished once such a term ends. In accordance with the principle of discontinuity, the new parliament does not continue unfinished business but instead begins the legislative cycle anew. This situation may have serious consequences, since laws that were under debate at the time of dissolution may ultimately never be adopted. With regard to the aforementioned principle of discontinuity, it is not explicitly contained in any legal statute but is rather interpreted as part of customary parliamentary practice. Nevertheless, both this principle and the issue of shortened terms function in practice as a form of parliamentary self-control, as emphasized by the Jackiewiczes, thereby providing a certain degree of protection to the system against potential obstacles.[398]

While the first parliament enjoyed relatively high public approval, most likely as a consequence of its exceptionally intensive legislative activity and cooperative approach, the second parliament (1991-1993) did not receive a similar response. The second parliament lasted only 18 months; following its election in October 1991, President Wałęsa dissolved it in May 1993 after a vote of no confidence in the cabinet of Hanna Suchocka. The main characteristic of this parliament was its pronounced fragmentation from the outset, a condition significantly reinforced by the electoral system (simple plurality for the Senate and radical proportional representation for the Sejm). The relatively low popularity and limited success of the second parliament can be interpreted in light of the exceptionally high costs of economic transformation incurred during the transition process. At the same time, this parliament was marked by a high degree of controversy. Frequent conflicts among often politically inexperienced deputies and parties, combined with a tendency toward polarized interpretations of politics, resulted in very low levels of parliamentary activity and effectiveness.[399] At the same time, unlike his predecessor, President Wałęsa made extensive use of his constitutional powers, as evidenced by the fact that he functioned as the primary executive authority, while the prime minister occupied a secondary position.[400]

[398] Jackiewicz, I. and Jackiewicz, Z. (1996), The Polish Parliament in the Transitional Period: The Search for a Model, Politička misao, Vol. XXXIII, No. 2–3, pp. 100–120, pp. 102-103

[399] Wiatr, Jerzy J. (1997), Poland's Three Parliaments in the Era of Transition, 1989-1995, International Political Science Review / Revue internationale de science politique, Oct. 1997, Vol. 18, No. 4, Elections and Parliaments in Post-Communist East Central Europe, pp. 443-450, pp. 444-445

[400] Boban, Davor (2007), Ustavni modeli polupredsjedničkih sustava vlasti u Rusiji i Poljskoj, Anali hrvatskog politološkog društva 2006, pp. 55–82, p. 68.

During Wałęsa's term in office, taking into account the aforementioned circumstances of parliamentary functioning, which were also evident in the work on the new constitution, and particularly the inability of the key political actors to reach consensus, a Constitutional Act was adopted in October 1992. This act, commonly referred to as the "Small Constitution," bore the full title Constitutional Act on the Mutual Relations between the Legislative and Executive Authorities of the Republic of Poland and on Local Self-Government. The main features of this constitutional arrangement were the preservation of a semi-presidential system of government and the retention of significant presidential powers. The provision concerning presidential powers was almost directly taken from the Act on the Implementation of the Constitution (of 7 April 1989), in which the president was assigned the role of a kind of guardian of the state. However, unlike the earlier implementation act, the Small Constitution stipulated that the president would be elected directly in general elections for a five-year term. Given that the president derived legitimacy from direct elections, he could no longer rely on a parliamentary majority that had elected him, particularly in light of the altered balance of power between the executive and legislative branches. Concerning political structure, this period was characterized by a dual executive: a president endowed with substantial powers and a prime minister heading a government accountable to parliament. The Constitutional Act also regulated the procedure for votes of confidence.[401] During the period of the Small Constitution, with regard to the type of constitutional system, it may be concluded that it enabled alternation between parliamentary and semi-presidential phases of governance, depending on which institution effectively held the power to appoint the prime minister.[402]

The third parliament (1993-1995), elected in September 1993, was marked by the significant influence of relations between the parliamentary majority and the president. President

[401] The Constitutional Act provided that the prime minister was to be appointed by the President of the Republic, and that other members of the government were to be appointed on the prime minister's proposal. The procedure unfolded as follows: the prime minister presented the programme of the new government to the Sejm together with a request for a vote of confidence. An absolute majority of deputies was required for the vote of confidence to pass. If a vote of no confidence was adopted, the right to nominate a new prime minister passed to the Sejm, which also had to grant confidence by an absolute majority. Once confidence was secured, the president appointed the new government and administered the oath of office. If confidence was again not obtained, the procedure returned to the presidential proposal to the Sejm, followed by a Sejm proposal and a vote of confidence; the only difference in the second round was that the Sejm decided by a simple majority. A fourth failure to secure confidence granted the president the right either to dissolve the Sejm or to appoint a prime minister and government for a maximum period of six months. For more, see: Boban, Davor (2007), Ustavni modeli polupredsjedničkih sustava vlasti u Rusiji i Poljskoj, Anali hrvatskog politološkog društva 2006, pp. 55–82, p. 69.

[402] See: Boban, Davor (2007), Ustavni modeli polupredsjedničkih sustava vlasti u Rusiji i Poljskoj, Anali hrvatskog politološkog društva 2006, pp. 55–82, p. 70.

Wałęsa still held office during the first 26 months of the new Sejm's term. This period was therefore characterized by the president's attempts to maintain control over the government and the prime minister; although these efforts were often unsuccessful, they nevertheless generated conflicts between the parliament and the cabinet. The situation changed markedly after the end of Wałęsa's term and the election of Aleksander Kwaśniewski. Unlike his predecessor, he demonstrated a greater willingness to seek consensus with other branches of government. In terms of the constitutional system, this period may be defined as a mixed model, taking into account the relationship between the president and parliament, that is, one combining institutional characteristics of both presidential and parliamentary systems. Finally, in 1997, a new constitution was adopted. Its drafting and adoption required a two-stage approval process: first, adoption by the National Assembly (composed jointly of the Sejm and the Senate) by a two-thirds majority of deputies, and subsequently approval by the citizens in a referendum. The adoption of the new constitution proved challenging, as the drafting process was prolonged due to difficulties in achieving political and social consensus. As scholars have noted, a so-called "triple compromise" was required.[403]

5.4.3. Important legal framework: Constitution provisions[404] and the Cooperation Act[405]

The Polish Parliament, as a bicameral body, is composed of the Sejm (the Chamber of Deputies; the lower house) and the Senate (the upper house). In addition to its legislative role, the Sejm also performs a supervisory function over the government; that is, it has the power to hold the government politically accountable. With regard to the judiciary, the Sejm exerts influence

[403] The triple compromise entailed agreement among several political parties on specific constitutional provisions. This included compromise on the liberal-democratic foundations of the constitution, on social and economic rights, and finally between the Church and four secular organizations. For more, see: Boban, Davor (2007), Ustavni modeli polupredsjedničkih sustava vlasti u Rusiji i Poljskoj, Anali hrvatskog politološkog društva 2006, pp. 55–82, p. 72.

[404] The National Assembly, i.e. the Sejm and the Senate jointly, adopted the new Constitution of the Republic of Poland on 2 February 1997, which was approved in a national referendum on 25 May. Promulgation of Constitution was on 16 July 1997, and entered into force on 17 October 1997. The Constitution and all its amendments are available in the Polish Official Gazette. See: Journal of Laws ((Dziennik Ustaw) No. 78, item 483; of 2001 No. 28, item 319; of 2006 No. 200, item 1471; and of 2009 No. 114, item 946.

[405] Full name of the act is: ACT of 8 October 2010, 'The Act on Cooperation of the Council of Ministers with the Sejm and the Senate in Matters relating to the Republic of Poland's Membership of the European Union', Dziennik Ustaw of 2010, No. 213, item 1395. Available at: https://www.sejm.gov.pl/prawo/ustawa_kooperacyjna_eng/kon12.htm (Accessed at 20 September 2025)

through the power to appoint certain judges.[406] However, unlike the Sejm, the position of the Senate as the second chamber is considerably more limited. Its weaker position can partly be justified by its historical legacy.

Thus, in the legal and political system of Poland, bicameralism has nevertheless been retained, despite significant prospects of abolishing the Senate, while at the same time the role of the Sejm has been strengthened. The latter is evident from Article 121 of the Constitution, from which it follows that the participation of the Senate in the legislative process is relatively limited, since, in addition to the right of legislative initiative, it has the possibility to take a position on a law adopted by the Sejm. Namely, after the Sejm adopts a legislative proposal, the Marshal of the Sejm forwards it to the Senate, after which the Senate has a period of 30 days (counting from the submission of the bill) to express its position. The Senate may adopt the bill without amendments, but it may also adopt amendments or decide to reject the bill in its entirety. Article 121, paragraph 2, further provides that the Senate must adopt a resolution on the matter. However, even if the Senate does not adopt a resolution, the law shall be deemed adopted in the form in which it was adopted by the Sejm. Paragraph 3 thus states: "*A resolution of the Senate rejecting a bill, or an amendment proposed in the Senate's resolution, shall be considered accepted unless the Sejm rejects it by an absolute majority vote in the presence of at least half of the statutory number of Deputies*." From this provision, it does not follow what majority of the Sejm is required to reject the position of the Senate, regardless of whether it concerns a proposal to reject a bill in its entirety or amendments proposed by the Senate.[407] Furthermore, Article 10 of the Polish Constitution defines that the system of government of the Republic of Poland is based on the separation of powers balanced among the legislative, executive, and judicial branches. Paragraph 2 of the same article states that legislative power is vested in the Sejm and the Senate, while executive power shall be vested in the President of the Republic of Poland and the Council of Ministers, and finally, judicial power shall be vested in courts and tribunals.[408]

[406] Granat, Mirosław and Granat, Katarzyna (2019). Constitution of Poland: A Contextual Analysis. Chapter 3: Parliament. Oxford: Hart Publishing, pp. 46–75, pp. 46–47.
[407] Patyra, Sławomir (2022), Participation of the Polish Senate in the Legislative Process: Towards Equal Bicameralism?, Studia Iuridica Lublinensia, Vol. 31, No. 5, pp. 187–199, pp. 191–192.
[408] The Constitution of the Republic of Poland of 2 February 1997; Journal of Laws No. 78, item 483; of 2001 No. 28, item 319; of 2006 No. 200, item 1471; and of 2009 No. 114, item 946

Although the aforementioned constitutional provision, Article 10, regarding the division of powers regulates the relationship between the executive and legislative branches, in practice the supremacy of legislative power is ensured. When it comes to the position of the chambers of Parliament, the Constitution provides that the Sejm is the chamber in which the representatives of the nation sit, and also entrusts the Sejm with control over several state bodies. An even more important provision is that concerning parliamentary autonomy prescribed in Article 112, which states that the internal organisation and the conduct of the work of the Sejm, including its organs and the manner of performance of all their constitutional and statutory obligations towards the Sejm, shall be regulated by the Rules of Procedure (Standing Orders) of the Sejm. The autonomy of Parliament is also evident from the fact that each chamber has its own rules of procedure, which places the chambers in the position of supreme state bodies with their own preferred terms of cooperation in relation to other state bodies.[409]

Furthermore, in Chapter IV of the Constitution, from Article 95 to Article 124, matters relating to the position of the Sejm and the Senate are regulated, including the election and term of office of both chambers, matters concerning deputies and senators, as well as the organisation and functioning of the chambers, up to issues relating to the holding of referendums. Article 95 provides that legislative power in the Republic of Poland is exercised by the Sejm and the Senate, and paragraph 2 of the same article provides that the Sejm exercises control over the activities of the Council of Ministers within the scope defined by the provisions of the Constitution and statutes. Concerning the electoral system of the Sejm, Article 96 of the Constitution provides that the Sejm shall be composed of 460 Deputies, while paragraph 2 of the same article prescribes that the system of elections to the Sejm "*shall be universal, equal, direct and proportional, and shall be conducted by secret ballot*." As for the Senate, Article 97 provides that the Senate shall be composed of 100 Senators whose elections "*shall be universal and direct and shall be conducted by secret ballot*." About the term of office, both chambers are elected for a four-year term, which begins on the first sitting of the Sejm and lasts until the day before the first sitting of the Sejm of the next term(mandate).[410] When it comes to the election procedure for Sejm and Senate, the Constitution in Article 98 prescribes that the elections shall be ordered by the president of the Republic at the

[409] Boguslaw, Banaszak et al. (2012), Constitutional Law in Poland, Kluwer Law International (Wolter Kluwer, Law and Business), p. 127

[410] The Constitution of the Republic of Poland, 2nd of February, 1997; Dziennik Ustaw No. 78, item 483; of 2001 No. 28, item 319; of 2006 No. 200, item 1471; and of 2009 No. 114, item 946

latest ninety days before expiration of the prior Sejm and Senate fourt years mandate. Moreover, the elections should be held thirty days before the expiration of the parliamentary mandate.[411]

Furthermore, with regard to the shortening of the term of the Sejm, cases of optional and mandatory shortening can be distinguished. Optional shortening occurs if, within four months from the submission of the draft budget to the Sejm, it has not been adopted or submitted to the President of the Republic for signature; in that case, the President may, within the following forty days, order the shortening of the Sejm's term. In the second case, mandatory shortening of the term occurs when the Council of Ministers fails to obtain a vote of confidence in the process of forming a government. The President, however, does not have the power to shorten the term during a period of extraordinary measures, nor in the situation where a period of 90 days has not yet elapsed since their termination.[412]

Article 98(3) of the Constitution thus provides for the possibility of shortening the term of the Sejm by a resolution of the Sejm adopted by at least a two-thirds majority of the statutory number of Deputies, whereby the term of the Senate is shortened accordingly. The same article regulates the aforementioned shortening of the term of the Sejm, and thus of the Senate, by order of the President of the Republic, who may decide on this (by decree) after obtaining the opinion of the Marshals of both chambers. If this latter case occurs, that is, an early shortening of the term by the President of the Republic, the President is simultaneously competent to order new elections for both chambers (within 45 days from the adoption of the official decree on shortening the term)

[411] The definition of the concept of a parliamentary mandate, as pointed out by Banaszak et al., can be interpreted in three ways. The first interpretation describes the parliamentary mandate as the totality of the rights and duties of a deputy. The second interpretation proceeds from understanding the mandate as a legal and political relationship between a deputy/senator and his or her voters as a proxy or representative in the exercise of state authority, while the third interpretation relies on defining the mandate through the description of the function of a deputy as a member of parliament. It may be concluded that this classification of the mandate stems from the need to define different types of relationships, and that the interpretation depends on the relationship being analysed. The authors further emphasise that in most democratic countries the concept of a free mandate is accepted, and that the same concept applies in the case of Poland, deriving from Article 104(1) of the Polish Constitution, which states that ”Deputies shall be representatives of the Nation and shall not be bound by any instructions of the electorate.” This provision follows the basic characteristics of the mandate: its universality, independence and non-revocability. The latter characteristic is not expressly stated, but follows from the content of the aforementioned constitutional provision.
More on this topic see: Boguslaw, Banaszak et al. (2012), Constitutional Law in Poland, Kluwer Law International (Wolter Kluwer, Law and Business), pp.129–130.

[412] Boguslaw, Banaszak et al. (2012), Constitutional Law in Poland, Kluwer Law International (Wolter Kluwer, Law and Business), p.129

and to convene the first sitting of the newly elected Sejm (within 15 days from the holding of the elections).[413]

Concerning the rules on who has the right to vote, Article 62 of the Constitution provides that every Polish citizen who has attained the age of 18 has the right to vote in elections to the Sejm and the Senate, in elections to bodies of local self-government, the right to participate in a referendum, and the right to vote in the election of the President of the Republic (the Constitution excludes citizens who have been deprived of legal capacity or of public and electoral rights by a final court judgment). However, about eligibility for election to the Sejm, the Constitution provides that every citizen who has the right to vote and who has attained the age of 21 by the day of the election has the right to be elected to the Sejm (Article 99), while for the position of Senator, in addition to the right to vote, a higher age threshold of 30 years is prescribed. The Constitution further provides that candidates for deputies and senators may be nominated by political parties or by voters, while at the same time restricting that no one may stand simultaneously in elections to both the Sejm and the Senate.[414] Furthermore, supervision of the legality of elections and the organisational aspects of elections is entrusted to the State Electoral Commission, as stipulated by Polish electoral law. Moreover, the d'Hondt method is used for elections to the Sejm by proportional representation in multi-member constituencies. The electoral threshold is 5% for individual parties and 8% for coalitions, and it does not apply to national minorities. In the election of the Senate by the majority system, one representative is returned in each of the 100 single-member constituencies. The first elections held under the new Electoral Code took place in 2011, when the electoral system for the Senate was changed from majority bloc voting to majority voting. The legality of the elections held is ultimately assessed by the Supreme Court (any voter may lodge a complaint against the validity of the election).[415] It is interesting to note that in 2011, a unified Electoral Code was adopted, introducing specific electoral rules and new solutions, such as the introduction of the possibility of voting by proxy for voters over the age of 75 and persons with

[413] It is important to note here that in this case the termination of the term of the Sejm and the Senate results in the discontinuation of parliamentary work and the application of the rule of discontinuation, as mentioned earlier in the section on transitional arrangements. However, this rule (on the discontinuation of work and the simultaneous establishment of new legitimacy of the subsequent parliament) in essence does not apply to those legislative procedures initiated by citizens.

[414] The Constitution of the Republic of Poland, 2nd of February, 1997; Dziennik Ustaw No. 78, item 483; of 2001 No. 28, item 319; of 2006 No. 200, item 1471; and of 2009 No. 114, item 946

[415] Boguslaw, Banaszak et al. (2012), Constitutional Law in Poland, Kluwer Law International (Wolter Kluwer, Law and Business), p. 128

disabilities, as well as postal voting for voters with disabilities. This gave rise to a number of public controversies at the time. It is also noteworthy that controversies surrounding electoral legislation in Poland continued in the following years, when the adoption of a highly controversial act led to amendments to the electoral law. The very title of the act suggested an increase in citizens' participation in the electoral process, the functioning and oversight of certain public bodies, but in substance, it largely consisted of amendments to the Polish Electoral Code.[416]

The need to amend the Constitution proved necessary during the adoption of the draft of the new Law on Cooperation. Namely, taking into account that the agreement provided for new powers for the Sejm and the Senate, which were not found in the constitutional provisions, it was pointed out in the draft that "Whereas the new powers of the Sejm and the Senate are not found in the Polish ground law, it should be acknowledged that the proper implementation of the Treaty provisions, in principle, requires that appropriate changes be made to the Constitution of the Republic of Poland". [417]

Furthermore, during 2010, President B. Komorowski proposed amending the Constitution, adding a chapter dedicated to Poland's membership, i.e., preparations for the adoption of the euro, as well as harmonization with the provisions of the Treaty of Lisbon. Along with the aforementioned, it was considered necessary to regulate the division of competences in the adoption of EU policies and, consequently, to amend the provisions of the Cooperation Act.[418]

---

[416] In December 2017 and January 2018, both chambers adopted a highly controversial act supported by the votes of deputies of the ruling party (Law and Justice), despite opposition from the parliamentary opposition, experts, and electoral administration bodies, which also affected the Electoral Code itself. The main criticism concerned the destabilisation of the entire electoral system, the lack of any clear justification for the need for amendments, thereby turning electoral law into a political instrument. Furthermore, the controversial nature of the act was reflected in the shortened adjustment periods, which could potentially undermine the stability of the political system. Finally, the disputed bill contained a number of unclear, imprecise, and even contradictory provisions, which are entirely at odds with European standards and, as concluded by Rakowska-Trela, may lead to a violation of the principle of a democratic state governed by the rule of law. Finally, the circumstances of the adoption of the disputed act contributed to its controversial character. As it was adopted in the lower house immediately before the upper house approved a controversial reform of the judiciary, which is also relevant for the electoral process (bearing in mind that in Poland the Supreme Court decides on the validity of elections to the Sejm, the Senate, and the presidential election).

More on this topic see: Rakowska-Treła, Anna (2018), Current Amendments to Polish Electoral Law in the Light of European Standards, Polish Political Science Yearbook, Vol. 47(3), pp. 457-466, pp. 458-459.

[417] Fuksiewicz, Aleksander (2011), The Polish Parliament under the Lisbon Treaty - adaptation to the institutional reform, Instytut Spraw Publicznych/ The Institute of Public Affairs, p. 10, op. cit.

[418] Fuksiewicz, Aleksander (2011), The Polish Parliament under the Lisbon Treaty - adaptation to the institutional reform, Instytut Spraw Publicznych/ The Institute of Public Affairs, p. 10

Thus, in addition to its legislative function, the Sejm also performs control functions not only over the Council of Ministers, but also exercises supervision over units of local self-government, and has powers to appoint and dismiss various state bodies, including holding them accountable. Excluding participation in the process of establishing the government, that is, the Council of Ministers, the Sejm has the power to appoint all members of the Constitutional Tribunal and the State Tribunal (except for the presidents), as well as to elect four members each to several National Councils (for radio and television, for the judiciary, for the prosecution service), three members of the Monetary Policy Council, and members of the Council of the Institute of National Remembrance.[419]

With regard to the supervisory powers of the Sejm over the Council of Ministers, these are prescribed by the Constitution and statutes, which provide not only for supervision of the Council of Ministers, but also include the activities of deputies and committees. Thus, concerning the Council of Ministers, supervisory control extends to all activities of the Council in domestic and foreign policy. The supervisory functions of the Sejm may be divided into special and general ones. The latter are characterised by requests addressed to members of the Council of Ministers to provide information on specific issues, either at sittings of the Sejm or of committees, orally or in writing. Following the exercise of supervision, the Sejm may adopt several types of acts: it may adopt a resolution of a binding nature, ordering a body to act in accordance with it; it may adopt an appeal requesting action in a certain manner; and it may adopt a statement expressing a particular position on an issue. The Sejm also has at its disposal several other types of acts depending on the outcome of supervision and the objectives to be achieved, such as decisions, reports, draft resolutions, opinions, and other.[420]

[419] With the consent of the Senate, the Sejm also appoints the President of the Supreme Audit Office, the Commissioner for Children's Rights, and others. Article 30 of the Standing Orders of the Sejm prescribes the conditions for elections and recommendations for the appointment of certain state officials, which may be submitted by the Marshal of the Sejm or by at least thirty-five deputies. It should be noted that judges of the Constitutional Tribunal are excluded from this, for whom a recommendation by at least five deputies or by the Presidium of the Sejm is required, as well as several other positions. In the case of dismissal from state positions, the procedure is similar to that for appointment. In this latter case, however, the Sejm may not dismiss judges of the State Tribunal, judges of the Constitutional Tribunal, nor members of the Council of the Institute of National Remembrance. For more on this, see: Boguslaw, Banaszak et al. (2012), Constitutional Law in Poland, Kluwer Law International (Wolter Kluwer, Law and Business), pp. 135-136.

[420] Boguslaw, Banaszak et al. (2012), Constitutional Law in Poland, Kluwer Law International (Wolter Kluwer, Law and Business), pp. 136-137.

Unlike general supervision, special supervision by the Sejm includes, in addition to oversight of the budget, specific individual controls exercised by deputies, as well as special supervision carried out by an investigative committee. The latter form of control through investigative committees constitutes an extremely important instrument of supervision. Namely, in addition to examining certain important issues at the order of the Sejm, the scope of such investigations sometimes extends beyond the activities of the executive and local self-government. With regard to supervision by deputies, the basic instruments available to them in parliamentary oversight are primarily interpellations and parliamentary questions, most often raised in connection with current policies. The content of each interpellation consists of a description of the case together with questions arising from the facts of the concrete case. The prescribed procedure for submitting interpellations includes submission in writing to the Marshal of the Sejm (who must reply within 21 days), with the possibility of requesting additional written clarifications from the President of the Sejm if the deputy is dissatisfied with the initial reply. It is important to note that interpellations, including the replies thereto, may be the subject of debate, which may ultimately result in the submission of a draft resolution to the Sejm.[421]

As it regards parliamentary questions, they may relate to individual matters concerning the work of the Council of Ministers in domestic or foreign policy and the public affairs of state administration. A similar procedure is provided as in the case of interpellations, i.e., questions may be addressed to the Prime Minister and members of the Council of Ministers (also with a 21-day time limit for reply). However, in this case, the procedure for additional clarifications, as provided for in the case of interpellations, is not available.[422] In addition to the aforementioned forms of individual supervision, the Constitution also provides for supervision in the form of questions on current issues. During each sitting, each deputy has the opportunity to ask an oral question, limited to two minutes, while the reply of the Council of Ministers is limited to six minutes if it chooses to give a direct answer; however, none of the above is subject to debate. Finally, the form of supervision by the Sejm with regard to the budget concerns oversight of the execution of the budget by the Council of Ministers. This control is carried out through analysis of the report on budget execution, including review of the information of the Council of Ministers on the state of the

[421] Ibid.
[422] Boguslaw, Banaszak et al. (2012), Constitutional Law in Poland, Kluwer Law International (Wolter Kluwer, Law and Business), p. 137

national debt (Article 226(1) of the Constitution).[423] The Sejm must then obtain the opinion of the Supreme Audit Office in order finally to adopt a decision (resolution) approving or refusing to approve the submitted financial statements of the Council of Ministers (Article 226(2) of the Constitution).[424]

Concerning the supervisory functions of the Senate according to the provisions of the Constitution and the Rules of Procedure of the Senate, the Senate has the power to appoint and dismiss several state bodies.[425] In comparison with the supervisory powers of the Sejm, the Senate has significantly more limited powers, which primarily follow from the provisions of the Constitution itself, which state that the Sejm exercises supervisory authority over the work of the Council of Ministers (Article 95(2) of the Constitution). However, although the Senate does not participate in the establishment or dismissal of the government, it nevertheless has supervisory powers in other segments, such as considering reports relating to the fields of activity of certain state bodies or electing some of their members (either independently or by giving consent to appointments made by resolution of the Sejm). Furthermore, as follows from Article 125(2) of the Constitution, the Senate also has the power of indirect control over the activities of the President of the Republic by giving its consent (by an absolute majority of votes in the presence of at least half of the statutory number of Senators) to the calling of a referendum by the President. Finally, in accordance with constitutional provisions, the Senate, like the Sejm, has the power to give prior consent in matters of ratification or denunciation of certain international treaties.

5.4.4. The pre-accession period: Important Parliamentary Committees

Poland's accession to the European Union began on 16 December 1991, when Poland signed the European Agreement (hereinafter: the Agreement), which entered into force three years

[423] The Constitution of the Republic of Poland, 2nd of February, 1997; Dziennik Ustaw No. 78, item 483; of 2001 No. 28, item 319; of 2006 No. 200, item 1471; and of 2009 No. 114, item 946

[424] Boguslaw, Banaszak et al. (2012), Constitutional Law in Poland, Kluwer Law International (Wolter Kluwer, Law and Business), p. 137

[425] The Senate appoints three members of the Monetary Policy Council, and two members to each of the following National Councils: the National Council of the Judiciary, the National Broadcasting Council, and the National Council of the Prosecution Service; and two members of the Institute of National Remembrance. The Senate also adopts resolutions granting consent to the appointment of commissioners and presidents, that is, heads of certain bodies, by an absolute majority of votes in the presence of at least half of the statutory number of Senators. The right to submit proposals for such appointments belongs to at least seven Senators. For more on this, see: Boguslaw, Banaszak et al. (2012), Constitutional Law in Poland, Kluwer Law International (Wolter Kluwer, Law and Business), p. 140.

later, on 1 February 1994. The Agreement represented the most complex international agreement ever concluded by Poland. In preparation for this objective, Poland also acceded in the meantime to the Council of Europe and the Organisation for Economic Co-operation and Development, while membership in the Council of Europe commenced almost simultaneously with the Agreement.[426] Two months after the Agreement entered into force, Poland submitted an application for accession to the EU, accompanied by a memorandum concluding that Poland met the Copenhagen criteria at a consistent level. One year later, in December 1995, the European Commission, at the request of the European Council, prepared its opinion on the membership application. After receiving the Commission's questionnaire in 1996, Poland submitted its responses in the same year, including answers to all additional questions. Shortly thereafter, a positive opinion from the Commission was received, and by the end of 1997, the European Council decided in March 1998 to open accession negotiations with several countries,[427] including Poland. The negotiations were concluded at the end of 2002, the Accession Treaty was signed, and Poland formally joined the European Union on 1 May 2004.[428]

In order to ensure a more effective accession process, and in accordance with the provisions of the Agreement, several bodies necessary for comprehensive communication were established. In addition to the Association Council, whose role was to supervise the implementation of the Agreement, an Association Committee was also established as an auxiliary body of the Council, composed of lower-ranking officials. A special body established as a forum for the exchange of information and political dialogue between members of the European Parliament and Polish parliamentarians was the Joint Parliamentary Committee of the Republic of Poland and the European Union (abbreviated: pol. PKWRPiUE).[429] For the purpose of adapting the Sejm, particularly during the accession phase, many public administration bodies responsible for European affairs underwent significant structural changes. For example, the Office of the

[426] Rosati, Dariusz (1996), Poland on its Way to the European Union, Studia Diplomatica, Vol. 46, No. 6, pp. 47–57, p. 51.

[427] Note: The year 2004 marked the so-called big enlargement of the EU, during which ten new Member States acceded. These countries were as follows: Cyprus, Malta, Slovenia, Hungary, Slovakia, the Czech Republic, Poland, Estonia, Latvia, and Lithuania.

[428] Fryźlewicz, Marcin and Krawczyk, Kaja (2022), The Role of the Sejm in the Process of Poland's Accession to the European Union, Zeszyty Prawnicze, No. 4(76) 2022; DOI: 10.31268/ZPBAS.2022.66, pp. 87–104, pp. 88–89.

[429] Fryźlewicz, Marcin and Krawczyk, Kaja (2022), The Role of the Sejm in the Process of Poland's Accession to the European Union, Zeszyty Prawnicze, No. 4(76) 2022, pp. 87-104, p. 89

Government Plenipotentiary for European Integration and Foreign Assistance, established in 1991, was transformed into a highly important committee whose main role was to ensure the most efficient possible adaptation of the integration process in Poland. This body was named the Committee for European Integration (abbreviated: pol. KIA) and was fully supported by the Office of the Committee for European Integration. The Committee's primary task was the programming and coordination of policies related in any way to the EU, namely the integration and adjustment of Poland to EU standards. This also included the management of received foreign assistance. As regards its composition, the Committee was most often chaired by the Prime Minister, who appointed its secretaries, while the remaining members were ministers of key ministries such as public finance, internal and foreign affairs, agriculture, justice, environmental protection, and others.[430]

The entire process of Poland's preparations for EU membership required a series of transformations, social, political, and economic, whereby the latter ensured the necessary conditions for further integration into the EU, determining the pace, direction, and scope of the process. Given that the processes of transformation and integration in Poland took place almost simultaneously, a widespread belief emerged that social difficulties were largely the result of integration with the EU. This perception had a significant impact on public opinion, primarily due to justifications by the Polish political elite that difficult internal reforms were a consequence of adapting to membership requirements, even when such reforms were only marginally related to accession criteria. Consequently, the burden of negotiations and certain forms of political pressure with negative connotations was often reflected in the work of the main associated bodies.[431]

The Joint Parliamentary Committee of Poland and the EU played an indispensable role in communication between the Polish Parliament and the European Parliament. As one of the interparliamentary delegations, its main objective was to regulate and develop the European Parliament's external relations with Poland. Interparliamentary delegations such as this Committee represent the principal bridge connecting national parliaments, ensuring continuous dialogue. They also serve as the main bodies for exchanging information on matters relevant to mutual relations, cooperation in resolving potential problems, particularly those affecting EU foreign policy, and

[430] Ibid.

[431] Borkowski, Jan (1999), Role of the Poland-EU Joint Parliamentary Committee in Poland's Preparations for European Union Membership, Yearbook of Polish European Studies, 3/1999, pp. 63-82, pp. 63-65

maintaining contacts with state authorities. Regarding the establishment of relations with the European Parliament, these were initiated by the appointment of the first delegation for contacts with Poland in 1989, consisting of eleven members. Following the signing of the European Agreement in 1992, a delegation of fifteen members with fourteen substitutes was appointed, and one year later this composition assumed the role of delegation within the Joint Committee. As for the composition and duration of mandates, members were selected from political groups as well as non-affiliated members, in accordance with appropriate proportional measures, with an initial term of two and a half years. Later, the term was extended to four years, and representatives were appointed from parliamentary groups. The formal basis for appointing the Polish parliamentary delegation for communication with the European Parliament was also provided in the Rules of Procedure of both chambers. Accordingly, the first group responsible for maintaining contacts with the European Parliament was appointed by the Presidiums of both chambers at the beginning of 1990. Its responsibilities included initiating cooperation, programming and representing the Senate and the Sejm, as well as coordinating all related activities. With the signing of the Agreement, a permanent delegation composed of twelve members was established.[432]

Shortly before the Agreement entered into force, and in accordance with its provisions, the Joint Parliamentary Committee was established in order to fulfil the functions of the Parliamentary Association Committee. The basis for its establishment stemmed from resolutions and rules of procedure of both chambers, as well as a decision of the European Parliament. Its primary function was to enable political dialogue and serve as a forum for the exchange of ideas. The tasks of the Joint Committee also included submitting recommendations to the Association Council and the ability to request information from that Council regarding the implementation of the Agreement. Regarding its composition, the Committee consisted of fifteen members, three of whom were senators and twelve deputies. At a later stage, the delegation consisted of twelve members and the same number of substitutes, with a four-year mandate. As regards the leadership, the delegation had one chair and two vice-chairs. Earlier practice provided that the chair of the delegation simultaneously held the position of chair of the Sejm Committee for European Integration.[433]

[432] Ibid., p. 65

[433] Sejm, EU-Poland Joint Parliamentary Committee (2025). Official website of Sejm, available on the following link: https://oide.sejm.gov.pl/oide/en/index.php?option=com_content&view=category&layout=blog&id=15&Itemid=300 (Accessed 7 November 2025)

Furthermore, the legal basis of the Joint Parliamentary Committee, as previously mentioned, was regulated by the Rules of Procedure approved by the Presidiums of both Polish chambers and the European Parliament. These rules defined operational procedures, competences, and other issues arising in parliamentary practice. The Committee's work was managed jointly by both delegations and led by a presidency composed of two co-chairs and four vice-chairs. Meetings were held twice a year, once in Poland and once at the seat of the European Parliament. This arrangement was particularly important for maintaining close contact between Polish institutions and Members of the European Parliament, facilitating a better understanding of the European Parliament's operational conditions and working methods.[434] Unlike the meetings of the Association Council, which were limited in scope, sessions of the Joint Parliamentary Committee followed a predefined agenda and covered a wide range of topics over several hours. Discussions were based on reports and documents prepared by Committee members, as well as speeches by EU and Polish representatives. The political significance of these sessions stemmed from the fact that they involved high-ranking officials, including meetings between the President of the European Parliament, the Speakers of both chambers of the Polish Parliament, and the Prime Minister of Poland.[435]

As previously noted, the competences of the Joint Committee extended beyond EU-Poland relations and the implementation of the Agreement to include preparations for Poland's membership. Although the Committee's exceptional importance lay in its political influence and capacity for opinion exchange, it lacked the authority to adopt binding decisions for either party. As Borkowski concludes: "Analogous to the role of parliament within a system of state authority and the function of the European Parliament, the Joint Parliamentary Committee is a representative body and a factor of political oversight over Poland's integration into the EU, while the executive authorities of both parties carry out implementation." [436]

The Committee's strength lay in its ability to exert indirect influence on executive bodies by shaping conditions for cooperation, evaluating their performance, and facilitating the flow of opinions and information to parliamentarians. Concerning the relationship between the

[434] Borkowski, Jan (1999), Role of the Poland-EU Joint Parliamentary Committee in Poland's Preparations for European Union Membership, Yearbook of Polish European Studies, 3/1999, pp. 63-82, p. 66-67
[435] Ibid., pp. 67-68
[436] Borkowski, Jan (1999), Role of the Poland-EU Joint Parliamentary Committee in Poland's Preparations for European Union Membership, Yearbook of Polish European Studies, 3/1999, pp. 63-82, op.cit., p. 68-69

Association Council and the Joint Parliamentary Committee, the European Agreement merely defined the form of their relationship and designated the Association Council as the leading decision-making body among the association institutions. In this context, the Committee could request essential information from the Council regarding the implementation of the Agreement. Moreover, although not explicitly defined as an obligation, the Committee had the right to be informed about all activities and decisions of the Council related to association matters. As Borkowski notes, due to a clear lack of coordination between the Council and the Committee, these bodies often operated independently, which had a harmful influence on the preparation and accession process. Nevertheless, regular meetings of the Council resulted in documents, declarations, and recommendations reflecting certain compromises between the expectations and views of the European Parliament and those of the Polish delegation. It is also evident that most of the Committee's opinions largely aligned with those of the European Commission and the Council of the European Union.[437]

In addition to analysing Poland's preparations for membership, the Joint Parliamentary Committee addressed a broad range of issues, including international security, economic and political aspects of European integration, and assessments of developments in Poland, the EU, and the wider world. The tangible outcomes of its work and discussions were reflected in the Recommendations and Declarations adopted by the Committee, demonstrating that its practical activity extended far beyond mere analysis of the accession process.[438] Moreover, as Borkowski emphasises, following the formal submission of the membership application, the Joint Committee was expected to face two main tasks: first, ensuring democratic oversight of the accession process; and second, exerting pressure on the EU to use its budgetary instruments to support economic reforms in Poland, with the ultimate goal of achieving accession as efficiently as possible.[439]

Regarding Poland's accession, the most frequent problems concerned trade balance restrictions, customs duties, and quantitative limitations on goods imported from the EU into Poland, which naturally affected the economy. Additional challenges related to the development of the agricultural sector and environmental protection are largely attributed to the negligent

[437] Ibid., p. 68
[438] Borkowski, Jan (1999), Role of the Poland-EU Joint Parliamentary Committee in Poland's Preparations for European Union Membership, Yearbook of Polish European Studies, 3/1999, pp. 63-82, pp. 71-72
[439] Ibid., pp. 73-76

environmental legacy of the communist period. The compromises ultimately reached included guidelines for executive authorities to ensure at least minimum European standards through programmes harmonising environmental legislation, with agreed transitional measures of strictly defined duration and financial support (including 10% of PHARE funds). The Joint Parliamentary Committee placed particular emphasis on environmental protection issues, based on the reasonable assumption that a transitional period was necessary for adaptation.[440] Finally, as concluded by Borkowski, work within the framework of the Joint Parliamentary Committee provided Polish senators and deputies with valuable experience, which constituted a key element of Poland's institutional preparation for EU membership.[441]

5.4.5. The Accession Period

In the process of Poland's accession to the European Union, the Sejm and its committees responsible for European affairs inevitably played an important role. In particular, parliamentary oversight of the government was exercised by the Sejm through the adoption of resolutions, while its committees submitted opinions to the government. The committees also analysed and examined documents submitted by the Council of Ministers (the government) and questioned government officials present at committee meetings. The committees responsible for European affairs, in the course of monitoring and assessing the government's work, repeatedly pointed to the unavoidable need for changes in certain key aspects of the process. They stressed the need to develop a more effective mechanism for coordinating governmental activities, to adapt administrative staff and the overall administrative structure, and to improve both the scope of integration-related tasks and the quality of documents regulating integration activities. They also emphasised the importance of the timely submission of draft laws to the Sejm in connection with the harmonisation process, as well as the regular monitoring of pre-accession funds.[442] The role of the Sejm during the integration process was also largely based on inter-parliamentary cooperation, while parliamentary control over the accession process was delegated to the committees for European affairs. The names of these committees changed in each parliamentary term, reflecting the successive stages of the

[440] Ibid., p. 76
[441] Ibid., pp. 81-82
[442] Fryźlewicza, Marcin and Krawczyk, Kaja (2022), The role of the Sejm in the process of Poland's accession, ZESZYTY PRAWNICZE i 4(76) 2022, pp. 87-104, pp. 89-91

accession process.[443] Because of the need to accelerate the harmonisation of Polish law with EU law, it became necessary to establish a special committee dedicated exclusively to the alignment process. This was initially the Committee on European Law, later renamed the European Committee.

The new Constitution adopted by the National Assembly in 1997 contained, among other provisions, rules enabling Poland's future accession to international and supranational organisations such as the European Union, through the exercise of certain powers. Article 90(1) provides that the Republic of Poland may, by virtue of international agreements, delegate the competence of state authorities in certain matters to an international organisation or international institution. Paragraph 2 of the same Article stipulates that the act granting consent for the ratification of such an international agreement shall be adopted by the Sejm by a two-thirds majority of votes in the presence of at least half of the statutory number of deputies, while the Senate shall adopt it by a two-thirds majority of votes in the presence of at least half of the statutory number of senators. Paragraph 3 further provides that consent for ratification may also be expressed by a nationwide referendum, in accordance with Article 125 of the Constitution, which regulates the conditions and requirements for holding a referendum.[444]

Thus, the President of the Republic grants consent to the ratification of an agreement either based on a statute adopted under enhanced requirements or following a nationwide referendum. Furthermore, an agreement that has been ratified and promulgated in the official journal has direct effect, unless its application depends on prior statutory approval. Likewise, law enacted by an international organisation is directly applicable and takes precedence over domestic law in the event of a conflict. Through these constitutional provisions and the actions of the National

[443] In the first term of the Sejm (1991–1993), the committee was called the Committee on the Association Agreement; it was later renamed the Committee on European Integration, then the Committee on European Law (a period also referred to as the phase of so-called accelerated legislation for projects implementing EU law), followed by the European Committee, and finally the Committee on European Union Affairs in the fourth term, when Poland acceded to the EU. For more see: Fryźlewicza, Marcin and Krawczyk, Kaja (2022), pp. 90-91

[444] Note: The right to call a referendum lies with the Sejm by an absolute majority of votes in the presence of at least half of the statutory number of deputies. The same right is vested in the President of the Republic, with the consent of the Senate, also expressed by an absolute majority of votes in the presence of at least half of the statutory number of senators. The results of a referendum are binding if more than half of those entitled to vote participate, while its validity is determined by the Supreme Court. See: The Constitution of the Republic of Poland of 2nd April, 1997, promulgated on 16th July 1997, came into force on 17th October 1997, in Dziennik Ustaw No. 78, item 483. Available on: https://www.sejm.gov.pl/prawo/konst/angielski/konse.htm (Accessed May 2025)

Assembly, both Poland's accession to and its integration within the European Union were made possible. It should also be emphasised that in 2003 the Sejm decided on the ratification procedure by the constitutionally required absolute majority and, following the referendum, gave its prior consent expressed by statute, after which, in accordance with Article 89(1) of the Constitution, the final ratification of the agreement was carried out by the President of the Republic.[445] A referendum was followed by a long and comprehensive campaign, while the validity of the results of the referendum and the procedure was confirmed by the Supreme Court. [446]

Furthermore, it was necessary to amend constitutional provisions in order to directly regulate the role of Parliament in the EU legislative process, as well as other key issues related to adaptation to membership. Attempts were made to address this by adding a chapter on Polish membership in the Constitution, already in the pre-accession phase; however, the matter was not resolved through constitutional amendment at that time. The Polish Constitutional Tribunal partly addressed this issue in its 2005 judgment, emphasising that the constitutional legislator should consider regulating the role of the Sejm and the Senate in the EU legislative process through constitutional amendments. In this context, the question arose as to the competence of the Senate to express its opinion on the government's position with regard to EU legislative proposals.[447] The Constitutional Tribunal pointed out in its 2005 decision that, under the Polish Constitution, the Senate's expression of opinions on the government's stance in relation to EU legislative proposals does not constitute the exercise of a control function over the government. Such control is constitutionally reserved exclusively for the Sejm. The Court therefore concluded that, in this respect, both chambers should enjoy equal rights.[448]

Due to the absence of the required constitutional amendment, the process of adapting to EU law also raised the issue of regulating the division of competences in EU policy-making.

[445] Fryźlewicza, Marcin and Krawczyk, Kaja (2022), The role of the Sejm in the process of Poland's accession, ZESZYTY PRAWNICZE i 4(76) 2022, pp. 87-104, pp. 91

[446] Rytel-Warzocha, Anna (2022), Constitutional law of Poland, (eds. Arlettaz, Jordane and Picod, Fabrice), Series: Droit constitutionnel européen, Larcier (Bruylant), pp. 26-27

[447] Fuksiewicz, Aleksander (2011), The Polish Parliament under the Lisbon Treaty- adaptation to the institutional reform, Instytut Spraw Publicznych/ The Institute of Public Affairs, pp. 9-10

[448] For more details, see: Judgment of 12 January 2005 - Ref. No. K 24/04 (summary) on the topic: The Sejm and the Senate in the European Legislative Process, in: Selected rulings of the Polish Constitutional Tribunal concerning the Law of the European Union (2003-2014), Studia i Materiały Trybunału Konstytucyjnego Vol. LI, Warszawa 2014, pp. 34-40. Available at: https://trybunal.gov.pl/fileadmin/news_files/SiM_LI_EN_calosc.pdf (Accessed 2 May 2025)

During this period, a conflict arose between the President of the Republic and the Prime Minister over who should represent Poland at meetings of the European Council. This issue was resolved not through a constitutional amendment, but through a decision of the Constitutional Tribunal.[449] With regard to informing the public about the work of the latter and progress towards the EU, the committee regularly met with representatives of non-governmental organisations in order to provide information on the proper allocation of funds. On the other hand, the Sejm had to prepare for its adaptation to the role of the national parliament of an EU Member State. This required adjustments to the relevant legal framework, particularly in view of the country's traditional institutional legacy. This process included ensuring appropriate conditions, above all legal mechanisms enabling parliamentary participation in accordance with the provisions of the EU Treaties, namely involvement in procedures requiring the issuance of opinions on draft EU legal acts, as well as participation in the implementation of EU law. There was also a need to align the relationship between the Sejm and the Council of Ministers through the proper application of constitutional principles. These changes were achieved in part through the Sejm Act on Cooperation between the Council of Ministers and the Sejm and the Senate, adopted on 11 March 2004, which was also incorporated into the Sejm's Rules of Procedure.[450]

5.4.6. Parliamentary Oversight of the Executive

Oversight of the executive, that is, the Council of Ministers, was exercised by the Sejm both through the supervision of individual ministries and of the Council as a whole. This is evident in the frequent requests by the Sejm for additional clarification of priorities, tasks, and deadlines set out in reports submitted by the Council. A key Sejm resolution that contributed to the adoption of the National Strategy for Integration was adopted in March 1997, demonstrating that the Sejm served as the strategic body responsible for the implementation of the Strategy and as the main body responsible for monitoring the government's progress. In the following year, another

[449] See: Decision of 20 May 2009 - Ref. No. Kpt 2/08; "Dispute over the Representation of the Republic of Poland in the European Council", in: Selected rulings of the Polish Constitutional Tribunal concerning the Law of the European Union (2003-2014), Studia i Materiały Trybunału Konstytucyjnego Vol. LI, Warszawa 2014, pp. 122-158. Available at: https://trybunal.gov.pl/fileadmin/news_files/SiM_LI_EN_calosc.pdf. (Accessed 2 May 2025)

[450] Fryźlewicza, Marcin and Krawczyk, Kaja (2022), The role of the Sejm in the process of Poland's accession, ZESZYTY PRAWNICZE i 4(76) 2022, pp. 87-104, p. 94

resolution was adopted regulating the accession negotiation process. In this context, the selected committees for European integration examined reports on the implementation of the National Programme for Preparation, which was among the most extensive governmental documents, and subsequently reviewed the National Programme for Preparation for Membership, including reports on its implementation. With regard to monitoring the accession process, there was no obligation for the Council of Ministers to consult Parliament on the content of negotiation positions prior to their submission. An exception existed in the area of agriculture, where the competent committees (the Agriculture Committee together with the Committee for European Affairs) were able to present their views before the Council of Ministers submitted its position to the European Commission.[451]

Furthermore, the chief negotiator held regular meetings with the committees for European affairs, enabling the committees to examine progress reports regularly. The committees were therefore sufficiently informed to provide comments to the Council of Ministers, particularly with regard to the allocation of funds for integration within the structure of the state budget, as it was often unclear which expenditures should be classified as integration-related. Due to the extensive workload connected with pre-accession funds and in order to facilitate monitoring of EU financial assistance, the committee established subcommittees whose opinions were then submitted to the Council of Ministers.[452]

5.4.7. Process of the Harmonisation and Post-Accession developments

Furthermore, given that the Sejm's principal task was the alignment of Polish law with the EU acquis, the process of harmonisation was carried out in two stages. First, it was necessary to ensure the compatibility of newly adopted legislation; subsequently, existing legislation had to be aligned, that is, amended and supplemented. The involvement of the Sejm, as well as of the Senate, was crucial for the completion of the accession process, while the Council of Ministers was responsible for harmonisation in accordance with obligations arising from international agreements. Given that the Council of Ministers, alongside the President, the Senate, and Members

[451] Fryźlewicza, Marcin and Krawczyk, Kaja (2022), The role of the Sejm in the process of Poland's accession, ZESZYTY PRAWNICZE i 4(76) 2022, pp. 87-104, p. 92
[452] Ibid., p. 93

of Parliament, has the right of legislative initiative, and taking into account the obligation to ensure the alignment of legislation through an effective system, the government adopted internal procedures for reviewing compatibility in 1994. In order to achieve the same objective, the Sejm introduced into its Rules of Procedure provisions requiring that every explanatory memorandum accompanying a draft bill contain sufficient information on the assessment of compatibility with the EU acquis. [453]

This ensured that any legislative proposal, before the commencement of the legislative procedure and where it had not been submitted by the government, had to be forwarded to the Research Office established within the Chancellery of the Sejm, whose experts carried out an assessment of compatibility with the acquis. If the proposal was found not to be compatible, the Marshal of the Sejm was authorised to refer the proposal to the Committee on European Integration for an assessment of its merits. This procedure for assessing compatibility made it possible for each proposal, at the stage of submission to the Sejm, to include confirmation of its compatibility. This procedure of review and the issuance of opinions on compatibility became a kind of prerequisite for all stages of the legislative process. Government experts were obliged to issue opinions throughout all stages, from the first reading to the consideration of the Senate's resolution in the Sejm, including any amendments that had been submitted.[454]

It is worth noting that, although every draft bill had to be accompanied by an opinion on compatibility, this did not at the same time mean that the proposal itself had to be compatible with EU law. The opinion or statement on compatibility was of an informative nature and did not affect the course of the legislative procedure, even when it indicated that the legislative proposal was not in conformity with EU law. Furthermore, as mentioned earlier, even at the stage before the proposal was sent for printing and the first reading, pursuant to the provisions of the Rules of Procedure of the Sejm (Article 31(7)), the Marshal of the Sejm instructed experts from the Chancellery of the Sejm to prepare an opinion on compatibility. Thus, the opinion was prepared by the European Integration Team of the Research Office, and upon receipt of the opinion the Marshal of the Sejm ordered the printing of the draft. The content of the opinion consisted of five elements: a brief description of the subject matter, the state of Community law in the area covered

[453] Ibid., p. 95
[454] Ibid., p. 96

by the draft act, the relevant provisions of the European Agreement, an analysis of the compatibility of the provisions of the draft act in relation to Community law or the Agreement, and a conclusion.[455] The need for the most effective possible adaptation of Polish law to EU law was also reflected in the relatively frequent amendments to the Rules of Procedure of the Sejm. Rapid adaptation was likewise a key argument for Polish negotiators. The result of this was an amendment to the Sejm's Rules of Procedure providing for a special body, namely an extraordinary committee called the Committee on European Law, as mentioned earlier. These amendments to the Rules of Procedure were particularly concerned with regulating an accelerated harmonisation procedure, while safeguarding Members' right to participate in the legislative process. Accordingly, they provided that the first reading of a draft bill could take place within a shorter period than usual from the date of submission (three days instead of seven). The amendments also allowed a greater number of Members of Parliament to submit amendments: at the first reading, the number was increased from one to three Members, while at the second reading, with the additional requirement that amendments be submitted in written form, the number was increased to five. The amendments also regulated the situation of rejecting a proposal at the first reading, which could thereafter be rejected at that stage only by an absolute majority.[456]

The processing procedure therefore proceeded in such a way that immediately upon receipt of a draft bill in the Polish language relating to alignment with EU law, the Committee on European Law prepared reports and at the same time organised the schedule of deliberations in cooperation with standing committees. The Sejm then, immediately after receiving those reports, debated the key issues in plenary session. The successor to that committee was the European Committee, which took over all procedures related to the adaptation of legislation. Its opinions consisted of seven parts. Ultimately, the vast majority of the legislative work in this area was carried out by the aforementioned committees, which resulted in a total of as many as 272 acts being adopted by the Sejm.[457] When it comes to parliamentary activity in the use of the Lisbon Treaty mechanisms and the political dialogue, it will be more thoroughly analyzed in the last chapter.

[455] Ibid., p. 100
[456] Ibid., pp. 96-97
[457] Ibid., p. 97

VI. EMPIRICAL AND COMPARATIVE ANALYSIS OF THE PARLIAMENTARY ACTIVITY OF CEE COUNTRIES IN EU AFFAIRS

6.1. Introduction to the analytical chapter

In contrast to the preceding chapters, this chapter focuses on the empirical examination of the actual functioning of the national parliaments of the three selected Central and Eastern European (CEE) Member States. In doing so, it moves beyond purely normative and institutional analyses and brings the research closer to conclusions about the confirmation or disproof of the central hypothesis.

Thus, although the Lisbon Treaty formally strengthened the position of national parliaments in EU affairs, particularly within the legislative process, the extent to which these formal Lisbon mechanisms have been used in practice remains open to question even more than fifteen years after their introduction. Furthermore, the analysis adopts a comparative functional approach, structured around key categories of parliamentary activity in EU affairs. This methodological approach allows for a more precise identification of differences, patterns, and structural constraints affecting parliamentary activity, and thereby enables a clearer comparison of national practices.

The first part of the analysis relies on quantitative data concerning parliamentary activity, including reasoned opinions issued under Protocol No. 2 to the Lisbon Treaty (i.e., within the framework of the Early Warning Mechanism) as well as other reasoned opinions submitted in the context of the political dialogue. These data cover the period from 2010 to 2024 and are based on the European Commission's annual reports on relations with national parliaments. After the analysis of statistical data, research also includes the analysis of the content of the Reasoned Opinions of the three CEE member states parliaments in the third yellow card procedure, taking into account that, in this procedure, all three parliaments were active. Additionally, analsys also included the content and main argumentation in response from the European Commission on the RO of NPs.

Furthermore, the roles of the parliaments of Croatia, Hungary, and Poland are examined simultaneously within each analytical category, which ultimately allows for a more systematic comparison of their practices.

In order to effectively connect the formal institutional framework with actual parliamentary practice, this chapter also incorporates empirical data obtained through semi-structured interviews conducted with secretaries of the committees on European affairs.

The qualitative analysis of these interviews provides valuable insight into internal procedures, informal practices, and practical challenges faced by parliaments in the conduct of EU affairs, which are not fully visible within formal legal and institutional frameworks. The interview findings, therefore, serve as an additional tool for a deeper understanding of the operational reality of EU decision-making and the conditions in which national parliaments operate daily.

6.2. Scope and intensity of activities of parliaments (2010-2014)

Table 2. Authors' comparison of the activity of the Croatian Parliament (marked as: Hrvatski Sabor), the Hungarian Parliament (marked as Országgyűlés), and the Polish Parliament - bicameral (marked as: Sejm; and Senat) in the application of the reasoned opinions, including the activities under Protocol 2 of the Lisbon Treaty from 2010 onwards.[458]

Year	Chamber/ Parliament	Hrvatski Sabor	Országgyűlés	Sejm	Senate	Total amount (all chambers)	Total amount of all Member States parliaments (per year)
2010	RO	/	0	2	5	*7*	387
	C	/	0	2	4	*6*	34
2011	RO	/	0	5	4	*9*	622
	C	/	0	5	4	*9*	64
2012	RO	/	0	3	11	*14*	663
	C	Since 1.7.2013	0	3	1	*4*	70
2013	RO	0	2	6	8	*16*	621
	C	0	1	2	2	*5*	88
2014	RO	4	1	6	6	*17*	506
	C	1	0	0	0	*1*	21
2015	RO	5	5	0	3	*13*	350
	C	0	1	0	0	*1*	8

[458] Abbreviation under RO (REASONED OPINIONS) includes both opinions and reasoned opinions received from national parliaments, while abbreviation C (CONTRIBUTIONS) qualifies as a reasoned opinion according to the definition in Protocol No. 2, an opinion must clearly state a breach of subsidiarity and be sent to the Commission within eight weeks of the transmission of the proposal to national parliaments.

2016	RO	2	6	4	17	*29*	620
	C	1	2	2	2	*7*	65
2017	RO	2	8	6	14	*30*	576
	C	0	2	2	4	*8*	52
2018	RO	1	3	7	6	*17*	569
	C	0	0	0	0	*0*	37
2019	RO	0	5	2	2	*9*	159
	C	0	0	0	0	*0*	0
2020	RO	2	2	1	1	*6*	255
	C	0	1	0	0	*1*	9
2021	RO	1	0	1	12	*14*	360
	C	0	4	0	0	*4*	16
2022	RO	2	6	4	4	*16*	355
	C	0	1	0	0	*1*	32
2023	RO	4	4	2	2	*12*	402
	C	0	1	0	0	*1*	22
2024	RO	1	1	2	3	*7*	252
	C	0	1	0	0	*1*	14
Total	**RO**	**24**	**43**	**51**	**98**	**RO: 216**	
Total	**C**	**2**	**14**	**16**	**17**	**C: 49**	
SUM (RO+ C)		**26**	**57**	**67**	**115**	TOTAL SUM (RO+C) **256**	

Source: Data collected from the European Commission Annual reports on the application of the principles of subsidiarity and proportionality and relations with national Parliaments.[459]

From the results in the previous Table 2, it is possible to follow the activity of all three parliaments in the EU legislative process, in which they are involved by submitting the reasoned opinions regarding their opinions that a certain legislative proposal breaches the subsidiarity principle (marked: C) and also the reasoned opinions regarding the political dialogue (marked: RO) with the Commission, from 2010 to 2024.

What clearly stands out from the Table 2 data is that in 2019, there were no reasoned opinions submitted under the subsidiarity control procedure for any of the Member States

[459] European Commission (2026), Annual reports on relations with national parliaments (from 2010 to 2017) are available on the following webpage: https://commission.europa.eu/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments_en.
While the Commission's Annual reports on the application of the principles of subsidiarity and proportionality and relations with national Parliaments from 2018 are available on the following webpage: https://commission.europa.eu/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-application-principles-subsidiarity-and-proportionality-and-relations-national_en
(Accessed 5 February 2026)

parliaments, which is the first such case since the mechanism was introduced. In the same year, 159 reasoned opinions were received within the framework of the political dialogue. However, the very low level of parliamentary activity in submitting reasoned opinions, both under subsidiarity control and within the political dialogue, can largely be explained by the fact that in 2019, the Commission significantly reduced its legislative activity. This was due to the transition period between two Commissions. For comparison, in 2018 the Commission submitted 139 legislative proposals subject to subsidiarity control, while in 2019 it submitted only 28, which is almost five times fewer than in the previous year.[460]

As for the Croatian Parliament's activity in its first year of membership, there were no reasoned opinions, neither within the political dialogue nor under subsidiarity control. However, considering that Croatia joined the EU only in the second half of 2013 (1 July 2013), this lack of activity is somewhat understandable. In the following year, 2014, the number gradually increased, with one reasoned opinion (marked C)[461] under subsidiarity control and four within the political dialogue. The table also shows that the Croatian Parliament submitted its second reasoned opinion concerning a breach of subsidiarity in 2016. [462] After that, and up to the end of 2024, it did not submit any further reasoned opinions under subsidiarity control. In contrast, within the political dialogue (and other communication with the Commission), the Croatian Parliament was most active in 2015, with five reasoned opinions, and in 2023, with four. It submitted two reasoned opinions in 2016, 2017, 2020, and 2022, while in the remaining years it submitted only one per year. Overall, from 2010 to 2024, the Croatian Parliament submitted a total of 26 reasoned opinions, of which 24 were within the political dialogue and 2 under subsidiarity control.

[460] For more details on this, see the Commission report from 2019: European Commission (2020), Report from the Commission; Annual Report 2019 On the Application of the Principle of subsidiarity and proportionality and on relations with national parliaments, Brussels, 30.6.2020, p. 10. Available at: https://commission.europa.eu/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-application-principles-subsidiarity-and-proportionality-and-relations-national_en (Accessed 5 February 2026)

[461] That RO was regarding proposal for a directive of the European Parliament and of the Council amending Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, 1999/31/EC on the landfill of waste, 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment, COM/2014/397; see ipex webpage: https://www.ipex.eu/IPEXL-WEB/document/COM-2014-0397/hrhrv

[462] That one RO was concerning the proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, when the third yellow card procedure was triggered. See the IPex webpage: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128 (Accessed 5 February 2026)

In the case of the Hungarian Parliament (Országgyűlés), its inactivity in the first three years following the introduction of the mechanism is clearly visible, both in the political dialogue and under subsidiarity control. After that, the numbers increased gradually, with a relatively consistent trend thereafter. Its first reasoned opinion under subsidiarity control was submitted in 2013[463], while in 2014, there was no activity in that regard. Furthermore, there were no reasoned opinions under subsidiarity control in 2014, while in 2015 there was one, increasing to two in 2016 and remaining at two in 2017. However, there was no activity again in 2018 and 2019, while in 2020, there was one reasoned opinion. The year 2021 stands out in particular, when the parliament submitted as many as four reasoned opinions under subsidiarity control. In the following three years, the number returned to the earlier pattern of one per year. Looking at the trend of activity within the political dialogue, the Hungarian Parliament did not show a consistent pattern but rather significant fluctuations. In 2013, it submitted two reasoned opinions, followed by one in 2014, then a sharp increase to five in 2015. The upward trend continued with six in 2016 and eight in 2017, followed by a drop to three in 2018. In 2019, the number rose again to five, then dropped to two in 2020, and in 2021, there were no reasoned opinions within the political dialogue. In 2022, the number rose again to six, slightly decreased to four in 2023, and finally dropped to just one in 2024. Overall, from 2010 to 2024, the Hungarian Parliament submitted a total of 57 reasoned opinions, of which 43 were within the political dialogue and 14 under subsidiarity control.

The Polish Parliament, both the Sejm and the Senate, shows an almost opposite trend compared to the Croatian and Hungarian parliaments. There was relatively strong activity at the beginning following the introduction of the mechanism, followed by a significant decline in later years. This downward trend is particularly visible in the use of reasoned opinions under subsidiarity control (C). After an initially stable level of activity in both chambers, there was a complete absence of reasoned opinions in 2014 and 2015. Following a brief period of activity in 2016 and 2017, there were again no reasoned opinions from 2018 to 2024 under subsidiarity control (C) in either chamber.

In terms of the Sejm's activity under subsidiarity control, it submitted two reasoned opinions(C) in 2010, increasing to five in 2011, then decreasing to three in 2012 and further to two

[463] It was concerning the Proposal for a Council Regulation establishing the European Public Prosecutor's Office (EPPO; COM/2013/534), available at: https://secure.ipex.eu/IPEXL-WEB/document/COM-2013-534/huors

in 2013. The Senate submitted four reasoned opinions(C) in both 2010 and 2011, then decreased to one in 2012 and increased to two in 2013. After the period of inactivity in 2014 and 2015, the Senate submitted two reasoned opinions (C) in 2016 and four in 2017. After that, there was no activity under subsidiarity control up to 2024.

As for the political dialogue, in 2010, the Sejm submitted two reasoned opinions (RO) and the Senate five. In 2011, the Sejm submitted five and the Senate four, while in 2012 the Sejm submitted three and the Senate one. In 2013, the Sejm doubled its number compared to the previous year, submitting six, while the Senate submitted as many as eight. In 2014, both chambers submitted six each. In 2015, the Sejm did not submit any, while the Senate submitted three. In 2016, the Sejm remained relatively stable with four, while the Senate sharply increased its activity to 17. A similar pattern continued in 2017, with the Sejm submitting six and the Senate 14. In 2018, there was still a certain level of activity, with the Sejm submitting seven and the Senate six. However, after that, the trend declined: in 2019, both chambers submitted only two, and in 2020, only one each. In 2021, the Sejm remained at a low level with one, while the Senate sharply increased its activity to 12. In 2022, both chambers submitted four, in 2023, two each, and in 2024, the Sejm submitted two while the Senate submitted three reasoned opinions within the political dialogue.

Based on this analysis, several conclusions can be drawn about the activity of the three parliaments in submitting reasoned opinions. The Croatian Parliament is the least active, with a total of 26 reasoned opinions. However, it should be taken into account that it could not participate during the first three years after the mechanism was introduced, so this number reflects 11 years following EU accession. On the other hand, the Hungarian Parliament submitted a total of 57 reasoned opinions between 2010 and 2024, more than twice as many as Croatia (although it was also inactive in the first three years, except that in 2013 it submitted three reasoned opinions). In the case of the Polish Parliament, the Sejm submitted a total of 67 reasoned opinions, while the Senate was the most active overall, with 115.

Finally, it should be emphasized that the figures in the table alone do not fully explain the real reasons behind the activity or inactivity of national parliaments within the Early Warning Mechanism (Protocol No. 2) and the political dialogue. Parliamentary activity is influenced by many factors, including the policy area of each legislative proposal, the level of interest or

willingness to participate, the institutional capacity of each parliament, and a number of other important considerations that are not visible from the table alone. Nevertheless, observing the submitted opinions through this table makes it possible to identify the overall trends in their activity.

The table also shows that in 2016, when the third "yellow card" procedure was triggered concerning the Directive on the posting of workers in the framework of the provision of services (COM/2016/0128; hereinafter: Posting of workers Directive)[464], all three parliaments were active and submitted reasoned opinions under subsidiarity control (Protocol No. 2). The Croatian Parliament submitted a reasoned opinion under subsidiarity control, while the Hungarian Parliament submitted both a reasoned opinion under subsidiarity control and one within the political dialogue, as well as an additional opinion as part of information exchange. The Polish Sejm, in addition to a reasoned opinion, also submitted an opinion as part of information exchange, while the Polish Senate submitted reasoned opinions both under subsidiarity control and within the political dialogue, along with an additional opinion as part of information exchange.

6.3. Observation of the Reasoned Opinions of all three parliaments in the third "yellow card" procedure (Posting of Workers Directive)

Concerning the content of the reasoned opinion issued within the subsidiarity control procedure, the Croatian Parliament, more precisely the European Affairs Committee of the Croatian Parliament, stated in the reasoning of its opinion that it considers the proposed directive to be inconsistent with the principle of subsidiarity. The Committee took the view that, contrary to Article 5 of Protocol No. 2 on the application of the principles of subsidiarity and proportionality, the proposal does not contain a sufficiently detailed statement enabling an assessment of its compliance with those principles, emphasizing in particular that the Commission, as the proposer, has not justified the need to adopt the act at the EU level.[465] In addition, the Committee pointed

[464] European Commission (2016), proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services. COM/2016/0128, See Ipex webpage on the following link: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128

[465] Hrvatski Sabor, Odbor za Europske poslove (2016), Obazloženo mišljenje o Prijedlogu direktive Europskog Parlamenta I Vijeća o izmjeni Direktive 96/71/EZ Europskog Parlamenta I Vijeća od 16.prosinca 1996. O upućivanju

out that the proposal itself (in connection with Article 56 TFEU) raises the issue of restricting the freedom to provide services within the Union, while at the same time stressing that labour costs constitute a legitimate element of the competitiveness of companies in the EU internal market. The Committee also highlighted the issue of whether it is justified for the Union, that is, the Commission, to interfere with the principle of autonomy of employers and trade unions in matters relating to the process of collective bargaining. Finally, the Committee noted that the proposed amendment to the directive comes at a time when the transposition of the earlier Directive (Directive 97/71/EC concerning the posting of workers in the framework of the provision of services) and the amendment of Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (the IMI Regulation), which cover very similar subject matter, are still ongoing. This creates potential legal uncertainty for companies and workers and is ultimately contrary to the principles of the Union's internal market.[466]

The Hungarian Committee on European Affairs of the National Assembly of Hungary also stated in its reasoned opinion that the proposed directive is not in accordance with the principle of subsidiarity, noting that a breach of subsidiarity had already been highlighted in the resolution adopted by the National Assembly of Hungary on 10 May 2016. Furthermore, it stated that the Parliament's reasoned opinion is based on Report No. B/10290 (which is annexed to the opinion), submitted by the Committee on European Affairs of Hungary, which identified several key points. First, it was established, as in the opinion of the Croatian Parliament's Committee, that the proposal lacks any justification of its compliance with the principle of subsidiarity, as well as containing deficiencies in the impact assessment, particularly concerning the absence of relevant information on the actual effects of introducing remuneration.[467]

It was also emphasized that the proposal would significantly restrict the freedom to provide services and would, at the same time, adversely affect competition to an extent that cannot be justified by the introduction of equal pay, that is, by the equalisation of labour costs. In addition, the Committee specifically stressed that the introduction of remuneration instead of a minimum rate of pay (as provided for in Directive 96/71/EC) would not bring any added value, taking the

raadnika u okviru pružanja usluga COM (2016) 128, 5.svibnja 2016 (eng. Reasoned Opinion of the Croatian Parliament on COM (2016) 128), Available at: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128/hrhrv

[466] Ibid.

[467] Reasoned Opinion of the Hungarian National Assembly (2016), Available at: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128/huors (Accessed 15 February 2026)

view that the concept of remuneration is less certain and less clear, and therefore contrary to the principles of legal certainty. The Committee also considered that there had not been a broad public consultation before the submission of the proposal, meaning that the views at regional and local levels had not been taken into account. It concluded that certain aspects of the proposal's social policy are also problematic, pointing out that the introduction of the concept of remuneration would lead to an artificial equalisation of different wage levels among Member States. While such differences do not, in themselves, distort competition within Member States and are in fact a consequence of differing levels of economic development, the Committee considered that the proposal is not in line with the relevant provisions of the TFEU, under which the Union has supporting and complementary competences in the field of social policy.[468]

In the case of the Polish Sejm, in its RO within the framework of the subsidiarity control, the Sejm considered primarily that there was a violation of the principle of subsidiarity, which it supported by the fact that the Commission had not proven that the objectives would be better achieved at the EU level than at the national level. It also considered that although the aim of the proposal was, among other things, to combat unfair practices and introduce the principle of equal pay for equal work in the same place, the Sejm considered that the existing minimum wage system of the host country already ensures adequate protection of workers, all while respecting the economic differences between the Member States. Likewise, the Sejm pointed out that wage harmonisation should take place through the economic development of the countries, therefore, not through EU legislative interventions. What the Sejm particularly warned about was that the proposal did not contain any real reasoning on the issue of subsidiarity, nor any quantitative or qualitative indicators that would justify the EU's action, which ultimately violates the relevant provisions of both the Treaties and the Protocols.[469] Furthermore, the Sejm warned that it was making it more difficult for the latter to monitor compliance with subsidiarity. It also considered the lifting of restrictions on certain sectors (for example, the construction sector) and the extension of the application of collective agreements to all sectors to be unjustified, as Member States already can decide on such an extension themselves. The Sejm also stressed that many Member States had already made use of the existing options under the Directive or had consciously decided that they

[468] Ibid.

[469] See: Resolution of the Sejm of the Republic of Poland of 13 April 2016 (including Annex to the Resolution). Available at the Ipex webpage under the following link: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128/plsej (Accessed 20 February 2026)

did not need such measures, and that EU intervention was therefore not necessary. The Sejm also considered the proposed measures imposing an obligation to equalise the conditions for posted workers and agency workers to be unnecessary, as Member States could already introduce such rules themselves, while stressing that the Commission had not at any time provided evidence that Member States could not effectively regulate these issues themselves. In conclusion, the Sejm considered that the proposal for a directive encroaches on the competence of Member States, without bringing any added value at the EU level, and therefore constitutes a violation of the principle of subsidiarity.[470]

The Polish Senate, in its RO within the framework of subsidiarity supervision, highlighted a violation of the principle of subsidiarity, pointing out that it directly resulted from the unjustified limitation of member states' regulatory autonomy. In particular, the Senate criticised the provisions that impose obligations on subcontractors and agency workers, even though Member States already have the option to regulate these matters in line with their own needs. The Senate also argued that the Commission had not demonstrated that a uniform solution at the EU level would provide better protection for workers than the protection already ensured at the national level. Moreover, it stressed that the assessment of the need for such rules should remain within the competence of Member States, especially given the differences in labour markets.[471]

In addition, the Senate's Committee on Foreign and EU Affairs pointed to a breach of the principle of proportionality, as the proposal introduces new administrative burdens without clear benefits. It warned that this could restrict the freedom to provide services and negatively affect the functioning of the internal market. The Committee also criticised the lack of a proper impact assessment, particularly regarding small and medium-sized enterprises and business costs. Furthermore, it noted that the proposal was premature, as it was put forward before the evaluation of previous legislative measures. Finally, the Senate, like the Sejm, concluded that the proposal does not bring sufficient added value at the EU level, but rather complicates the legal framework

[470] Ibid.
[471] See: Opinion of the Senate of the Republic of Poland of 29 April 2016. Available at the Ipex webpage under the following link: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128/plsen (Accessed 20 February 2026).

and interferes with Member States competences, and therefore constitutes a breach of the principle of subsidiarity.[472]

6.3.1. Common grounds in the opinions and their differences

The reasoned opinions (RO) under subsidiarity checks, regarding the Posting Workers Directive, reveal several common elements in the positions of the national parliaments; however, there are also certain differences in emphasis.

The emphasis on the violation of the principle of subsidiarity by the Commission proposal is the first common position; however, all parliaments stated that the violation occurred primarily because the Commission did not prove that the objectives could not be better achieved at the national level. Likewise, all three parliaments stressed the lack of adequate reasoning, as well as shortcomings in the impact assessment, including the absence of concrete data that would justify EU intervention. Furthermore, the majority particularly warned of a possible restriction of the freedom to provide services, including potential negative effects on both the internal market and competition. The Croatian and Hungarian parliamentary committees, as well as the Polish Senate, particularly raised the issue of additional administrative burdens that would arise from the implementation of the proposal, without clearly visible benefits. Both Houses of the Polish Parliament, as well as the Hungarian Parliament, particularly emphasised the fact that the Member States already have sufficient possibilities to regulate the disputed issues themselves, whereby EU intervention is not necessary. Finally, a certain common position also stemmed from the opinion that the proposal does not bring real added value at the EU level.

In relation to the differences, i.e., the issues on which each parliament placed greater emphasis, this is evident in several areas. The latter is primarily evident in the opinion of the Committee of the Croatian Parliament, which placed particular emphasis on the issue of restricting the provision of services and the autonomy of social partners (employers and trade unions), as well as on the legal uncertainty caused by the parallel adoption of new regulations while the transposition of the previous ones is still ongoing. The Hungarian Committee retained a certain

[472] See: Opinion of the Senate of the Republic of Poland of 29 April 2016 and Opinion of the Foreign Union Affairs Committee of the Senate of the Republic of Poland. Available at the Ipex webpage under the following link: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128/plsen (Accessed 20 February 2026)

focus on a more detailed elaboration of the issue of legal certainty, in which it particularly criticised the introduction of the concept of compensation instead of the minimum wage and highlighted the lack of public consultation, including potential problems caused by artificial equalisation of wage levels. The Polish Sejm, on the other hand, emphasised the economic disparities between Member States and the need for wage harmonisation to take place through economic growth, while also addressing sectors and collective agreements in particular. The Polish Senate places particular emphasis on the issue of limiting the regulatory autonomy of Member States and particularly highlights the violation of the principle of proportionality, in particular through criticism of new obligations and administrative burdens.

From all of the above, it can be concluded that although all parliaments share the fundamental criticism of the violation of subsidiarity and the lack of justification by the Commission, their opinions differ on specific arguments, ranging from legal certainty, market effects, to social dialogue and economic differences between Member States.

6.3.2. European Commission Opinion on Reasoned Opinions

The Commission primarily emphasized that, in its view, the proposed directive does not breach the principle of subsidiarity, supporting this position with several arguments. It started from the premise that the posting of workers is, by its nature, a cross-border issue and therefore cannot be regulated solely at the national level. Furthermore, the Commission pointed out that the main aim of the proposal was to ensure a level playing field, and, alongside that, to provide adequate protection for workers across the Union- something that cannot be achieved if Member States act individually. In this context, the Commission argued that differing national solutions would produce the opposite effect, leading to fragmentation of the internal market. It also stressed that uniform rules at the Union level are a necessary condition for ensuring legal certainty, clarity, and predictability. In addition, the Commission stated that the proposal does not harmonize wages across Member States, but merely ensures that the pay rules of the host country apply to posted workers. In conclusion, the Commission took the view that all the objectives of the proposal- from

worker protection to fair competition- can be better achieved at the EU level than at the national level, which, in its opinion, confirms that the principle of subsidiarity is respected.[473]

As regards the Commission's replies to specific national arguments, in response to claims that the existing rules are insufficient (raised by all three CEE parliaments), the Commission argued that the current system does not ensure equal conditions for all, while it only gives MS the option, not the obligation, to extend the rules to all sectors. For that reason, action at the Union level is necessary to establish consistent and uniform rules. In response to the claim that MS could regulate the matter themselves (an argument put forward by all three CEE parliaments), the Commission expressly rejected this, stating that national solutions would lead to inconsistency and market fragmentation, ultimately making the freedom to provide services more difficult to exercise. It concluded that only the EU can ensure a coherent framework for all MS.[474]

Regarding the argument about wage alignment and economic differences, particularly emphasized by the Polish and Hungarian parliaments, the Commission stated that the proposal does not align wage levels between countries, but only governs the application of existing host-country rules. Through this reasoning, the Commission effectively rejected claims that the proposal would artificially equalize wages. Furthermore, in response to criticism concerning the lack of justification and impact assessment (raised by all three parliaments), the Commission acknowledged that the reasoning in the proposal is brief, but argued that it is sufficient when read together with the recitals and the impact assessment. It also referred to the case law of the Court of Justice of the European Union, according to which a detailed statement of reasons is not required if the context provides sufficient information. As for the argument concerning MS competences (raised by all three parliaments), the Commission stressed that the proposal does not regulate wage levels or define their components, leaving this to the MS, while the EU merely ensures that these national rules are applied equally to domestic and posted workers. In response to criticism related to subcontracting and agency work (particularly emphasized by the Polish parliament), the

[473] European Commission (2016), Communication from the Commission to the European Parliament, the Council and the National Parliaments on the proposal for a Directive amending the Posting of Workers Directive, with regard to the principle of subsidiarity, in accordance with Protocol No 2, Brussels, 20.7.2016., COM (2016) 505 final, EUR-Lex, Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52016DC0505
[474] Ibid.

Commission stated that aligning the rules for domestic and cross-border situations is necessary to prevent inequality and ensure fair competition.[475]

In conclusion, the Commission systematically rejects the arguments of the national parliaments, considering that they underestimate the nature of the problem and the risk of market fragmentation. Ultimately, the Commission maintained that action at the EU level is necessary to ensure uniform rules and worker protection, that the proposal does not interfere with the core competences of MS, and that the existing reasoning and impact assessment meet the requirements of subsidiarity.

6.4. Analysis of results from the interview questionnaire

This analytical part of the chapter is focused on the empirical verification of the assumption about the transformation of the role of national parliaments in EU affairs after the Lisbon Treaty, with a special emphasis on the relationship between formally prescribed powers and their actual application in practice. The analysis is based on the answers of the secretaries of the committee for European affairs of the three national parliaments - the Croatian Parliament, the Hungarian Országgyűlés, and the Polish Sejm. Therefore, the analysis does not include the Polish Senate, but only considers the lower house of parliament (Sejm).

The goal of the analysis is to determine whether there is a shift from formal, procedural, and predominantly ex post control to an informal, continuous, informational, and coordinating role of parliaments in the EU legislative process. In this context, the analysis focuses on three key dimensions: where the real decision-making power is located in practice (formal versus informal channels), in which phase parliaments act (ex ante or ex post), and on what sources they base their actions (own expertise or dependence on the executive).

Through a comparative analysis of the collected responses, an attempt is made to identify patterns of action that enable a more precise operationalization of the hypothesis and an assessment of the real scope of the institutional changes introduced by the Treaty of Lisbon.

[475] Ibid.

6.4.1. Formal procedures and actual practice. Activation of EU legislative proposals

In the practice of monitoring European Union legislative proposals, the key issue is not only institutional competence, but also the identification of the actors who initiate a response within the parliamentary system. The information collected from the interview respondents indicates the existence of several different patterns of activation, ranging from highly reactive models dependent on the executive to administratively structured systems of early monitoring.

First, the findings point to a reactive model in which the parliament does not act as the initiating actor in the process of monitoring EU legislation. The respondent from the Croatian Parliament notes that the parliament largely depends on the Government and that reactions are very rare and usually occur in the stages of the adoption of acts. This pattern suggests that the parliament does not participate in the early stages of the EU legislative process, but reacts only after key political decisions have already been shaped. Such a model indicates a shift towards an ex-post role, in which the parliament acts as a secondary actor, dependent on information and timing determined by the executive.

In contrast to the Croatian case, the Hungarian and Polish cases reflect a more administratively proactive model. The Hungarian respondent highlights a higher level of institutionalisation, noting that the secretariat of the Committee on European Affairs monitors the European Commission's database on a daily basis. Similarly, in the Polish case, experts from the Office for Expert Opinions and Regulatory Impact Assessment (BEOS) prepare weekly summaries of documents received from EU institutions, which are then analysed and divided into those requiring discussion and those that do not.

These responses indicate a more structured and administratively driven monitoring practice in Hungary and Poland compared to Croatia. At the same time, a common feature of both systems is the shift of the activation process from the political to the administrative level, suggesting a degree of bureaucratisation of the parliamentary role in EU affairs.

A comparison of all three parliaments shows that the differences lie not only in the level of activity but also regarding the actors initiating the process. In Croatia, the initiative originates outside the parliament, namely from the government, whereas in Hungary and Poland it remains within the parliament but is primarily administrative in character. Overall, these findings support

the argument that national parliaments no longer act as autonomous political actors initiating oversight, but rather assume either a reactive role dependent on the executive (Croatia) or an administratively mediated role focused on information management (Hungary and Poland).

6.4.2. The locus of decision-making (formal bodies or informal political channels)

The location of decision-making is a central issue in analysing the parliamentary role in EU affairs, making it necessary to clarify the relationship between formally established institutional forums and potential informal political channels. The responses suggest a largely formalised representation of decision-making processes, while also revealing certain limits to parliamentary autonomy.

In the Croatian case, the respondent states that Parliament in general does not adopt its own positions, but considers positions adopted by the Government, which it usually confirms and only occasionally supplements. It is also noted that direct work with documents has taken place at the level of committees or even individual MPs. This indicates that, although a formal decision-making process exists, its substance is largely determined outside the parliament. In contrast, the Hungarian and Polish responses emphasise the formal dimension of the procedure. In Hungary, parliamentary positions may be expressed by the Speaker, the plenary, or the competent committee, while in Poland, decisions are formally taken at committee meetings. However, these responses remain closer to a description of the institutional framework and provide limited insight into actual decision-making practices.

A comparison of all three cases shows that the key difference lies not in the existence of formal procedures, but in their practical function. In Croatia, there is an explicit subordination of parliament to the executive, while in Hungary and Poland, formal roles are preserved, but the actual decision-making process remains less visible. These findings suggest a broader shift in the role of national parliaments-from arenas of debate to bodies that formally confirm decisions taken elsewhere. In this sense, their function is moving from the production of political positions to their verification, and from autonomous decision-making to dependence on the executive.

6.4.3. The existence of implicit rules in prioritising EU acts (selectivity or scrutiny)

The analysis of how EU legislative acts are prioritised provides insight into the actual scope of parliamentary scrutiny, which is a defining feature of contemporary parliamentary practice in EU affairs. While respondents generally deny the existence of informal rules, their answers nonetheless point to different forms of selectivity.

In the Croatian case, Parliament examines in detail only those acts included in the official Work Programme, within a clearly defined procedure. Here, selection is formalised and based on legal criteria. In Hungary, EU acts are selected for scrutiny on a "quality rather than quantity" basis, with selected topics largely aligned with key government priorities, indicating a combination of substantive and politically oriented selection. In the Polish case, the response states that there are no unwritten rules, only decisions based on expert opinions, suggesting a form of expert-driven selection with an implicit political dimension. Taken together, the findings show that, despite the formal denial of informal rules, all three cases involve selective scrutiny through different mechanisms: formal-legal selection in Croatia, administrative-political selection in Hungary, and expert-based selection in Poland.

The comparison further reveals a common underlying feature: limited capacity for comprehensive scrutiny, which necessitates selectivity. This points to a transformation in the parliamentary role in EU affairs- from a model of comprehensive oversight to one of selective scrutiny. This transformation includes a partial delegation of oversight to the executive, a greater role for administrative and expert actors, and a reduced ambition of parliaments to act as universal oversight bodies.

6.5. The Relationship with the Government in the EU Affairs

6.5.1. Access to information

A particularly important aspect of cooperation, and a key precondition for effective participation in EU affairs, lies in the level and timeliness of information that national parliaments receive from their governments. The availability, quality, and timing of information directly shape the possibility of timely and substantive parliamentary responses. The responses provided by

interviewees indicate the existence of formally established, yet substantively limited patterns of information-sharing, alongside noticeable differences between the analysed parliaments.

In the Croatian case, the interviewee notes that the Parliament receives positions prepared for Council working groups (the lowest, technical level), as well as positions for Council meetings (the highest, political level). However, the Parliament is not informed about developments occurring between these stages. At the same time, the government is described as generally open to informing Parliament, as evidenced by the fact that it provides positions for Council meetings even though it is not legally required to do so (it is only obliged to submit a report after the meeting, upon request of the European Affairs Committee).

Despite this emphasis on openness, significant limitations remain in the continuity of information flow, as well as a degree of political conditionality. This is reflected in the observation that the level of openness towards the European Affairs Committee depends, to some extent, on the political affiliation of its chair, whether they belong to the governing majority or the opposition. Although committee chairmanships are negotiated among parliamentary parties before each new term and are not predetermined, the governing majority nonetheless holds the majority of seats in all committees. The interviewee also notes that between 2013 and 2020, committee chairs belonged to governing coalitions, whereas since 2020, they have come from the opposition.

In the Hungarian case, the formal framework provides for an obligation to inform Parliament. The interviewee states that a government representative must inform the Committee on European Affairs about ongoing Council negotiations related to a given EU legislative proposal, both as a general obligation and upon the Committee's request. However, it is also noted that in many cases, the most up-to-date information can be found in media reports from Brussels, suggesting limitations in the timeliness and completeness of official information. In the Polish case, the relationship is more limited. The interviewee points out that the government is not legally obliged to inform Parliament about ongoing negotiations. The Committee begins its work only after the European Commission transmits a draft legislative proposal.

A comparison of the three cases shows that, despite differences in formal arrangements, all point to a structural asymmetry in favour of the executive. In Croatia, information exists but is fragmented and partly conditioned by political factors. In Hungary, a formal obligation does not guarantee access to the most current information, which may shift relevance to alternative sources

such as the media. In Poland, the absence of a legal obligation clearly places Parliament in a position where it acts only after the formal start of the procedure.

It seems that all parliaments lack continuous, timely, and comprehensive insight into the negotiation process. Furthermore, three different models can be identified: selective and politically conditioned information (Croatia), formally required but substantively limited information (Hungary), and the absence of an obligation to inform (Poland). Despite these differences, the outcome is similar; parliaments operate under conditions of limited access to information.

These findings confirm that parliamentary activity in EU affairs takes place under conditions of informational dependence on the executive, which significantly limits the possibility of timely and autonomous action. As a result, the parliamentary role shifts from proactive oversight to reactive monitoring, and from informational autonomy to reliance on government-provided data. This reinforces a broader pattern in which the executive retains control over key stages of the negotiation process, while Parliament remains only partially and belatedly involved. Even where formal powers exist, they are of limited value without access to timely information.

6.5.2. Instruments of Parliamentary Pressure

An important element of parliamentary oversight is the ability to request additional information or exert pressure on the government. However, the existence of formal instruments does not necessarily imply their effective use. In all three cases, interviewees confirm the existence of formal mechanisms through which parliaments can request information from the government. In Croatia, Parliament may request all information and documents related to EU affairs. The interviewee notes that the current Committee chair occasionally uses this possibility by sending direct inquiries to the government and ministries, and that such cases have occurred in previous terms as well. This suggests that the instrument exists, but its use is limited and sporadic. In Hungary, the government participates in Committee hearings during scrutiny procedures, presenting both the legislative proposal and its position. At the same time, the interviewee suggests reliance on informal contacts, noting that it is useful to contact the responsible official in the relevant ministry before Committee meetings. In Poland, the legal framework is clearly defined. Article 3(2) of the Cooperation Act requires the Council of Ministers to provide information upon

request of the Committee. Members of Parliament may also question ministers directly during Committee meetings, where the responsible minister is present.

Despite the existence of formal instruments in all cases, their use appears limited and mediated. In Croatia, the application depends on individual initiative. In Hungary, formal mechanisms are supplemented by informal communication channels. In Poland, while the legal framework is strong, the available responses do not allow an assessment of actual use or effectiveness. A common pattern emerges: formal instruments are available, but their practical use is limited, unsystematic, and often complemented by informal practices.

These findings further support the argument that formal oversight powers do not automatically translate into real political influence. Parliamentary control shifts from active oversight to a potential, but rarely used, option of intervention. The parliamentary role becomes dependent on individual initiative and informal channels, confirming that formal powers alone are insufficient for effective scrutiny in EU affairs. A key takeaway is that capacity exists, but its limited and inconsistent use results in weaker influence.

6.5.3. Control points (Formal Design vs Delayed Intervention)

Mechanisms such as reviewing government positions before Council meetings represent important “control points“ for assessing whether parliaments can act in a timely manner within the EU legislative process. Their effectiveness depends not only on formal existence, but also on their timing and frequency. The findings reveal differences in formal design, but also shared practical limitations. In Croatia, such mechanisms do not formally exist; reporting is conducted on an ad hoc basis. This indicates the absence of structured control points. In Hungary, control points exist but are applied selectively. Government positions are discussed only in certain cases, and sometimes immediately before Council meetings, which limits their practical impact. In Poland, the framework is formally structured. The Committee issues an opinion within 49 days, which the government must take into account. This suggests a defined timeline for intervention.

Despite institutional differences, all cases reveal a mismatch between parliamentary procedures and the pace of EU negotiations. In Croatia, the absence of formal mechanisms results in a reactive model. In Hungary, selective and late-stage intervention reduces effectiveness. In

Poland, formal timelines exist, but their practical relevance remains uncertain. The overall pattern indicates that parliamentary intervention is often selective, delayed, or not institutionalised.

Three models emerge: an ad hoc model (Croatia), a selective model (Hungary), and a formally structured model (Poland). However, all share a limited capacity to intervene at a stage where meaningful influence is still possible.

These findings confirm that parliaments operate under unfavourable temporal conditions, further constraining their oversight role. The parliamentary function shifts from timely ex ante scrutiny to delayed or reactive engagement. This reinforces the broader pattern in which the executive retains control over key stages of EU decision-making. It could therefore be concluded that information and instruments may exist, but they often arrive too late for Parliament to exercise real influence. This points to a temporal mismatch between national parliamentary procedures and the dynamics of EU negotiations.

6.6. Capacities and expertise

6.6.1. Structural Constraints or Differentiated Models

A crucial precondition for autonomous and substantive parliamentary participation in the EU legislative process is the availability of expert staff and analytical capacities. The level of expertise directly affects the ability of parliaments to independently assess proposals and formulate their own positions. The responses provided by interviewees reveal significant differences in both the level and structure of capacities across the analysed parliaments. In the Croatian case, the interviewee explicitly emphasises the lack of capacity. The European Affairs Committee employs only two staff members, a secretary and an administrative officer. Additionally, the European Affairs Department within the Office for International and European Affairs has six officials, who are primarily engaged in organising bilateral cooperation of Members of Parliament and committees, and only to a limited extent in analytical work, such as preparing memoranda on specific EU policies. This indicates that existing administrative capacities are largely oriented towards organisational rather than analytical functions. In the Hungarian case, the response points to the opposite pattern. The interviewee states that the National Assembly has sufficient expert staff, and that the Secretariat of the Committee on European Affairs conducts substantive analyses

of EU proposals. This suggests the existence of developed internal analytical capacities. In the Polish case, the situation is more differentiated. The interviewee notes that capacities are generally present, but not fully sufficient. Core legal services are strong in terms of formal compliance and subsidiarity checks, but deeper, forward-looking policy analysis is constrained by time, staffing levels, and lack of specialisation. A particular emphasis is placed on the fact that EU affairs departments often operate under time pressure, which significantly limits their ability to conduct proactive and in-depth scrutiny. Overall, while baseline capacity exists, it is not always sufficient for comprehensive and anticipatory analysis of complex EU legislation.

Across all three cases, existing capacities rarely enable comprehensive, timely, and anticipatory analysis of EU legislation. In Croatia, limitations are structural and pronounced, positioning Parliament as an actor without a solid analytical basis for independent action. In Hungary, although formal capacities exist, their actual impact must be considered in the broader context of executive dominance, which may limit their autonomy. In Poland, capacities are present but fragmented and time-constrained, reducing the possibility of systematic and proactive scrutiny. Expert capacity is insufficient in Croatia, formally adequate in Hungary, and uneven and constrained in Poland. In all cases, however, it limits the depth and timeliness of analysis. Parliaments display different levels of institutional development in terms of expertise: a clear deficit in Croatia, an institutionalised analytical capacity in Hungary, and a hybrid model with limitations in Poland. A common feature remains the absence of sufficient capacity for continuous and anticipatory monitoring of EU proposals.

These findings confirm that the transformation of the parliamentary role in EU affairs also occurs through the dimension of capacity, where limited expertise reduces the possibility of autonomous action. Parliamentary activity shifts from substantive policy analysis towards procedural monitoring and organisational support, and from analytical independence towards reliance on external sources, particularly the government. This reinforces the pattern in which Parliament acts as a secondary actor in relation to the executive in the EU legislative process. A key insight is that even when Parliament seeks to act actively, it often lacks the capacity to do so.

6.6.2. Sources of expertise

The sources on which parliaments rely when analysing EU legislative proposals are a key element in understanding their level of analytical autonomy. Dependence on external sources, especially the government, can significantly affect their ability to formulate independent positions. The responses indicate different patterns in the use of sources, but also a shared reliance on combining multiple channels of information. In the Croatian case, the interviewee states that Parliament relies on its own analysis where available, but in its absence, uses European Parliament memoranda, as well as information contained in national government positions. This suggests a form of conditional autonomy. In the Hungarian case, the response remains general, stating that all relevant sources are taken into account. In the Polish case, the most detailed answer distinguishes between different types of sources. Government analyses are described as the most detailed and timely, particularly regarding technical and sectoral implications, but may reflect executive priorities. Internal parliamentary analysis is valued for its independence and neutrality, although it may be limited in scope. External sources, such as EU institutional materials and interparliamentary networks, are considered essential for comparison, multiple perspectives, and early insights. The interviewee emphasises the need to combine sources to reduce bias.

Despite differences in detail, the responses indicate that parliaments do not rely on a single, autonomous source of expertise, but operate within a plural and hierarchically structured system of knowledge. In Croatia, reliance on internal analysis is limited by capacity constraints, leading to dependence on government and EU sources. In Hungary, the general nature of the response suggests formal pluralism without clear insight into actual practices. In Poland, a clear tension is identified between the depth and timeliness of government analysis and the need for independent parliamentary assessment. Parliamentary analysis is based on a combination of sources, but with a strong dependence on government information for technical detail and timeliness, alongside reliance on external sources for correction and supplementation.Three variations of the same underlying issue can be identified: conditional autonomy in Croatia, formal pluralism in Hungary, and deliberate combination with awareness of limitations in Poland.

These findings confirm that the parliamentary role is also transforming through the dimension of knowledge production. Parliaments are not primary producers of expertise, but actors that combine and filter information from multiple sources. Their function shifts from producing

knowledge to mediating and selecting information, and from analytical autonomy to dependence on the executive and external actors. This further reinforces the pattern in which Parliament acts as a secondary and intermediary actor in shaping national positions within the EU.

6.7. Perceived Gaps and Directions for Capacity Building

Perceptions of necessary improvements within parliamentary services provide insight into structural weaknesses and potential directions for reform. Empirical findings indicate different levels of need, but a shared focus on strengthening analytical and legal capacities. In Croatia, the interviewee highlights the need for specialised advisors within the European Affairs Committee, particularly experts in sectoral policies and Council configurations, as well as legal experts in EU law and subsidiarity. In Hungary, no answer was provided, which may itself be indicative. In Poland, the response is formulated at a functional level, emphasising the need to strengthen ex ante scrutiny, improve timeliness, and enhance the ability to act independently of government analysis.

Despite differences in specificity, there is a shared awareness of the need to strengthen capacities towards analytical autonomy and earlier intervention. Croatia emphasises concrete staffing needs, Poland highlights systemic weaknesses, particularly in timeliness and independence, while the absence of a Hungarian response may suggest either perceived adequacy or lack of reflection on existing limitations. There is a clear need for capacity building focused on specialisation, timeliness, and independent analysis. Differences lie in how needs are articulated: clearly identified gaps (Croatia), absence of explicit demand (Hungary), and functionally defined objectives (Poland). However, all cases recognise limitations in current capacities.

These findings further confirm that the transformation of parliamentary roles takes place under conditions of limited capacity. While actors recognise the need for more autonomous and proactive engagement, the current system does not yet enable this transformation in practice.

6.7.1. Parliamentary Cooperation

Interparliamentary cooperation and informal networks are often seen as mechanisms for strengthening the role of national parliaments in EU affairs. However, the key issue is not their

formal existence, but their actual contribution to decision-making and access to information. From the empirical findings, the responses reveal a clear distinction between formal interparliamentary forums and informal information networks. Formal forums such as COSAC are consistently described as having limited impact on decision-making. In the Croatian case, they are primarily seen as networking platforms without decision-making authority. Similar views are expressed in Hungary, where such forums are described as opportunities for meetings and exchanges of views. The Polish response adds that COSAC is important, but in an indirect and network-based way. By contrast, informal networks play a more operational role. Croatia refers to networks of parliamentary representatives in the European Parliament and IPEX correspondents. Hungary highlights the informational value of the IPEX platform. Poland emphasises the role of parliamentary representatives in Brussels in sharing and transmitting information. A dual structure of cooperation emerges: formal forums serve primarily deliberative and networking functions, while informal networks provide practical access to information and coordination. Formal cooperation is symbolic and deliberative, while informal networks are operational and informational. All three parliaments converge in their perception: formal forums have limited influence, while informal networks are essential for information exchange. Differences lie mainly in the level of detail provided.

These findings confirm that parliamentary activity increasingly extends beyond national institutions into network-based forms of interaction, but without corresponding decision-making power. The parliamentary role shifts from institutional autonomy towards interconnectedness and information exchange. Although informal networks partially compensate for information gaps, they do not overcome structural limitations in terms of timely and substantive influence. Parliaments are networked, but not empowered.

6.8. Specific Features in the Functioning of Parliaments

6.8.1. Specific features of the Croatian Parliament

The analysis of responses to the country-specific questions indicates a clear gap between a formally relatively strong institutional framework and its limited use in practice. Particular

emphasis is placed on the role of the Committee on European Affairs, relations with the Government, and administrative capacities.

Regarding the work of the Committee on European Affairs, the findings show that decision-making within the Committee is formally well structured, but in practice highly centralized and politically conditioned. This is evident, first, in the setting of the agenda, which is determined by the Committee Chair, usually upon the initiative of the Secretariat. This points to the importance of the administrative apparatus, but also to a concentration of control in the hands of the Chair. At the same time, the Committee lacks the power to bind other committees, as its role is described as coordinative, which limits its horizontal influence within parliament.

The most significant finding concerns the relationship with the Government: the governing majority always holds a majority in the Committee. The interviewee notes that the Committee has never expressed objections to the Government's position, which is unsurprising given this composition. Even though the Government is formally obliged to amend its position if the Committee opposes it (under Article 144 of the Constitution and the Act on cooperation), this power is not exercised in practice. This suggests that formal powers exist but remain unused due to political majority dynamics. When it comes to the relationship with the Government, it is characterized by strong asymmetry and limited communication. The Parliament does not receive informal insight into negotiating positions before they are formally submitted, nor does it communicate directly with the Permanent Representation in Brussels. Participation of Committee representatives in Brussels meetings is rare. These findings indicate a degree of isolation of Parliament from key decision-making arenas in the EU process.

Regarding administrative structure, the Committee's staff participates as an observer in the Government's coordination body for foreign and European affairs, which suggests access to information without real influence. No major reform initiatives have been undertaken, although discussions on possible procedural changes are ongoing. This reflects a degree of institutional inertia, combined with limited signs of potential change.

In connection with the constraints and actual influence, a rare example of influence is cited (new genomic techniques regulation)[476], indicating that parliamentary impact is possible but exceptional. The limited use of the early warning mechanism is explained by high thresholds, weak interparliamentary coordination, low effectiveness of the mechanism itself, and limited administrative capacity. As a result, resources are redirected toward monitoring the Government in the Council, where influence is at least theoretically possible.

The Croatian case illustrates a parliament with formal mechanisms that are rarely used and further constrained by political structures. Executive dominance, weak capacities, and institutional passivity result in minor real influence. In relation to the hypothesis, this confirms a shift from a formally strong oversight actor to a procedural and confirmatory body. The Parliament has potential power but lacks both the capacity and political conditions to exercise it.

6.8.2. Specific features of the Hungarian Parliament

The Hungarian case combines strong administrative capacity with pronounced executive dominance, allowing analysis of the relationship between expertise and autonomy. Regarding parliamentary autonomy, the oversight is formally regulated, but the Chair of the Committee on European Affairs plays a central role in setting the agenda. The Secretariat's expertise is crucial in supporting this function. While the administration is highly professional, and opposition members formally have rights to review and propose amendments, there is little evidence of actual influence on outcomes. When it comes to the role of the Committee, it has a strong formal position: it develops parliamentary positions, coordinates other committees, and initiates their involvement. This indicates a high level of institutionalization. The Committee receives information through hearings and reports, and overall, information from the Government is described as comprehensive. Unlike the Croatian case, access to information is relatively strong. The Parliament also has its own experts. Regarding the informal influences, the communication with ministries occurs through structured parliamentary liaison units, suggesting formalized but controlled channels.

[476] The two examples that the interviewee mentions regarding the question are as follows: Mišljenje Odbora za poljoprivredu (točka 2) od 27.10.2023; Zaključak o stajalištu Republike Hrvatske, Odbora za Europske poslove (točka 2) od 7.2.2024. Available at: https://sabor.hr/hr/node/171107 (Accessed 20 February 2026).

6.8.3. Specific features of the Polish Parliament (Sejm; lower house)

The Polish case reflects a formally stable and institutionalized system, but with limited empirical evidence of real influence. Cooperation with the Government is stable and does not change across administrations. However, committee composition reflects parliamentary political balance, indicating political influence. Although the Sejm can issue binding opinions, these usually align with the Government's position. No cases of actual influence on positions in Brussels were identified. This suggests strong formal powers but limited autonomy in practice. The Sejm and Senate operate independently, but the Sejm has a stronger role vis-à-vis the Government. However, the Government may still reject its opinions, subject to justification.

The Polish system combines formal strength with limited real impact. Despite institutional stability, it remains politically aligned with the Government. The transformation here reflects a shift from a potentially strong actor to a formally active but politically aligned body.

Despite different institutional paths, all three cases point out to the conclusion on limited effective parliamentary influence. It seems that each of the three parliaments acts too late and with limited influence, confirming the shift from proactive oversight to reactive participation. The methodological findings confirm that the core transformation of national parliaments lies in the gap between formal powers and actual practice: in EU affairs, parliaments operate predominantly as reactive rather than proactive actors.

The results of the analysis show that national parliaments, despite the formal strengthening of their role after the Lisbon Treaty, are still limited in practice in exercising real influence on EU processes. Although there are differences in institutional capacities and organization among the analyzed parliaments, all cases confirm the dominant role of the executive in shaping national positions. Parliaments operate in conditions of information asymmetry and time constraints, which generally places them in a reactive rather than proactive role. Mechanisms such as subsidiarity control formally exist, but are rarely used and have limited impact. There is a particularly significant gap between formally prescribed procedures and their actual application in practice. As a result, it can be concluded that national parliaments are integrated into the EU system primarily at the procedural level, while their actual political influence remains limited.

CONCLUSION

This dissertation aimed to examine whether the Treaty of Lisbon fundamentally transformed the role of national parliaments in the European Union, with particular emphasis on whether the formal strengthening of their powers in the areas of subsidiarity control and access to information resulted in a corresponding strengthening of their practical influence on EU decision-making. The central hypothesis assumed a twofold development: on the one hand, a significant formal strengthening of national parliaments through the Treaty of Lisbon, and on the other hand, the continued limitation of their effective influence due to structural, institutional and political constraints, particularly the dominance of the executive.

The findings of this research, which combine doctrinal analysis with empirical evidence from interviews conducted in the Croatian Parliament, the Országgyűlés and the Sejm, largely confirm this hypothesis. The Treaty of Lisbon undoubtedly strengthened the formal position of national parliaments within the EU institutional framework. However, the research shows that formal strengthening did not automatically translate into practical empowerment.

The central finding of the dissertation is therefore that the main problem does not lie in the lack of formal parliamentary powers, but in the conditions under which these powers can be exercised and transformed into actual influence.

From a historical and institutional perspective, the evolution of national parliaments in the process of European integration reveals a gradual shift from marginalisation and indirect participation towards more explicit involvement in EU affairs. While the early stages of European integration largely developed without a clearly defined role for national parliaments, subsequent treaty reforms, particularly the Treaties of Maastricht, Amsterdam and Lisbon, gradually recognised their importance in addressing problems related to democratic legitimacy and accountability within the Union. Article 12 TEU and the mechanisms introduced or strengthened by the Treaty of Lisbon, particularly the Early Warning Mechanism (EWM), represented an important institutional change. National parliaments were no longer seen merely as domestic institutions indirectly affected by European integration, but as actors with a formally recognised role in the functioning of the Union and in safeguarding the principle of subsidiarity.

Nevertheless, the doctrinal analysis shows that the formal recognition of national parliaments did not significantly change the basic distribution of decision-making powers within the EU. The EWM provides national parliaments with an important collective mechanism for reviewing legislative proposals from the perspective of subsidiarity, but its operation is subject to significant procedural, time-related and political constraints. The thresholds required for collective action, the non-binding nature of the consequences of parliamentary objections, the short period available for scrutiny and the need for interparliamentary coordination limit its ability to produce direct changes in EU legislative outcomes. Similarly, political dialogue creates an additional communication channel between national parliaments and the European Commission, but it does not give national parliaments a binding veto or a direct ability to determine the content of EU legislation.

The formal strengthening of national parliaments should therefore not be equated with a transfer of decision-making powers from the executive to the legislature. Instead, the Treaty of Lisbon created additional opportunities for parliamentary scrutiny, participation and communication within an already highly complex system of multilevel governance. The empirical analysis is particularly important in this respect because it shows the conditions under which these formal opportunities are actually used.

The three case studies reveal significant differences in institutional design, administrative capacity and political context, but they also reveal a common outcome: a persistent gap between formal parliamentary powers and their practical use. This comparative finding is particularly important because it shows that limited parliamentary influence cannot be explained by a single institutional variable. Different institutional configurations can produce similar constraints on practical parliamentary influence.

The Croatian case illustrates a model in which limited administrative and analytical capacities interact with strong executive dominance and limited access to timely information. The Croatian Parliament has formal powers of scrutiny and participation in EU affairs, including the possibility of influencing the government's position, but the practical effectiveness of these powers is limited by the resources available to Parliament and by the organisation of the national EU decision-making process. Parliamentary participation is reactive and takes place at a stage when the government's negotiating position has already been largely developed. This reduces the

possibility for Parliament to independently shape the national position before it is presented and negotiated at the EU level. The role of the Committee on European Affairs is therefore important at the procedural level, but its formal powers do not consistently translate into substantive influence over the formulation of government positions. The Croatian case therefore shows that formal empowerment is particularly difficult to translate into practical influence where institutional capacity, information and time are insufficient.

The Hungarian case represents a substantially different institutional configuration and is therefore particularly important for testing the relationship between institutional capacity and effective influence. The Országgyűlés has relatively developed administrative and analytical capacities and a highly institutionalised framework for parliamentary scrutiny of EU affairs. From a purely institutional perspective, these characteristics appear to provide favourable conditions for effective parliamentary scrutiny. Nevertheless, the empirical findings show that institutional capacity alone does not guarantee political influence. The strong position of the governing majority, centralised agenda-setting and limited autonomy of parliamentary actors restrict the extent to which Parliament can use its institutional capacities to challenge or independently reshape government positions. The Hungarian case therefore demonstrates an important distinction between institutional capacity and political autonomy. A parliament may possess sophisticated administrative structures, expertise and formal scrutiny procedures while still having limited substantive influence if the political conditions for autonomous parliamentary action are weak. In this sense, the Hungarian case represents a shift from the problem of insufficient capacity to the problem of politically constrained capacity: the resources exist, but their potential for independent political influence is limited.

The Polish case, focusing on the Sejm, shows yet another configuration. The Polish system is characterised by relatively developed procedures and clearly defined legal powers concerning parliamentary scrutiny of EU affairs, including the possibility of adopting positions that may have legal or political significance in relation to the government. Nevertheless, the empirical findings show that the existence of these formal powers does not necessarily lead to frequent or substantive divergence from government positions. Parliamentary involvement is often delayed and reactive, while the complexity of EU legislation, sectoral fragmentation within the executive and the limited time available for parliamentary scrutiny further reduce the possibility of early and independent

intervention. Particularly significant is the institutional awareness demonstrated by the Sejm of the limitations of its own scrutiny system. The difference between the formal expectation of early and proactive parliamentary participation and the practical reality of late-stage and often confirmatory scrutiny illustrates that the effectiveness of parliamentary powers depends not only on their legal existence, but also on the point in time at which they can actually be exercised.

The comparative analysis of the three parliaments therefore provides a broader finding. Croatia, Hungary and Poland do not suffer from exactly the same institutional shortcomings, nor do they operate under identical political conditions. Croatia demonstrates the importance of administrative capacity and information; Hungary shows that strong institutional capacity can nevertheless be politically constrained; and Poland shows that a relatively developed legal and procedural framework does not automatically produce proactive parliamentary influence. Despite these differences, all three cases reveal the same underlying tension between formal empowerment and effective influence.

This suggests that parliamentary effectiveness in EU affairs should be understood through several interconnected dimensions. Formal legal powers constitute the first dimension, but they represent only a starting point. Their effectiveness depends on institutional capacity, access to timely and comprehensive information, the timing of parliamentary involvement, political autonomy, internal coordination, and the willingness and ability of parliamentary actors to use the powers available to them. In this sense, formal parliamentary power can be understood as a necessary, but not sufficient, condition for effective parliamentary influence.

The first major structural constraint identified in all three cases is information asymmetry. Although the Treaty of Lisbon and some subsequent national arrangements strengthened parliamentary rights to information, formal access to documents does not necessarily provide parliaments with the information required for effective intervention. Parliamentary scrutiny requires information that is not only available, but also timely, continuous and sufficiently detailed to allow parliamentarians to understand the development of negotiations and influence the government's position before it becomes politically difficult to change. Where information is primarily channelled through the executive, the government retains a structural advantage because it participates directly in negotiations with the EU and has access to information in real time.

National parliaments therefore remain, to varying degrees, dependent on the executive for knowledge of the negotiating process that they are expected to scrutinise.

The second structural constraint concerns time. The EU legislative process operates according to a pace and institutional logic that does not always correspond to the procedures of national parliaments. Parliamentary scrutiny often takes place after the most important political choices have already been made at the national or EU level. Consequently, even when Parliament has a formal right to scrutinise a proposal, the practical value of that right may be significantly reduced if it is exercised too late. Timing is therefore not merely a procedural issue, but an important component of parliamentary power. A formal power exercised after the relevant political decision has effectively been made is considerably weaker than the same power exercised at an earlier stage.

The third constraint is institutional capacity. The three cases show different manifestations of this problem. In Croatia, capacity constraints limit the ability to comprehensively monitor and analyse developments in the EU. In Hungary, relatively strong institutional capacity does not necessarily generate greater political influence because the use of that capacity is politically constrained. In Poland, the combination of time pressure, complexity and sectoral fragmentation limits the practical use of available expertise. The comparative evidence therefore suggests that capacity must be understood not only in quantitative terms, but also as the ability to transform information and expertise into timely political action.

The fourth constraint is executive dominance. This remains a central feature of the relationship between national parliaments and governments in EU affairs. Since national executives participate directly in the Council and are involved in EU negotiations and policy implementation, they possess structural advantages in terms of information, expertise, continuity and speed of decision-making. National parliaments, by contrast, are primarily institutions of scrutiny and accountability. Their intervention is therefore often indirect: they seek to influence the government's position rather than participate directly in EU policy-making. The effectiveness of parliamentary scrutiny therefore depends to a large extent on the willingness of governments to provide information, respond to parliamentary positions and adjust to parliamentary preferences.

These findings have direct implications for the assessment of the central hypothesis. The dissertation confirms that the Treaty of Lisbon formally strengthened national parliaments.

However, the empirical evidence does not support the conclusion that this formal strengthening led to a comparable or systematic strengthening of their practical influence. The appropriate conclusion is therefore not that the Treaty of Lisbon failed to empower national parliaments, but that its empowerment remained incomplete. The Treaty changed the legal and institutional opportunities available to national parliaments, but it did not remove the structural conditions that determine whether these opportunities can be used effectively.

In this sense, the distinction between formal and practical empowerment is essential for understanding the position of national parliaments after Lisbon. Formal empowerment refers to the rights, procedures and institutional mechanisms granted to parliaments by EU and national law. Practical empowerment refers to the ability to use these mechanisms in a timely, autonomous and politically meaningful way. The findings of this dissertation show that the former has developed considerably more than the latter. However, despite the latter finding, the overall transformation of the role of national parliaments to date should not be viewed as a failure or as a form of institutional decline. On the contrary, the evidence points to a transformation in the nature of parliamentary participation, in which national parliaments are no longer marginal observers of European integration. At the same time, although they have not become powerful autonomous actors capable of systematically determining EU policy outcomes, what they clearly have is an intermediary position within the EU's multilevel governance structure. Their functions increasingly include scrutiny, information exchange, accountability, coordination and political communication between the national and European levels.

This intermediary position is particularly important from the perspective of democratic accountability. National parliaments represent an additional channel through which European decision-making can be connected to national democratic processes. Their importance therefore cannot be measured solely by the number of occasions on which they successfully block or change EU legislative proposals. Parliamentary influence can also take less visible forms, including shaping government positions, increasing political accountability, improving transparency, identifying subsidiarity concerns, encouraging political debate, and communicating national preferences to EU institutions and other parliaments.

The relatively limited use of the EWM should therefore be interpreted with caution, as has often been pointed out in legal scholarship. Thus, low levels of activity within the yellow and

orange card procedures cannot automatically be understood as evidence that national parliaments lack interest in EU affairs or that they would not use stronger mechanisms if such mechanisms were available. The empirical findings suggest that parliamentary activity is highly sensitive to the institutional conditions under which scrutiny takes place. Where information arrives too late, administrative resources are limited, political incentives for independent action are weak, or parliamentary intervention has little prospect of affecting the final outcome, low levels of activity may be a rational consequence of institutional constraints rather than simply a manifestation of parliamentary passivity.

This observation is also relevant to possible future reforms of the EWM itself. Proposals such as green and red card procedures could provide national parliaments with potentially stronger and more meaningful opportunities to participate in the EU legislative process. However, the effectiveness of any such reform would depend on more than the formal creation of additional powers. New mechanisms should be accompanied by timely and comprehensive access to information, sufficient parliamentary expertise, effective interparliamentary coordination and, above all, the possibility of parliamentary intervention at a sufficiently early stage of the legislative process. Without these developments, there is a risk that new formal powers would reproduce the same gap between legal empowerment and practical effectiveness identified in this dissertation.

The findings therefore suggest that future strengthening of national parliaments should not necessarily be approached solely through the creation of additional legal powers. Institutional reform should also address the conditions that enable the effective use of existing powers. Greater transparency in the EU legislative process, improved information flows between governments and parliaments, stronger administrative capacities within parliaments, earlier involvement in the formulation of national EU positions, and more effective interparliamentary cooperation could all contribute to reducing the gap identified by this research.

Ultimately, this dissertation shows that the Treaty of Lisbon changed the formal position of national parliaments to a greater extent than it changed their practical ability to influence EU decision-making. The central post-Lisbon development should therefore not best be understood as a direct transfer of powers from governments to parliaments, but as an expansion of parliamentary opportunities within a decision-making system that remains strongly shaped by executive actors and EU-level institutions.

The comparative evidence from the Croatian Parliament, the Országgyűlés and the Sejm further shows that there is no single institutional explanation for the limited practical influence of national parliaments. Different combinations of administrative capacity, political autonomy, information, timing and institutional design can produce similar outcomes. This is perhaps the most significant comparative finding of the dissertation: formal powers matter, but their practical value depends on the institutional and political conditions under which they are exercised.

The decisive question for national parliaments more than fifteen years after the Treaty of Lisbon is therefore no longer whether they possess formal powers, but whether they possess the capacity, information, time and political autonomy necessary to turn those powers into effective influence. The Treaty of Lisbon created the legal foundations for a more active parliamentary role in EU affairs, but the empirical evidence shows that these foundations have not yet produced a fully proactive or autonomous model of parliamentary scrutiny. The future effectiveness of national parliaments will consequently depend less on the mere expansion of their formal powers and more on their ability to act earlier and more independently and, based on timely and adequate information, to exercise these powers effectively.

In this sense, the gap between formal empowerment and practical effectiveness represents the central finding of this dissertation. National parliaments have not been excluded from EU governance after Lisbon. On the contrary, they have been incorporated into it without gaining a corresponding degree of control over the processes they are expected to scrutinise. Their future role will therefore depend on whether European and national institutional reforms can bridge this gap and transform formal parliamentary participation into more timely, better-informed and substantively meaningful influence.

Finally, looking to the future role of national parliaments and taking into account the ubiquitous technological development, and particularly the growing use of artificial intelligence (hereinafter: AI) in legal analysis, public administration and even parliamentary work, the future role and effectiveness of national parliaments in the European Union should perhaps also begin to be considered in the context of adapted technological development. Namely, the application of artificial intelligence in the legislative process is being considered not only for the analysis of information prior to decision-making, impact assessment and public engagement, but also as a

form of support in drafting and monitoring the alignment of European legislation, that is, the transposition of directives and other binding decisions.[477]

Likewise, the importance of AI for the role of national parliaments could be particularly significant in view of the central finding of this research: the main difficulty faced by national parliaments does not necessarily lie in the lack of formal powers, but rather in their ability to exercise those powers effectively, independently and within the limited time available in the EU legislative process. From this perspective, artificial intelligence could potentially provide national parliaments with additional analytical and organisational capacities and thereby contribute to reducing the gap between formal parliamentary empowerment and practical parliamentary influence. However, it should be borne in mind that the aforementioned use of AI should primarily and above all serve as an auxiliary tool accompanied by appropriate safeguards; any broader use, such as completely entrusting decision-making to AI, could potentially jeopardise the fundamental principles of a fair legislative process and constitutional law.[478]

The relevance of this development could be particularly important in relation to the Early Warning Mechanism (EWM) introduced by the Lisbon Treaty, on which this research primarily focuses. Namely, although the mechanism provides national parliaments with an important opportunity to participate directly in the control of EU legislative proposals from the perspective of subsidiarity, its practical effectiveness continues to depend on the ability of individual parliaments to identify relevant proposals, analyse them within a relatively short period of time, formulate a reasoned opinion and, where appropriate, coordinate their position with other national parliaments. Thus, the effectiveness of the EWM is not determined solely by its formal legal form, but at the same time depends on the informational, administrative, analytical and political capacities available to national parliaments.

[477] More about the mentioned use of AI can be seen in the next EP report: Sartor, Giovanni and Dal Pont, Thiago Raulino (2025), Artificial Intelligence for Monitoring the Application of EU Law, IUST, Report requested by the JURI Committee, Policy Department for Justice, Civil Liberties and Institutional Affairs, Directorate-General for Citizens' Rights, Justice and Institutional Affairs, PE 777.915 - October 2025, European Parliament. Available at: https://www.europarl.europa.eu/thinktank/en/document/IUST_STU(2025)777915

[478] More on this topic, see: Bresciani, Pier Francesco and Palmirani, Monica (2024), Constitutional Opportunities and Risks of AI in the law-making process, FEDERALISMI.IT, 2, 1-18. Available at: https://cris.unibo.it/retrieve/167366bf-c87b-47e8-b828-1ddc3261a1ab/23.%20Constitutional%20Opportunities%20and%20Risks%20of%20AI%20in%20the%20law-making%20process.pdf

It is precisely this area in which artificial intelligence could become relevant. AI should not be understood as a substitute for parliamentary decision-making or as a new source of parliamentary authority. Instead, its potential in this particular case lies precisely in strengthening the institutional capacities necessary for exercising the powers that national parliaments already possess. In this sense, AI could represent a technological instrument through which existing parliamentary powers become more usable, timely and potentially more effective.

One of the most significant potential applications concerns the initial identification of EU legislative proposals that require enhanced scrutiny of subsidiarity. National parliaments are increasingly faced with a continuously large volume of European legislative and policy documents. Given their limited administrative and analytical resources, it is difficult to subject every proposal to the same level of detailed scrutiny. I believe that an AI-assisted system could be developed to review incoming legislative proposals and identify those that display characteristics that may justify more detailed examination from the perspective of subsidiarity. Such a system could, for example, analyse the proposed legal basis, the allocation of competences between the Union and the Member States, the Commission's reasoning concerning subsidiarity and proportionality, references to existing EU legislation, and similarities with previous proposals or legislative initiatives that have raised concerns regarding subsidiarity. Thus, the objective of such a system should not be to automatically determine whether a proposal complies with the principle of subsidiarity, but rather, artificial intelligence could operate as a mechanism for early identification and prioritisation.[479]

The system could be developed so that, for example, it indicates that a particular proposal represents a high, medium or low level of potential concern regarding subsidiarity and, at the same time, provides the legal and factual reasons underlying that assessment. However, naturally, the final decision would remain with the competent parliamentary body. Such a model would preserve the distinction between technological assistance and democratic decision-making, while at the

[479] For some creative suggestions of future AI use in parliament's daily routine, see: Jörn von Lucke, Jan Etscheid and Fotios Fitsilis (2022), Using Artificial Intelligence for Legislation - Thinking About and Selecting Realistic Topics, In: EGOV-CeDEM-ePart 2022 Proceedings, pp. 32–42. Available at: https://ceur-ws.org/Vol-3399/paper3.pdf

same time enabling parliaments to direct their limited resources towards those proposals that most warrant detailed examination.[480]

The aforementioned potential application of AI is particularly relevant to the problem of administrative capacity identified in the Croatian case. Where parliamentary administrations have limited human and analytical resources, the mere ability to process a large volume of EU documentation can become an obstacle to effective scrutiny. Artificial intelligence could, in this respect, provide assistance precisely where it is most needed, in the preliminary processing of documents, generation of structured summaries, identification of relevant provisions, comparison of legislative proposals with existing EU legislation and national legislation and, ultimately, highlighting issues that require further legal or political examination. In this sense, artificial intelligence could partially compensate for limited administrative capacities by increasing the amount of information that a relatively small parliamentary administration can process within a given period. Ultimately, it could be concluded that the use of AI could indeed contribute to the transformation of parliamentary studies, while, of course, following all precautionary measures and preserving the human factor at every stage of the process of using AI.

[480] More on similar approaches and methods of use of AI see in: Omelchenko, Nataliia et al. (2026), Artificial Intelligence in the System of Parliamentary Law and the Legislative Process, Revista De Cercetare si Interventie Socijala, Vol. 93/2026; Available at: https://www.researchgate.net/publication/408039914_Artificial_Intelligence_in_the_System_of_Parliamentary_Law_and_the_Legislative_Process

Bibliography

Books and Book Chapters

Bačić, A. (2000). Leksikon Ustava Republike Hrvatske. Pravni fakultet Sveučilišta u Splitu.

Bačić, A., & Bačić, P. (2007). Legislature i parlamentarizam (ustavnopravna hrestomatija), eng. Legislatures and parliamentarism (constitutional and legal chrestomathy). Pravni fakultet Sveučilišta u Splitu.

Bačić, P. (2016). National parliaments and the European parliament: The Croatian parliament and the EU affairs. In S. Serra Busquets & E. Ripoll Gil (Eds.), El parlamentarisme en perspectiva històrica, parlaments multinivell, Volum I (pp. 53-69). Parlament de les Illes Balears, Institut d'Estudis Autonòmics.

Bačić, P. (2023). Chapter IV: On Croatian constitutional identity and European integration. In A. Zs. Varga & L. Berkes (Eds.), Common values and constitutional identities - Can separate gears be synchronised? (pp. 105-133). Central European Academic Publishing. https://books.ceapublishing.hu/index.php/ceaprofnet/catalog/book/34

Banaszak, B., et al. (2012). Constitutional law in Poland. Kluwer Law International (Wolters Kluwer Law and Business).

Barrett, G. (2018). The evolving role of national parliaments in the European Union: Ireland as a case study. Manchester University Press.

Birkinshaw, P. J. (2014). European public law: The achievement and the challenge (2nd ed.). Wolters Kluwer.

Boban, D. (2016). The Croatian Parliament and the transformation of the political system. In V. Esch (Ed.), Democratization in the Western Balkans: Promoting multi-ethnic open societies to counter radicalization and polarization (pp. 32-38). The Aspen Institute Germany.

Butković, H. (2015). The Croatian Parliament in the European Union: Ready, steady, go! In C. Hefftler, C. Neuhold, O. Rozenberg, & J. Smith (Eds.), The Palgrave handbook of national parliaments and the European Union (Chapter 23, pp. 462-477). Palgrave Macmillan. https://doi.org/10.1007/978-1-137-28913-1_23

Ćapeta, T. (2020). Croatian Constitution in EU integration. In M. Griller, L. Claes, L. Papadopoulou, & R. Puff (Eds.), Member States' Constitutions and EU integration. Hart Publishing.

Cooper, I. (2017). Is the early warning mechanism a legal or a political procedure? Three questions and a typology. In A. Jonsson Cornell & M. Goldoni (Eds.), National and regional

parliaments in the EU legislative procedure post-Lisbon: The impact of the early warning mechanism (pp. 17–49). Hart Publishing.

Corbett, R. (2012). The evolving roles of the European Parliament and of national parliaments. In A. Biondi, P. Eeckhout, & S. Ripley (Eds.), EU law after Lisbon (pp. 248-262). Oxford University Press.

Courtis, G. E. (Ed.). (1994). Poland: A country study (3rd ed.). Federal Research Division, Library of Congress.

Craig, P. (2013). The Lisbon Treaty: Law, politics and treaty reform (Rev. ed.). Oxford University Press.

Cygan, A. (2012). Collective subsidiarity monitoring by national parliaments after Lisbon: The operation of the Early Warning Mechanism. In M. Trybus & L. Rubini (Eds.), The Treaty of Lisbon and the future of European law and policy (pp. 55-73). Edward Elgar Publishing.

Cygan, A. (2013). Accountability, parliamentarism and transparency in the European Union: The role of national parliaments. Edward Elgar Publishing.

Đorđević, J. (1964). Glava V: Savezna Skupština. In Novi ustavni sistem (pp. 295-365). Savremena Administracija.

Feitl, I., Gyarmati, G., Kukorelli, I., Légrády, E., Melkovics, T., Smuk, P., Soltész, I., & Villám, J. (2018). The National Assembly of Hungary 2018 (M. Kerekes, Ed.; 2nd ext. ed.). Office of the National Assembly. https://www.parlament.hu/documents/1779743/0/a_magyarorszaggyules_2019_en.pdf

Garzón Clariana, G. (2017). The shifting powers of the European Parliament: Democratic legitimacy and the competences of the European Union. In S. Garben & I. Govaere (Eds.), Division of competences between the EU and the Member States: Reflections on the past, the present and the future (pp. 276-283). Hart Publishing.

Goldner Lang, I., Đurđević, Z., & Mataija, M. (2019). The Constitution of Croatia in the perspective of European and global governance. In A. Albi & S. Bardutzky (Eds.), National constitutions in European and global governance: Democracy, rights, the rule of law (pp. 1139-1177).

Granat, K. (2018). The principle of subsidiarity and its enforcement in the EU legal order: The role of national parliaments in the early warning system. Hart Publishing.

Granat, M., & Granat, K. (2019). Constitution of Poland: A contextual analysis. Hart Publishing.

Högenauer, A.-L. (2015). The Dutch Parliament and EU affairs: Decentralizing scrutiny. In C. Hefftler, C. Neuhold, O. Rozenberg, & J. Smith (Eds.), The Palgrave handbook of national parliaments and the European Union (pp. 252-271). Palgrave Macmillan.

Ilonszki, G. (2015). The Hungarian Parliament and EU affairs: A modest actor dominated by the executive. In C. Hefftler, C. Neuhold, O. Rozenberg, & J. Smith (Eds.), The Palgrave handbook of national parliaments and the European Union (pp. 531-547). Palgrave Macmillan.

Jonsson Cornell, A., & Goldoni, M. (Eds.). (2017). National and regional parliaments in the EU legislative procedure post-Lisbon: The impact of the early warning mechanism. Hart Publishing.

Jörn von Lucke, Jan Etscheid and Fotios Fitsilis (2022), Using Artificial Intelligence for Legislation - Thinking About and Selecting Realistic Topics, In: EGOV-CeDEM-ePart 2022 Proceedings, pp. 32–42. Available at: https://ceur-ws.org/Vol-3399/paper3.pdf

Kiiver, P. (2012). The early warning system for the principle of subsidiarity: Constitutional theory and empirical reality. Routledge.

Kühnhardt, L. (2008). From national identities to European constitutionalism, European Union - The second founding (pp. 27-70). Nomos Verlagsgesellschaft. https://www.loc.gov/item/2021758945/

Lenaerts, K., Van Nuffel, P., & Corthaut, T. (2021). Values, objectives, and principles governing the Union competences. In K. Lenaerts, P. Van Nuffel, & T. Corthaut (Eds.), EU constitutional law. Oxford University Press.

Lindseth, P. (2017). National parliaments and mediated legitimacy in the EU: Theory and history. In D. Jančić (Ed.), National parliaments after the Lisbon Treaty and the euro crisis: Resilience or resignation? (pp. 37-58). Oxford University Press.

Lock, T. (2024). Articles 10-12 Treaty on European Union. In M. Kellerbauer, M. Klamert, & J. Tomkin (Eds.), The EU Treaties and the Charter of Fundamental Rights: A commentary (2nd ed., Vol. I, pp. 138-155). Oxford University Press.

Omelchenko, Nataliia et al. (2026), Artificial Intelligence in the System of Parliamentary Law and the Legislative Process, Revista De Cercetare si Interventie Socijala, Vol. 93/2026; Available at: https://www.researchgate.net/publication/408039914_Artificial_Intelligence_in_the_System_of_Parliamentary_Law_and_the_Legislative_Process

Pastuszko, G., Zięba-Załucka, H., & Grzesik-Kulesza, M. (2020). Polskie prawo parlamentarne: Zarys problematyki. Wydawnictwo Sejmowe.

Rittberger, B. (2005). From Maastricht to the Constitutional Treaty: The return of national parliaments? In Building Europe's Parliament: Democratic representation beyond the national state (pp. 177-196). Oxford University Press.

Rytel-Warzocha, A. (2022). Constitutional law of Poland (J. Arlettaz & F. Picod, Eds.). Larcier (Bruylant).

Smerdel, B. (2014). The Republic of Croatia. In L. Besselink, P. Bovend'Eert, H. Broeksteeg, et al. (Eds.), Constitutional law of the EU Member States (pp. 191-248). Kluwer/Wolters Business. https://hdl.handle.net/2066/133942

Szabó, I. (2022). The constitutional development of Hungary after 1918. In L. Csink & L. Trócsányi (Eds.), Comparative constitutionalism in Central Europe (pp. 73-87). Central European Academic Publishing.

Szabó, Z. (2020). Hungary. In R. Zbiral (Ed.), The cradle of laws: Drafting and negotiating bills within the executives in Central Europe (pp. 85-106). Nomos.

Szalay, K., & Juhász-Tóth, A. (2007). Control of EU decision-making in the Hungarian National Assembly: The experience of a new Member State. In O. Tans, C. Zoethout, & J. Peters (Eds.), National parliaments and European democracy: A bottom-up approach to European constitutionalism (pp. 119-139). Europa Law Publishing.

Takács, T. (2009). Participation in EU decision-making: Implications on the national level. T.M.C. Asser Press.

Tóth, G. A. (2014). Hungary. In L. Besselink, P. Bovend'Eert, et al. (Eds.), Constitutional law of the EU Member States (pp. 773-836). Kluwer/Wolters Kluwer Business.

Turk, A. H. (2012). Lawmaking after Lisbon. In A. Biondi et al. (Eds.), EU law after Lisbon (pp. 62-84). Oxford University Press.

Van den Brink, T. (2012). The substance of subsidiarity: The interpretation and meaning of the principle after Lisbon. In M. Trybus & L. Rubini (Eds.), The Treaty of Lisbon and the future of European law and policy (pp. 160-177). Edward Elgar Publishing.

Von Bogdandy, A., & Bast, J. (2009). The federal order of competences. In A. Von Bogdandy & J. Bast (Eds.), Principles of European constitutional law (pp. 275-307). Hart Publishing.

Wetter, A. (2017). Mapping out the procedural requirements for the early warning mechanism. In A. Jonsson Cornell & M. Goldoni (Eds.), National and regional parliaments in the EU legislative procedure post-Lisbon (pp. 69-86). Hart Publishing.

Winzen, T. (2017). Constitutional preferences and parliamentary reform: Explaining national parliaments' adaptation to European integration. Oxford University Press.

Journal Articles

Ágh, A. (1995). The experiences of the first democratic parliaments in East Central Europe. Communist and Post-Communist Studies, 28(2), 203-214.

Ágh, A. (1997a). Europeanization and democratization: Hungarian parliamentary committees as central sites of policy-making. In L. Longley & A. Ágh (Eds.), The changing roles of parliamentary committees (pp. 99-104). Wisconsin: Lawrence U. P.

Ágh, A. (1997b). Parliaments as policy-making bodies in East Central Europe: The case of Hungary. International Political Science Review, 18(4), 417-432.

Bandov, G. (2020). Croatia's EU presidency: A strong Europe in a world of challenges. European View, 19(2), 188-196.

Barić, S., & Ružić, L. (2008). Sekundarno zakonodavstvo EU i parlamentarni nadzor nad nacionalnom egzekutivom (eng. The EU secondary legislation and parliamentary supervision of the national executive). Zbornik Pravnog fakulteta Sveučilišta u Rijeci, 29(2), 787-824. https://hrcak.srce.hr/file/63799

Boban, D. (2007). Ustavni modeli polupredsjedničkih sustava vlasti u Rusiji i Poljskoj. Anali hrvatskog politološkog društva 2006, 55-82.

Borkowski, J. (1999). Role of the Poland-EU Joint Parliamentary Committee in Poland's preparations for European Union membership. Yearbook of Polish European Studies, 3, 63-82.

Bresciani, Pier Francesco and Palmirani, Monica (2024), Constitutional Opportunities and Risks of AI in the law-making process, FEDERALISMI.IT, 2, 1-18 Available at: https://cris.unibo.it/retrieve/167366bf-c87b-47e8-b828-1ddc3261a1ab/23.%20Constitutional%20Opportunities%20and%20Risks%20of%20AI%20in%20the%20law-making%20process.pdf

Briški, T., & Špiljak, J. (2014). Posredno uključivanje nacionalnih parlamenata u europski zakonodavni proces: Prioritet Hrvatskog Sabora u europskim poslovima. Suvremene teme: međunarodni časopis za društvene i humanističke znanosti, 7(1), 7-28. https://hrcak.srce.hr/clanak/195119

Bukvić, N. (2017). Prilog povijesti institucija: Prezidijum Sabora Narodne Republike Hrvatske 1945.-1953. Arhivski Vjesnik, 60, 61-88.

Butković, H., & Samardžija, V. (2014). Challenges of continued EU enlargement to the Western Balkans - Croatia's experience. Economics and Business Review, 14(4).

Caziero, M. (2024). What legal basis for an EU tax? Common Market Law Review, 61, 1527-1548.

Čepo, D. (2011). Demokratski deficit Europske Unije. Političke analize: Politološki pojmovnik: Demokratski deficit, 5, 59.

Crum, B., & Fossum, J. E. (2009). The multilevel parliamentary field: A framework for theorizing representative democracy in the EU. European Political Science Review, 1(2), 249-271.

Cygan, A. (2021). Participation by national parliaments in the EU legislative process. ERA Forum, 22, 421-435.

Davies, A. C. L. (2008). One step forward, two steps back? The Viking and Laval cases in the ECJ. Industrial Law Journal, 37(2), 126-148.

Emmert, F., & Petrović, S. (2014). The past, present, and future of EU enlargement. Fordham International Law Journal, 37(5), 1349-1420. https://ir.lawnet.fordham.edu/ilj/vol37/iss5/2

Fromage, D., & Kreilinger, V. (2017). National parliaments' third yellow card and the struggle over the revision of the Posted Workers Directive. European Journal of Legal Studies, 10(1), 125-160.

Fryźlewicz, M., & Krawczyk, K. (2022). The role of the Sejm in the process of Poland's accession to the European Union. Zeszyty Prawnicze, 4(76), 87-104. https://doi.org/10.31268/ZPBAS.2022.66

Gárdos-Orosz, F. (2013). The constitutional and statutory framework of the application of EU law in Hungary. Acta Universitatis Carolinae - Iuridica, 4.

Górski, K., Raczyńska, V., & Raczyńska, C. (1966). The origins of the Polish Sejm. The Slavonic and East European Review, 44(102), 122-138.

Gstrein, O. J., & Harvey, D. (2014). The role of national parliaments in the European Union. Zeitschrift für Europarechtliche Studien (ZEuS), 3, 335-359.

Häberle, P. (2000). Hrvatski ustav 1991. u europskoj pravnoj usporedbi, (eng. The 1991 Croatian Constitution in the European legal comparison). Politička misao, 37(1), 49-55.

Hibbing, J. R., & Patterson, S. C. (1994). Public trust in the new parliaments of Central and Eastern Europe. Political Studies, 42, 570-592.

Huysmans, M., & Van Gruisen, P. (2022). Substance and subsidiarity: The economic dimension of conflict in the early warning system. Journal of European Integration, 44(3), 411-427.

Ilišin, V. (2001). Hrvatski Sabor 2000.: Strukturne značajke i promjene (eng. Croatian Parliament 2000: Structural features and changes). Politička misao, 38(2), 42-67. https://hrcak.srce.hr/24923

Jackiewicz, I., & Jackiewicz, Z. (1996). The Polish Parliament in the transitional period: The search for a model. Politička misao, 33(2-3), 100-120.

Jančić, D. (2012). The Barroso initiative: Window dressing or democracy boost? Utrecht Law Review, 8(1), 78-91.

Jano, D. (2008). Understanding the "EU democratic deficit": A two-dimensional concept on a three-level analysis. Politikon: The IAPSS Journal of Political Science, 14(1), 61-74.

Jano, D. (2024). EU accession criteria and procedures: Up for the challenge? EuZ - Zeitschrift für Europarecht, 4.

Judge, D. (1995). The failure of national parliaments? In The crisis of representation in Europe. West European Politics, 18(3), 79-100.

Kasapović, M. (2007). Komparativna istraživanja polupredsjedničkih sustava u srednjoj i istočnoj Europi: Problemi koncepcijske rastezljivosti, selekcijske pristranosti, tipologiziranja i denominiranja. Anali Hrvatskog politološkog društva 2006, 3, 27-54.

Képes, G. (2019). The name of the game - The historical names of the Hungarian parliament. Central European Papers, 7(2), 9-32. https://cep.slu.cz/pdfs/cep/2019/02/01.pdf

Lachs, M. (1942). Polish legislation in exile. Journal of Comparative Legislation and International Law, 24(1), 57-60.

Lalović, D. (2000). Crisis of the Croatian Second Republic (1990-1999): Transition to totalitarianism or to democracy? Politička misao, 37(5), 47-60. https://hrcak.srce.hr/file/42348

Lewandowska-Malec, I. (2018). Early modern Polish parliamentarism (16th-18th c.): Directions of the newest research. Krakowskie Studia z Historii Państwa i Prawa, 11(1), 35-45.

Lupo, N. (2018). In the shadow of the Treaties: National parliaments and their evolving role in European integration. Politique européenne, 59.

Maldini, P. (2019). Croatia and the European Union. In the Oxford Encyclopedia of European Union politics, Oxford University Press. (pp. 1-26). https://doi.org/10.1093/acrefore/9780190228637.013.1101

Marquardt, P. D. (1999). Subsidiarity and sovereignty in the European Union. Fordham International Law Journal, 18(2), Article 7, 616-641.

Mayer, F. C., & Lütkemeyer, P. (2020). Hamilton in Brüssel? Europa- und verfassungsrechtliche Aspekte der Reform des EU-Eigenmittelsystems und des Next Generation-Programms der EU. Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft (KritV), 4, 317-350.

Navracsics, T. (2021). Europeanisation or simply institutional change? The impact of the EU membership on the polity of Hungary. Pro Publico Bono - Public Administration, 4, 6-19.

Nentwich, M., & Falkner, G. (1996). Intergovernmental Conference 1996: Which constitution for the Union? European Law Journal, 1(96), 83-102.

Norton, P. (1995). Conclusion: Addressing the democratic deficit. Journal of Legislative Studies, 1(3), 177-193.

Norton, P. (2003). National parliaments and the European Union. Managerial Law, 45(5/6), 7-8.

Öberg, J. (2018). National parliaments and political control of EU competences. European Public Law, 24(4), 695-731.

Patyra, S. (2022). Participation of the Polish Senate in the legislative process: Towards equal bicameralism? Studia Iuridica Lublinensia, 31(5), 187-199.

Peers, S., & Costa, M. (2012). Accountability for delegated and implementing acts after the Treaty of Lisbon. European Law Journal, 18(3), 427-460.

Petrić, D. (2017). The principle of subsidiarity in the European Union: 'Gobbledygook' entrapped between justiciability and political scrutiny? The way forward. Zagrebačka Pravna Revija, 6(3), 287-318.

Podolnjak, R. (2007). Uzroci neuspjeha Europskog Ustava iz perspektive ustavotvorstva (eng. The causes of failure of the European Constitution from the perspective of the constitution-making process). Anali hrvatskog politološkog društva 2006, 177-206.

Rakowska-Trela, A. (2018). Current amendments to Polish electoral law in the light of European standards. Polish Political Science Yearbook, 47(3), 457-466.

Raunio, T. (1999). Always one step behind? National legislatures and the European Union. Cambridge University Press, 34(2), 180-202.

Raunio, T. (2013). Misguiding national parliaments: A critical review of the early warning mechanism. Revue internationale de politique comparée, 20(1), 73-88.

Rodin, S. (2003). Croatian accession to the European Union: The transformation of the legal system. In K. Ott (Ed.), Economic and legal challenges (Vol. 1, pp. 223-248). Institute of Public Finance.

Rosati, D. (1996). Poland on its way to the European Union. Studia Diplomatica, 46(6), 47-57.

Šarin, D. (2016). Značaj i okolnosti donošenja Ustava Republike Hrvatske (eng. The significance and circumstances of the adoption of the Constitution of the Republic of Croatia). Krčki zbornik, 74.

Simon, M. D., & Olson, D. M. (1980). Evolution of a minimal parliament: Membership and committee changes in the Polish Sejm. Legislative Studies Quarterly, 5(2), 211-232.

Simon, T. (2023). Pope Leo XIII's legacy in European Union law - The origin and practice of the subsidiarity principle in European Union decision-making. European Mirror, 3, 43-63.

Smerdel, B. (1993). Nekoliko poredbenih počela za raspravu o hrvatskom parlamentu. Politička misao, 30(4), 40-52. https://hrcak.srce.hr/file/163724

Smuniewski, C., Urych, I., & Zanini, A. (2021). The principles of economic transformation in Poland after 1989, according to President Lech Wałęsa. European Research Studies Journal, 24(2), 1227-1242.

Sokol, S. (1993). Prijepori oko hrvatskog parlamentarizma. Politička misao, 30(4), 24-39. https://hrcak.srce.hr/111119

Staar, R. F. (1961). Legislative foundations of contemporary Poland. Études Slaves et Est-Européennes, 6(1/2), 62-75.

Szente, Z. (2007). The historic origins of the National Assembly in Hungary. Historia Constitucional, 8, 227-244. https://dialnet.unirioja.es/ejemplar/166590

Szente, Z. (2021). The twilight of parliament - Parliamentary law and practice in Hungary in populist times. International Journal of Parliamentary Studies, 1.

Tugendhat, C. (1980). Some thoughts on the European Communities' budget. Intereconomics, 15(2), 59-65. https://doi.org/10.1007/BF02928578

Van Kersbergen, K., & Verbeek, B. (2004). Subsidiarity as a principle of governance in the European Union. Comparative European Politics, 2(2), 142-162.

Wec, J. J., & Koschalka, B. (2008). The influence of national parliaments on the decision-making process in the European Union: New challenges in the light of the Lisbon Treaty. Politeja, 10(1), 187-208.

Wiatr, J. J. (1997). Poland's three parliaments in the era of transition, 1989–1995. International Political Science Review, 18(4), 443-450.

Wolf-Rodda, H. A. (1993). The Support for Eastern European Democracy Act of 1989. Maryland Journal of International Law, 17(1), Article 7, 107-134.

Wysocka, M. (2019). The influence of national parliaments on the European Commission within the framework of the yellow card procedure in the context of the revision of the posting of workers directive. Krytyka Prawa: Niezależne Studia nad Prawem, 3, 112-132.

Zalewska, M., & Gstrein, O. J. (2013). National parliaments and their role in European integration: The EU's democratic deficit in times of economic hardship and political insecurity. Bruges Political Research Papers / Cahiers de recherche politique de Bruges, 28.

Reports, Working Papers, and Policy Studies

Begg, I., Enderlein, H., Le Cacheux, J., & Mrak, M. (2008). Financing of the European Union budget (Research report). European Commission, Hal Open Science.

Cygan, A. (2013). Chapter 6: Subsidiarity control after Lisbon. In Accountability, parliamentarism and transparency in the European Union (pp. 156-184). Edward Elgar Publishing.

De Búrca, G. (1999). Re-appraising subsidiarity's significance after Amsterdam (Harvard Jean Monnet Working Paper Series, 43). The Jean Monnet Center for International and Regional Economic Law and Justice. https://jeanmonnetprogram.org/archive/papers/99/990701.html

Fabbrini, F. (2016). The principle of subsidiarity (iCourt Working Paper Series No. 66/2016). Danish National Research Foundation's Centre of Excellence for International Courts.

Fuksiewicz, A. (2011). The Polish Parliament under the Lisbon Treaty - Adaptation to the institutional reform. Instytut Spraw Publicznych / The Institute of Public Affairs.

Kotanidis, S. (2021). Understanding the European Commission's right to withdraw legislative proposals (PE 689.364). European Parliamentary Research Service, Members' Research Service.

Kreilinger, V. (2023). National parliaments and the Commission: The political dialogue as a two-way street (European Policy Analysis, May 2023). Swedish Institute for European Studies (SIEPS).

Lupo, N. (2026). The role of parliament in delegated legislation: Principles for safeguarding legislative transparency and democratic accountability (Parliamentary Brief No. 2). Inter Pares, WYDE Inter Pares.

Raunio, T. (2004). Towards tighter scrutiny? National legislatures in the EU Constitution (Online paper 16/04). The Federal Trust for Education and Research.

Rozenberg, O. (2017). The role of national parliaments in the EU after Lisbon: Potentialities and challenges (Study for the AFCO Committee, PE 583.126). European Parliament, Policy Department C: Citizens' Rights and Constitutional Affairs.

Sartor, Giovanni and Dal Pont, Thiago Raulino (2025), Artificial Intelligence for Monitoring the Application of EU Law, IUST, Report requested by the JURI Committee, Policy Department for Justice, Civil Liberties and Institutional Affairs, Directorate-General for Citizen's Rights, Justice and Institutional Affairs, PE 777.915 - October 2025, European Parliament. Available at: https://www.europarl.europa.eu/thinktank/en/document/IUST_STU(2025)777915

Škrabalo, M. (2012). Open Parliaments Bulletin 2012 - Croatia. In R. Schubert (Ed.), Transparency and accountability of parliaments in South-East Europe (pp. 45–62). SEE: Dialogue South-East Europe.

Terrinha, H. L. (2017). The legisprudential role of national parliaments in the European Union (PE 583.133). European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs. https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/583133/IPOL_BRI(2017)583133_EN.pdf

Thorp, A. (2011). Croatia: The closing stages of EU accession. House of Commons Library. https://commonslibrary.parliament.uk/research-briefings/sn06157/

Tudzarovska Gjorgjievska, E. (2022). New understanding of EU legitimacy and anti-corruption: The role of the representative democracies (PLATO Report 5; ARENA Report 3/22). ARENA Centre for European Studies.

Winzen, T. (2010). Political integration and national parliaments in Europe. Living Reviews in Democracy. Center for Comparative and International Studies, ETH Zurich, and University of Zurich.

Legislation, Treaties, and Official Documents

Act CCIII of 2011 on the Election of the Members of the National Assembly (Hungary). https://njt.hu/jogszabaly/en/2011-203-00-00

Act XXXVI of 2012 on the National Assembly. (Hungarian “Cooperational Act” between Parliament and Government). https://njt.hu/jogszabaly/en/2012-36-00-00

Act on the Co-operation between the Croatian Parliament and the Government in EU Affairs, Official Gazette No. 81/2013. https://narodne-novine.nn.hr/clanci/sluzbeni/2013_06_81_1698.html

Act of 8 October 2010 on Cooperation of the Council of Ministers with the Sejm and the Senate in Matters relating to the Republic of Poland's Membership of the European Union, Dziennik Ustaw 2010, No. 213, item 1395. https://www.sejm.gov.pl/prawo/ustawa_kooperacyjna_eng/kon12.htm

Amendments LXIV to LXXV to the Constitution of the Socialist Republic of Croatia, Narodne Novine No. 31/90. https://narodne-novine.nn.hr/clanci/sluzbeni/1990_07_31_610.html

Basic Law for the Federal Republic of Germany of 23 May 1949. https://www.cvce.eu/content/publication/1999/1/1/7fa618bb-604e-4980-b667-76bf0cd0dd9b/publishable_en.pdf

Consolidated version of the Treaty on European Union, OJ C 326, 26.10.2012. https://eur-lex.europa.eu/eli/treaty/teu_2012/oj/eng

Consolidated version of the Treaty on European Union, OJ C 236/15. https://eur-lex.europa.eu/eli/treaty/tfeu_2016/pro_1/oj/eng

Consolidated version of the Treaty on the Functioning of the European Union, OJ C 326, 26.10.2012, pp. 1–390. https://eur-lex.europa.eu/eli/treaty/tfeu_2012/oj/eng

Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, OJ C 202/1, 7.6.2016. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016ME%2FTXT

Constitution of the Republic of Croatia (consolidated text), Official Gazette Nos 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 5/14. https://www.sabor.hr/sites/default/files/uploads/inline-files/CONSTITUTION_CROATIA.pdf

Constitution of the Republic of Poland of 2 April 1997, Dziennik Ustaw No. 78, item 483; of 2001 No. 28, item 319; of 2006 No. 200, item 1471; and of 2009 No. 114, item 946. https://www.sejm.gov.pl/prawo/konst/angielski/konse.htm

Decision on Promulgation of the Amendments to the Constitution of the Republic of Croatia, Narodne Novine No. 76/2010. https://narodne-novine.nn.hr/clanci/sluzbeni/2010_06_76_2214.html

Decision on Promulgation of Amendments to the Constitutional Law on the Rights of National Minorities, Narodne Novine No. 80/2010. https://narodne-novine.nn.hr/clanci/sluzbeni/2010_06_80_2275.html

Decision to Initiate Debate on Amending the Constitution of the Socialist Republic of Croatia, Narodne Novine No. 2/1990.

Mišljenje Odbora za poljoprivredu (točka 2) od 27.10.2023; Zaključak o stajalištu Republike Hrvatske, Odbora za Europske poslove (točka 2) od 7.2.2024. Available at: https://sabor.hr/hr/node/171107

The Directive of the European Parliament and of the Council amending Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, 1999/31/EC on the landfill of waste, 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment, COM/2014/397. https://www.ipex.eu/IPEXL-WEB/document/COM-2014-0397/hrhrv

The Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, when the third yellow card

procedure was triggered. See the IPex webpage: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128

European Commission (2016), Communication from the Commission to the European Parliament, the Council and the National Parliaments on the proposal for a Directive amending the Posting of Workers Directive, with regard to the principle of subsidiarity, in accordance with Protocol No 2, Brussels, 20.7.2016., COM (2016) 505 final, EUR-Lex, Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52016DC0505

Final Report of Working Group IX on Simplification, 29 November 2002, CONV 424/02.

Fundamental Law of Hungary (as in force on 15 April 2025), consolidated version. Ministry of Justice. https://njt.hu/jogszabaly/en/2011-4301-02-00

Opinion of the Senate of the Republic of Poland of 29 April 2016. The Ipex webpage: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128/plsen

Opinion of the Foreign Union Affairs Committee of the Senate of the Republic of Poland. The Ipex webpage: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128/plsen

Proposal for a Council Regulation on the Establishment of the European Public Prosecutor's Office, COM (2013) 534 final, 2013/2055 (APP). https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52013PC0534

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, COM (2012) 130 final. https://eur-lex.europa.eu/legal-content/GA/ALL/?uri=COM:2012:0130:FIN

Proposal for a Directive of the European Parliament and of the Council Amending Directive 96/71/EC concerning the Posting of Workers in the Framework of the Provision of Services, COM (2016) 128 final, 2016/070 (COD). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52016PC0128

Protocol (No 1) on the Role of National Parliaments in the European Union, OJ C 340, 10.11.1997. https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:11997D/PRO/13

Protocol (No 2) on the Application of the Principles of Subsidiarity and Proportionality, OJ C 115, 9.5.2008, pp. 206–209. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:12008E%2FPRO%2F02

Reasoned Opinion of the Croatian Parliament on COM (2016) 128, https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128/hrhrv

Reasoned Opinion of the Hungarian National Assembly (2016), https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128/huors

Resolution of the Sejm of the Republic of Poland of 13 April 2016 (including Annex to the Resolution). The Ipex webpage: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128/plsej

Standing Orders of the Croatian Parliament (consolidated text), Official Gazette Nos 81/2013, 113/2016, 69/2017, 29/2018, 53/2020, 119/2020, 123/2020, 86/2023. https://www.sabor.hr/en/information-access/important-legislation/standing-orders-croatian-parliament-consolidated-text

Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts, OJ C 340, 10.11.1997.

Treaty on European Union (Maastricht), OJ C 191, 29.7.1992. https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:11992M/TXT

Court Decisions

Polish Constitutional Tribunal. (2005, 12 January). Judgment, Ref. No. K 24/04: The Sejm and the Senate in the European Legislative Process. In Selected Rulings of the Polish Constitutional Tribunal concerning the Law of the European Union (2003–2014), Studia i Materiały Trybunału Konstytucyjnego, Vol. LI (pp. 34–40). Warsaw 2014. https://trybunal.gov.pl/fileadmin/news_files/SiM_LI_EN_calosc.pdf

Polish Constitutional Tribunal. (2009, 20 May). Decision, Ref. No. Kpt 2/08: Dispute over the Representation of the Republic of Poland in the European Council. In Selected Rulings of the Polish Constitutional Tribunal concerning the Law of the European Union (2003–2014), Studia i Materiały Trybunału Konstytucyjnego, Vol. LI (pp. 122–158). Warsaw 2014. https://trybunal.gov.pl/fileadmin/news_files/SiM_LI_EN_calosc.pdf

Online and Institutional Sources

COSAC. (2025). Official webpage. https://www.cosac.org/en/cosac/

Croatian Parliament (Hrvatski Sabor). (2023, 1 July). Odbor za Europske poslove obilježio 10 godina rada. https://www.sabor.hr/hr/press/priopcenja/odbor-za-europske-poslove-obiljezio-10-godina-rada

Croatian Parliament (Hrvatski Sabor). (2025). 7. saziv Hrvatskoga sabora (22.12.2011.-28.12.2015.) - Odbor za europske integracije. https://www.sabor.hr/hr/radna-tijela/odbor-za-europske-integracije-7-saziv

Croatian Parliament (Hrvatski Sabor). (2025). 10th term of the Croatian Parliament - European Affairs Committee. https://www.sabor.hr/en/committees/european-affairs-committee-10-term

Croatian Parliament (Hrvatski Sabor). (2025). European affairs bulletin. https://www.sabor.hr/en/european-affairs/european-affairs-bulletin

Croatian Parliament (Hrvatski Sabor). (2025). Parliamentary dimension of the Council Presidency. https://www.sabor.hr/en/european-affairs/parliamentary-dimension-council-presidency

Croatian Parliament (Hrvatski Sabor). (2025). Sabor in the EU accession process. https://www.sabor.hr/en/european-affairs/sabor-eu-accession-process

Croatian Parliament (Hrvatski Sabor). (2026). Saborske povijesne zanimljivosti [Various entries on parliamentary history]. https://www.sabor.hr/hr/o-saboru/povijest-saborovanja/zanimljivosti

Croatian Parliament European Affairs Committee. (2016, 5 May). Reasoned opinion on COM(2016) 128. https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-0128/hrhrv

EUR-Lex. (2024) Accession criteria (Copenhagen criteria). https://eur-lex.europa.eu/EN/legal-content/glossary/accession-criteria-copenhagen-criteria.html

European Commission (2016), Proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services. COM/2016/0128, See Ipex webpage on the following link: https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-128

European Commission (2020), Report from the Commission; Annual Report 2019 On the Application of the Principle of subsidiarity and proportionality and on relations with national parliaments, Brussels, 30.6.2020, p. 10. Available at: https://commission.europa.eu/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-application-principles-subsidiarity-and-proportionality-and-relations-national_en

EUR-Lex. (2024). Comitology. https://eur-lex.europa.eu/HR/legal-content/glossary/comitology.html

European Parliament. (2025) COSAC - relations with national parliaments. https://www.europarl.europa.eu/relnatparl/en/institutional-bodies/cosac

European Parliament. (2025) Fact sheet: The Treaty of Nice and the Convention on the Future of Europe. https://www.europarl.europa.eu/factsheets/en/sheet/4/the-treaty-of-nice-and-the-convention-on-the-future-of-europe

European Public Prosecutor's Office (EPPO). (2025). Hintergrund. https://www.eppo.europa.eu/de/hintergrund

Hungarian National Assembly. (2025). About parliamentary committees. https://www.parlament.hu/web/house-of-the-national-assembly/about-standing-committees

Hungarian National Assembly. (2025). Operation of the National Assembly. https://www.parlament.hu/web/house-of-the-national-assembly/operation-of-the-national-assembly

IPEX (Inter-parliamentary EU Information Exchange). (2025). Official webpage. https://secure.ipex.eu/IPEXL-WEB/

Office for International and European Affairs, Department for European Affairs (Croatian Parliament). (2023). Pregled aktivnosti Hrvatskog Sabora u prvih deset godina članstva u Europskoj Uniji (1. srpnja 2013 — 30. lipnja 2023). https://www.sabor.hr/hr/press/javnost-rada/arhiva/10-godina-clanstva-u-eu-pregled-obavljanja-europskih-poslova-od-1-srpnja

Sejm of the Republic of Poland. (2025), EU-Poland Joint Parliamentary Committee. https://oide.sejm.gov.pl/oide/en/index.php?option=com_content&view=category&layout=blog&id=15&Itemid=300

Senate of the Republic of Poland. (2025), The history of the Polish Senate. https://www.senat.gov.pl/gfx/senat/userfiles/_public/k11eng/noty/04/18_04_24_en.pdf

SUMMARY

This doctoral dissertation examines the role of national parliaments within the institutional framework of the European Union, with particular emphasis on the period following the entry into force of the Lisbon Treaty. The starting point of the research is the recognition that the issue of the European Union's democratic deficit has generated a need to strengthen the role of national parliaments as key intermediaries between European institutions and citizens. Although the European Parliament has gradually expanded its powers, it has become evident that this alone is insufficient to ensure full democratic legitimacy. Consequently, increasing attention has been directed towards national parliaments as an additional source of legitimacy and control.

The primary objective of the dissertation is to assess the extent to which the mechanisms introduced by the Lisbon Treaty, particularly the Early Warning Mechanism and enhanced rights to information, have effectively strengthened the role of national parliaments in the EU decision-making process. In this context, the central hypothesis posits that, while national parliaments have been formally strengthened, their actual influence remains uneven and structurally constrained due to the dominance of the executive at both the national and EU levels.

The research focuses on the parliaments of three Central and Eastern European countries, Croatia, Hungary, and Poland. These cases were selected due to their shared post-communist legacy, relatively recent accession to the European Union, and differing institutional and political models governing the relationship between the legislative and executive branches. This selection enables a comparative analysis of diverse approaches to parliamentary scrutiny of EU affairs within a broadly comparable historical and political context.

The methodological framework combines several approaches. The core method is comparative legal analysis, which facilitates the examination of institutional arrangements and their practical application. This is complemented by the legal-historical method, which traces the development of national parliaments' roles from the establishment of the European Communities to the present. In addition, insights from political science and public administration are incorporated to capture the actual functioning of institutions. A significant contribution of the research lies in its empirical component, which includes the analysis of official documents, statistical data, and semi-structured

interviews conducted with secretaries of the committees on European affairs in the three selected parliaments.

The structure of the dissertation follows a logical progression of the research question. The first chapter analyses the historical development of national parliaments through four phases of European integration, from their marginal role in the early period to their formal strengthening after the Lisbon Treaty. The second chapter focuses on the relationship between the European Parliament and national parliaments, demonstrating that the strengthening of supranational institutions has often implied a relative weakening of national legislatures. The third chapter examines the principle of subsidiarity as a key legal instrument enabling the involvement of national parliaments in EU affairs. The fourth chapter provides a detailed analysis of the mechanisms introduced by the Lisbon Treaty, particularly the Early Warning Mechanism and political dialogue. The fifth chapter offers an in-depth analysis of the institutional frameworks and practices of the Croatian, Hungarian, and Polish parliaments.

The central contribution of the dissertation is found in the final analytical chapter, which moves beyond normative analysis to examine the actual functioning of national parliaments in practice. This chapter combines quantitative data on parliamentary activity from 2010 to 2024 with qualitative insights derived from interviews. The analysis covers participation in the Early Warning Mechanism and political dialogue, as well as the content of reasoned opinions, including those submitted during “yellow card“ procedures.

The findings reveal a significant gap between formal powers and their practical use. Although national parliaments have been granted new rights, their ability to exert timely and effective influence on the EU legislative process remains limited. In all three cases, a strong dependence on the executive is evident, particularly with regard to access to information and the formulation of national positions.

In the Croatian case, the parliament exhibits a predominantly reactive role, relying heavily on the government and rarely engaging in the early stages of the legislative process. While an institutional framework exists, its potential is only partially utilised, resulting in limited practical influence. The Hungarian parliament benefits from more developed administrative and expert capacities; however, political dominance by the executive restricts pluralism and limits parliamentary autonomy. In Poland, the system is formally stable and well-regulated, yet in practice the

parliament largely aligns with government positions, which similarly constrains its effective influence.

The comparative analysis further demonstrates that parliaments operate under conditions of selective scrutiny. Due to limited resources and time constraints, they are unable to systematically examine all EU legislative proposals. As a result, their role is shifting from comprehensive oversight to selective and often delayed participation. Additionally, there is a noticeable shift from political to administrative modes of operation, with increasing reliance on expert staff and informal channels of information.

The empirical findings also highlight a temporal mismatch between the pace of EU decision-making and national parliamentary procedures. Parliaments frequently intervene at later stages of the process, when opportunities for meaningful influence are already reduced. Moreover, although formal oversight instruments exist, their use is limited and inconsistent.

Based on the conducted research, the central hypothesis is largely confirmed. The Lisbon Treaty has undoubtedly strengthened the formal position of national parliaments; however, this has not resulted in a proportional increase in their actual political influence. Executive dominance, limited administrative capacity, dependence on information, and the structural characteristics of EU decision-making processes remain key factors constraining the effectiveness of parliamentary oversight.

In conclusion, national parliaments in the contemporary EU system function primarily as reactive rather than proactive actors. Their role is increasingly shifting from the autonomous formulation of political positions towards monitoring, coordination, and the confirmation of decisions that are largely shaped outside their direct control. This confirms the central argument of the dissertation regarding the persistent gap between formal powers and the real influence of national parliaments within the European Union.

ANNEX 1: INTERVIEW QUESTIONNAIRE

I. GENERAL QUESTIONS FOR ALL THREE PARLIAMENTS

(fundamental differences, informal power, coordination)

1. Informal processes and routines (elements not contained in rules of procedure)

a) Could you describe how the internal process of monitoring EU legislative proposals works in practice- who reacts first, who is the one that "activates the alarm"?

b) To what extent are actual decisions on parliamentary positions made in formal bodies (committees), and to what extent through informal channels, political arrangements, party group meetings, or the offices of parliamentary presidents?

c) Are there any "unspoken rules" regarding the prioritization of EU acts (which acts are examined in detail, and which are left to the government)?

2. Relationship with the Government in EU matters

a) How would you describe the true level of openness and willingness of the Government to share information regarding negotiations in the Council? Do you receive information in a timely manner or only when the process is nearing completion?

b) Does the parliament possess instruments to exert pressure on the Government when information is insufficient? Have these instruments ever been used?

c) How effective are the "control point" mechanisms (e.g., reports on national positions before Council meetings)?

3. Capacity and expertise

a) Do you believe that the parliament has sufficient expert staff available to conduct substantive analyses of EU proposals (e.g., legal services, EU affairs departments)?

b) Do you rely more on your own analysis, government analyses, or external sources (e.g., EUROPA, the EP, networks of parliamentary services)?

c) If capacity-building were possible, which expert profiles and for which functions would you prioritise hiring?

4. Cooperation with other national parliaments and the European Parliament

a) What is the real (not formal) significance of interparliamentary exchanges? Are COSAC and similar forums useful for resolving outstanding issues, or do they serve mostly protocol purposes?

b) Are there informal networks or bilateral relations with other parliaments that you use to exchange information?

II. SPECIFIC QUESTIONS FOR THE CROATIAN PARLIAMENT

Here the emphasis is on the specific features of the Croatian system, particularly the role of the Committee on European Affairs, the Committee on Foreign Policy, and practices applied after accession to the EU.

1. Work of the Committee on European Affairs

a) How is the committee's agenda determined in practice? Who actually shapes it—the secretariat, the committee chair, party groups, or external initiatives (e.g. the Government)?

b) How much influence does the Committee on EU Affairs have on the work of other committees—is there a mechanism through which its conclusions "bind" other committees?

c) When the Committee expresses remarks about the Government's positions, what actually happens next? Has the Government ever modified its position because of the Committee's requests?

2. Cooperation with the Government (MFA, coordinating offices, Permanent Representation)

a) Do you receive informal insight into negotiating positions in the Council before they are formally submitted to Parliament?

b) How would you assess the quality of communication with the Permanent Representation of Croatia in Brussels?

c) Is the practice of sending committee representatives to meetings in Brussels well established?

3. Administrative support and internal organisation of the EU Affairs Service

a) Are there tasks performed “in the background” by the Service that are not formally recorded anywhere (e.g., informal screening of directives, briefings for parliamentary groups, coordination with government offices)?

b) Have any concrete proposals been formulated for reorganising processes to make Parliament more effective in EU matters?

4. Limitations and actual influence of the Croatian Parliament

a) Can you cite examples in which Parliament exerted tangible influence on the position of Croatia within an EU procedure?

b) What are the main reasons why Parliament rarely triggers the early warning system (yellow card)?

III. SPECIFIC QUESTIONS FOR THE HUNGARIAN PARLIAMENT (Országgyűlés)

In the Hungarian case, the focus is especially on the centralization of the executive branch, the relationship with the Government, and the role of the Committee on European Affairs.

1. Parliamentary autonomy under conditions of a dominant government

a) How does parliamentary oversight of EU affairs operate in practice when the Government has a stable and overwhelming majority?

b) Is there room for independent parliamentary expertise when both committees and the administration are heavily influenced by the majority?

c) Have there been cases in which the parliamentary position was shaped by the opposition or independent experts?

2. Role of the Committee on EU Affairs in forming national positions

a) What is the relationship between the Committee on EU Affairs and other committees—is coordination substantive or merely formal?

b) To what extent is the Committee involved in monitoring Hungarian positions at COREPER and working group levels?

c) How would you assess the quality of information that the Government provides to the Committee? Is it comprehensive or selective?

3. Administrative capacities

a) Does the parliament have its own experts on EU law and policy, or does it primarily rely on Government reports?

b) Is there a difference between the "official" and the "actual" level of cooperation with government offices (e.g., Ministry of Justice, Ministry of Foreign Affairs, Prime Minister's Office)?

4. Informal political influences

a) Are there informal channels of communication between the Committee and ministers / the Prime Minister's Cabinet?

IV. SPECIFIC QUESTIONS FOR THE POLISH PARLIAMENT (Sejm and Senate)

1. Changes across different governments

a) Is the pattern of cooperation with the Government (in EU matters) stable, or does it change with each new administration?

b) How does political polarization within parliament affect the work of EU committees?

2. Specific powers of the Sejm in EU affairs

a) In practice, how often does the Sejm use the possibility of issuing binding opinions on Poland's positions?

b) Can you describe situations in which the Sejm succeeded in influencing Poland's position in Brussels (or failed to do so despite attempts)?

3. Cooperation between the Sejm and the Senate

a) In EU matters, is there genuine coordination between the two chambers? Who takes the lead?

b) Are there tensions regarding the division of competences between the Sejm and Senate in EU affairs?

V. ADDITIONAL METHODOLOGICAL QUESTIONS (FOR ALL THREE PARLIAMENTS)

a) If your EU committee disappeared tomorrow, what elements of the system would stop functioning?

b) Could you describe a specific case in which you had to "improvise" because the rules of procedure were insufficient?

c) If you could change one rule in the procedure, what would it be to most improve EU oversight?

d) What is the biggest difference between the officially prescribed and the actual process of monitoring EU legislation?

ANNEX 2: RELATED PUBLICATIONS OF THE AUTHOR

Marasović, Nikolina (2023), The development of the role of the National Parliaments in the European Union; Revista Romana de Istoria Dreptului/ Romanian Journal of Legal History, No. 1/2023 (under publication)

Marasović, Nikolina (2023), Public Law Issues and States of Emergency in Response to the Corona Virus Crisis in Croatia and some Member States of the EU, The Doctoral Studies series (7), the Doctoral School of Law and Political Sciences of Pázmány Péter Catholic University, June 2023, Pázmány Press, Budapest, pp. 65-78. (2023) ISBN 9789633084649

Marasović, Nikolina (2025), The Role of the Croatian Parliament (Hrvatski Sabor) during the negotiations and after full membership in the EU; The Central European Academy Law Review, No. 1 of 2025 (under publication)

Marasović, Nikolina. (2025), The Role of the Hungarian Parliament in the EU Affairs; International Criminal Law Association, Proceedings of the International Scientific Conference „Challenges of International Criminal Law and Criminal Law", Vol. 2, Belgrade 2025

Marasović, Nikolina (2025) The Role of the Italian Parliament in European Union Affairs, Studia Iuris (ISSN 3057-9058), Károli Gáspár Református Egyetem, Volume II, Issue 3 (under publication)

Marasović, Nikolina (2026), Legislative Institutions and Political Transformation: Comparing Slovenia and Croatia in the Context of EU Accession, Miskolc; Publicationes Universitatis Miskolcinensis, Sectio Juridica et Politica, 2026/1 (under publication)

Marasović, Nikolina (2026), From Independence to Integration: The Role of the Slovenian Parliament in EU Accession and Institutional Adaptation, CEA Law Review (under publication)

Marasović, Nikolina (2026), Legal Status of the Speaker of the (First) Chamber in the Republic of Croatia, CEA Law Review (under publication)

Bačić, Petar and Marasović, Nikolina (2024); National Parliaments in the European Union-Towards a More Active Role?, September 2024, Gdańskie Studia Prawnicze, Nr 3(64) 2024. Poland

ANNEX 3: STATEMENT

In accordance with the provisions of the Regulation on the Use of Artificial Intelligence of the University of Miskolc and the Guidelines for the Use of Artificial Intelligence of the Deák Ferenc Doctoral School of Law, I, the undersigned Nikolina Marasović (name), declare that I have used/~~have not~~ used artificial intelligence in my doctoral dissertation and thesis booklets.

In thę case of the use of artificial intelligence (hereinafter: AI), I declare the following:

1. Thę name of the AI tool used: Grammarly Writing Assistance and ChatGPT 5.5 - Large Language Model.

2. The URL and the version number of the AI tool used: https://chatgpt.com/

3. The ęxact date of production of the generated content (year, month, day): I have been using these tools from approximately 2025 to 2026.

4. The purpose and extent of use (describing in detail which part of the dissertation and to what extent the use of AI affects, and for which sub-task the AI was used): These tools were used solely for thę purpose of translating documents, legal texts and literature in foreign languages, as well as sections of my doctoral thesis. For translation, I used the translation feature in ChatGPT. I used Grammarly to correct spelling mistakes and to carry out a final check of the thesis for such errors. The indicated AI tools were not used to generate the substantive content of the thesis.

I acknowledge that, according to thę Guidelines for the Use of Artificial Intelligence of the Deák Ferenc Doctoral School of Law. "*The use of AI is prohibited for the formulation of theses, research results, conclusions, inferences and analyses. Any thesis or paper prepared in this way is not admissible.*"

Budapest, 30.08.2026.

Nikolina Marasović

Candidate signature

Recommendation from the Supervisor

Student: Nikolina Marasović, mag. iur., PhD candidate, Ferenc Deák Doctoral School of Law, University of Miskolc

Title of the PhD Thesis: "The Role of National Parliaments in the European Union – cases of Croatia, Hungary, and Poland"

During the last four years, I had the privilege to supervise PhD student Nikolina Marasović on her way to completing doctoral studies and earning the Doctor of Law degree. The final step on that demanding path, during which the candidate demonstrated great dedication and determination, will be the defense of her dissertation, entitled *The Role of National Parliaments in the European Union – cases of Croatia, Hungary, and Poland*.

The PhD candidate Nikolina Marasović chose this topic because she believed that conducting a systematic research on position of national parliaments in the European Union offers an opportunity to tackle with an important, although often overlooked issue of comparative European public law, especially given the obligation of EU institutions to ensure compliance with the principle of subsidiarity. Namely, active involvement of national parliaments in EU affairs can secure accountability as well as legitimacy for the action of the EU institutions. It is true that for a long period of time national parliaments were seen as the 'losers' of the European integration process or its irrelevant actors. Their most important role in EU affairs before entering into force of the Lisbon Treaty was probably limited on scrutinising activities of their ministers in the Council of Ministers. However, the Treaty on EU (Lisbon, 2009) finally opened way for their stronger inclusion in the European policy process, primarily through performing political scrutiny of EU affairs on national level, including inter-parliamentary dialogue and cooperation, political dialogue, and especially the monitoring of subsidiarity via early-warning mechanism. In this context, it is important to assess to what extent the formal strengthening of the role of national parliaments introduced by the Lisbon Treaty has, in practice, resulted in their real influence on the whole process of decision-making at the EU level. Having this in mind the author decided to include three 'national chapters' in her dissertation, providing an overview of parliamentary scrutiny of EU affairs in Croatia, Hungary and Poland, complemented with a comparative analysis and interview questionnaire.

The dissertation is divided into six main chapters, preceded with an Introduction. In the first chapter the author explains the evolution of role of national parliaments in the European Union, divided in four phases. The second chapter deals with the position and role of the European

Parliament, including the issue of democratic deficit, while in the third chapter the author analyzes the principle of subsidiarity, including relevant case-law of the Court of Justice of the European Union. The fourth chapter is dedicated to the novelties regarding the role of national parliaments introduced by the Lisbon Treaty, with special analysis of the early warning mechanism, its nature, purpose and functioning in practice. In the fifth chapter the author gives an overview of three national parliaments, their involvement in the oversight of the executive and activity in the scrutiny of the legislative process, while the sixth chapter offers a comparative analysis of the parliamentary activity regarding EU affairs in Croatia, Hungary and Poland. The dissertation ends with short conclusion, complemented with extensive bibliography and interview questionnaires including both general as well as specific questions for the Croatian Parliament, the Hungarian Parliament and the Polish Parliament.

The PhD thesis demonstrates the author's profound knowledge of the research topic. Her thoughts are deeply considered and presented clearly, complemented with an analysis of specific questionnaires and statistical data, while the relevant scientific literature as well as the relevant sources of law are carefully and in detail processed in relation to the subject of the study. The manuscript is therefore well supported by relevant literature and case law, while the reference system is correct and up to date. The methodology used is scientifically sound, and the author presents her own arguments, demonstrating understanding of the implications of the study subject in a broader context. The dissertation offers a theoretical-doctrinal contribution through a thorough analysis of the status of national parliaments in the EU, while particularly interesting and valuable contribution of this manuscript is the analysis of the work of three national parliaments, their procedures regarding the EU affairs and involvement in the process of monitoring the subsidiarity principle. Through her research, systematization, and the way conclusions are drawn and formulated, the PhD candidate has demonstrated command of scientific research methodology. The final result of her dedication and hard work is a worthy contribution to the scientific debate on the role of national parliaments in the European Union.

Through the review and critical reading of the dissertation, I believe that it can be concluded that the PhD candidate Nikolina Marasović has conducted systematic, original scientific research, and I recommend it for successful defence.

Split, 30.08.2026.

Prof. dr. sc. Petar Bačić

ACKNOWLEDGMENTS

Completing this PhD dissertation has been a significant milestone in my academic and personal journey, one that would not have been possible without the support, guidance, and encouragement of many exceptional people.

First and foremost, I would like to express my deepest gratitude to my PhD supervisor, Prof. Petar Bačić, for his exceptional guidance, understanding, patience, and unwavering belief in me throughout these four years. His support was invaluable not only in shaping this research, but also in every moment of doubt and uncertainty along the way. I am deeply grateful for every conversation, every piece of advice, and every word of encouragement that gave me the strength to continue and believe in my own abilities.

I would also like to express my sincere gratitude to my Master's supervisor, Academician Prof. Arsen Bačić, who, at the very beginning of my academic journey, inspired my love for law and became an enduring academic and personal role model. His knowledge, dedication, and humanity have remained a lasting source of inspiration throughout my academic path. I am profoundly grateful to both of my supervisors for believing in me and encouraging me to continue learning, working, and growing. I believe that the only genuine way to express my gratitude to both of my supervisors is to continue my academic work, to make them proud by continuing every day to work, learn, and make haste slowly, as the old Latin proverb 'Festina lente' teaches us, guided always by the thought expressed in another Latin proverb: 'Labor omnia vincit'.

My sincere thanks also go to my reviewers, Prof. Ton Van den Brink, who was also my supervisor at the ILLM programme of the European Public Law Academy in Greece, and whose inspiring teaching further strengthened my interest in the role of national parliaments in EU affairs, and Prof. Alexander Graser, for his valuable insights into critical thinking that I gained through his lectures and conference. Thanks to both for their contributions, for their time, careful reading of my dissertation, constructive comments, and valuable suggestions for its improvement.

I am equally grateful to the members of my doctoral committee, Prof. Zsolt Szabó, Dr. Adrienn Dóra Prieger, and Prof. Dr. Petra Amižić Jelovčić, for their contribution to the final stage of this work. My sincere appreciation goes to all participants in my interviews and questionnaire, whose willingness to share their experiences provided an important practical dimension to this research. I am grateful for their time and contribution, and I fully respect their wish to remain anonymous. I would like to express my gratitude to the Central European Academy, its professors, and its dedicated staff for their support throughout these four years. I am particularly grateful for the opportunity to grow within such an inspiring academic environment, to meet colleagues from Central and Eastern Europe and beyond, and to find a second home in Budapest. I am equally grateful to the University of Miskolc, its faculty, and administrative staff for their continuous support throughout my studies.

I would also like to express my sincere gratitude to my endocrinologist and diabetologist, Professor Zoran Vučinović, who has during every medical check-up and every time I emphasized the difficulties of managing diabetes while prioritizing academic obligations, always showed understanding and offered warm, human words of encouragement. Moreover, I am especially grateful for his continuous support and encouragement to keep fighting on all fronts, so that through constant work on myself, I could achieve greater stability, progress, and the realization of my full potential despite the ever-present double struggle.

Above all, I would like to thank my parents for their unconditional love, patience, understanding, and lifelong sacrifices. Their constant belief in me has been one of the greatest

sources of strength throughout my life. I am also grateful to my sister Marica, my nephew Toma, my brother-in-law Marin, and my brothers for their support, advice, and understanding throughout this journey. My special thanks go to my dear friend and colleague Mia, my non-blood sister, for her unwavering support and faith in me, and to my colleague, friend, and roommate Silvia, who has been my constant companion and support during the final years of this work. I am grateful for all our academic and life discussions, countless conversations, and shared moments that made this journey easier. I also thank our dear friend whom we called "Our Dude" for the laughter and encouragement, and my bro Matija for invaluable IT assistance at a particularly unfortunate moment when my first laptop broke.

Finally, I would like to express my heartfelt gratitude to my grandmothers, whose wisdom, strength, and lifelong lessons have shaped the person I am today. My grandmother Dana was my first role model and teacher, reminding me from an early age that there is strength and salvation in hard work and perseverance. My grandmother Slava taught me to believe in myself and never allow anyone to extinguish my inner spark. Their words and example will remain with me throughout my life.

Although there are many more people whose kindness and support have accompanied me along this journey, I will conclude by expressing my deepest gratitude to all those who, whether directly or quietly from the background, contributed to making this achievement possible. This dissertation is, in many ways, also a reflection of the support, trust, and kindness I have received from all of you. Thank you.